

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

427T0711

HOUSE STATE AFFAIRS ENGROSSED NO. **SB 187** - 2/27/2012

Introduced by: Senators Olson (Russell), Brown, and Gray and Representative Rausch

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding the legislative review
2 of state agencies.

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

4 Section 1. That § 1-26E-1 be repealed.

5 ~~—1-26E-1. For the purposes of §§ 1-26E-1 to 1-26E-8, inclusive, the term, state agency, means~~
6 ~~any department, division, office, commission, board, or any other unit of state government. The~~
7 ~~term does not include any local unit of government.~~

8 Section 2. That § 1-26E-2 be repealed.

9 ~~—1-26E-2. The Executive Board of the Legislative Research Council shall establish and~~
10 ~~appoint the members of one or more interim committees each year to review one or more state~~
11 ~~agencies. The executive board shall establish a schedule whereby each state agency is reviewed~~
12 ~~by an interim committee once every ten years.~~

13 Section 3. That § 1-26E-3 be repealed.

14 ~~—1-26E-3. Any committee appointed pursuant to §§ 1-26E-1 to 1-26E-8, inclusive, shall~~
15 ~~implement the procedures of §§ 1-26E-1 to 1-26E-8, inclusive, and may establish its own~~



1 ~~procedures for the review and evaluation required by §§ 1-26E-1 to 1-26E-8, inclusive.~~

2 Section 4. That § 1-26E-4 be repealed.

3 ~~—1-26E-4. Each committee shall hold public hearings and receive testimony from the public~~
4 ~~and all interested parties. The state agency under review shall bear the burden of establishing~~
5 ~~that sufficient public need is present to justify its continued existence. The state agency under~~
6 ~~review shall provide the committee with the following information:~~

7 ~~—(1)—The identity of all offices under the direct or advisory control of the state agency;~~

8 ~~—(2)—All powers, duties, and functions currently performed by the state agency;~~

9 ~~—(3)—All constitutional, statutory, or other authority under which the powers, duties, and~~
10 ~~functions of the state agency are carried out;~~

11 ~~—(4)—Any powers, duties, or functions which the state agency is performing and which is~~
12 ~~duplicated by another state agency within the state including the manner in which,~~
13 ~~and the extent to which, the duplication of effort is occurring and any~~
14 ~~recommendations as to eliminating the duplications;~~

15 ~~—(5)—Any powers, duties, or functions which are inconsistent with current and projected~~
16 ~~public needs and which should be terminated or altered; and~~

17 ~~—(6)—Any other information which the committee feels is necessary and proper to carry out~~
18 ~~its review and evaluative duties.~~

19 Section 5. That § 1-26E-5 be repealed.

20 ~~—1-26E-5. To determine whether a sufficient public need for continuing the state agency is~~
21 ~~present, a committee shall take into consideration the following factors concerning the state~~
22 ~~agency:~~

23 ~~—(1)—The extent to which any information required to be furnished to the reviewing~~
24 ~~committee pursuant to § 1-26E-4 has been omitted, misstated, or refused, and the~~

1 extent to which conclusions reasonably drawn from the information are adverse to
2 the legislative intent inherent in the powers, duties, and functions as established in
3 the enabling legislation creating the state agency, or is inconsistent with present or
4 projected public demands or needs;

5 ~~—(2)—~~ The extent to which statutory changes have been recommended which would benefit
6 the public in general as opposed to benefiting the state agency;

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

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

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

14 ~~—(6)—~~ The extent to which complaints have been expeditiously processed to completion in
15 the public interest; and

16 ~~—(7)—~~ Any other relevant criteria which the committee deems necessary and proper in
17 reviewing and evaluating the sufficient public need for continuance of the state
18 agency.

19 Section 6. That § 1-26E-6 be repealed.

20 ~~—1-26E-6. The Department of Legislative Audit shall furnish, upon request of a committee,~~
21 ~~any relevant information including the reports of audits of the state agency under review.~~

22 Section 7. That § 1-26E-7 be repealed.

23 ~~—1-26E-7. Each committee shall submit reports recommending either the continuation,~~
24 ~~revision, or termination of the state agency under review to the Executive Board of the~~

1 ~~Legislative Research Council for distribution to legislators and the Governor before the first~~
2 ~~legislative day of the ensuing regular legislative session.~~

3 Section 8. That § 1-26E-8 be repealed.

4 ~~— 1-26E-8. Each committee shall submit its recommendations concerning the state agency and~~
5 ~~laws that it believes should be repealed or revised to the Legislature in one or more bills.~~