

**STATE OF SOUTH DAKOTA  
OFFICE OF THE GOVERNOR  
EXECUTIVE ORDER 2021-03**

**Whereas**, Article IV, Section 8, of the Constitution of the State of South Dakota provides that, "Except as to elected constitutional officers, the Governor may make such changes in the organization of offices, boards, commissions, agencies and instrumentalities, and in allocation of their functions, powers and duties, as he considers necessary for efficient administration. If such changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the Legislature within five legislative days after it convenes, and shall become effective, and shall have the force of law, within ninety days after submission, unless disapproved by a resolution concurred in by a majority of all the members of either house"; and,

**Whereas**, This Executive Order has been submitted to the 96th Legislative Assembly on the 5th legislative day, the 19th day of January, 2021:

**IT IS, THEREFORE, BY EXECUTIVE ORDER**, directed that the executive branch of state government be reorganized to comply with the following sections of this Order.

**GENERAL PROVISIONS**

Section 1. This Executive Order shall be known and may be cited as the "Executive Reorganization Order 2021-03".

Section 2. Any agency not enumerated in this Order, but established by law within another agency which is transferred to a principal department under this Order, shall also be transferred in its current form to the same principal department and its functions shall be allocated between itself and the principal department as they are now allocated between itself and the agency within which it is established.

Section 3. "Agency" as used in this Order shall mean any board, authority, commission, department, bureau, division, or any other unit or organization of state government.

Section 4. "Function" as used in this Order shall mean any authority, power, responsibility, duty, or activity of an agency, whether or not provided for by law.

Section 5. Unless otherwise provided by this Order, division directors shall be appointed by the head of the department or bureau of which the division is a part, and shall be removable at the pleasure of the department or bureau head, provided that the appointment and removal of division directors shall be subject to approval by the Governor.



Section 6. It is the intent of this Order not to repeal or amend any laws relating to functions performed by an agency, unless the intent is specifically expressed in this Order or unless there is an irreconcilable conflict between this Order and those laws.

Section 7. If a part of this Order is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Order is invalid in one or more of its applications, the part remains in effect in all valid applications.

Section 8. Except when inconsistent with the other provisions of this Order all rules, regulations, and standards of the agencies involved in executive reorganization in effect on the effective date of this Order, shall continue with full force and effect until they are specifically altered, amended, or revoked in the manner provided by law, unless the statutory authority for such rules is superseded by this Order.

Section 9. It is hereby declared that the sections, clauses, sentences, and parts of this Order are severable, are not matters of mutual essential inducement, and any of them may be excised by any court of competent jurisdiction if any section, clause, sentence, or part of this Order would otherwise be unconstitutional or ineffective.

Section 10. In the event that it has been determined that a function of a transferred agency, which has not been eliminated by this Order, and its associated records, personnel, equipment, facilities, unexpended balances of appropriations, allocations, or other funds have not been clearly allocated to an agency, the Governor shall specify by interim procedures the allocation of the function and its associated resources. At the next legislative session following the issuance of such interim procedures, the Governor shall make recommendations concerning the proper allocation of the functions of transferred agencies which are not clearly allocated by this Order. Any interim procedures issued in conjunction with this section shall be filed with the Secretary of State.

Section 11. The rights, privileges, and duties of, including but not limited to, the holders of bonds and other obligations issued, and of the parties to contracts, leases, indentures, loan agreements, and other transactions, entered into before the effective date of this Order by the state or by any agency, officer, or employee thereof, and covenants and agreements as set forth therein, remain in effect, and none of those rights, privileges, duties, covenants, or agreements are impaired or diminished by abolition of an agency in this Order. The agency to which functions of another agency are transferred is substituted for that agency and succeeds to its rights and leases, indentures, privileges, duties, covenants, agreements, and other transactions.

Section 12. No judicial or administrative suit, action, or other proceeding lawfully commenced before the effective date of this Order by or against any agency or any officer of the state, in their official capacity or in relation to the discharge of their official duties, shall abate or be affected by reason of the taking effect of any reorganization under the provisions of this Order. The court may allow the suit, action, or other proceeding to be maintained by or against the successor of any agency or any officer affected by this Order.



