

AN ACT

ENTITLED, An Act to repeal, update, and make form and style revisions to certain provisions related to the Bureau of Administration.

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

Section 1. That § 1-6-24 be repealed.

Section 2. That § 1-6-25 be repealed.

Section 3. That § 1-6-26 be repealed.

Section 4. That § 1-6-27 be repealed.

Section 5. That § 1-6-28 be repealed.

Section 6. That § 1-14-1 be amended to read as follows:

1-14-1. 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 Pierre which shall be the official address of the bureau and the place for serving process or papers of any kind upon it.

Section 7. That § 1-14-2 be amended to read as follows:

1-14-2. No person may be appointed as the commissioner of administration unless the person has had progressively responsible experience in administration.

Section 8. That § 1-14-3 be amended to read as follows:

1-14-3. The commissioner of administration, under the general direction and control of the Governor, shall execute the powers and discharge the duties vested by law in the Bureau of Administration. The commissioner shall qualify by taking and filing with the secretary of state the constitutional oath of office.

Section 9. That § 1-14-6.1 be repealed.

Section 10. That § 1-14-6.6 be repealed.

Section 11. That § 1-14-11 be repealed.

Section 12. That § 1-14-12 be amended to read as follows:

1-14-12. The commissioner of administration shall administer the Bureau of Administration. The bureau shall:

- (1) Keep an exact and true inventory of all property, real and personal, belonging to the State of South Dakota and promulgate rules pursuant to chapter 1-26 enumerating the types and classes of public personal property to be included in the inventory required by § 5-24-1;
- (2) Administer the procurement of supplies, services, and public improvements as prescribed in chapters 5-18A, 5-18B, and 5-18D;
- (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 the Bureau of Administration promulgates pursuant to chapter 1-26;
- (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, if such a contract improves the efficiency of state government; and

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

Section 13. That § 1-14-12.12 be repealed.

Section 14. That § 1-14-12.16 be amended to read as follows:

1-14-12.16. The operations of the Bureau of Administration in establishing and administering this chapter shall be financed by means of appropriations, gifts, grants, or reimbursements for services rendered. The fees and charges for services shall be designed, to the extent practicable, to recover all operational costs incurred to carry out the provisions of the contracts between public corporations and the Bureau of Administration.

Section 15. That § 1-14-12.18 be repealed.

Section 16. That § 1-14-13 be repealed.

Section 17. That § 1-14-14.1 be amended to read as follows:

1-14-14.1. Every political subdivision of this state may contract with the Bureau of Administration pursuant to this chapter for the performances of all public services and functions empowered by law for such subdivision. Each political subdivision may appropriate funds for contracts pursuant to this section.

Section 18. That § 1-14-14.3 be repealed.

Section 19. That § 1-14-14.4 be repealed.

Section 20. That § 1-27-9 be amended to read as follows:

1-27-9. Terms used in §§ 1-27-9 to 1-27-18, inclusive, mean:

- (1) "Local record," a record of a county, municipality, township, district, authority, or any public corporation or political entity whether organized and existing under charter or under general law, unless the record is designated or treated as a state record under state law;

- (2) "Record," a document, book, paper, photograph, sound recording, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in §§ 1-27-9 to 1-27-18, inclusive;
- (3) "State agency" or "agency" or "agencies," includes all state officers, boards, commissions, departments, institutions, and agencies of state government;
- (4) "State record,":
  - (a) A record of a department, office, commission, board, or other agency, however designated, of the state government;
  - (b) A record of the State Legislature;
  - (c) A record of any court of record, whether of state-wide or local jurisdiction;
  - (d) Any other record designated or treated as a state record under state law.

Section 21. That § 1-27-11 be amended to read as follows:

1-27-11. There is hereby created a board consisting of the commissioner of administration, state auditor, attorney general, auditor-general, and state archivist to supervise and authorize the destruction of records. The state records manager shall also serve as an ex officio member in an advisory capacity only. No record may be destroyed or otherwise disposed of by any agency of the state unless it is determined by majority vote of the board that the record has no further administrative, legal, fiscal, research, or historical value.

Section 22. That § 1-27-11.1 be amended to read as follows:

1-27-11.1. The board created by § 1-27-11 shall be administered under the direction and

supervision of the Bureau of Administration and the commissioner thereof. The board shall retain the quasi-judicial, quasi-legislative, advisory, other nonadministrative and special budgetary functions (as defined in § 1-32-1) otherwise vested in the board. The board shall exercise those functions independently of the commissioner of administration.

Section 23. That § 1-27-13 be amended to read as follows:

1-27-13. The head of each agency shall submit to the commissioner of administration, in accordance with the rules, standards, and procedures established by the commission, schedules proposing the length of time each state record series warrants retention for administrative, legal, or fiscal purposes after it has been received by the agency.

Section 24. That § 1-27-14 be amended to read as follows:

1-27-14. The head of each agency, also, shall submit lists of state records in his or her custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal, or fiscal value to warrant further keeping for disposal in conformity with the requirements of § 1-27-11.

Section 25. That § 1-27-14.1 be amended to read as follows:

1-27-14.1. Upon termination of employment with the state, each agency head shall transfer his or her records to a successor or to the state archives for appraisal and permanent retention. The records of any state agency shall, upon termination of its existence or functions, be transferred to the custody of the archivist.

Section 26. That § 1-27-14.2 be amended to read as follows:

1-27-14.2. If any material of actual or potential archival significance is determined by a state agency to be at risk of destruction or deterioration, and the material is not essential to the conduct of daily business in the agency of origin, the agency head may transfer the records to the physical and legal custody of the state archivist if the archivist is willing and able to receive the records.

Section 27. That § 1-27-14.3 be amended to read as follows:

1-27-14.3. Any record transferred to the physical custody of the archivist remains the legal property of the agency of origin, subject to all existing copyrights and statutory provisions regulating the record's usage, until such time as the agency head formally transfers legal title to the archivist.

Section 28. That § 1-27-15 be amended to read as follows:

1-27-15. Any nonrecord material not included within the definition of records as contained in § 1-27-9 may be destroyed at any time by the agency in possession of such materials without the prior approval of the commissioner of administration.

Section 29. That § 1-27-17 be amended to read as follows:

1-27-17. Upon request, the commissioner of administration shall assist and advise in the establishment of records management programs in the legislative and judicial branches of state government. The commissioner may, as required by each branch, provide program services similar to those available to the executive branch of state government pursuant to the provisions of §§ 1-27-9 to 1-27-16, inclusive.

Section 30. That § 1-33-8.2 be repealed.

Section 31. That § 2-7-13 be repealed.

Section 32. That § 4-8-18 be amended to read as follows:

4-8-18. There is hereby created a capitol communications systems internal service fund to encompass the operations of the capitol telephone system and any and all other capitol communication systems. The commissioner of the Bureau of Information and Telecommunications shall apportion all expenses encountered in the operation of the capitol communications systems to all state departments, agencies, and institutions that utilize such systems.

Section 33. That chapter 1-14 be amended by adding thereto a NEW SECTION to read as follows:

There is hereby created a central mail service fund to encompass the operations of the capitol central mail system. The commissioner of the Bureau of Administration shall apportion all expenses encountered in the operation of the capitol central mail system to all state departments, agencies, and institutions that utilize the system.

