

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

427T0711

## SENATE STATE AFFAIRS ENGROSSED NO. **SB 187** - 2/10/2012

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

1 FOR AN ACT ENTITLED, An Act to reformulate the legislative agency review with an  
2 independent performance audit and to repeal certain provisions regarding the legislative  
3 review of state agencies.

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

5 Section 1. A performance audit is an objective and systematic assessment of a state agency  
6 or any of its programs, function, or activities by an independent evaluator in order to help public  
7 officials improve efficiency, effectiveness, and accountability. Performance audits include  
8 economy and efficiency audits and program audits.

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 That § 1-26E-1 be repealed.

10 ~~1-26E-1. For the purposes of §§ 1-26E-1 to 1-26E-8, inclusive, the term, state agency, means~~  
11 ~~any department, division, office, commission, board, or any other unit of state government. The~~  
12 ~~term does not include any local unit of government.~~

13 Section 3. That § 1-26E-2 be repealed.

14 ~~1-26E-2. The Executive Board of the Legislative Research Council shall establish and~~  
15 ~~appoint the members of one or more interim committees each year to review one or more state~~



1 agencies. The executive board shall establish a schedule whereby each state agency is reviewed  
2 by an interim committee once every ten years.

3 Section 4. That § 1-26E-3 be repealed.

4 ~~1-26E-3. Any committee appointed pursuant to §§ 1-26E-1 to 1-26E-8, inclusive, shall~~  
5 ~~implement the procedures of §§ 1-26E-1 to 1-26E-8, inclusive, and may establish its own~~  
6 ~~procedures for the review and evaluation required by §§ 1-26E-1 to 1-26E-8, inclusive.~~

7 Section 5. That § 1-26E-4 be repealed.

8 ~~1-26E-4. Each committee shall hold public hearings and receive testimony from the public~~  
9 ~~and all interested parties. The state agency under review shall bear the burden of establishing~~  
10 ~~that sufficient public need is present to justify its continued existence. The state agency under~~  
11 ~~review shall provide the committee with the following information:~~

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

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

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

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

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

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

24 Section 6. That § 1-26E-5 be repealed.

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

4 ~~(1) The extent to which any information required to be furnished to the reviewing~~  
5 ~~committee pursuant to § 1-26E-4 has been omitted, misstated, or refused, and the~~  
6 ~~extent to which conclusions reasonably drawn from the information are adverse to~~  
7 ~~the legislative intent inherent in the powers, duties, and functions as established in~~  
8 ~~the enabling legislation creating the state agency, or is inconsistent with present or~~  
9 ~~projected public demands or needs;~~

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

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

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

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

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

21 ~~(7) Any other relevant criteria which the committee deems necessary and proper in~~  
22 ~~reviewing and evaluating the sufficient public need for continuance of the state~~  
23 ~~agency.~~

24 Section 7. That § 1-26E-6 be repealed.

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

3 Section 8. That § 1-26E-7 be repealed.

4 ~~1-26E-7. Each committee shall submit reports recommending either the continuation,~~  
5 ~~revision, or termination of the state agency under review to the Executive Board of the~~  
6 ~~Legislative Research Council for distribution to legislators and the Governor before the first~~  
7 ~~legislative day of the ensuing regular legislative session.~~

8 Section 9. That § 1-26E-8 be repealed.

9 ~~1-26E-8. Each committee shall submit its recommendations concerning the state agency and~~  
10 ~~laws that it believes should be repealed or revised to the Legislature in one or more bills.~~