Section 13. If any part of this Order is ruled to be in conflict with federal requirements which are a prescribed condition to the receipt of federal aid by the state, an agency, or a political subdivision, that part of this Order has no effect and the Governor may by executive order make necessary changes to this Order to receive federal aid, and the changes will remain in effect until the last legislative day of the next legislative session or until the Legislature completes legislation addressed to the same question, whichever comes first.

Section 14. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative Research Council are requested to make the name and title changes necessary to correlate and integrate the organizational changes made by this Executive Reorganization Order into the South Dakota Codified Laws.

Section 15. Any provisions of law in conflict with this Order are superseded.

Section 16. Whenever a function is transferred by this Order, all personnel, records, property, unexpended balances of appropriations, allocations, or other funds utilized in performing the function are also transferred by this Order.

Section 17. The effective date of this Executive Reorganization Order 2021-03 shall be ninety days after its submission to the Legislature.

**Department of Agriculture and Natural Resources Created.**

Section 18. There is hereby created a Department of Agriculture and Natural Resources. The head of the Department of Agriculture and Natural Resources is the Secretary of Agriculture and Natural Resources who shall be appointed and serve pursuant to the provisions of the Constitution of the State of South Dakota, Article IV, § 9. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources and the former Secretary of the Department of Agriculture.

Section 19. Except as otherwise provided in this Order, the functions and programs of the former the Department of Environment and Natural Resources and the Department of Agriculture and the duties of the former Secretary of the Department of Environment and Natural Resources and the former Secretary of the Department of Agriculture are transferred to the Department of Agriculture and Natural Resources and the Secretary of the Department of Agriculture and Natural Resources.

**Department of Environment and Natural Resources Abolished. Functions of former Department Environment and Natural Resources transferred to Department of Agriculture and Natural Resources.**



Section 20. The Department of Environment and Natural Resources is hereby abolished. The position of Secretary of the Department of Environment and Natural Resources is hereby abolished.

Section 21. The Board of Water and Natural Resources created by § 1-40-5 and its functions in the former Department of Environment and Natural Resources is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources, relating to the Board of Water and Natural Resources.

Section 22. The Water Management Board created by § 1-40-15 and its functions in the former Department of Environment and Natural Resources is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources, relating to the Water Management Board.

Section 23. The Board of Minerals and Environment created by § 1-40-25 and its functions in the former Department of Environment and Natural Resources is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources, relating to the Board of Minerals and Environment.

Section 24. The South Dakota State Emergency Response Commission created by § 1-50-1 and its functions in the former Department of Environment and Natural Resources is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources, relating to the South Dakota State Emergency Response Commission.

Section 25. The Board of Certification for water supply and wastewater system operators created by § 34A-3-5 and its functions in the former Department of Environment and Natural Resources is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources, relating to the Board of Certification.

Section 26. The Petroleum Release Compensation Board created by § 34A-13-14 and all its functions under chapter 34A-13, including budgeting and administrative support for the petroleum release fund, in the former Department of Environment and Natural Resources are transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Environment and Natural Resources, relating to the Petroleum Release Compensation Board. The petroleum



release compensation fund board shall continue as an advisory board to the Secretary of the Department of Agriculture and Natural Resources on issues concerning petroleum inspection and release compensation.

**Department of Agriculture is Abolished. Functions of former Department of Agriculture transferred to Department of Agriculture and Natural Resources.**

Section 27. The Department of Agriculture is hereby abolished. The position of Secretary of the Department of Agriculture is hereby abolished.

Section 28. The State Fair Commission created by § 1-21-1 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to the state fair.

Section 29. The Board of Veterinary Medical Examiners created by chapter 36-12 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to Board of Veterinary Medical Examiners.

Section 30. The State Conservation Commission created by § 38-7-3 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to the Conservation Commission.

Section 31. The Wheat Utilization, Research and Market Development Commission created by § 38-10-3 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to the wheat commission.

Section 32. The Seed Certification Board created by § 38-11-1 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to seed certification.

Section 33. The South Dakota Weed and Pest Control Commission created by § 38-22-1.1 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to weed and pest control.



Section 34. The South Dakota Oilseeds Council created by § 38-27-2 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to the Oilseeds Council.

