

## 2026 South Dakota Legislature

**Senate Bill 93****AMENDMENT 93B  
FOR THE SENATE ENGROSSED BILL**

**On the Senate Engrossed bill, delete the previously adopted amendment (93A), to read as follows:**

1 **An Act to prohibit certain state officers or employees from being employed by an**  
 2 **organization that was the recipient of a contract awarded on behalf of a state**  
 3 **agency for a period of time.**

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

5 **Section 1. That § 5-18A-17 be AMENDED:**

6 **5-18A-17.** ~~No state officer or employee who approves, awards, or administers a~~  
 7 ~~contract on behalf of a state agency, may have an interest in a contract or derive a direct~~  
 8 ~~benefit from a contract that is within the scope of the officer's or employee's official duties,~~  
 9 ~~nor for a one-year period following the end of their employment or position as a state~~  
 10 ~~officer may the officer or employee derive a direct benefit as a result of such contract~~  
 11 ~~except as provided in § 5-18A-17.2. In addition, no such officer or employee may enter~~  
 12 ~~into any contract, other than a contract of employment, with any state agency for a period~~  
 13 ~~of one year following their leaving office or employment except as provided in § 5-18A-~~  
 14 ~~17.3. This prohibition includes any state officer or employee who, in his or her official~~  
 15 ~~capacity, recommends the approval or award of the contract or who supervises a person~~  
 16 ~~who approves, awards, or administers the contract. This prohibition does not include any~~  
 17 ~~state officer who serves without compensation or who may be paid per diem pursuant to~~  
 18 ~~§ 4-7-10.4. If an officer or employee of this state has responsibility, on behalf of a state~~  
 19 ~~agency, for approving, awarding, or administering a contract, that officer or employee~~  
 20 ~~may not:~~

21 (1) Except as otherwise provided in 5-18A-17.2:  
 22 (a) Have an interest in a contract or derive a direct benefit from a contract that  
 23 is within the scope of the officer's or employee's official duties; or  
 24 (b) Derive a direct benefit from any contract that the officer or employee  
 25 approved, awarded, or administered on behalf of a state agency for at least

1 one year following the end of the individual's term of office or employment  
 2 with the state;

3 (2) Except as otherwise provided in § 5-18A-17.3, enter into any contract with a state  
 4 agency, other than an employment contract, for at least one year following the end  
 5 of the individual's term of office or employment with the state; or

6 (3) Except as otherwise provided in section 3 of this Act, be employed by any  
 7 organization that was the beneficiary of a contract approved, awarded, or  
 8 administered by the officer or employee, for a period of:

9 (a) One year, if the value of the contract was not more than five million dollars;  
 10 or

11 (b) Two years, if the value of the contract was more than five million dollars.

12 Nothing in this section may be construed to apply to an officer or employee who  
 13 serves without compensation or who is only compensated per diem pursuant to § 4-7-  
 14 10.4.

15 For purposes of this section, the responsibility for approving, awarding, or  
 16 administering a contract on behalf of a state agency includes supervising the approval,  
 17 award, or administration of a contract or recommending the approval or award of a  
 18 contract.

19 **Section 2. That § 5-18A-17.2 be AMENDED:**

20 **5-18A-17.2.** A governing body may authorize an officer or employee whose  
 21 responsibilities include approving, awarding, or administering a contract on behalf of a  
 22 state agency—~~or~~; supervising any employee who ~~has these responsibilities~~ approves,  
 23 ~~awards, or administers a contract on behalf of a state agency;~~ or recommending to any  
 24 ~~employee the approval or award of a contract on behalf of a state agency,~~ to be a party  
 25 to or derive a direct benefit from a contract if:

26 (1) The officer or employee has provided full written disclosure to the governing body;

27 (2) The governing body has reviewed ~~the~~;

28 (a) The essential terms of the transaction or contract ~~and the state officer's or~~  
 29 employee's; and

30 (b) The role of the officer or employee in the contract or transaction; and

31 (3) The transaction and the terms of the contract are fair, reasonable, and not contrary  
 32 to the public interest.

33 The authorization shall be in writing. ~~If a governing body authorizes an officer or~~  
 34 employee to be a party to or derive a direct benefit from a contract, the governing body

1 must provide the authorization in writing. Any authorization given pursuant to this section  
2 is a public record. Each authorization ~~shall~~ must be filed with the commissioner of human  
3 resources and administration, ~~who~~. The commissioner shall annually compile the  
4 authorizations and present them ~~annually for review by~~ to the Government Operations  
5 and Audit Committee for review.

6 **Section 3. That a NEW SECTION be added to chapter 5-18A:**

7 A governing body may authorize a former officer or employee whose  
8 responsibilities included approving, awarding, or administering a contract on behalf of a  
9 state agency; supervising any employee who approved, awarded, or administered a  
10 contract on behalf of the state agency; or recommending to any employee the approval  
11 or award of a contract on behalf of a state agency, to be employed by an organization that  
12 was the beneficiary of a contract approved, awarded, or administered by the officer or  
13 employee, before the time permitted in § 5-18A-17, if:

- 14 (1) The governing body has reviewed:  
15 (a) The essential terms of the transaction or contract; and  
16 (b) The role of the officer or employee in the contract or transaction; and  
17 (2) The transaction and the terms of the contract are fair, reasonable, and not contrary  
18 to the public interest.

19 The governing body must provide the authorization in writing. Any authorization  
20 given pursuant to this section is a public record. Each authorization must be filed with the  
21 commissioner of human resources and administration. The commissioner shall annually  
22 compile the authorizations and present them to the Government Operations and Audit  
23 Committee for review.