

# BOA PROPOSED LEGISLATION

## BOA Action Issue #1

### Revise Current Statutes Regarding the State Seal

**1-6-3.1. Use of seal, facsimile, commemorative medallion design or bullion piece design without authorization prohibited--Violation as misdemeanor.** No person may reproduce, duplicate, or otherwise use the official seal of the State of South Dakota, or its facsimile, adopted and described in §§ 1-6-1 and 1-6-2, or the state commemorative medallion design or the state bullion piece design adopted by the commissioner of administration for any for-profit, commercial purpose without specific authorization from the commissioner of the Bureau of Administration. A violation of this section is a Class 1 misdemeanor.

**1-6-3.2. Sale of seal facsimile, commemorative medallion design or bullion piece design without authorization prohibited--Violation as misdemeanor.** No person may sell or offer for sale a replica or facsimile of the official seal of the State of South Dakota, adopted and described in §§ 1-6-1 and 1-6-2, or the state commemorative medallion design or the state bullion piece design adopted by the commissioner of administration without the specific authorization from the commissioner of the Bureau of Administration. A violation of this section is a Class 1 misdemeanor.

**1-6-3.3. Royalty for use of seal, commemorative medallion design or bullion piece design--Educational purposes excepted--Deposit of fee.** The Bureau of Administration shall charge a royalty for the privilege of using the seal, the state commemorative medallion design, or the state bullion piece design. The Bureau of Administration may not charge a royalty if the state seal, the state commemorative medallion design, or the state bullion piece design is used for an educational purpose. The royalty fee collected for the use of the state commemorative medallion design shall be deposited in the commemorative coin fund provided for in § 1-6-23. All other royalty fees collected pursuant to this chapter shall be deposited in the state general fund.

**1-6-3.4. Secretary as custodian of seal.** Notwithstanding the provisions of §§ 1-6-3.1 to 1-6-3.3, inclusive, the secretary of state shall continue as the custodian of the state seal pursuant to § 1-8-2

**1-6-18. Use of seal, commemorative medallion design or bullion piece design--Fee.** The Bureau of Administration may authorize the use of the great seal of the State of South Dakota, the commemorative medallion design, or the bullion piece design on commemorative medallions and bullion pieces and shall charge royalty fees for use of the same.

**1-8-2. Records and great seal in custody of secretary.** The secretary of state is charged with the custody of:

- (1) All acts and resolutions passed by the Legislature;
- (2) The journals of the Legislature;
- (3) The great seal of the state;
- (4) All books, records, deeds, parchments, maps, and papers required to be kept on deposit in his office pursuant to law;
- (5) The enrolled copy of the Constitution.

FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the use of the state seal.

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

Section 1. Except as otherwise provided in this chapter, the state seal may be used for official purposes only by state agencies.

Section 2. The secretary of state may authorize the use of the state seal for use on commemorative and souvenir items, and for historical, educational, and civic purposes. Such authorization shall be in writing and shall be accompanied by a filing fee, the amount of which shall be determined by the secretary of state.

Section 3. The secretary shall set the fee at a level adequate to cover the administrative costs of processing the applications. If the secretary determines that a permitted use of the seal could financially benefit the state, the secretary may condition authorization upon a licensing agreement to secure those benefits for the state.

Section 4. The state seal shall not be used:

(1) On or in connection with any advertising or promotion for any product, business, organization, service, or article whether offered for sale for profit or offered without charge;

(2) In a political campaign to assist or defeat any candidate for elective office;

(3) In a manner which may operate or be construed as an endorsement of any business, organization, product, service, or article.

Section 5. The secretary of state shall adopt rules pursuant to chapter 1-26 to govern the use of the seal in a manner consistent with this chapter. Any rule governing the use of the seal shall be designed to prevent inappropriate or misleading use of the seal and to assure tasteful and high-quality reproduction of the seal. The rules shall also prescribe the circumstances when a licensing arrangement shall be required and the method for determining licensing fees.

Section 6. It is a violation of this chapter to use any symbol that imitates the seal or that is deceptively similar in appearance to the seal, in any manner that would be an improper use of the official seal itself.

Section 7. Nothing in this chapter shall prohibit the reproduction of the state seal for illustrative purposes by the news media if the reproduction by the news media is incidental to the publication or the broadcast. Nothing in this chapter shall prohibit a characterization of the state seal from being used in political cartoons.