Section 34. That § 5-14-2 be amended to read as follows:

5-14-2. The construction of all capital improvements projects as defined in § 5-14-1 of state agencies, boards, commissions, and institutions are under the general charge and supervision of the Bureau of Administration as provided in this chapter. Funds appropriated shall be paid on warrants drawn by the state auditor on vouchers duly approved by the Bureau of Administration and may also be approved by the authorized representative of the agency, board, commission, or institution to which the project appropriation is made.

Section 35. That § 5-14-5 be amended to read as follows:

5-14-5. The Bureau of Administration, under the direction of the State Building Committee, shall, at the request of any state board that expects to appear before the Legislature for the purpose of asking for any appropriation for state buildings and improvements, prepare such plans and specifications and have the plans and specifications ready before the Legislature meets for their information. If the services of a licensed architect or engineer are deemed to be necessary for this purpose, the building committee as provided in § 5-14-3 shall designate such architect or engineer.

Section 36. That § 5-14-7 be repealed.

Section 37. That § 5-14-8 be amended to read as follows:

5-14-8. The various agencies, boards, commissions, and institutions may accept and expend in addition to the amounts provided for new construction at any of the institutions under their jurisdiction, any funds which may be obtained from any gift or contribution from any source for that purpose.

Section 38. That § 5-14-8.1 be amended to read as follows:

5-14-8.1. The South Dakota State Fine Arts Council, the State Building Committee provided for in § 5-14-3, and the Bureau of Administration, may accept and expend for the purpose of this chapter, any funds which it may obtain from federal sources, gifts, contributions, or any other source for the acquisition and installation of works of art in state buildings in which the works of art shall be an integral part of the building, attached to the building, or capable of display in other state buildings.

Section 39. That § 5-14-9 be amended to read as follows:

5-14-9. The Bureau of Administration shall keep the original or a copy of the plans and specifications of all state buildings, of all bids submitted, and of all contracts let for their erection. The bureau shall prepare and keep itemized statements of the cost of construction of all such buildings.

Section 40. That § 5-14-10 be amended to read as follows:

5-14-10. No money appropriated by the state may be expended for the erection of any building upon land not previously owned by the state before title thereto has conveyed to the state by a deed duly executed and acknowledged, granting the title in fee, clear of all encumbrances, without any reversionary clause or condition whatever, and the attorney general has certified that the title acquired by the state conforms to the requirements of this section.

Section 41. That § 5-14-12 be amended to read as follows:

5-14-12. The standards and specifications set forth in § 5-14-13 apply to all buildings and facilities used by the public which are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state. All such buildings and facilities constructed or remodeled after January 26, 1992, shall conform to these standards.

Section 42. That § 5-14-13.1 be amended to read as follows:



5-14-13.1. All public buildings and facilities providing facilities for the wheelchair user, including entrance and exit facilities, shall display at all entrances the internationally recognized symbol for wheelchair users.

Section 43. That § 5-14-14 be amended to read as follows:

5-14-14. The administrator in charge of, and authorized to contract for, new construction, remodeling, alteration, or addition on behalf of the political subdivision involved shall enforce the provisions of §§ 5-14-12 and 5-14-13.

Section 44. That § 5-14-17 be amended to read as follows:

5-14-17. Each department or agency of state government operating and maintaining an electrical energy producing plant may enter into a contract with the United States of America for the purchase of electrical energy. The contract may include stipulations that the generation of electrical energy may be discontinued. The department or agency may maintain such a plant in a serviceable operating condition for standby service for the generation of electrical energy if required so to do by the United States.

Section 45. That § 5-14-18 be amended to read as follows:

5-14-18. Any person who intentionally burns, destroys, or injures any public building or improvement in this state is punishable as provided in § 22-34-1.

Section 46. That § 5-14-22 be amended to read as follows:

5-14-22. The state may lease or sell on a negotiated basis and convey any of its real property to a municipality or county, or to a nonprofit local industrial development corporation as defined by § 5-14-23 and located therein, to be used by such grantee for an authorized public purpose or industrial development purpose as enumerated in § 9-54-1. The lease shall be authorized on the terms and in the manner provided by the Legislature. Each sale is subject to approval by an act of the Legislature.

Section 47. That § 5-14-23 be amended to read as follows:

5-14-23. For the purposes of § 5-14-22, the term, local industrial development corporation, is an enterprise incorporated under the laws of the State of South Dakota, formed for the purpose of furthering the economic development of a community and its environs, and with authority to promote and assist in the growth and development of small business concerns in the areas covered by its operation. The corporation shall be organized as a nonprofit enterprise and shall be composed of no fewer than twenty-five members. A local industrial development corporation shall be principally composed of and controlled by persons residing or doing business in the locality. Such persons shall ordinarily constitute not less than seventy-five percent of the voting control of the local development corporation. No member of the development corporation may own in excess of twenty-five percent of the voting control in the development corporation if that member or that member's affiliated interests have direct pecuniary interest in a project involving an application under § 5-14-22. The primary objective of the local industrial development corporation is to benefit the community as measured by increased employment, payroll, business volume, and corresponding factors.

Section 48. That § 5-14-30 be amended to read as follows:

5-14-30. There is hereby established within the Bureau of Administration the state-wide maintenance and repair fund. The bureau shall administer the fund and maintain it separately in order to conduct maintenance and repair on state-owned buildings pursuant to this chapter. The projects to receive funding shall be selected from a state-wide maintenance and repair priority list developed by the bureau. The Board of Regents shall annually establish the priority for maintenance and repair projects involving academic and revenue project buildings under its control. Any project of the Board of Regents involving an academic building pursuant to § 13-51-1 may be financed from the education facilities fund established under § 13-51-2 according to the order of priority determined

by the board. The Bureau of Administration shall place on the prioritized list of projects to be financed through the state-wide maintenance and repair fund any project involving an academic building that has not been financed through § 13-51-2. The Board of Regents shall have charge of the maintenance and repair of revenue bond project buildings as provided in chapter 13-51A. However, in order to be eligible to receive funding, in whole or in part, from the state-wide maintenance and repair fund, each agency, board, bureau, or department of state government, including the Board of Regents, shall submit to the Bureau of Administration a complete list of all proposed maintenance and repair projects notwithstanding other available funding sources for those projects. After the bureau determines which projects contained in the priority list are to receive funding, those projects that are not to be funded through the state-wide maintenance and repair fund may be financed by other funding sources. The priority list may be reprioritized if an emergency arises and a written determination made by the bureau of the basis for the emergency is included with the state-wide maintenance and repair priority list.

Section 49. That § 5-15-1 be amended to read as follows:

5-15-1. The State of South Dakota declares that it is necessary that the capitol complex in the city of Pierre be enlarged and beautified. The South Dakota Capitol Complex Restoration and Beautification Commission shall accomplish that purpose in the manner provided by this chapter.

Section 50. That § 5-15-1.1 be amended to read as follows:

5-15-1.1. The Capitol Complex Restoration and Beautification Commission shall be administered under the direction and supervision of the Bureau of Administration and the commissioner thereof. The commission shall retain the quasi-judicial, quasi-legislative, advisory, other nonadministrative and special budgetary functions, as defined in § 1-32-1, otherwise vested in it and shall exercise those functions independently of the commissioner of administration.

Section 51. That § 5-15-2 be amended to read as follows:

5-15-2. The commission consists of one nonappointed member, who shall be the mayor of Pierre or the mayor's designee, and seven appointed members, not all of whom may be of the same political party, to be appointed by the Governor for a term of four years. Any member appointed to fill a vacancy arising from other than the natural expiration of a term shall serve for only the unexpired portion of the term.

