



2026 South Dakota Legislature
Senate Bill 165
ENROLLED

AN ACT

ENTITLED An Act to revise certain provisions pertaining to municipal government.

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

Section 1. That § 9-8-2 be AMENDED:

9-8-2. If there is a vacancy from any cause in the office of the mayor, the vacancy must be filled by appointment pursuant to a motion supported by a majority vote of all the aldermen. The motion must be made at a meeting of the aldermen held as soon as practicable after the vacancy occurs. The individual appointed as the mayor serves until the office is filled by election for the unexpired term at the next regular municipal election or by special election as provided in § 9-13-14.2. Until the vacancy is filled, the powers and duties of the mayor are executed by the mayor pro tempore, as provided in § 9-8-13.

The president of the council shall serve as the mayor pro tempore until the vacancy in the office of the mayor is filled by appointment or election. In the case of a temporary absence or temporary incapacitation of the president of the council, or a vacancy in the office of the president of the council, the vice president of the council shall serve as the mayor pro tempore until the earliest of the following occurs:

- (1) The temporary absence or temporary incapacitation of the president of the council concludes;
- (2) The vacancy in the office president of the council is filled; or
- (3) The vacancy in the office of the mayor is filled by appointment or election.

A resignation by the mayor must be in writing and must specify the effective date of the resignation. A temporary absence or temporary incapacitation of the mayor is not a vacancy in the office of the mayor.

Section 2. That § 9-8-3 be AMENDED:

9-8-3. The mayor presides at all meetings of the council. The mayor votes only in the case of a tie, except pursuant to § 9-8-10. The mayor performs other duties as may be prescribed by the laws and ordinances, and takes care that the laws and ordinances are faithfully executed. The mayor shall annually, or as may be necessary, give the council information relative to the affairs of the municipality, and recommend for the council's consideration the measures the mayor deems prudent. The mayor may sign or veto any ordinance or resolution as provided in §§ 9-19-10 to 9-19-12, inclusive.

Section 3. That § 9-14-2 be AMENDED:

9-14-2. An individual is not eligible to hold elective office unless the individual:

- (1) Is a qualified voter of the municipality, as described in § 12-4-1; and
- (2) Has resided in the municipality or an area annexed, pursuant to chapter 9-4, for at least three months preceding the individual's election or appointment.

Section 4. That § 9-14-3 be AMENDED:

9-14-3. Each municipality may determine, by ordinance, which officers are to be appointed and describe the duties of each appointed officer.

Except as provided in chapter 9-10:

- (1) In municipalities governed by a mayor and common council, each appointed officer is appointed by the mayor, with the approval of a majority vote of all the members of the common council qualified to serve pursuant to chapter 9-13; and
- (2) In municipalities that are not governed by a mayor and common council, each appointed officer is appointed by a majority vote of all of the members qualified to serve on the governing body pursuant to chapter 9-13.

Each appointed officer may be appointed annually or at intervals determined by the governing body. Except where a property interest arises by written contract, the appointment does not confer any property interest in employment.

Section 5. That § 9-14-4 be AMENDED:

9-14-4. Following appointment and qualification, the municipal finance officer shall issue a certificate of appointment under the seal of the municipality to each appointed officer.

Section 6. That § 9-14-5 be AMENDED:

9-14-5. Each appointed municipal officer shall begin discharging the duties of the office as soon as the officer has qualified by filing an oath or affirmation of office, as provided in § 3-1-5. The officer shall file the form with the municipal finance officer within ten days after the first meeting of the month following the appointment. The officer shall hold office until the appointment and qualification of a successor, including during any interim term created by a change of form of government.

A municipal officer elected to fill a vacancy shall begin discharging the duties of the office as soon as the officer has qualified by filing an oath or affirmation of office, as provided in § 3-1-5. The officer shall file the form with the municipal finance officer within ten days after the first meeting of the month following the election. If the elected officer fails to file the form, a vacancy is created pursuant to § 9-13-28.

Any individual appointed to fill a vacancy for an elective office shall begin discharging the duties of the office as soon as the individual has qualified by filing an oath or affirmation of office, as provided in § 3-1-5. The appointed officer shall file the form with the municipal finance officer within ten days after the appointment. If the appointed officer fails to file the form, a vacancy is created pursuant to § 9-13-28.