Section 8. That § 1-6-3.1 be repealed. ~~No person may reproduce, duplicate, or otherwise use the official seal of the State of South Dakota, or its facsimile, adopted and~~

~~described in §§ 1-6-1 and 1-6-2, or the state commemorative medallion design or the state bullion piece design adopted by the commissioner of administration for any for-profit, commercial purpose without specific authorization from the commissioner of the Bureau of Administration. A violation of this section is a Class 1 misdemeanor.~~

~~Section 9. That § 1-6-3.2. be repealed. No person may sell or offer for sale a replica or facsimile of the official seal of the State of South Dakota, adopted and described in §§ 1-6-1 and 1-6-2, or the state commemorative medallion design or the state bullion piece design adopted by the commissioner of administration without the specific authorization from the commissioner of the Bureau of Administration. A violation of this section is a Class 1 misdemeanor.~~

~~Section 10. That § 1-6-3.3 be repealed: The Bureau of Administration shall charge a royalty for the privilege of using the seal, the state commemorative medallion design, or the state bullion piece design. The Bureau of Administration may not charge a royalty if the state seal, the state commemorative medallion design, or the state bullion piece design is used for an educational purpose. The royalty fee collected for the use of the state commemorative medallion design shall be deposited in the commemorative coin fund provided for in § 1-6-23. All other royalty fees collected pursuant to this chapter shall be deposited in the state general fund.~~

~~Section 11. That § 1-6-3.4 be repealed: Notwithstanding the provisions of §§ 1-6-3.1 to 1-6-3.3, inclusive, the secretary of state shall continue as the custodian of the state seal pursuant to § 1-8-2~~

## **BOA Action Issue #2**

Repeal Obsolete Centennial Logo Statutes

~~1-6-24. Use of logo adopted by state centennial commission for commercial purpose without authorization prohibited--Violation as misdemeanor.~~ No person may reproduce, duplicate, or otherwise use the logo adopted by the State Centennial Commission for celebration of the state centennial, or its facsimile, for any for profit, commercial purpose without specific written authorization from the Bureau of Administration. A violation of this section is a Class 1 misdemeanor.

~~1-6-25. Sale of replica or facsimile of logo without authorization prohibited--Violation as misdemeanor.~~ No person may sell or offer for sale a replica or facsimile of the logo adopted by the State Centennial Commission for celebration of the state centennial without specific written authorization from the Bureau of Administration. A violation of this section is a Class 1 misdemeanor.

~~1-6-26. Sale of object bearing certain words without authorization prohibited--Violation as misdemeanor.~~ No person may sell or offer for sale any object or item bearing the word "South Dakota," in conjunction with the words "Centennial," "1889-1989," or "100 years," or any derivative thereof, without specific written authorization from the Bureau of Administration. A violation of this section is a Class 1 misdemeanor.

~~1-6-28. Contracts for marketing and sale of items.~~ The Bureau of Administration may enter into contracts for the marketing and sale of items or objects authorized under the terms of §§ 1-6-24 to 1-6-28, inclusive.

## **BOA Action Issue #3**

Remove the requirement for offices in the Capitol

~~1-14-1. Bureau within Department of Executive Management--Functions performed by executive office--Central office--Seal.~~ The Bureau of Administration shall continue within the Department of Executive Management, and all its functions shall be performed by the Department of Executive Management as provided by § 1-33-6.

~~The bureau shall maintain a central office in the capitol at Pierre in rooms provided for the purposes, which shall be the official address of the bureau and the place for serving process or papers of any kind upon it.~~

~~The bureau shall have an official seal.~~

## **BOA Action Issue #4**

Amend the Qualifications for the Commissioner

~~1-14-2. Qualifications of commissioner.~~ No person shall be eligible for appointment as the commissioner of administration unless he holds a baccalaureate degree from a recognized institution of higher education and has they have had progressively responsible experience in administration.

## **BOA Action Issue #5**

Revise the Functions of BOA

~~1-14-6.1. Operating divisions of bureau abolished—Performance of functions.~~ The following divisions of the Bureau of Administration are abolished:

- ~~\_\_\_\_\_ (1) The Purchasing and Printing Division;~~
- ~~\_\_\_\_\_ (2) The Buildings and Grounds Maintenance Division;~~
- ~~\_\_\_\_\_ (3) The Central Administrative Services Division;~~
- ~~\_\_\_\_\_ (4) The Central Data Processing Division.~~

~~All their functions shall be administered by the Bureau of Administration as provided by § 1-33-8.2.~~

~~1-14-6.6. Personnel division abolished—Performance of functions.~~ The Division of Personnel within the former Department of Administration is abolished, and all its functions shall be administered by the Bureau of Personnel within the Department of Executive Management as provided by § 1-33-9.