Section 52. That § 5-15-3 be amended to read as follows:

5-15-3. Each member of the commission shall, within ten days after appointment, qualify by taking the oath of office and giving bond to the state, with corporate surety, in the penal sum of twenty-five hundred dollars, the cost to be paid by the state.

Section 53. That § 5-15-4 be amended to read as follows:

5-15-4. The commission shall meet at least twice each year and at such additional times as may be necessary. All meetings shall be held at the state capitol, and a majority of its members constitutes a quorum. The commission shall choose a chair, and one of its members as secretary, who shall keep minutes of its meetings. The commission shall make reports to the Governor on the progress of its work, and to the Legislature.

Section 54. That § 5-15-5 be amended to read as follows:

5-15-5. The per diem and expenses of commission members shall be paid by warrant of the state auditor by funds appropriated therefor, on vouchers approved by the Bureau of Administration.

Section 55. That § 5-15-6 be amended to read as follows:

5-15-6. The Bureau of Administration shall employ such clerical and other help for the commission as in the bureau's discretion seems necessary. The bureau may employ such assistance and provide such supplies and equipment as may be necessary to properly carry on the work of the commission.

Section 56. That § 5-15-7 be amended to read as follows:

5-15-7. The commission shall make all necessary plans for the enlargement, restoration, and beautification of the capitol complex or additions thereto, including uniform plans and specifications for its development.

Section 57. That § 5-15-8 be amended to read as follows:

5-15-8. The commission shall make recommendations for the development of areas immediately adjacent to the state capitol complex and acquaint the people of South Dakota with the need and purpose of a comprehensive long-range plan for capitol complex of sufficient and proper size to serve the future needs of the state and to secure the proper growth and expansion of the city of Pierre. The zone shall be designated the capitol area preservation zone and shall be zoned primarily for residential purposes and for governmental purposes.

Section 58. That § 5-15-9 be amended to read as follows:

5-15-9. The commission may print and distribute such pamphlets and leaflets and information as is proper and necessary to further and advance the work, objects, and aims of the commission, and acquaint South Dakota citizens with the commission. The Bureau of Administration shall supply the pamphlets and leaflets for the commission. The commission may have maps, diagrams, drawings, sketches, representations, preliminary surveys, and studies made in conjunction with the commission's work, and do all the necessary things to effectuate the purposes and intent of §§ 5-15-1 to 5-15-23, inclusive.

Section 59. That § 5-15-10 be amended to read as follows:

5-15-10. The commission may accept and receive gifts of money and contributions and donations of real and personal property from any source, including the city of Pierre, South Dakota, a municipal corporation, and the United States of America, and to use the same for the purposes of §§ 5-15-1 to 5-15-23, inclusive. The commission may deposit such moneys to the credit of the commission, and carry on a campaign for public contribution of such funds, and expend moneys necessary therefor.

Section 60. That § 5-15-11 be amended to read as follows:

5-15-11. The commission may make all necessary surveys in connection with its work, plat and replat the area of the capitol complex acquired by the commission, or any part thereof, and open and dedicate streets to the use of the public in such area, granting easements therein and use thereof to the city of Pierre, South Dakota, and to the public, for sewer, water, and electricity, and other facilities. The commission may vacate any streets or alleys in the manner provided by law in the areas acquired by the commission or bordering on or adjacent thereto. The commission may make agreements with the city for replacement of its facilities in any vacated streets within the area and grant easements for erection and maintenance of other necessary facilities and utilities.

Section 61. That § 5-15-12 be amended to read as follows:

5-15-12. The commission may acquire by gift or the exercise of the power of eminent domain in the manner provided by law, real property necessary for the state capitol complex enlarged as provided by the plans adopted by the commission, lease or manage any such property, and sell excess property of the commission.

Section 62. That § 5-15-13 be amended to read as follows:

5-15-13. The city of Pierre may convey, without compensation therefor, to the state any property owned by the city within the boundaries of the capitol complex as enlarged pursuant to the plan adopted, and area determined, by the commission.

Section 63. That § 5-15-14 be amended to read as follows:

5-15-14. The acts of the commission in its exercise of the power of eminent domain on behalf of the state and in the selection of the lands acquired in the action of condemnation heretofore brought by the commission in the circuit court for Hughes County, South Dakota, to acquire unimproved land in the area known as Hilger's Gulch in the city of Pierre adjacent to the existing capitol grounds, are hereby confirmed as if heretofore expressly conferred and the action is cured,

validated, and legalized from its inception.

Section 64. That § 5-15-15 be amended to read as follows:

5-15-15. The location of any building to be erected in the capitol complex shall be determined by the majority vote of a board consisting of the Governor, chair of the commission, and the executive head or officer of any of the branches of state government, or the chair, commissioner, or head of any department, board, commission or agency thereof, for which a new building is authorized to be erected.

Section 65. That § 5-15-16 be amended to read as follows:

5-15-16. The commission may make and execute all contracts and other instruments which may be required in connection with the enlargement, renovation, and beautification of the state capitol grounds and other duties imposed upon the commission by §§ 5-15-1 to 5-15-23, inclusive.

Section 66. That § 5-15-17 be amended to read as follows:

5-15-17. The commission may lease, manage, control, and maintain any of the property heretofore or hereafter acquired by it, and to execute lease, or rental agreements therefor as the commission deems advisable. No lease agreement may exceed a term of two years. The lease agreement shall be executed by the chair and secretary.

Section 67. That § 5-15-18 be amended to read as follows:

5-15-18. The commission may sell unneeded or excess property of the commission other than real property and sever any buildings or structures from the land. The sale of any property by the commission shall be at public auction or upon sealed bids, to be held in Hughes County, South Dakota, to the highest bidder for cash. Notice of sale, containing terms of sale shall be given by the commission which shall be published in at least two of the official newspapers of the county once a week for two successive weeks next before the day, on or after which the sale is to be made, which date, and the location where such auction will be held, shall be stated in the notice and shall be at

least fifteen days from the first publication of notice. The right to reject any and all bids is reserved. A sale may not be made before the day set but shall be made within sixty days thereafter. If bids or offers are used, the bids shall be in writing and shall be filed in the office of the chairman or secretary of the commission in Pierre.

Section 68. That § 5-15-19 be amended to read as follows:

5-15-19. The commission may make sales of structures, material, or property severed from the land, or other personal property to the public and to other state agencies, departments, or political subdivisions. Such sales to state agencies, departments, or political subdivisions shall follow the procedures for other sales. However, no notice or advertisement for bid requirements or time of sale requirements applies to such sale. If the sale of any such property agreed to by the commission exceeds the sum of one hundred dollars, the sale shall be submitted by the commission to the State Board of Finance for approval and, if approved, a bill of sale may be executed by the commission.

Section 69. That § 5-15-20 be amended to read as follows:

5-15-20. The commission may dispose of, wreck, and destroy any building acquired by it, its determination therefor to be approved by the State Board of Finance.

Section 70. That § 5-15-23 be amended to read as follows:

5-15-23. The commission may promulgate rules, pursuant to chapter 1-26, necessary and proper for the purposes of and not inconsistent with §§ 5-15-1 to 5-15-20, inclusive.