Section 7. That § 9-14-6 be AMENDED:

9-14-6. Each appointed officer, before entering upon the discharge of the duties of the office, shall take an oath or affirmation of office, in the usual form provided by law.

Each appointed officer shall furnish a bond for the faithful performance of the duties of the office and to account, pay over, and deliver all money or property coming into the officer's hands by virtue of that office. The governing body shall establish the amount of the bond applicable to each officer annually. The requirement for an individual bond is satisfied if the municipality provides blanket coverage pursuant to § 3-5-14.

Section 8. That § 9-14-9 be AMENDED:

9-14-9. Any bond provided for in § 9-14-6 must be filed, after approval, with the municipal finance officer.

Section 9. That § 9-14-10 be AMENDED:

9-14-10. An immediate vacancy is created if any elected municipal officer moves from the district, municipality, or ward for which the officer was elected or appointed to fill the vacancy of the office.

Section 10. That § 9-14-12 be AMENDED:

9-14-12. Except as otherwise provided, any appointed officer of a municipality governed by a board of commissioners or board of trustees may be removed by a majority vote of all members of the governing body who are qualified to serve on the governing body by election or appointment pursuant to chapter 9-13.

Section 11. That § 9-14-13 be AMENDED:

9-14-13. In a municipality governed by a mayor and common council pursuant to chapter 9-8, the mayor may remove from office any officer appointed by the mayor, if the mayor believes the removal is in the interest of the municipality. The mayor shall report the reasons for removal to the common council at the next regular meeting. The report may be given in executive session, pursuant to § 1-25-2, but in all cases the fact of the presentation of the report must be placed in the minutes of the meeting.

Section 12. That § 9-14-14 be AMENDED:

9-14-14. Any municipality may adopt an ordinance establishing a civil service system for its municipal employees, law enforcement officers, and firefighters, which provides for:

- (1) The appointment of a civil service board, prescribing its powers, duties and compensation; and
- (2) The suspension or removal of any employee, law enforcement officer, or firefighter for cause.

The decision to suspend or remove any employee, law enforcement officer, or firefighter is subject to review at a hearing of the civil service board, if requested by the suspended or removed employee, law enforcement officer, or firefighter. At the hearing, the employee, law enforcement officer, or firefighter is entitled to be present in person or by counsel. The civil service board may affirm, modify, or reverse the suspension or removal. Any final order of the civil service board may be appealed to the circuit court pursuant to chapter 1-26.

The ordinance establishing a civil service system may not be repealed or modified so as to affect the standing of any employee, law enforcement officer, or firefighter, except pursuant to the negotiation process provided for in chapter 3-18. The ordinance establishing a civil service system may be repealed only by an initiated ordinance.

An employee, law enforcement officer, or firefighter represented by a labor or employee organization, authorized by chapter 3-18, may not request the civil service board to review any suspension or removal, unless the labor contract covering the employee, law enforcement officer, or firefighter specifically provides for review.

Section 13. That § 9-14-15 be AMENDED:

9-14-15. Except as otherwise provided in this section, municipal employees, law enforcement officers, and firefighters appointed under any civil service ordinance and not represented by any labor or employee organization authorized by chapter 3-18 may be removed only pursuant to the provisions of the ordinance. Nothing in this section restricts the Governor's authority, pursuant to § 3-17-3, to remove local law enforcement officers, including those appointed under any civil service ordinance. Officers and employees appointed by a city manager may be removed by the city manager.

Section 14. That § 9-14-16 be AMENDED:

9-14-16. Except as otherwise provided in § 9-14-16.1, an elected municipal officer may not hold any other position with the municipality while in office. The term "position" does not include membership on any municipal board, commission, or committee, if the ordinance or resolution establishing the board, commission, or committee specifically includes the elected officer in the membership of the board.

An elected officer is not disqualified from holding office in any municipality as a result of holding, or being the spouse of an individual holding, any alcoholic beverage license, pursuant to chapter 35-4. An elected officer who is the holder of a license may vote on the issuance or transfer of any other alcoholic beverage license.