Section 35. The South Dakota Soybean Research and Promotion Council created by § 38-29-2 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to the Soybean Research and Promotion Council.

Section 36. The South Dakota Corn Utilization Council created by § 38-32-2 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to the Corn Utilization Council.

Section 37. The South Dakota Pulse Crop Council created by § 38-34-2 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to the Pulse Crop Council.

Section 38. The State Animal Industry Board created by § 40-3-1 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to the Animal Industry Board. The Board is attached to the Department of Agriculture and Natural Resources for reporting purposes.

Section 39. The State Brand Board created by § 40-18-1 and its functions in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to the Brand Board. The Board is attached to the Department of Agriculture and Natural Resources for reporting purposes.

Section 40. The American Dairy Association of South Dakota created by § 40-31-2 and its functions, including budgeting and administrative support for the American Dairy Association of South Dakota fund created by § 40-31-18, in the former Department of Agriculture is transferred to the Department of Agriculture and Natural Resources created by this Order. The Secretary of the Department of Agriculture and Natural Resources shall perform the functions of the former Secretary of the Department of Agriculture, relating to



the American Dairy Association.

### Other Reorganization Provisions

Section 41. That § 1-32-2 be amended to read as follows:

**1-32-2. Principal departments established.** For the purposes of achieving reorganization under the terms of S. D. Const., Art. IV, § 8, the following principal departments are established:

- (1) Department of Executive Management;
- (2) Department of Public Safety;
- (3) Department of Social Services;
- (4) Department of Labor and Regulation;
- (5) Department of Education;
- ~~(6) Department of Environment and Natural Resources;~~
- ~~(7) Department of Game, Fish and Parks;~~
- ~~(8) Department of Health;~~
- ~~(9) Department of Agriculture and Natural Resources;~~
- ~~(10) Department of Transportation;~~
- ~~(11) Department of the Military;~~
- ~~(12) Department of Revenue;~~
- ~~(13) Department of Human Services;~~
- ~~(14) Department of Tourism;~~
- ~~(15) Department of Veterans Affairs;~~
- ~~(16) Department of Tribal Relations;~~
- ~~(17) Department of Corrections.~~

Section 42. That § 1-41-1 be amended to read as follows:

**1-41-1. Department continued.** The Department of Agriculture is hereby continued as the Department of Agriculture and Natural Resources. The former Department of Environment and Natural Resources, also formerly known as the Department of Natural Resource Development and as the Department of Water and Natural Resources, is hereby continued as the Department of Agriculture and Natural Resources. The Department of Agriculture and Natural Resources shall protect and promote agriculture as South Dakota's most vital industry, and it will preserve our natural resources and the environment through sound management.

Section 43. That § 1-41-2 be amended to read as follows:

**1-41-2. Secretary as head of department.** The head of the Department of Agriculture and Natural Resources is the secretary of agriculture and natural resources.

Section 44. That § 1-41-3.2 be amended to read as follows:

**1-41-3.2. Office of agricultural and natural resources policy created--Responsibilities.**



There is hereby created within the Department of Agriculture and Natural Resources the office of agricultural and natural resources policy. The office is responsible for researching and developing factual information on issues affecting the State of South Dakota and its agricultural industry and the state's natural resources. The office may develop briefing documents, policy statements, and other informational documents for the secretary of agriculture and natural resources and the Governor on a variety of subjects, including:

- (1) Federal legislative or regulatory issues;
- (2) United States Department of Agriculture programs and policies;
- (3) International trade and trade relations;
- (4) Wetlands issues;
- (5) Forestry and timber cutting issues;
- (6) Endangered species issues;
- (7) Railroad issues;
- (8) Landowner rights issues;
- (9) Animal depredation issues;
- (10) Weed and pest control issues;
- (11) Wilderness designation and development areas;
- (12) Food quality, quantity, and protection issues;
- (13) Environmental management issues;
- ~~(14) Wildland fire policy issues; and~~
- ~~(14)~~ Any other issue or problem designated by the secretary or the Governor.