Section 71. That § 5-15-24 be amended to read as follows:

5-15-24. A portion of the capitol grounds, as now exists and lies north of Church Street located in Hilger's Gulch shall be known as the Governor's Grove. The Governor's Grove 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. 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. This grove shall be maintained as an adjunct to the capitol grounds and shall be used for no other memorial purpose than as is provided for in this section. However, a gateway to the grove may be provided in which each county in the state shall be represented by a properly inscribed stone or marker.

Section 72. That § 5-15-25.1 be repealed.

Section 73. That § 5-15-25.2 be repealed.

Section 74. That § 5-15-25.3 be repealed.

Section 75. That § 5-15-26 be amended to read as follows:

5-15-26. The commissioner of administration shall be the superintendent of the state capitol. The commissioner shall control, manage, and supervise the buildings and grounds. The commissioner shall employ engineers, carpenters, electricians, plumbers, mechanics, watchmen, policemen, elevator operators, guides, janitors, and other laborers as may be necessary for the proper care, safety, management, and maintenance of the capitol and grounds, and the public property there kept, and for the proper protection of the properties from injury and deterioration.

Section 76. That § 5-15-31 be repealed.

Section 77. That § 5-15-32 be repealed.

Section 78. That § 5-15-33 be repealed.

Section 79. That § 5-15-34 be amended to read as follows:

5-15-34. The commissioner of administration may promulgate such rules pursuant to chapter 1-26 as may be necessary to promote the health, safety, and general welfare, to prohibit public intoxication, disturbances, and disorderly assemblies, to keep the peace, and to declare what constitutes a nuisance within the buildings of the capitol complex and the capitol grounds. These rules may include the regulation of hours of general public accessibility to buildings within the

capitol complex and the regulation of obstruction, speed limits, and parking on the streets and alleys within the capitol grounds.

Section 80. That § 5-15-35 be amended to read as follows:

5-15-35. Any person who violates a rule promulgated pursuant to § 5-15-34 commits a petty offense.

Section 81. That § 5-15-36 be amended to read as follows:

5-15-36. The commission shall set policy for and oversee the restoration and beautification of the state capitol complex, Pierre, South Dakota.

Section 82. That § 5-15-36.1 be amended to read as follows:

5-15-36.1. The commission shall approve any plan of renovation of the capitol complex before the renovation may be constructed.

Section 83. That § 5-15-44 be amended to read as follows:

5-15-44. The commission created by § 5-15-1 shall protect and preserve the integrity of the historic areas of the state capitol building and shall, from time to time, propose restoration projects to restore historic areas to their original appearance insofar as this objective is compatible with modern use.

Section 84. That § 5-15-45 be amended to read as follows:

5-15-45. No person may alter, change, remodel, partition, cover, or conceal an historic area which is a part of the state capitol building. In addition, no person may deny access to an historic area traditionally open to the public by creating physical barriers to access by the public except as may be necessary for public health, safety, or the safety of the property, or for the orderly conduct of state business, without the approval of the commission. However, the commissioner of administration temporarily may deny access to any area by the public or create temporary barriers for a period up to ninety days if, in the commissioner's judgment, it is necessary to do so for the

public health, safety, or the safety of the property, or to permit the orderly conduct of state business.

Section 85. That § 5-15-50 be amended to read as follows:

5-15-50. The State of South Dakota accepts the gift of Mrs. Peter Norbeck of a bust of the late United States Senator Norbeck and former Governor of this state, sculptured by the late Gutzon Borglum, to be placed in a suitable place on the capitol grounds to be determined by the commission.

Section 86. That § 5-15-51 be amended to read as follows:

5-15-51. The granite statue of General William Henry Harrison Beadle, South Dakota educator shall be permanently displayed in the state capitol on an appropriate pedestal.

Section 87. That § 5-24-2 be amended to read as follows:

5-24-2. The inventories required by §§ 5-24-1 and 5-24-1.1 shall show the actual cost for each item, or the estimated cost at the time of acquisition, if the actual cost cannot be ascertained. In the case of gifts, the estimated fair market value at the time of acquisition shall be used. The officer or employee shall retain one copy of the inventory in the officer's or employee's office. The others shall be filed as provided in §§ 5-24-1.1 and 5-24-3.

Section 88. That § 5-24-5 be amended to read as follows:

5-24-5. If any article in the custody of any officer or employee is lost or destroyed, the officer or employee shall make a note of the loss or destruction in the inventory for the current year, giving the date and circumstances of the loss or destruction.

Section 89. That § 5-24-6 be amended to read as follows:

5-24-6. If an officer or employee disposes of personal property without complying with the requirements of this chapter, the officer or employee, in addition to the penal penalty prescribed by law, is liable for the value thereof as shown by the last preceding inventory, to be recovered in a civil suit.

Section 90. That § 5-24-7 be amended to read as follows:

5-24-7. Each officer enumerated in § 5-24-1, shall turn over all the public personal property in the officer's possession to the officer's successor in office. Each officer shall take the receipt of the officer's successor for all property requiring inventory, as defined in rules promulgated by the commissioner of the Bureau of Administration. The officer shall file any receipt in the offices where the officer is, by this chapter, required to file the inventory of the personal property in the officer's possession.

Each officer enumerated in § 5-24-1 shall, upon assuming office, give a receipt to his or her predecessor for all public personal property requiring inventory, as defined in rules promulgated by the commissioner of the Bureau of Administration, turned over to the officer.

Section 91. That § 5-24-8 be amended to read as follows:

5-24-8. Any officer who fails to comply with any of the provisions of §§ 5-24-1 to 5-24-7, inclusive, is guilty of a Class 2 misdemeanor.

Section 92. That § 5-24-11 be repealed.

Section 93. That chapter 1-14 be amended by adding thereto a NEW SECTION to read as follows:

The Bureau of Administration may provide a central supply program for the purpose of supplying office materials to the various departments of state government. There is created a supply internal service fund. The payment for supplies purchased for the various departments shall be made once each month to the supply internal service fund.

Section 94. That § 5-24-13 be amended to read as follows:

5-24-13. The commissioner of administration shall cooperate with the United States government, the general services administration, or any other duly constituted federal agency, by expending moneys and accepting federal surplus commodities and property for care, exchange, and distribution of them to all eligible institutions. The commissioner of administration shall appoint an administrator

who shall keep and maintain an accurate record of all property received and distributed. The record is subject to audit by the Department of Legislative Audit.

Section 95. That § 5-24-16 be repealed.

Section 96. That § 5-24-21 be repealed.

Section 97. That § 5-25-2 be amended to read as follows:

5-25-2. Each office, department, institution, board, and agency of this state operating a state-owned passenger motor vehicle shall keep and maintain in its respective office:

- (1) Accurate records of its cost of operation of the motor vehicle;
- (2) Travel reports showing destination and miles traveled each day according to speedometer registration and the total speedometer mileage at the beginning and at the end of each travel period, together with all operating expenses incurred for that period.

A copy of such travel report shall be attached to the claim or claims presented for reimbursement of the travel expense covered thereby.

Section 98. That § 5-25-2.1 be repealed.

Section 99. That § 5-25-3 be repealed.

Section 100. That § 5-25-4 be amended to read as follows:

5-25-4. The Bureau of Administration shall maintain an internal service fund under the supervision of the commissioner of administration to collect and disburse mileage payments and motor vehicle disbursements equitably between the several departments, agencies, and officers of the state.

Section 101. That § 5-25-5 be repealed.