~~1-14-11. Travel expense of personnel.~~ The officials and employees of the Bureau of Administration shall be allowed traveling expenses, board, and lodging incurred in performance of duty in accordance with chapter 3-9 when absent from their office.

~~1-14-12. General powers and duties of bureau.~~ The Bureau of Administration shall be administered by the commissioner of administration and he shall:

- ~~\_\_\_\_\_ (1) Keep an exact and true inventory of all property, real and personal, belonging to the State of South Dakota;~~
- ~~\_\_\_\_\_ (2) Prescribe uniform rules, as far as practicable, and not inconsistent with law, governing specifications for purchase of supplies, the advertisement for bids, the opening of bids, and the making of awards;~~
- ~~\_\_\_\_\_ (3) Inquire into and make inspection of all articles and material furnished any department, institution, or state agency, and work and labor performed, for the purpose of ascertaining that the price, quality, and amount of such articles or labor are fair, just, and reasonable, and that all requirements, expressed and implied, pertaining thereto have been complied with;~~
- ~~\_\_\_\_\_ (4) Provide such assistance, under the rules and regulations as hereinafter provided, as shall be necessary for the efficient performance of the official duties imposed upon the various departments and divisions by this code;~~
- ~~\_\_\_\_\_ (5) Supervise such central administrative services as transportation, mail and messenger services, microfilming, mimeographing and other reproduction services, typewriter and machine repair, disposal services for condemned and surplus property, and the providing of~~

general office supplies. And whenever possible, he shall install central facilities to be used by all state agencies under such rules and regulations as the Bureau of Administration prescribes;

~~———— (6) ——— Contract for a lease or leases not to exceed three years to provide food services, candy, beverage, and tobacco concessions in the capitol building, capitol annex, Foss Building, Anderson Building, Soldiers and Sailors Memorial Building, Insurance Building, Department of Transportation Building, Public Safety Building, Kneip Building, MacKay Building, and the law enforcement training center and to supervise the fulfillment of the provisions of any such lease or leases. The issuance of such contracts shall conform, as nearly as possible, with the requirements of chapters 5-18, 5-19, and 5-20;~~

~~———— (7) ——— Adopt rules in compliance with chapter 1-26 enumerating the types and classes of public personal property that shall be included in the inventory required by § 5-24-1;~~

~~———— (8) ——— Employ such staff and maintain facilities as necessary to operate a local government services program which shall provide or arrange for services for public corporations pursuant to the provisions of §§ 1-14-12, 1-14-12.12 to 1-14-12.18, inclusive, and 1-14-14 to 1-14-14.2, inclusive.~~

**New Section. 1-14-12. General powers and duties of bureau.** The Bureau of Administration shall be administered by the commissioner of administration and shall:

(1) Keep an exact and true inventory of all property, real and personal, belonging to the State of South Dakota and adopt rules in compliance with chapter 1-26 enumerating the types and classes of public personal property that shall be included in the inventory required by § 5-24-1;

(2) Govern the procurement of supplies, services and public improvements as prescribed in chapter 5-18.

(3) Supervise such central administrative services as transportation, mail, records management, and document reproduction services, make provisions for the supplying of office supplies and furniture.;

(4) Maintain the buildings and grounds of the capitol complex and install central facilities to be used by all state agencies under such rules and regulations as the Bureau of Administration prescribes;

(5) Contract for the provision of food services, candy, and beverages, in the capitol complex;

(6) Supervise the administration of the Office of Hearings Examiners;

(7) Administer the federal surplus property allotted to the State of South Dakota;

(8) Provide for the lease of such real property as shall be necessary for the operation of state government;

(9) Administer a program of risk management for state government;

(10) Contract for such services as are required by multiple state agencies, whenever such contracts will improve the efficiency of state government; and,

(11) Such other functions as may be required by statute, executive order, or administrative action.

**BOA Action Issue #6**

Repeal statute since this is covered by general joint powers statutes in chapter 1-24

~~1-14-12.18. Agreement for joint exercise of governmental power.~~ To effectuate the purposes of §§ 1-14-12, 1-14-12.12 to 1-14-12.18, inclusive, and 1-14-14 to 1-14-14.2, inclusive, all political subdivisions and public corporations of this state may provide and enter into an agreement for the joint exercise of governmental power with the Bureau of Administration.

**BOA Action Issue #7**

Collections statutes outdated

~~1-14-14.3. Referral of collection to vendor approved by Bureau of Administration--Fees and repayment.~~ Any state agency, department, board, commission, or school district operating a postsecondary vocational technical school as authorized by chapter 13-39, that determines that an authorized amount of contributions, interest, or penalty is uncollectible may refer the collection process to a vendor approved by the Bureau of Administration. Reasonable fees for collection, as determined by the commissioner of the Bureau of Administration, shall be added to the amount of the debt and the debtor is liable for repayment of the total amount due including the collection fee.

