

# Code Commission 2024 Final Report



## Study Assignment

Established under [§ 2-16-3](#), the Code Commission supervises the publication of the South Dakota Codified Laws (Code), corrects errors to the Code, assists the code counsel, makes recommendations to the Legislature on the general improvement of the state's laws, and contracts for replacement volumes of the Code. Enacted into law in its modern form in 1970 (SL 1970, ch 18), the Commission is an interim committee required by statute.

## Summary of Interim

### Review of Statutory Authority to Distribute Free Copies of the Session Laws

[SDCL 2-13-7](#) authorizes the Code Commission to approve the distribution of free copies of the physical print of the Session Laws of South Dakota to "such county, state, and federal officers and offices as are approved by the Code Commission." In [2023, the Commission requested](#) that code counsel, in mailing out copies to the 129 offices on the free mailing list, provide a note that required the offices to e-mail code counsel to request a free copy of next year's physical Session Laws publication, given that the Session Laws are available on the LRC website. After obtaining responses, the Commission distributed physical copies to 45 of the 46 offices requesting free copies, as one of the offices--a City Attorney's Office--was not entitled to a free copy under statute because it is not a "county, state, [or] federal" office. Another office—Maher Law Office--came in after the deadline, requesting two free copies in future mailings, as they serve as the state's attorney of Haakon and Stanley Counties. That request was approved.

### Updated Delegation of Authority Document

Based on the Code Commission comments at [the Commission's meeting on June 21, 2023](#), the code counsel brought up refinements to the document capturing the authorities delegated by the Commission to code counsel to compile and correct apparent errors in the Code, per SDCL [2-9-11](#) and [2-16-5.2](#). The document was revised so its language would align exactly with the statutory language on the authorities and duties of the Commission, and to update the accountability of code counsel in reporting out or obtaining advanced approval of certain code counsel actions.

### Replacement Volumes

The official Code is contained in hard-bound books (i.e., volumes) published by West Publishing, a Thomson Reuters Company. Despite new statutes being incorporated into the Code each year on account of the preceding legislative session, new hard-bound volumes are not required to be republished and purchased for the entire Code, as that would be a great expense. Instead, more modest, softcover pocket parts are inserted into the back of the hard-bound volumes each year to show any changes to the law since the full volume was last republished. The pocket part grows over the years, as each successive year sees more statutes that modify that portion of the Code. At some point, however, the pocket part grows too big, triggering a republication of the more expensive hard-bound volume.

Annually, West Publishing provides to the Code Commission a "Pocketpart Growth Report." This report identifies the page count for each pocket part relative to the page count its hard-bound volume. It is the practice of the Commission to consider volumes for reprinting when the paper pocket part equals or exceeds 25% of the main hard-cover volume. The Commission considers, on average, one-to-three volumes for replacement each year. After a discussion of the candidates for replacement, the Code Commission decided to republish volume 16 (SDCL titles [24](#) & [25](#)) and volume 18 (SDCL titles [29A](#), [30](#), & [31](#)), which were last published in 2013 and 2004, respectively.

### Publishing Contract

The contract for the publication of the Code is subject to Code Commission review and renewal. [SDCL 2-16-7.1](#). Code counsel facilitates the editing and final presentation of the contract to the Commission. At its June meeting, the Commission unanimously approved the publishing contract for another year, increasing the prices for the Code 10% per the Producer Price Index for Technical, Scientific and Professional Book Publishing.

### Catchlines for Criminal Penalties, Civil Penalties, and Petty Offenses

For sake of consistency, the Code Commission expressed its support for the use of the word "penalty" in a catchline to denote when the associated codified statute section depicts a criminal penalty, a civil penalty, or a petty offense.

### Code Commission Bill Introduction

The Code Commission recognized that [SDCL 2-7-6.1](#) does not reference the Code Commission as an interim statutory committee with the express authority to seek introduction of bills it approves through the committee bill introduction process. Accordingly, any drafts approved by the Code Commission will only be introduced as legislator-sponsored bills.

### Code Commission Bill Introduction

West Publishing requested the Code Commission consent to a sublicensing of the use of the Code, in an electronic medium, by a third party. Under the Code publishing agreement, West has authority to use the Code in its Westlaw online database, but must obtain written consent of the Commission if it seeks to sublicense this use. A component of West's online database—its Regulatory Intelligence platform—is slated for sale to a company named Cube. To be able to allow customers of Regulatory Intelligence to continue to use the platform during the sale transition period, West sought the Commission's consent to allow Cube to access the Official Code on behalf of the customers of Regulatory Intelligence for up to twelve months. The Commission was able to obtain guarantees from West that it would act to ensure Cube's use of the Code would be limited to the existing use of Regulatory Intelligence customers and that Cube's access would terminate when the transition period is complete or after twelve months, whichever occurs sooner. The Commission authorized the consent, and the Chair executed the consent.

### Long-Term Code Review Project

Code counsel has reviewed and made recommendations for technical corrections up through [SDCL chapter 2-7](#).

### **Listing of Legislation Adopted by the Committee**

At its [June 2024 meeting](#), the Code Commission adopted a draft of a bill historically known as the codification bill ("[Draft 962](#)") that is annually introduced to codify the previous session's permanent acts. (Amending [SDCL 2-16-13](#), [2-16-15](#), [2-16-16](#).)

### **Summary of Meeting Dates and Places**

The Code Commission met three times this interim—on March 8, 2024, via teleconference and at the State Capitol in Pierre; on June 12, 2024, via teleconference and at the State Bar Convention in Pierre; and on October 17, 2024, via teleconference and at the State Capitol in Pierre.

### **Listing of Code Commissioners**

The Code Commissioners are Maggie Gillespie, chair; Doug Decker, vice-chair; Speaker Pro Tempore Mike Stevens; Senator David Wheeler; and Lindsey Riter-Rapp.

### **Listing of Staff Members**

The staff members for the Code Commission are Justin Goetz, Code Counsel; Kelly Thompson, Supervisor of Text Editing Services; Hilary Carruthers, Legislative Systems Analyst; and Dilyn Tramp, IT Support Specialist.