Section 102. That § 5-25-6 be repealed.

Section 103. That § 5-25-7 be repealed.

Section 104. That § 23-3-2 be repealed.

Section 105. That § 1-15-10 be amended to read as follows:

1-15-10. The Department of Corrections may make contracts for service, the erection of buildings, the purchase and lease of lands, materials and supplies needed, except such supplies as are under the supervision of the Bureau of Administration as prescribed by chapter 5-18B. The department may expend money, exact and collect penalties, and purchase, lease, and sell property within the limitations of the state and national laws to carry out such contracts.

Section 106. That § 1-18C-5.1 be amended to read as follows:

1-18C-5.1. The State Historical Society Board of Trustees shall, pursuant to chapter 1-26, promulgate rules to require any state agency publishing a document meant to be a permanent public record to print the document on a permanent type of paper and to specify the type of permanent paper to be used for each document. The state agency shall note the use of such paper in each document.

Section 107. That § 1-33B-9 be amended to read as follows:

1-33B-9. Guaranteed energy savings contracts are not subject to the requirements of chapter 5-18A.

Section 108. That § 1-36A-1.11 be amended to read as follows:

1-36A-1.11. The Department of Human Services may make contracts for service, the erection of buildings, the purchase and lease of lands, materials, and supplies needed, except such supplies as are under the supervision of the Bureau of Administration as prescribed by chapter 5-18B. The department may expend money, exact and collect penalties and may purchase, lease and sell property within the limitations of the state and national laws to carry out such contracts.

Section 109. That § 1-36A-7 be amended to read as follows:

1-36A-7. The Department of Human Services shall, under the direction and control of the secretary of human services, perform all the functions of the following former agencies:

- (1) The Division of Service to the Blind and Visually Impaired, created by chapter 28-10;

(2) The Division of Vocational Rehabilitation, created by chapter 28-9; and

(3) The disability determination services program in chapter 28-11.

Section 110. That § 2-16-7 be amended to read as follows:

2-16-7. Notwithstanding chapters 5-18A and 5-18D, the South Dakota Code Commission may draft specifications for material authorized for publication by § 2-16-6 and advertise for and accept bids from editorial, printing, and publishing companies for production of all material authorized by this chapter. The advertisement for bids shall be published twice in at least three newspapers of general circulation in different parts of the state, and in such additional manner as the commission may determine. The terms and conditions of the bids shall be prescribed by the commission. Each contract shall be awarded to the lowest bidder which, in the opinion of the commission, is the best bid consistent with the quality of editorial services, printing, paper, binding, expeditious service and the best interests of the state. If the contract for editorial services is separate from the contract for printing, the specifications shall be drawn in such a manner as not to exclude South Dakota printing firms.

Section 111. That § 4-11-7 be amended to read as follows:

4-11-7. Nothing contained in this chapter prevents a public corporation from employing a private accountant to examine and audit the books and accounts thereof or of any of its officers if the governing body or authorized official believes that the public interest requires it, and if such employment is first approved by the auditor-general. No private audit may be paid for before a copy thereof is filed with and approved by the auditor-general. The entity receiving audit services may approve progress payments proportionate to the audit work completed so long as ten percent of the amount billed is withheld pending approval by the auditor-general of the final report. The auditor-general may accept such audit in lieu of an examination otherwise required to be made by the auditor-general.

Section 112. That § 6-1-2 be amended to read as follows:

6-1-2. The provisions of § 6-1-1 are not applicable if the contract is made pursuant to any one of the conditions set forth in the following subdivisions, without fraud or deceit. However, the contract is voidable if the provisions of the applicable subdivision are not fully satisfied or present at the time the contract was entered into:

- (1) Any contract involving three thousand dollars or less regardless of whether other sources of supply or services are available within the county, municipality, township, or school district, if the consideration for such supplies or services is reasonable and just;
- (2) Any contract involving more than three thousand dollars but less than the amount for which competitive bidding is required, and there is no other source of supply or services available within the county, municipality, township, or school district if the consideration for such supplies or services is reasonable and just and if the accumulated total of such contracts paid during any given fiscal year does not exceed the amount specified in § 5-18A-14;
- (3) Any contract with any firm, association, corporation, or cooperative association for which competitive bidding is not required and where other sources of supply and services are available within the county, municipality, township or school district, and the consideration for such supplies or services is reasonable and just, unless the majority of the governing body are members or stockholders who collectively have controlling interest, or any one of them is an officer or manager of any such firm, association, corporation, or cooperative association, in which case any such contract is null and void;
- (4) Any contract with any firm, association, corporation, or cooperative association for which competitive bidding procedures are followed pursuant to chapter 5-18A or 5-18B, and where more than one such competitive bid is submitted;



- (5) Any contract for professional services with any individual, firm, association, corporation, or cooperative, if the individual or any member of the firm, association, corporation, or cooperative is an elected or appointed officer of a county, municipality, township, or school district, whether or not other sources of such services are available within the county, municipality, township, or school district, if the consideration for such services is reasonable and just;
- (6) Any contract for commodities, materials, supplies, or equipment found in the state contract list established pursuant to § 5-18D-6, at the price there established or below; and
- (7) Any contract or agreement between a governmental entity specified in § 6-1-1 and a public postsecondary educational institution if an employee of the Board of Regents serves as an elected or appointed officer for the governmental entity, and if the employee does not receive direct compensation or payment as a result of the contract or agreement.

Section 113. That § 7-25-7 be amended to read as follows:

7-25-7. If any county building is to be constructed, the board shall proceed as required by chapter 5-18B. The time specified for opening of bids shall be at one of the regular or duly adjourned sessions of the board.

Section 114. That § 7-25-9 be amended to read as follows:

7-25-9. Each bid shall contain a certified check, cashier's check, or bank money order, in the sum equal to five percent of the amount of the bid. The check or money order shall be certified or issued by either a state or national bank domiciled within this state made payable to the county or the county treasurer. In lieu of a check or money order, a bid bond for ten percent of the bid may be submitted. The bond shall be issued by a surety authorized to do business in this state and payable to the county or the county treasurer as a guaranty that the bidder will enter into contract, if the contract is awarded to the bidder, and furnish a bond as provided by this chapter. If the successful bidder forfeits a check,

money order, or bid bond, the proceeds of the check, money order, or bid bond shall be turned into the county general fund. The check, money order, or bid bond of each unsuccessful bidder shall be, by the board, immediately returned to the bidder. No more time may elapse between the opening of the bids and either the acceptance of the bid of the lowest responsible bidder, or the rejection of all bids presented than is permitted in subdivision 5-18A-5(7).

Section 115. That § 9-39-20 be amended to read as follows:

9-39-20. The provisions of chapter 5-18A relating to advertisement for bids and §§ 6-1-1 to 6-1-4, inclusive, relative to participation in contracts by members of the governing body, apply to contracts of and members of municipal utility boards.

Section 116. That § 9-41-1.1 be amended to read as follows:

9-41-1.1. Notwithstanding the provisions of chapter 5-18A or any of the provisions of Title 9 regarding the sale and purchase of property, a municipality operating a telephone system pursuant to § 9-41-1 may lease and purchase equipment for resale to its customers and may contract for services relating to the lease, purchase, sale, installation, and maintenance of such property, in a manner and for a price and terms determined by the governing body. If practicable the governing body shall secure at least two competitive quotations and retain them for its files.