Section 15. That § 9-14-16.1 be AMENDED:

9-14-16.1. The provisions of § 9-14-16 do not prohibit any elected officer from serving in any other volunteer, unsalaried municipal position or providing any service for a municipality if the compensation for the service does not exceed ten thousand dollars per calendar year. The provisions of § 9-14-16 do not prohibit any elected officer from receiving compensation in excess of ten thousand dollars per calendar year for service to a municipal ambulance service in municipalities of the second or third class.

Section 16. That § 9-14-17 be AMENDED:

9-14-17. A municipal finance officer shall:

- (1) Keep an office at a place directed by the governing body;
- (2) Keep the corporate seal and all documents and records of the municipality;
- (3) Attend all meetings of the governing body;
- (4) Keep a record of the proceedings of the governing body;
- (5) Draw and countersign all warrants on the treasury pursuant to orders or resolutions of the governing body;
- (6) Except as provided in chapter 9-10, supervise the accounting system for all departments and offices of the municipality in accordance with the recommendations of the Department of Legislative Audit;
- (7) Keep a full and accurate account of all warrants in book or electronic format;
- (8) Cause estimates to be provided for the expense of any work to be done by the municipality;
- (9) Keep a list of all certificates issued for work or any other purpose;
- (10) Countersign all contracts and certificates of work authorized by the governing body, unless the contract is approved by:
 - (a) Any municipal board with authority to approve contracts by statute or by ordinance; or
 - (b) Any municipal officer with authority to approve contracts pursuant to a spending policy adopted by the governing body of the municipality;
- (11) Keep regular accounts of all indebtedness of the municipality, which show at all times the financial condition of the municipality;
- (12) Countersign and keep accurate account of bonds, warrants, certificates, or other evidence of indebtedness issued or redeemed by the governing body, and the amount of each that is outstanding;
- (13) Record the amount, purpose, and recipient of any bond, warrant, or other evidence of indebtedness of the municipality;
- (14) Keep an account with all receiving and disbursing officers of the municipality, showing the amount received from the different sources of revenue and the amount that was disbursed under the direction of the governing body;
- (15) Audit and adjust all claims and demands against the municipality before they are allowed by the governing body;
- (16) Keep a record of the finance officer's acts and doings; and
- (17) Perform other duties as may be required by ordinance, resolution, or direction of the governing body.

The governing body may determine which duties, if any, a municipal finance officer may not delegate to an employee under the supervision of the municipal finance officer.

The municipal finance officer may destroy any record of the municipality in a manner consistent with chapter 1-27 or other applicable law.

Section 17. That § 9-14-22 be AMENDED:

9-14-22. Except to the extent inconsistent with § 16-18-A, the city attorney shall:

- (1) Furnish an opinion upon any matter relating to the affairs of the municipality or the official duties of municipal officers;
- (2) Conduct the prosecution of all actions or proceedings arising out of the violation of any ordinance; and
- (3) Perform any other professional services as required by ordinance or directed by the governing body.

Section 18. That § 9-14-23 be AMENDED:

9-14-23. A municipality may contract for legal services or employ an attorney to provide legal services for the municipality.

Section 19. That § 9-14-24 be AMENDED:

9-14-24. A municipality may contract with or employ a city engineer, who must be a licensed professional engineer under chapter 36-18A. If the city engineer is not also licensed as a land surveyor under chapter 36-18A, the city engineer must delegate any duties that are defined in chapter 36-18A as the practice of land surveying to a licensed land surveyor.

The governing body shall, by ordinance or contract, prescribe the duties of the city engineer.

All surveys, profiles, plans, and estimates made by the city engineer for the municipality are the property of the municipality, must be carefully preserved in the municipality's office or the office of the city engineer, and are open to public inspection.

Section 20. That § 9-14-26 be AMENDED:

9-14-26. Any law enforcement officer of a municipality that is situated in more than one county may serve and execute any civil or criminal process within any of the counties in which the municipality is situated.

Section 21. That § 9-14-27 be AMENDED:

9-14-27. A governing body may prescribe by ordinance additional duties to be performed by any appointed municipal officer not inconsistent with the laws of this state.

Section 22. That § 9-14-29 be AMENDED:

9-14-29. On or before the last day of each month, each law enforcement officer receiving a salary from the municipality shall provide and remit to the municipal finance officer an itemized account and receipts for all fees received by the officer in the service of any civil process.