Section 45. **That § 1-41-4 be amended to read as follows:**

**1-41-4. Performance of functions of former department.** The Department of Agriculture and Natural Resources shall, under the direction and control of the secretary of agriculture and natural resources, perform all the functions of the Department of Agriculture created by chapters 38-1, 34-35, 39-1, 40-37, 41-20, 54-13 and all the functions of the former Department of Environment and Natural Resources created by Title 34, 34A, 45, 46, and 46A, except the inspection functions vested in the Department of Public Safety by §§ 34-39-3.1 and 39-1-1.1 and South Dakota Wildland Fire functions vested in the Department of Public Safety by this Order.

Section 46. **That § 1-41-4.1 be amended to read as follows:**

**1-41-4.1. Performance of functions of abolished agencies.** The Department of Agriculture and Natural Resources shall, under the direction and control of the secretary of agriculture and natural resources, administer all the functions of the following former agencies:

- (1) The Division of Markets created by chapter 38-1;
- (2) The Division of Inspections created by chapter 38-1;
- (3) The Division of Plant Industry created by chapter 38-1;
- (4) The Division of Production and Marketing Cooperatives created by chapter 38-1;
- (5) The Division of Weed Control created by chapter 38-1; and
- (6) The Department of Horticulture created by chapter 38-23.



Section 47. That § 1-41-5 be amended to read as follows:

**1-41-5. Administrative functions performed for boards and commissions—**  
**Nomination of officers.** The Department of Agriculture and Natural Resources shall, under the direction and control of the secretary of agriculture and natural resources, perform all administrative functions except special budgetary functions (as defined in § 1-32-1) of the following boards and commissions:

- (1) The American Dairy Association of South Dakota, created by chapter 40-31;
- (2) The Seed Certification Board, created by chapter 38-11;
- (3) The South Dakota Weed and Pest Control Commission, created by chapter 38-22;
- (4) The State Fair Commission, created by chapter 1-21-;
- (5) The Water Management Board, created by chapter 1-40;
- (6) The Board of Certification of Water Systems Operators, created by chapter 34A-3;
- (7) The South Dakota Conservancy District, created by chapter 1-40;
- (8) The Petroleum Release Compensation Board, created by chapter 34A-13;
- (9) The Board of Minerals and Environment, created by chapter 1-40; and
- (10) The State Emergency Response Commission, created by chapter 1-50.

Notwithstanding this section, the staff director of the American Dairy Association of South Dakota shall be nominated pursuant to § 40-31-2.1.

Section 48. That § 1-41-6.1 be amended to read as follows:

**1-41-6.1. Conservation Commission within Division of Resource Conservation and Forestry—Functions performed by division.** The State Conservation Commission created by § 38-7-3 shall continue within the Division of Resource Conservation and Forestry of the Department of Agriculture and Natural Resources and the Division of Resource Conservation and Forestry shall under the direction and control of the director of resource conservation and forestry, perform all the administrative functions, except special budgetary functions (as defined in § 1-32-1) of the State Conservation Commission.

Section 49. That § 1-41-9 be repealed. Brand Board transferred. The Brand Board created in chapter 40-18 is transferred to the Department of Agriculture from the Department of Commerce and Regulation. The board is attached to the Department of Agriculture for reporting purposes only.

Section 50. That § 1-41-10 be repealed. Board of Veterinary Medical Examiners transferred. The Board of Veterinary Medical Examiners, created by chapter 36-12, and its functions in the former Department of Commerce and Regulation are transferred to the Department of Agriculture. The secretary of the Department of Agriculture shall perform the functions of the former secretary of the Department of Commerce and Regulation, relating to the Board of Veterinary Medical Examiners.

Section 51. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative Research Council are requested to amend the following sections by striking “Department of Agriculture” and inserting “Department of Agriculture and Natural



Resources” and by striking “secretary of agriculture” and inserting “secretary of agriculture and natural resources”:

Title 1:

1-21-1; 1-21-2; 1-21-4; 1-21-6; 1-21-6.1; 1-21-9; 1-21-10; 1-21-14; 1-21-17; 1-41-3.1; 1-41-9.

Title 34:

34-35-17; 34-35-18.

Title 34A:

34A-8-6; 34A-8-7; 34A-8-8; 34A-8A-1; 34A-8A-2; 34A-8A-3; 34A-8A-8; 34A-8A-9.

Title 36:

36-12-9.1.