Section 117. That § 9-42-4 be amended to read as follows:

9-42-4. If any local improvement other than a sidewalk or bulkhead is ordered by the governing body, the governing body shall have plans and specifications prepared and filed in the office of the auditor or clerk. The governing body shall designate a time, not less than two weeks from the date of the filing, at which sealed bids for the construction of the improvement will be received.

The governing body shall publish notice in the official paper, or elsewhere if deemed advisable, in accordance with the provisions of chapters 5-18A and 5-18B. The notice shall specify whether the improvement shall be paid for in cash or by special assessment certificates and the rate of interest

which the certificates shall bear.

Section 118. That § 9-42-5 be amended to read as follows:

9-42-5. Any contract for the construction or repair of a public building or for public works or improvements, and any contract for material used therefor and equipment purchased or rented in connection therewith, and any contract for local improvements for which a special assessment is to be levied, except as provided in this chapter and as provided in chapters 5-18A and 5-18B, shall be let to the lowest responsible bidder in accordance with the provisions of chapters 5-18A and 5-18B.

The governing body may reject all bids and readvertise for proposals, if none of the bids are satisfactory or if the governing body believes any agreement has been entered into between the bidders to prevent competition.

Section 119. That § 9-46-4 be amended to read as follows:

9-46-4. If such sidewalk is not constructed, reconstructed, or repaired in the manner and within the time prescribed pursuant to § 9-46-3, the governing body by resolution may cause the work to be done by day labor or by job. If the amount of the contract is less than the amount provided for in § 5-18A-14, it is not necessary to advertise for bids.

Section 120. That subdivision (4) of § 10-46-1 be amended to read as follows:

(4) "Fair market value," the price at which a willing seller and willing buyer will trade. Fair market value shall be determined at the time of purchase. If a public corporation is supplying tangible personal property or any product transferred electronically that will be used in the performance of a contract, fair market value shall be determined pursuant to § 5-18B-7. This definition also applies to chapter 10-45;

Section 121. That § 11-7-44 be amended to read as follows:

11-7-44. Any construction work, and work of demolition or clearing, and any purchase of equipment, supplies, or materials, necessary in carrying out the purposes of this chapter, shall be

awarded pursuant to the provisions of chapters 5-18A and 5-18B.

Section 122. That § 13-16-6.1 be amended to read as follows:

13-16-6.1. Notwithstanding the provisions of chapters 5-18A and 13-20, if any proposed installment purchase contract or lease-purchase agreement authorized under chapter 13-16, is to be entered into by a school district, the notice for bidders shall require the bidders to state the rate of interest and the installment payment or lease-purchase schedule that would have to be made by the school district in fulfillment of the contract. However, the requirement of this section does not apply to any installment purchase or lease-purchase to be entered into between a school district and the health and educational facilities authority.

Section 123. That § 13-16-9.3 be amended to read as follows:

13-16-9.3. Any school district using the capital outlay fund for payment of construction of new facilities or construction of additions to facilities, the total of which requires advertising for bids under chapter 5-18A, shall have a public hearing at least ten days prior to the advertisement of any contract specifications. The public hearing shall be advertised in the legal newspaper of the school district. Following the public hearing, and approval of the school board, the school district may use the capital outlay fund as provided in § 13-16-6. No school district may change the originally advertised use of the fund without holding another public hearing.

Section 124. That § 13-20-3 be amended to read as follows:

13-20-3. Except for purchases made pursuant to chapter 13-34, if any school facilities are to be built or remodeled, or improvements are to be made to school sites, or if supplies or equipment are to be purchased, the school board shall let contracts in accordance with chapters 5-18A and 5-18B and in accordance with plans and specifications furnished by the board.

Section 125. That § 13-20-4 be amended to read as follows:

13-20-4. If an emergency maintenance need arises caused by wind, hail, fire, theft, explosion,

deterioration resulting in sudden destruction to a vital piece of school equipment, or a traffic accident which would necessitate the closing of school while the school would otherwise be in session, or which would endanger the usefulness of remaining school property, the school board may take immediate action to correct such emergency maintenance need in accordance with the procedures provided in chapter 5-18A. An emergency maintenance need does not include the replacement of an entire school building.

Section 126. That § 13-20-6 be amended to read as follows:

13-20-6. The purchase of copyrighted material need not be submitted for bids as provided in § 13-20-3 and chapter 5-18A if only one company publishes the copyrighted material to be purchased.

Section 127. That § 13-20-7 be amended to read as follows:

13-20-7. If supplies or equipment are to be purchased, a school board advertising pursuant to § 13-20-3 may require a reasonable deposit guaranteeing the execution of contract and the furnishing of a performance bond by the successful bidder in accordance with chapters 5-18A and 5-21. The board may accept an annual bond if the bid meets the requirements of chapters 5-18A and 5-21. The board may reject any and all bids.

Section 128. That § 13-20-7.1 be amended to read as follows:

13-20-7.1. If school facilities are to be built or remodeled or improvements are to be made to school sites, the school board advertising pursuant to § 13-20-3 shall require a reasonable deposit guaranteeing the execution of the contract and the furnishing of a performance bond by the successful bidder in accordance with chapters 5-18A and 5-18B. The board may reject any and all bids.

Section 129. That § 13-49-16 be amended to read as follows:

13-49-16. Any contract for the erection and repair of any building and the purchase of ordinary

supplies shall be let in accordance with chapters 5-18A and 5-18B except in the case of coal needed by the institutions.

Section 130. That § 13-49-34 be amended to read as follows:

13-49-34. Notwithstanding the provisions of chapter 5-24A, if the Board of Regents assesses a special student fee to students in order to lease personal computers for the use of those students at a university, the Board of Regents may, upon the expiration of the lease, acquire the computers and offer them for resale to students, staff, or alumni through a university bookstore or to any political subdivision of the state or in bulk at fair market value on the resale market.

Section 131. That § 23A-37-13 be amended to read as follows:

23A-37-13. Any controlled weapon or firearm used in violation of chapter 22-14 shall be disposed of as follows:

- (1) If it is stolen, it shall be returned to the lawful owner upon proof of ownership;
- (2) If it is illegal, it shall be destroyed pursuant to law; or
- (3) If it is neither stolen nor illegal, it shall be delivered to the arresting agency or, at the direction of the attorney general, to the South Dakota Forensic Laboratory for scientific examination purposes, for lawful use or disposal.

In the case of a disposition pursuant to subdivision (3), the arresting agency or forensic laboratory may use, trade-in, destroy, or sell, as provided in chapter 5-24A or § 6-13-6, the controlled weapon or firearm.

Section 132. That § 23A-40-7 be amended to read as follows:

23A-40-7. The board of county commissioners of each county and the governing body of any municipality shall provide for the representation of indigent persons described in § 23A-40-6. The board or body shall provide this representation by any or all of the following:

- (1) Establishing and maintaining an office of a public defender;

- (2) Arranging with the courts in the county to appoint attorneys on an equitable basis through a systematic, coordinated plan; or
- (3) Contracting with any attorney licensed to practice law in this state.

In those counties which have established an office of public defender, any proceedings after judgment may be assigned to the public defender. The provisions of chapter 5-18A do not apply to this section.

Section 133. That § 31-12-12 be amended to read as follows:

31-12-12. Any road, tile, or culvert construction, repair work, or materials upon the county highway system, for which the county highway superintendent's estimated cost equals or is less than the amount provided for in § 5-18A-14, may be advertised and let at a public letting by the board of county commissioners, may be let privately at a cost not to exceed the county highway superintendent's estimate, or may be built by day labor.