Section 23. That § 9-14-30 be AMENDED:

9-14-30. Any municipality may provide, either by self-insurance or contract, group life, health, and accident insurance, or any combination of coverage, for employees and officers of the municipality, and the immediate families of the employees and officers. Accident insurance applies only if benefits under the worker's compensation law are not applicable.

Section 24. That § 9-14-33 be AMENDED:

9-14-33. A municipality may deduct out of the salary or wages of municipal employees or officers the amount of their participation in the cost of insurance provided pursuant to § 9-14-30.

Section 25. That § 9-14-35.1 be AMENDED:

9-14-35.1. Any health insurance plan or policy provided pursuant to §§ 9-14-30 and 9-14-35 may include the use of flexible spending accounts that may be paid or reimbursed through the use of debit cards, direct deposit to financial institutions, check, or a combination of these.

Section 26. That § 9-14-36 be AMENDED:

9-14-36. The governing body of any municipality may provide for salary saving or retirement annuities, and may deduct from the salary or wages of any employee, included in the life insurance, salary sharing, or retirement annuity plan, the pro rata share of the cost of the insurance, and pay the premium for the insurance out of the deducted moneys.

The governing body may determine which particular class or group of employees is protected by the insurance contracts, provided that when the class or group has been determined, an insurance contract may not be made or entered into without the consent of at least sixty percent of the class or group.

Section 27. That § 9-14-37 be AMENDED:

9-14-37. It is a Class 2 misdemeanor for any elected or appointed officer or employee to commit a palpable omission of duty or to intentionally commit oppression, misconduct, or malfeasance in the discharge of official duties. Upon conviction of a violation of this section, the court may enter an order removing the convicted elected or appointed officer or employee from the municipal office or position.

Section 28. That § 9-14-39 be AMENDED:

9-14-39. Within five days after leaving office, an officer of a municipality shall deliver to the officer's successor all books, property, and effects of every description belonging to the municipality or pertaining to the office. A former officer in violation of this section is personally liable for all damages caused by the violation, any additional penalties prescribed by ordinance, and associated reasonable attorney fees and costs related to the violation. The municipality may also obtain injunctive relief from the court.

Section 29. That § 9-14-42 be AMENDED:

9-14-42. A municipality may require each individual seeking employment with a municipality to submit to a state and federal criminal background investigation by means of fingerprint checks by the South Dakota Division of Criminal Investigation and the Federal Bureau of Investigation. The municipality may submit completed fingerprint cards to the Division of Criminal Investigation before the prospective new employee enters into service. Upon completion of the state and federal criminal background check, the Division of Criminal Investigation shall forward to the municipality all information obtained as a result of the check. Failure to submit to or cooperate with the criminal background investigation is grounds for denial of employment.

Section 30. That § 9-14-43 be AMENDED:

9-14-43. The hours of employment of full-time employees of municipal fire departments are governed by municipal policy or contract, but may not exceed two

hundred twelve hours during a twenty-eight-day work period or two hundred four hours during a twenty-seven-day work period, as determined by mutual agreement, unless the employee is paid additional compensation or is allowed compensatory time off.

Section 31. That § 9-18-2 be AMENDED:

9-18-2. Except as otherwise provided by law, records of the official acts and proceedings of municipal officers are subject to disclosure as provided in chapter 1-27.

Section 32. That § 9-18-3 be AMENDED:

9-18-3. The following documents, if certified by the municipal finance officer under the corporate seal, are admissible in evidence the same as the originals:

- (1) Copies of all papers filed in the office of the municipal finance officer; and
- (2) Transcripts of all records of the governing body.

These documents are prima facie evidence of the facts stated therein.

Section 33. That § 9-19-1 be AMENDED:

9-19-1. Terms in this title mean:

- (1) "Ordinance," a permanent legislative act of the governing body of a municipality; and
- (2) "Resolution," any determination, decision, directive, or other act of a special or temporary character, of the governing body of a municipality, for the purpose of initiating, effecting, or carrying out the body's administrative duties and functions under the laws and ordinances governing the municipality.

