

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

572I0665

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1196** - 02/19/2003

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

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

1 FOR AN ACT ENTITLED, An Act to provide for the periodic review of the agencies of state  
2 government.

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

4 Section 1. For the purposes of this Act, the term, state agency, means any department,  
5 division, office, commission, court, board, or any other unit of state government. The term does  
6 not include any local unit of government.

7 Section 2. The executive board of the Legislative Research Council shall establish and  
8 appoint the members of one or more interim committees each year to review one or more state  
9 agencies. The executive board shall establish a schedule whereby each state agency is reviewed  
10 by an interim committee once every ten years.

11 Section 3. Any committee appointed pursuant to this Act shall implement the procedures of  
12 this Act and may establish its own procedures for the review and evaluation required by this Act.

13 Section 4. Each committee shall hold public hearings and receive testimony from the public  
14 and all interested parties. The state agency under review shall bear the burden of establishing that



1 sufficient public need is present to justify its continued existence. The state agency under review  
2 shall provide the committee with the following information:

- 3 (1) The identity of all offices under the direct or advisory control of the state agency;
- 4 (2) All powers, duties, and functions currently performed by the state agency;
- 5 (3) All constitutional, statutory, or other authority under which the powers, duties, and  
6 functions of the state agency are carried out;
- 7 (4) Any powers, duties, or functions which the state agency is performing and which is  
8 duplicated by another state agency within the state including the manner in which, and  
9 the extent to which, the duplication of effort is occurring and any recommendations  
10 as to eliminating the duplications;
- 11 (5) Any powers, duties, or functions which are inconsistent with current and projected  
12 public needs and which should be terminated or altered; and
- 13 (6) Any other information which the committee feels is necessary and proper to carry out  
14 its review and evaluative duties.

15 Section 5. To determine whether a sufficient public need for continuing the state agency is  
16 present, a committee shall take into consideration the following factors concerning the state  
17 agency:

- 18 (1) The extent to which any information required to be furnished to the reviewing  
19 committee pursuant to section 4 of this Act has been omitted, misstated, or refused,  
20 and the extent to which conclusions reasonably drawn from the information are  
21 adverse to the legislative intent inherent in the powers, duties, and functions as  
22 established in the enabling legislation creating the state agency, or is inconsistent with  
23 present or projected public demands or needs;
- 24 (2) The extent to which statutory changes have been recommended which would benefit

1 the public in general as opposed to benefiting the state agency;

2 (3) The extent to which the operation of the state agency has been efficient and  
3 responsive to the public needs;

4 (4) The extent to which the state agency has encouraged the persons regulated to report  
5 to it concerning the impact of its rules and decisions regarding improved services,  
6 economy of service, or availability of service to the public;

7 (5) The extent to which the public has been encouraged to participate in rule and decision  
8 making as opposed to participation solely by persons regulated;

9 (6) The extent to which complaints have been expeditiously processed to completion in  
10 the public interest; and

11 (7) Any other relevant criteria which the committee deems necessary and proper in  
12 reviewing and evaluating the sufficient public need for continuance of the state  
13 agency.

14 Section 6. The Department of Legislative Audit shall furnish, upon request of a committee,  
15 any relevant information including the reports of audits of the state agency under review.

16 Section 7. Each committee shall submit reports recommending either the continuation,  
17 revision, or termination of the state agency under review to the executive board of the  
18 Legislative Research Council for distribution to legislators and the Governor before the first  
19 legislative day of the ensuing regular legislative session.

20 Section 8. Each committee shall submit its recommendations concerning the state agency and  
21 laws that it believes should be repealed or revised to the Legislature in one or more bills.