Title 38:

38-1-1; 38-1-3; 38-1-4; 38-1-11; 38-1-12; 38-1-13; 38-1-14; 38-1-15; 38-1-16; 38-1-18; 38-1-18.1; 38-1-19; 38-1-21; 38-1-24; 38-1-26; 38-1-29; 38-1-30; 38-1-32; 38-1-36; 38-1-37; 38-1-38; 38-1-40; 38-1-46; 38-1-49; 38-1-51; 38-5-1; 38-5-3; 38-7-2.1; 38-7-2.2; 38-7-3.1; 38-7-28; 38-10-9; 38-10-39; 38-11-1; 38-11-2; 38-11-6; 38-12A-1; 38-12A-11; 38-12A-25; 38-18-1; 38-18-32; 38-18-36; 38-19-1; 38-19-2.1; 38-19-5; 38-19-10; 38-19-10.1; 38-19-12; 38-19-16.1; 38-19-17; 38-19-28; 38-19-30; 38-19-30.1; 38-19-31; 38-19-32; 38-19-33; 38-19-34; 38-19-35; 38-19-36; 38-19-37; 38-19-38; 38-19-39; 38-19-40; 38-19-43; 38-19-46; 38-19-47; 38-19A-1; 38-19A-3; 38-19A-4; 38-19A-6; 38-19A-7; 38-19A-9; 38-19A-10; 38-19A-11; 38-19A-12; 38-19A-13; 38-19A-14; 38-19A-15; 38-19A-17; 38-19A-19; 38-20-1; 38-20-2; 38-20-32; 38-20-33; 38-20-34; 38-20-35; 38-20A-1; 38-20A-56; 38-21-14; 38-22-1.1; 38-22-1.2; 38-22-1.5; 38-22-6; 38-22-8; 38-22-9; 38-22-16; 38-22-17; 38-22-17.1; 38-22-19; 38-22-20; 38-22-21; 38-22-23.10; 38-22-32; 38-24A-1; 38-24A-2; 38-24A-3; 38-24A-4; 38-24A-5; 38-24A-6; 38-24A-7; 38-24A-10; 38-24A-12; 38-24A-14; 38-24A-15; 38-24A-17; 38-24A-19; 38-24A-20; 38-24A-21; 38-24B-1; 38-24B-2; 38-24B-9; 38-24B-10; 38-24B-16; 38-24B-17; 38-24B-18; 38-24B-19; 38-24B-20; 38-24B-22; 38-24B-23; 38-24B-25; 38-24B-26; 38-27-1; 38-27-2; 38-27-4; 38-27-6; 38-27-9; 38-29-1; 38-29-2; 38-29-3; 38-29-4; 38-29-8; 38-32-1; 38-33-1; 38-34-1; 38-34-3; 38-34-9; 38-35-1.

Title 39:

39-1-1; 39-1-2; 39-1-3; 39-1-4; 39-1-5; 39-1-6; 39-1-10; 39-1-11; 39-1-12; 39-1-13; 39-1-15; 39-6-1; 39-6-6; 39-6-7; 39-6-9; 39-6-10; 39-6-11; 39-6-13; 39-6-15; 39-6-16; 39-6-20; 39-7-6; 39-8-2; 39-8-3; 39-8-4; 39-8-10; 39-8-12; 39-8-14; 39-11-1; 39-11-4; 39-11-5; 39-11-7; 39-11-10; 39-11-13; 39-11-16; 39-11-17; 39-14-39(13); 39-14-42; 39-14-43; 39-14-44; 39-14-52; 39-14-53; 39-14-55; 39-14-56; 39-14-58; 39-14-59; 39-14-60; 39-14-61; 39-14-62; 39-14-63; 39-14-65; 39-14-68; 39-14-69; 39-14-70; 39-14-71; 39-14-72; 39-14-74; 39-14-75; 39-14-76; 39-14-77; 39-14-78; 39-14-81; 39-18-2; 39-18-5; 39-18-6; 39-18-7; 39-18-8; 39-18-9; 39-18-10; 39-18-12; 39-18-14; 39-18-29; 39-18-32; 39-18-33; 39-18-35; 39-18-36; 39-18-38; 39-18-39; 39-18-40; 39-18-42; 39-18-43; 39-18-44; 39-18-45; 39-18-46; 39-18-47; 39-18-48; 39-18-49; 39-18-50; 39-18-51.