Section 34. That § 9-19-3 be AMENDED:

9-19-3. A municipality may amend, enact, repeal, or revise ordinances and resolutions to exercise the authorized powers of the municipality. The municipality may seek injunctive relief and establish penalties for violations of ordinances and resolutions, not exceeding those specified in subdivision 22-6-2(2).

Section 35. That § 9-19-3.1 be AMENDED:

9-19-3.1. In a prosecution for the violation of any municipal ordinance or resolution that authorizes a criminal penalty, the proceedings are governed by the procedures set forth in title 23A.

Section 36. That § 9-19-5 be AMENDED:

9-19-5. An ordinance may only contain one subject, which must be expressed in the title.

Section 37. That § 9-19-7 be AMENDED:

9-19-7. The title of any ordinance must be read twice with at least five days intervening between the first and second reading. The ordinance must be:

- (1) Signed by the mayor, mayor pro tempore, acting mayor, or president of the board of trustees;
- (2) Filed with the municipal finance officer; and
- (3) Published once in the official newspaper.

Section 38. That § 9-19-8 be AMENDED:

9-19-8. Any resolution may be passed after one reading, and must be recorded, entirely, together with the number of votes for and against the resolution, either as part of the minutes of the meeting at which the resolution passed, or separately.

Section 39. That § 9-19-9 be AMENDED:

9-19-9. The final vote to adopt an ordinance must be taken orally or by roll call, with the results entered into the minutes of the meeting.

Section 40. That § 9-19-10 be AMENDED:

9-19-10. Except as otherwise provided in this section, a mayor in any municipality operating under the aldermanic form pursuant to chapter 9-8 may exercise the veto power granted by § 9-8-3, by filing a written objection with the finance officer within ten days after its passage. If only part of an ordinance or resolution making an appropriation is vetoed, the remainder must take effect.

The mayor may not veto any ordinance or resolution necessary for the immediate preservation of the public peace, health, safety, or support of the municipal government and its existing institutions if the ordinance or resolution:

- (1) Is passed by a two-thirds vote of all the aldermen qualified to serve by election or appointment pursuant to chapter 9-13; and

- (2) States on its face that the ordinance or resolution is necessary for the immediate preservation of the public peace, health, safety, or support of the municipal government.

Section 41. That § 9-19-11 be AMENDED:

9-19-11. If a mayor exercises veto power pursuant to § 9-19-10, the municipal finance officer must present the vetoed item, together with the mayor's written objection, for reconsideration at the next meeting of the common council. If at that meeting the ordinance or resolution is passed by a two-thirds vote of the aldermen qualified to serve by election or appointment pursuant to chapter 9-13, the ordinance or resolution must:

- (1) Be published, together with a statement of the votes for and against the ordinance or resolution; and
- (2) Become effective, notwithstanding the mayor's veto, unless suspended by referendum.

Section 42. That § 9-19-12 be AMENDED:

9-19-12. If the mayor fails to sign any ordinance or resolution or file written objections within ten days after its passage, the ordinance or resolution:

- (1) Must be published; and
- (2) Becomes law without the mayor's signature.

This section does not apply to any ordinance or resolution necessary for the immediate preservation of the public peace, health, safety, or support of the municipal government and its existing institutions if the ordinance or resolution:

- (1) Is passed by a two-thirds vote of all the aldermen qualified to serve by election or appointment pursuant to chapter 9-13; and
- (2) States on its face that the ordinance or resolution is necessary for the immediate preservation of the public peace, health, safety, or support of the municipal government.

Section 43. That § 9-19-13 be AMENDED:

9-19-13. Except as otherwise provided in this section, every resolution or ordinance passed by the governing body takes effect on the twentieth day after its publication, unless suspended by operation of a referendum.

An ordinance or resolution may take effect immediately if it:

- (1) Is necessary for the immediate preservation of the public peace, health, safety, or support of the municipal government and its existing institutions;
- (2) Is not subject to referendum pursuant to § 9-20-19; or
- (3) Provides for an election or hearing on an improvement or assessment or calls for bids.

Section 44. That § 9-19-14 be AMENDED:

9-19-14. After an ordinance takes effect, the municipal finance officer shall record the ordinance and a certificate of the date of its publication in a book to be known as the "ordinance book," and file the affidavit of publication with the original ordinance.