~~1-14-14.4. Establishment of fund for receiving payment for collecting uncollectible contributions, interest or penalties.~~ A separate fund is hereby established in the state treasury for the purpose of receiving payment of expenses incurred for collecting uncollectible contributions, interest, or penalties, including the actual and necessary operating expenses of the Bureau of Administration and to make expenditures out of such accounts for such operating expenses. Money in the fund may be used to pay for the actual and necessary operating expenses of the collections program within the Bureau of Administration provided that the money is budgeted in accordance with state law and appropriated through the General Appropriations Act.

**BOA Action Issue #8**

Capitol Communications is under BIT not BOA

~~4-8-18. Capitol communications systems internal service fund--Apportionment of expenses.~~ There is hereby created a capitol communications systems internal service fund to encompass the operations of the capitol telephone system, ~~the capitol mail system,~~ and any and all other capitol communication systems. The commissioner of the Bureau of ~~Administration~~ Information and Telecommunications is authorized to apportion all expenses encountered in the

operation of the capitol communications systems to all state departments, agencies, and institutions who utilize such systems.

**New Statute.** There is hereby created a central mail service fund to encompass the operations of the capitol central mail. The commissioner of the Bureau of Administration is authorized to apportion all expenses encountered in the operation of the capitol central mail systems to all state departments, agencies, and institutions who utilize such systems.

### **BOA Action Issue #9**

Construction revolving fund has never been used

~~**5-14-7. Revolving account for planning and supervisory expenses.** A revolving account is hereby established in the state treasury for the purpose of receiving payment of expenses incurred for plans, specifications, and supervision of construction, including the actual and necessary expenses of the Bureau of Administration and to make expenditures out of such accounts for such expenses.~~

### **BOA Action Issue #10**

Statute Regarding Governors Grove Unnecessary and Outdated

~~**5-15-24. Governor's grove—Maintenance and use.** All that portion of the capitol grounds, as now exists and lies north of Broadway in the city of Pierre shall hereafter be known as the Governor's Grove. It shall, under the supervision of the Bureau of Administration, be properly landscaped and planted and shall contain a grove of hardy, long-lived trees, each one properly marked and maintained as a memorial grove to the past, present, and future Governors of South Dakota, and a new tree, as an addition to such grove, shall be set out and properly dedicated on the first Arbor Day following the election of each Governor hereafter. This park shall be maintained as an adjunct to the said capitol grounds and shall be used for no other memorial purpose than as is provided for in this section; provided, however, that a gateway thereto may be provided in which each county in the state shall be represented by a properly inscribed stone or marker.~~

### **BOA Action Issue #11**

Capitol Police is now a function of the Highway Patrol, Department of Public Safety

~~**23-3-2. State capitol police—Appointment—Duties.** The commissioner of the Bureau of Administration shall designate one or more persons from among the employees of the Bureau of Administration regularly employed in and about the capitol and grounds who shall, upon taking and subscribing an oath to support the Constitution of the United States and this state and to faithfully discharge the duties of the office of policeman, be empowered to do and perform any duty which might be performed by a policeman of any municipality in this state and to enforce the rules and regulations of the commissioner of administration; provided that such person so appointed shall exercise the duties of policemen only within the capitol complex and upon the capitol grounds.~~

## BOA Action Issue #12

A number of existing statutes need to have statutory citations amended to correspond with the legislation passed in HB1046 (Procurement Bill)

SDCL sections citing chs 5-18, 5-19, 5-20, 5-23 or citing sections in chs 5-18, 5-19, 5-20, or 5-23.

1-14-12	9-39-20	13-20-6	31-17-14	46A-1-80.1
1-15-10	9-41-1.1	13-20-7	33-12-28	46A-9-52
1-18C-5.1	9-42-4	13-20-7.1	34-11A-33	46A-9-53
1-33B-9	9-42-5	13-49-16	34-31-8	46A-10A-75
1-36A-1.11	9-46-4	13-49-34	34A-5-41	46A-10A-116
1-36A-7	10-46-1	23A-37-13	34A-6-63.1	49-37-9.1
2-16-7	11-7-44	23A-40-7	34A-16-27	54-13-6
4-11-7	13-16-6.1	31-12-12	42-7A-5	
6-1-2	13-16-9.3	31-12-13	46-6-31	
7-25-7	13-20-3	31-12-14	46-7-5.1	
7-25-9	13-20-4	31-12-27.1	46-7-5.2	