

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

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SENATE STATE AFFAIRS ENGROSSED NO. **SB 162** - 02/22/2016

Introduced by: The Committee on Government Operations and Audit at the request of the
Office of the Governor

1 FOR AN ACT ENTITLED, An Act to create the State Board of Internal Control and to declare
2 an emergency.

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

4 Section 1. That the code be amended by adding a NEW SECTION to read:

5 Terms used in this Act mean:

6 (1) "Board," the State Board of Internal Control;

7 (2) "Code of conduct," a set of ethical principles and guidelines that constitutes
8 appropriate behavior within an organization;

9 (3) "Internal control," a process that integrates the plans, activities, policies, attitudes,
10 procedures, systems, resources, and efforts of an organization and that is designed to
11 provide reasonable assurance that the organization will achieve its objectives and
12 missions and to detect and prevent financial malfeasance;

13 (3) "Pass-through grant," a grant awarded by a federal entity to the state entity and
14 transferred or passed to a sub-recipient by the state;



1 (4) "State agency," the Legislature, any constitutional officer, the Unified Judicial
2 System, and any department, division, bureau, board, commission, committee,
3 authority, or agency of the State of South Dakota;

4 (5) "Sub-recipient," an entity that expends a pass-through grant.

5 Section 2. That the code be amended by adding a NEW SECTION to read:

6 There is hereby created a State Board of Internal Control that consists of seven members.
7 Three members shall represent state agencies under control of the Governor and shall be
8 appointed by the Governor. Each member appointed by the Governor shall serve a three-year
9 term. However, the initial appointments shall be for staggered terms. The remaining members
10 shall be the commissioner of the Bureau of Finance and Management, the state auditor, a Board
11 of Regents administrator's designee, and a member appointed by the Chief Justice of the
12 Supreme Court. Any four of the seven members constitutes a quorum. The commissioner of the
13 Bureau of Finance and Management shall be chair of the board.

14 Section 3. That the code be amended by adding a NEW SECTION to read:

15 The board may promulgate rules, pursuant to chapter 1-26, to implement a system of internal
16 control in accordance with internal control standards.

17 Section 4. That the code be amended by adding a NEW SECTION to read:

18 The board shall meet monthly for the first twelve months, and shall meet at least quarterly
19 after the first year. A record of the proceedings of the board shall be kept pursuant to § 1-25-3.

20 Section 5. That the code be amended by adding a NEW SECTION to read:

21 The Bureau of Finance and Management shall provide administrative support to the board.
22 If necessary, the board shall seek the advice of the auditor-general.

23 Section 6. That the code be amended by adding a NEW SECTION to read:

24 The board shall establish and maintain:

- 1 (1) Guidelines for an effective system of internal control to be implemented by state
2 agencies that is in accordance with internal control standards;
- 3 (2) A code of conduct for use by state agencies excluding the Unified Judicial System;
4 and
- 5 (3) A conflict of interest policy for use by state agencies excluding the Unified Judicial
6 System.

7 The Unified Judicial System may implement the code of conduct and conflict of interest policy
8 in accordance with the code of judicial conduct and employee policies utilized within the
9 Unified Judicial System.

10 Section 7. That the code be amended by adding a NEW SECTION to read:

11 The board shall create an annual work plan and report which shall be presented to the
12 Governor and the Government Operations and Audit Committee.

13 Section 8. That the code be amended by adding a NEW SECTION to read:

14 Each state agency shall designate an internal control officer. The board shall make available
15 to each internal control officer guidelines and standards that the state agency shall implement
16 and comply. The board may take other actions as necessary to carry out the purpose and intent
17 of this Act.

18 Section 9. That the code be amended by adding a NEW SECTION to read:

19 After the review of an audit in accordance with § 4-11-2.1, the auditor-general shall submit
20 to the board a copy of any audit report correspondence sent to a state agency identifying audit
21 findings pertaining to federal award programs administered by the state agency.

22 Section 10. That the code be amended by adding a NEW SECTION to read:

23 The grant agreement for each grant, pass-through grant, or any other award granted by a state
24 agency to a nonstate agency after July 1, 2016, shall be displayed on the website created

1 pursuant to § 1-27-45.

2 Each grant agreement shall include an attestation by the award recipient or sub-recipient
3 that:

4 (1) A conflict of interest policy is enforced within the recipient's or sub-recipient's
5 organization;

6 (2) The Internal Revenue Service Form 990 has been filed, if applicable, in compliance
7 with federal law, and is displayed immediately after filing on the recipient's or sub-
8 recipient's website;

9 (3) An effective internal control system is employed by the recipient's or sub-recipient's
10 organization; and

11 (4) If applicable, the recipient or sub-recipient is in compliance with the federal Single
12 Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the recipient's
13 or sub-recipient's website.

14 Section 11. That the code be amended by adding a NEW SECTION to read:

15 A state employee who suspects the existence of a conflict of interest, fraud, or theft shall
16 report the matter immediately to any, of the following:

17 (1) The employee's immediate supervisor;

18 (2) The attorney general's office; or

19 (3) The Department of Legislative Audit.

20 Section 12. That the code be amended by adding a NEW SECTION to read:

21 Pursuant to § 3-6D-22, an employee may file a grievance with the Civil Service Commission
22 if the employee believes that there has been retaliation because of reporting a violation of state
23 law.

24 Section 13. Whereas, this Act is necessary for the immediate preservation of the public

- 1 peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full
- 2 force and effect from and after its passage and approval.