Section 45. That § 9-19-14.1 be AMENDED:

9-19-14.1. If a municipality posts the ordinance book or any part of the book on the municipality's official website, the municipality must make reasonable efforts to ensure the most current version of the ordinance book or any part of the book is posted, provided that the official version of the municipality's ordinances is the ordinance book referenced in § 9-19-14.

Section 46. That § 9-19-15 be AMENDED:

9-19-15. A municipality may compile the municipal ordinances, without revision or amendment, for publication in ordinance book or codified form. The codification is effective without publication as required for ordinances.

Section 47. That § 9-19-16 be AMENDED:

9-19-16. The governing body of any municipality may, not more than once every five years, appoint a committee to prepare and submit for its consideration an ordinance revising the ordinances of the municipality.

Section 48. That § 9-19-17 be AMENDED:

9-19-17. Upon the adoption of an ordinance revising the ordinances of a municipality by the governing body, the municipal finance officer must publish a notice of the adoption of the revised ordinances once in the official newspaper. Twenty days after the completed publication of the notice, unless referendum is invoked, the ordinance becomes effective without publication of the revised ordinance book in a newspaper.

Section 49. That § 9-19-18 be AMENDED:

9-19-18. An original ordinance or resolution, the record or a certified copy of the record, or any compilation or revision of ordinances printed under the authority of the municipality are admissible in evidence without further proof.

Section 50. That a NEW SECTION be added to chapter 9-19:

An ordinance incorporating and adopting comprehensive regulations or a code promulgated, approved, and published by a recognized and established national organization prescribing building, electrical, plumbing, safety, fire, or health regulations need not be published in its entirety in a newspaper. Upon adoption or amendment of the ordinance, the municipal finance officer must publish a notice of the fact of adoption or amendment once a week for two successive weeks in the official newspaper. The ordinance becomes effective twenty days after the completed publication of the notice, unless referendum is invoked. The publication procedures provided in this section apply whether or not a municipality has modified the comprehensive regulations or codes during the adoption or amendment process.

Section 51. That a NEW SECTION be added to chapter 9-19:

Upon request of the circuit clerk of court or law library of the county in which a municipality is situated, the municipal finance officer must choose one of the following forms to make available, for free, to the requesting clerk or library:

- (1) A physical copy of the ordinance book;
- (2) A link to the electronic compilation of the ordinance book; or
- (3) An electronic copy of the codification.

Section 52. That § 10-33A-18 be AMENDED:

10-33A-18. If a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership subject to the gross receipts tax under this chapter fails for any reason to file the required returns or to pay the tax due, any of the corporate officers, member-managers or managers of limited liability companies, or partners of partnerships that control, supervise, or are charged with the responsibility of filing the returns or remitting tax payments are personally liable for the failure. The dissolution of a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership does not discharge an

officer, member-manager, manager, or partner's liability for a prior failure of the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership to file a return or remit the tax due. The sum due for the liability may be assessed and collected as provided by law.

If the responsible corporate officers, limited liability company member-managers, managers, or partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership must provide the department with a surety bond or certificate of deposit as security for payment of any tax that may become due. The bond or certificate of deposit provided for in this section must be in an amount equal to the estimated annual gross receipts multiplied by the applicable sales or gross receipts tax rate. This section does not apply to elected or appointed officials of a municipality, if bonded pursuant to § 9-14-6.

Section 53. That § 10-45-55 be AMENDED:

10-45-55. If a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership subject to tax under this chapter fails for any reason to file the required returns or to pay the tax due, any of the corporate officers, member-managers or managers of limited liability companies, or partners of partnerships that control, supervise, or are charged with the responsibility of filing the returns or remitting tax payments are personally liable for the failure. The dissolution of a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership does not discharge an officer, member-manager, manager, or partner's liability for a prior failure of the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership to file a return or remit the tax due. The sum due for the liability may be assessed and collected as provided by law.

If the corporate officers, limited liability company member-managers or managers, or partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership must provide the Department of Revenue with a surety bond or certificate of deposit as security for payment of any tax that may become due. The bond or certificate of deposit provided for in this section must be in an amount equal to the estimated annual gross receipts multiplied by the applicable

sales or excise tax rate. This section does not apply to elected or appointed officials of a municipality, if bonded pursuant to § 9-14-6.

