



2026 South Dakota Legislature

Senate Bill 155

Introduced by: **Senator Carley**

1 **An Act to increase legislative oversight procedures and protections against conflicts**
 2 **of interest, and to provide a penalty therefor.**

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

4 **Section 1. That § 2-6-4 be AMENDED:**

5 **2-6-4.** The Government Operations and Audit Committee may examine all records
 6 and vouchers, summon witnesses by request or by issuing a subpoena, and thoroughly
 7 examine all expenditures and the general management of each department of state
 8 government.

9 The committee may issue a subpoena for an individual, a document, or both. The
 10 committee may take the deposition of any witness and issue written interrogatories and
 11 requests for production of documents or things to any person in the same manner as
 12 discovery is conducted in a civil action.

13 A subpoena, written interrogatory, request for production of documents or things,
 14 or any other discovery procedure conducted pursuant to this section must specify a return
 15 date. The chair of the committee may extend the return date by written notice.

16 Upon service of a subpoena or other discovery procedure conducted pursuant to
 17 this section, the subject of the subpoena or discovery procedure shall preserve all
 18 responsive or potentially responsive materials in the subject's control, custody, or
 19 possession.

20 The committee may use the procedure provided in chapter 21-34 to enforce ~~its~~ the
 21 subpoena or discovery procedure when the subject of the subpoena or discovery
 22 procedure refuses or fails ~~to comply with the command to appear and testify before the~~
 23 ~~committee or comply with the discovery procedure.~~

24 If the subject of a subpoena or discovery procedure knowingly or intentionally
 25 refuses or fails to comply by the return date, the refusal or failure creates a rebuttable

1 presumption that any withheld information would have been adverse to the interests of
2 the subject.

3 The committee may authorize one or more members of the committee, or any
4 other individual, to:

- 5 (1) Conduct an investigation on behalf of the committee;
- 6 (2) Use the discovery procedures the committee is authorized to use; and
- 7 (3) Use the procedure provided in chapter 21-34 to enforce the discovery procedures
8 of the committee.

9 Any individual authorized by the committee to conduct an investigation ~~must~~ shall
10 comply with all applicable state and federal laws regarding confidentiality and any
11 additional restrictions imposed by the committee.

12 The committee may authorize the director of the Legislative Research Council to
13 expend moneys from the legislative priority fund for the purpose of carrying out the duties
14 of this section.

15 **Section 2. That a NEW SECTION be added to chapter 2-6:**

16 For the purposes of legislative oversight and investigation, the House Judiciary
17 Committee and the Senate Judiciary Committee may, by majority vote of members-elect,
18 exercise the same subpoena authority, discovery authority, record-preservation
19 requirements, and enforcement mechanisms provided to the Government Operations and
20 Audit Committee pursuant to § 2-6-4.

21 **Section 3. That a NEW SECTION be added to chapter 2-6:**

22 A board, bureau, commission, department, or other agency of the state, or any of
23 its political subdivisions, may not dismiss, suspend from employment, demote, decrease
24 the compensation of, or take any other retaliatory action against an employee, or retaliate
25 against a consultant or contractor, who, in good faith, provides testimony, produces
26 records, or otherwise cooperates with an audit, investigation, subpoena, or discovery
27 procedure conducted pursuant to § 2-6-4, 2-6-4.1, or 4-11-4.

28 In addition to any available administrative remedy, an individual who is aggrieved
29 by a violation of this section may bring a civil action in circuit court. Upon finding that a
30 violation of this section occurred, the court may award or grant any of the following:

- 31 (1) Actual damages;
- 32 (2) Back pay;
- 33 (3) Contract damages;

- 1 (4) Injunctive relief;
 2 (5) Reasonable attorney fees and costs;
 3 (6) Reinstatement or restoration of contract status, if feasible;
 4 (7) Upon finding that the retaliation was knowing and intentional, treble damages; and
 5 (8) If the protected activity results in recovery of state moneys, imposition of civil
 6 penalties, or an order of criminal restitution, a whistleblower reward, not exceeding
 7 the lesser of ten percent of the amount recovered or fifty thousand dollars.

8 **Section 4. That § 2-12-8.2 be AMENDED:**

9 **2-12-8.2.** ~~No~~ An elected officer, department or agency head, ~~or~~ division director,
 10 or the highest paid employee reporting to ~~such person~~ any elected officer, department or
 11 agency head, or division director may be not:

12 (1) Be compensated, act, or register as a lobbyist, other than a public employee
 13 lobbyist, during a period of two years after that ~~person's~~ officer or employee's
 14 termination of service in the state government; or

15 (2) Accept employment, compensation, or services from, or enter into a contract with,
 16 a person if the officer or employee is in a position to participate, or if the officer or
 17 employee participated within the twenty-four months immediately preceding
 18 termination of service in the state government, substantially in the approval,
 19 award, or recommendation of, or deliberation or negotiation regarding, a specific
 20 discretionary state contract, grant, loan, tax incentive, or any other state financial
 21 assistance exceeding one hundred thousand dollars, which benefited the person,
 22 provided that this subdivision does not apply to any benefit pursuant to a
 23 standardized, non-discretionary formula generally available to similarly situated
 24 applicants.

25 An officer or employee who intentionally and knowingly violates subdivision (2) is
 26 guilty of theft pursuant to § 22-30A-46.

27 A violation of this section is a Class ~~1~~ 6 misdemeanor ~~or~~ felony.

28 **Section 5. That § 22-30A-46 be AMENDED:**

29 **22-30A-46.** Any public official who knowingly uses ~~funds~~ moneys or property ~~that~~
 30 ~~has been~~ entrusted to the public official ~~in violation of,~~ the use of which violates the public
 31 trust and ~~that~~ results in a direct financial benefit to the public official, commits a direct
 32 criminal conflict of interest.

1 A public official who acts for the purpose of securing, and as a result obtains, a
2 promise, agreement, understanding, or expectation of future employment, compensation,
3 or other thing of value commits an indirect criminal conflict of interest.

4 Any public official who commits a direct or indirect criminal conflict of interest is
5 guilty of theft.

6 Upon finding by clear and convincing evidence that a public official violated this
7 section, a circuit court having jurisdiction over the matter shall order:

8 (1) Disgorgement of all benefits, compensation, or anything else of value obtained as
9 a result of the public official's violation; and

10 (2) Restitution to the state or affected governmental entity.

11 A public official whose violation of this section involves a value of one hundred
12 thousand dollars or more, repeated misconduct, or a clear abuse of a position of public
13 trust, is guilty of a Class 5 felony.

14 For purposes of this section, "a clear abuse of a position of public trust" means a
15 deliberate or reckless misuse of authority or resources entrusted to a public official, which
16 is detrimental to the public interest.

17 For purposes of this section, "direct financial benefit" means a personal monetary
18 gain received from the use of public moneys or property.