Title 40:

40-3-1.1; 40-18-1.1; 40-31-2; 40-31-2.1; 40-31-2.2; 40-31-7; 40-31-8; 40-31-12; 40-31-16; 40-31-18; 40-31-22; 40-31-23; 40-31-24; 40-31-25; 40-37-1.

Title 41:

41-20-15; 41-20-16; 41-20-17; 41-20-18; 41-20-22; 41-20-23; 41-20-24.

Title 45:

45-6B-11.

Title 46A:

46A-11A-1; 46A-11A-2; 46A-11A-3; 46A-11A-4; 46A-11A-5; 46A-11A-7.

Title 54:

54-13-1; 54-13-2; 54-13-3; 54-13-4; 54-13-5; 54-13-6.

Section 52. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative Research Council are requested to transfer the following sections to chapter 1-41, update the cross-references, and amend the following sections by striking "Department of Environment and Natural Resources", and inserting "Department of Agriculture and Natural Resources" and by striking "secretary of environment and natural resources", and inserting "secretary of agriculture and natural resources":

Title 1:

1-19C-2.11; 1-40-3; 1-40-4; 1-40-7; 1-40-7.1; 1-40-9; 1-40-11; 1-40-15; 1-40-18; 1-40-20; 1-40-22; 1-40-23; 1-40-24; 1-40-31; 1-40-38; 1-40-40; 1-40-41; 1-50-1; 1-50-4; 1-50-9; 1-50-11.

Section 53. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative Research Council are requested to amend the following sections by striking "Department of Environment and Natural Resources", and inserting "Department of Agriculture and Natural Resources" and by striking "secretary of environment and natural resources", and inserting "secretary of agriculture and natural resources":

Title 34:

34-21-1.1; 34-21-17; 34-21-50; 34-44-1; 34-44-30.

Title 34A:

34A-1-2; 34A-1-58.1; 34A-1-60; 34A-1-63; 34A-2-2; 34A-2-97; 34A-2-98; 34A-2-121; 34A-2-122; 34A-2-125; 34A-2A-1; 34A-2B-1; 34A-3-1; 34A-3-5; 34A-3A-2; 34A-3A-22; 34A-3A-23; 34A-3A-25; 34A-5-13; 34A-6-1.3; 34A-6-41; 34A-6-61; 34A-6-68; 34A-6-85; 34A-6-114; 34A-7-1; 34A-9-1; 34A-10-2.5; 34A-10-17; 34A-11-2; 34A-11-3; 34A-11-4; 34A-11-5; 34A-11-6; 34A-11-7; 34A-11-10; 34A-11-11; 34A-11-12.1; 34A-11-13; 34A-11-16; 34A-11-17; 34A-11-18; 34A-11-22; 34A-11-24; 34A-12-1; 34A-13-1; 34A-13-14; 34A-13-17; 34A-13-18; 34A-13-23; 34A-13-27; 34A-13-49; 34A-13-52; 34A-13-53; 34A-



13-54; 34A-15-6.1; 34A-16-37; 34A-17-2; 34A-18-1; 34A-18-10.

Title 45:

45-2-3; 45-5A-5; 45-6-64; 45-6-65; 45-6-69; 45-6-70; 45-6-74; 45-6-75; 45-6B-3; 45-6B-7; 45-6B-11; 45-6B-15; 45-6B-16; 45-6B-31; 45-6B-48; 45-6B-49; 45-6B-69; 45-6B-73; 45-6B-74; 45-6B-75; 45-6C-3; 45-6C-6; 45-6C-10; 45-6C-11; 45-6C-12; 45-6C-15; 45-6C-16; 45-6C-18; 45-6C-19; 45-6C-23; 45-6C-35; 45-6C-36; 45-6C-37; 45-6C-43; 45-6C-44; 45-6C-47; 45-6C-48; 45-6C-55; 45-6D-3; 45-6D-12; 45-6D-26; 45-6D-40; 45-6D-46; 45-6D-51; 45-6D-52; 45-6D-58; 45-6D-63; 45-6D-64; 45-6D-67; 45-9-5; 45-9-6; 45-9-8; 45-9-9; 45-9-10; 45-9-11; 45-9-12; 45-9-13; 45-9-14; 45-9-15; 45-9-15.3; 45-9-16; 45-9-17; 45-9-18; 45-9-19; 45-9-27; 45-9-70.