Section 54. That § 10-46-47.1 be AMENDED:

10-46-47.1. If a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership subject to tax under this chapter fails for any reason to file the required returns or to pay the tax due, any of the corporate officers, member-managers or managers of limited liability companies, or partners of partnerships that control, supervise, or are charged with the responsibility of filing the returns or remitting tax payments are personally liable for the failure. The dissolution of a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership does not discharge an officer, member-manager, manager, or partner's liability for a prior failure of the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership to file a return or remit the tax due. The sum due for the liability may be assessed and collected as provided by law.

If the corporate officers, limited liability company member-managers or managers, or partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership must provide the Department of Revenue with a surety bond or certificate of deposit as security for payment of any tax that may become due. The bond or certificate of deposit provided for in this section must be in an amount equal to the estimated annual gross receipts multiplied by the applicable sales or excise tax rate. This section does not apply to elected or appointed officials, if bonded pursuant to § 9-14-6.

Section 55. That § 10-46A-13 be AMENDED:

10-46A-13. If a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership subject to tax under this chapter fails for any reason to file the required returns or to pay the tax due, any of the corporate officers, member-managers or managers of limited liability companies, or partners of partnerships that control, supervise, or are charged with the responsibility of filing the returns or remitting tax payments are personally liable for the failure. The dissolution of a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership does not discharge an officer, member-manager,

manager, or partner's liability for a prior failure of the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership to file a return or remit the tax due. The sum due for the liability may be assessed and collected as provided by law.

If the corporate officers, limited liability company member-managers or managers, or partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership must provide the Department of Revenue with a surety bond or certificate of deposit as security for payment of any tax that may become due. The bond or certificate of deposit provided for in this section must be in an amount equal to the estimated annual gross receipts multiplied by the applicable sales or excise tax rate. This section does not apply to elected or appointed officials of a municipality, if bonded pursuant to § 9-14-6.

Section 56. That § 10-46B-11 be AMENDED:

10-46B-11. If a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership subject to tax under this chapter fails for any reason to file the required returns or to pay the tax due, any of the corporate officers, member-managers or managers of limited liability companies, or partners of partnerships that control, supervise, or are charged with the responsibility of filing the returns or remitting tax payments are personally liable for the failure. The dissolution of a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership does not discharge an officer, member-manager, manager, or partner's liability for a prior failure of the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership to file a return or remit the tax due. The sum due for the liability may be assessed and collected as provided by law.

If the corporate officers, limited liability company member-managers or managers, or partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership must provide the Department of Revenue with a surety bond or certificate of deposit as security for payment of any tax that may become due. The bond or certificate of deposit provided for in this section must be in an amount equal to the estimated annual gross receipts multiplied by the applicable

sales or excise tax rate. This section does not apply to elected or appointed officials of a municipality if bonded pursuant to § 9-14-6.

Section 57. That § 23A-1-1 be AMENDED:

23A-1-1. This title governs the procedure to be used in the courts of this state in any:

- (1) Criminal proceeding; and
- (2) Prosecution for the violation of an ordinance, resolution, or the bylaws of a unit of local government of this state, which authorizes a criminal penalty.

Section 58. That § 9-14-6.1 be REPEALED.

Section 59. That § 9-14-7 be REPEALED.

Section 60. That § 9-14-18 be REPEALED.

Section 61. That § 9-14-19 be REPEALED.

Section 62. That § 9-14-20 be REPEALED.

Section 63. That § 9-14-21 be REPEALED.

Section 64. That § 9-14-31 be REPEALED.

Section 65. That § 9-14-32 be REPEALED.

Section 66. That § 9-19-22 be REPEALED.

An Act to revise certain provisions pertaining to municipal government.

I certify that the attached Act originated in the:
Senate as Bill No. 165

Received at this Executive Office this ____ day of _____, 2026 at _____ M.

Secretary of the Senate

By _____ for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2026

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2026 at _____ o'clock ___ M.

Chief Clerk of the House

Secretary of State

Senate Bill No. 165
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State