Section 134. That § 31-12-13 be amended to read as follows:

31-12-13. Any road, tile, or culvert construction, repair work, or materials on the county highway system, for which the county highway superintendent's estimated cost exceeds the amount provided for in § 5-18A-14, shall be advertised and let at a public letting by the board of county commissioners or may be built by day labor. The board may reject all bids, in which case the board may readvertise or let privately by submitting the contract to the Department of Transportation for approval.

Section 135. That § 31-12-14 be amended to read as follows:

31-12-14. If the cost of any road, bridge, tile, or culvert construction, repair work, or materials upon a county highway system or secondary roads exceeds the amount provided for in § 5-18A-14 or any less amount for which work bids are to be called for, and after plans and specifications therefor have been prepared and filed in the office of the county auditor, the board having charge

shall designate a time not less than twenty days from the date of such filing, at which sealed bids for such work or materials will be received. The board shall cause notice thereof to be published once each week for two successive weeks in one of the official newspapers of the county. The notice shall state where plans and specifications may be examined, when and where bids will be opened, a brief statement of the principal items of work and materials contemplated by the improvement, and the location of the same, the amount of the certified check or bidder's bond to be required, and such further notice as the board having supervision may deem advisable. Bids may be received at any special or regular meeting of the board. The board may refuse to accept any bids submitted.

Section 136. That § 31-12-27.1 be amended to read as follows:

31-12-27.1. Any county may contract with residents served by county roads for the construction, maintenance, and improvement of county roads or any portion thereof serving county residents. If the board of county commissioners, upon a petition by a resident within the county, filed in the office of the county auditor of the county, determines that it is in the best interest of the petitioner and in the public interest that the petitioner enter into an agreement in writing with the board of county commissioners of such county for the construction, maintenance, or improvement of county roads or any portion thereof, the board of county commissioners may enter into an agreement in writing with the petitioner to construct, maintain, or improve any such county road or portion thereof to be specifically designated, at and for a price to be paid to the county to be expressed in the agreement. If the board of county commissioners determines that it is in the public interest to enter into such an agreement, the board may do so and the county may, by and through its highway department and with the personnel and equipment thereof or by privately let contract pursuant to § 5-18A-9, perform or cause to be performed such construction, maintenance, and improvement specified in the written agreement under the supervision and control of the county highway superintendent. The prices specified in the contract shall be paid to the county or if privately let, to the person performing the



work by the resident petitioning upon estimates certified to by the county highway superintendent.

Section 137. That § 31-17-14 be amended to read as follows:

31-17-14. The court, by its judgment in an action pursuant to § 31-17-11, may determine the necessity and extent of any construction, improvement, or repair of such highway; the right to enforce equal contribution to the costs thereof by both townships; and the right to require the board of supervisors of both townships to jointly meet and advertise for bids and enter into a contract for the construction, improvement, or repair of such highway in the manner provided by §§ 5-18A-14 and 5-18B-10.

Section 138. That § 33-12-28 be amended to read as follows:

33-12-28. The provisions of chapters 5-18A, 5-18B, and 5-18D, governing contracts by public corporations, apply to contracts and purchases by the adjutant general and the Department of Military and Veterans Affairs. However, in case of insurrection, invasion, tumult, riot, breach of the peace, imminent danger thereof, or other great emergency, the Governor may, upon the certificate of the adjutant general, temporarily suspend the operation of law and direct the quartermaster general to purchase in the open market any necessary military property or supplies. The adjutant general shall report to the Governor the amount of property and supplies purchased and the prices paid.

Section 139. That § 34-31-8 be amended to read as follows:

34-31-8. Notwithstanding the provisions of § 5-18D-25, the Department of Agriculture may purchase used motor vehicles and equipment at auctions of federal and state surplus property, or from public and private utility companies, irrespective of whether or not the sellers of the vehicles are licensed dealers as required by § 5-18D-25, for distribution to fire departments or districts for fire suppression. The department may charge recipients for reasonable direct and indirect costs of providing such rural fire equipment, vehicles, and supplies to counties and rural fire departments or districts. The department may administer federal and state cost assistance programs related to such

rural fire protection.

Section 140. That § 34A-5-41 be amended to read as follows:

34A-5-41. The board of trustees of any sanitary district incorporated under this chapter may submit to the voters of the district at an annual election or a special election called and held in accordance with chapter 9-13 the question whether the district shall be authorized to acquire and operate a water system, or the application for incorporation filed in accordance with § 34A-5-6 may request such authority. Upon approval of the grant of such authority by a majority of the qualified electors voting on the question, or upon entry of the order incorporating the district if the application has requested such authority, the board of trustees may acquire and operate water mains, hydrants, intakes, wells, storage tanks and reservoirs, treatment plants, and all other facilities used or useful for the supply and distribution of water, and acquire and operate any of such facilities, and contract for the service of any such facilities owned by the adjacent municipality or for the use of district facilities by the municipality; and in connection with all such matters the district and its board of trustees has all powers herein granted with reference to sewer facilities. In the exercise of such powers the board of trustees may purchase any existing facilities used or useful therefor, or may contract for the construction of any such facilities in the manner provided in chapters 5-18A and 5-18B.

Section 141. That § 34A-6-63.1 be amended to read as follows:

34A-6-63.1. The governing body of any county, municipality, or political subdivision of the state may, by ordinance or resolution, establish policies, requirements, and procedures for the purchase, acquisition, sale, or transfer of any solid waste, as defined in § 34A-6-1.3; solid waste by-products; recyclable materials, as defined in § 34A-6-61; and scrap materials by any solid waste or recycling system or facility that is owned or operated by the county, municipality, or political subdivision or by any other facility or program that is owned or operated by the county, municipality, or political

subdivision. Policies and requirements established pursuant to this section shall conform to state statutes and rules related to solid waste and recycling.

Such purchases, acquisitions, sales, and transfers are exempt from the requirements of chapters 5-18A and 6-13. If the governing body determines that it is in the best interests of the county, municipality, or political subdivision, the governing body may attempt to identify additional prospective buyers or sellers and may negotiate the conditions of such transactions with prospective buyers or sellers, including price, delivery, transport, quantity, and length of contract, to obtain the price or conditions most advantageous to the governing body. The governing body may authorize procedures for adjusting prices to meet changing market conditions not within the control of the purchaser or seller. No governing board member and no officer of the county, municipality, or political subdivision may purchase or acquire the materials described in this section unless such materials are available for sale to or acquisition by the general public.

Section 142. That § 34A-16-27 be amended to read as follows:

34A-16-27. The provisions of chapter 5-18A apply to purchases by the district.

Section 143. That § 42-7A-5 be amended to read as follows:

42-7A-5. If entering into any contract pursuant to subdivision 42-7A-4(3), the executive director shall utilize an open and competitive bid process which reflects the best interest of the State of South Dakota. Any such contract is exempt from the provisions of chapters 5-18A and 5-18D. The executive director shall consider all relevant factors including security, competence, experience, timely performance, and maximization of net revenues to the state. Any contract entered into pursuant to subdivision 42-7A-4(3) for major procurements are subject to the approval of the commission and are subject to the provisions of chapters 5-18A and 5-18D.