Title 46:

46-1-6; 46-6-9; 46-6-9.3.

Title 46A:

46A-1-26; 46A-1-62; 46A-1-95; 46A-1-96; 46A-1-98; 46A-2-4; 46A-2-6; 46A-2-14; 46A-3B-4; 46A-6-38; 46A-7-6; 46A-9-4; 46A-9-11; 46A-9-20; 46A-9-21; 46A-9-74; 46A-9-75; 46A-10A-32; 46A-10A-43.3; 46A-10A-60; 46A-10A-61; 46A-10A-64; 46A-10B-1; 46A-10B-34; 46A-15-13; 46A-16-1.

Section 54. That § 1-40-1 be repealed. ~~Department renamed. The former Department of Natural Resource Development, also formerly known as the Department of Water and Natural Resources, is hereby continued as the Department of Environment and Natural Resources.~~

Section 55. That § 1-40-2 be repealed. ~~Secretary as head of department. The head of the Department of Environment and Natural Resources is the secretary of environment and natural resources.~~

Section 56. That § 1-40-4.1, 1-40-5, 1-40-6, 1-40-10, 1-40-12, 1-40-16, 1-40-17, 1-40-19, 1-40-20.1, 1-40-25, 1-40-25.1, 1-40-26, 1-40-27, 1-40-28, 1-40-29, 1-40-33, 1-40-34, 1-40-35, 1-40-36, 1-40-37, and 1-40-39 be transferred to chapter 1-41.

Section 57. That § 1-40-13 be repealed. ~~Performance of administrative functions of Water Management Board. The Department of Environment and Natural Resources shall, under the direction and control of the secretary of environment and natural resources, perform all administrative functions except special budgetary functions (as defined in § 1-32-1) of the Water Management Board.~~

Section 58. That § 1-40-21 be repealed. ~~Administrative functions performed for Board of Certification of Water Systems Operators—Advisory functions. The Department of Environment and Natural Resources shall, under the direction and control of the secretary of environment and natural resources, perform all administrative functions except special budgetary functions (as defined in § 1-32-1) of the board of certification of water supply and waste water system operators, created by chapter 34A-3. The board shall continue its~~



advisory function pursuant to chapter 34A-3.

Section 59. That § 1-40-43 be repealed. ~~Petroleum Release Compensation Board transferred. All functions of the Petroleum Release Compensation Board under chapter 34A-13 including budgeting and administrative support for the petroleum release fund in the former Department of Revenue and Regulation are transferred to the Department of Environment and Natural Resources created by chapter 1-40. The secretary of environment and natural resources shall perform the functions of the former secretary of revenue and regulation, relating to the Petroleum Compensation Board. The petroleum release compensation fund board shall continue as an advisory board to the Secretary of Department of Environment and Natural Resources on issues concerning petroleum inspection and release compensation.~~

Section 60. That § 1-40-44 be repealed. ~~Petroleum inspection and release compensation functions transferred. All functions of the Department of Transportation under chapter 34A-13 are transferred to the Department of Environment and Natural Resources created by chapter 1-40. The secretary of environment and natural resources shall perform the functions of the former secretary of transportation, relating to chapter 34A-13.~~

Section 61. That § 3-6F-5 be amended to read as follows:

**3-6F-5. Promulgation of rules.** The human resources commissioner may promulgate rules, pursuant to chapter 1-26, necessary to carry out the provisions of this chapter with regard to:

- (1) Listing of positions whose primary duty includes patient or resident care or supervision; safety-sensitive positions; and positions at the Department of Agriculture Public Safety, Division of Wildland Fire, whose duties include firefighting;
- (2) Substances to be screened;
- (3) Drug screening procedures;
- (4) Procedures for collecting, analyzing, and evaluating test samples;
- (5) Confidentiality of testing procedures;
- (6) Referral for education or treatment; and
- (7) Consequences that may result from valid positive test results or from failure to submit to a test.