Section 144. That § 46-6-31 be amended to read as follows:

46-6-31. The chief engineer, if plugging or otherwise controlling a well pursuant to the

provisions of §§ 46-6-29 and 46-6-30, shall comply with the bidding provisions of chapters 5-18A and 5-18B unless the chief engineer determines that compliance with those provisions will result in harm to health or property or will result in an unreasonable waste of water.

Section 145. That § 46-7-5.1 be amended to read as follows:

46-7-5.1. Upon failure or refusal of an owner of unsafe works to make the changes necessary to secure the safety of the works pursuant to the chief engineer's order or order of the board, the chief engineer may enter upon the property where the works are located and make the necessary changes. The cost of the work shall be borne by the owner of the works and may be recorded as a lien against any property of the owner until paid. This section does not limit any other remedy against the owner of the works. The chief engineer shall comply with the bidding provisions of chapters 5-18A and 5-18B unless the chief engineer determines that compliance with those provisions will result in harm to public health or property.

Section 146. That § 46-7-5.2 be amended to read as follows:

46-7-5.2. Notwithstanding the pendency of any notice, order, or protest pursuant to § 46-7-5, the chief engineer may immediately breach or repair any works if, in the chief engineer's judgment, it is necessary to protect human life from imminent danger. The cost of the work in such cases shall be borne by the owner of the works and may be recorded as a lien against any property of the owner until paid. The provisions of chapters 5-18A and 5-18B are not applicable to this section. This section does not limit any other remedy against the owner of the works.

Section 147. That § 46A-1-80.1 be amended to read as follows:

46A-1-80.1. All interest, title, and rights of ownership in the two eight-inch dredges and one ten-inch dredge and associated equipment and any money are hereby transferred to the South Dakota Lakes and Streams Association, for use in the restoration of lakes and streams, with priority given to lakes and streams in South Dakota. This transfer is effective only for so long as the dredges are

owned by the association and are used for the above purpose. If the South Dakota Lakes and Streams Association ceases to exist or apply the dredges to the above purpose, all right, title, and interest in the dredges revert to the State of South Dakota. In the event of such reversion, the Bureau of Administration shall sell the dredges to the highest bidder, notwithstanding any requirements of chapter 5-24A in regard to minimum bids.

Section 148. That § 46A-9-52 be amended to read as follows:

46A-9-52. Any water user district contract for the construction, alteration, extension, or improvement of any works, or any part or section thereof, or any building, for the use of the district, or for the purchase of any materials, machinery, or apparatus therefor is governed by chapters 5-18A and 5-18B.

Section 149. That § 46A-9-53 be amended to read as follows:

46A-9-53. Before publication of any advertisement pursuant to chapter 5-18A, plans and specifications for the proposed construction work or materials shall be prepared and filed at the principal office or place of business of the water user district. The advertisement shall be published as required by § 5-18A-14 and, in the discretion of the board of directors of the district, may be published in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of the receiving of bids. The advertisement shall designate the nature of construction work proposed to be done or materials proposed to be purchased.

Section 150. That § 46A-10A-75 be amended to read as follows:

46A-10A-75. At any time after adopting a drainage plan or other official control, a board may construct drainage or let contracts for its construction. A contract may be for construction of an entire drainage project, for any portion thereof, or for material and labor separately, and the contract shall be let by competitive bid. A board may reject any bid. The lowest responsible and capable bidder shall be accepted. If a responsible and capable landowner affected by the project submits one of

several low bids, the landowner shall be given contract preference. If a contract is let, the contractor shall post a bond in the amount of the contract, conditioned on faithful performance of the contract and full completion of the contract to the satisfaction of the board. For purposes of bids on a proposed project, all plans and specifications for the project shall be filed in the office of the county auditor. If, in the judgment of the board, the entire project or any part thereof can be constructed for less money than the amount of the lowest bid submitted, the board may hire the necessary labor and purchase the necessary material for the construction without letting contracts, the provisions of chapters 5-18A and 5-18B notwithstanding.

Section 151. That § 46A-10A-116 be amended to read as follows:

46A-10A-116. The board of trustees may control, supervise, and manage the district. Subject to the legal controls for drainage management under § 46A-10A-20, the board of trustees may, in conformity with any applicable local, state, and federal laws, rules, ordinances, and regulations:

- (1) Clean out, repair, and maintain an existing drainage ditch;
- (2) Deepen, widen, or enlarge a drainage ditch;
- (3) Create a new drainage ditch, or relocate an existing drainage ditch;
- (4) Extend an existing drainage ditch;
- (5) Acquire lands for right-of-way for ditches by purchase or condemnation or any other lawful method in conformity with chapter 21-35 and any other provision of state law;
- (6) Repair levies, dikes, and barriers for the purpose of drainage;
- (7) Regulate the flow and direction of water to prevent downstream flooding;
- (8) Employ or contract with an engineer, hydrologist, surveyor, appraiser, assessor, legal counsel, or any other specialists as they deem necessary to carry out the powers and duties conferred by §§ 46A-10A-98 to 46A-10A-123, inclusive;
- (9) Let contracts for construction, maintenance, repair, or other necessary work pursuant to

the provisions of chapters 5-18A and 5-18B and § 46A-10A-75. No member of the board of trustees may have any interest in any contract or employment entered into pursuant to this subdivision or subdivision (8);

- (10) Request the county commission or township board of supervisors to replace, repair, remove, and enlarge public highway culverts and bridges, pursuant to §§ 46A-10A-76, 31-12-19, 31-14-2, and 31-14-27;
- (11) Grant a request by a landowner to annex the landowner's land to the district and apportion the costs of clean out, maintenance, or construction according to the benefits received and subject to approval by a majority of the eligible landowners voting in a special election held by the board of trustees in conjunction with the district's annual election; and
- (12) Reclassify benefits and apportion costs of clean out, extension, enlargement, repairs, or improvements among landowners benefitting therefrom, if the landowners have land located within the drainage district.

Section 152. That § 54-13-6 be amended to read as follows:

54-13-6. The Department of Agriculture, in the administration of this chapter, may contract with one or more established agencies of state government, nonprofit corporations, or individuals to provide mediation services for borrowers and creditors and to provide financial preparation assistance for borrowers involved in mediation. Any contract executed under this section is exempt from chapters 5-18A and 5-18D. The contract may include such terms and conditions as the board deems appropriate.

Section 153. That subdivision (13) of § 5-18A-22 be amended to read as follows:

- (13) Any authority authorized by chapters 1-16A, 1-16B, 1-16E, 1-16G, 1-16H, 1-16J, 5-12, or 11-11;

Section 154. That § 5-18A-17 be amended to read as follows:

5-18A-17. No state officer or employee who approves, awards, or administers a contract involving the expenditure of public funds or the sale or lease of property, may have an interest in a contract that is within the scope of the officer's or employee's official duties. This prohibition includes any state officer or employee who, in his or her official capacity, recommends the approval or award of the contract or who supervises a person who approves, awards, or administers the contract. This prohibition does not include any state officer who serves without compensation or who may be paid per diem pursuant to § 4-7-10.4. Any contract made in violation of this section is void. Any state officer or employee who knowingly violates this section is guilty of a Class 2 misdemeanor.



An Act to repeal, update, and make form and style revisions to certain provisions related to the Bureau of Administration.

I certify that the attached Act originated in the

SENATE as Bill No. 2

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 2  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_,

20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

The attached Act is hereby approved this \_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_

\_\_\_\_\_  
Governor

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State