Section 62. That § 34A-3-12 be amended to read as follows:

**34A-3-12. Functions performed by Department of Environment and Natural Resources and Board of Water Management.** The Department of Environment Agriculture and Natural Resources shall perform all the functions of the former Department of Environment and Natural Resources, and the Public Health Advisory Committee, the former state health officer, and the Department of Health with respect to water hygiene programs authorized under, but not limited to, this chapter, except that the Board of Water Management shall perform any advisory functions as defined in § 1-32-1.



Section 63. That § 34A-11-19 be amended to read as follows:

**34A-11-19. Circuit court action against violator--Injunction.** In lieu of, or in addition to, issuance of a notice of violation and order, the secretary of ~~water~~ agriculture and natural resources may bring an action in the circuit court of the county where the violation occurred, or is threatening to occur, for injunctive or other appropriate relief.

Section 64. That § 38-1-1.1 be amended to read as follows:

**38-1-1.1. Department continued--Performance of functions.** The Department of Agriculture and Natural Resources shall continue as such and shall continue to perform its functions as provided in § 1-41-4, except for the inspection functions vested in the Department of Public Safety by §§ 34-39-3.1 and 39-1-1.1 and South Dakota Wildland Fire functions vested in the Department of Public Safety by this Order.

Section 65. That § 38-1-2 be amended to read as follows:

**38-1-2. Secretary of agriculture as head of department—Appointment.** The head of the Department of Agriculture and Natural Resources shall be known as the secretary of agriculture and natural resources of the State of South Dakota, and wherever the word "secretary" appears in this title, it shall mean the "secretary of agriculture and natural resources of the State of South Dakota" unless the context indicates otherwise. ~~He~~ The secretary shall be appointed by the Governor pursuant to S.D. Const., Art. IV, § 9 and to § 1-32-3.

Section 66. That § 38-7-6 be amended to read as follows:

**38-7-6. Nonvoting members of commission--Tenure of office.** The following persons shall serve as nonvoting members of the State Conservation Commission: ~~the secretary of environment and natural resources;~~ the director of the state extension service; the director of the state agricultural experiment station located at Brookings; the commissioner of school and public lands; the secretary of the Department of Game, Fish and Parks; and if approved by the United States secretary of agriculture, the state conservationist for the United States Natural Resources Conservation Service. A member of the commission shall hold office so long as the person retains the office by virtue of which the person is serving on the commission.

Section 67. That § 38-19-50 be amended to read as follows:

**38-19-50. Nutrient Research and Education Council created--Membership.** The Nutrient Research and Education Council is hereby established. The council shall consist of nine voting members, including three representing the fertilizer industry, two representing grower organizations, one representing the state's largest commodity organization, one representing the specialty fertilizer industry, one representing the certified agronomy association, and one farmer member of the State Conservation Commission. The council



shall also include five nonvoting members: ~~two three~~ representing environmental organizations, one representing the director of the South Dakota Agricultural Experiment Station, ~~two one~~ representing the secretary of the Department of Agriculture and Natural Resources, ~~and one representing the secretary of the Department of Environment and Natural Resources~~. The certified agronomy association and any association or organization representing the fertilizer industry, growers, and the environment may submit nominations to the secretary of agriculture for their respective members. The secretary shall select from these nominations the members of the council. Members of the council may receive no compensation, but members may be reimbursed for travel and subsistence expense in accordance with rules promulgated by the State Board of Finance. The council shall meet at least twice each year. The council shall be provided with staff assistance from the South Dakota Agricultural Experiment Station. The council retains the respective quasi-judicial, quasi-legislative, advisory, other non-administrative and special budgetary functions as defined in § 1-32-1 otherwise vested in the council. The council shall exercise those functions independently of the South Dakota Agricultural Experiment Station.

Section 68. The Division of Wildland Fire created by § 41-20A-1 and its functions in the former Department of Agriculture is transferred to the Department of Public Safety. The Secretary of the Department of Public Safety shall perform the functions of the former Secretary of the Department of Agriculture, relating to the wildland fire division.

Section 69. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative Research Council are requested to amend the following sections by striking "Department of Agriculture" and inserting "Department of Public Safety" and by striking "secretary of agriculture" and inserting "secretary of public safety":

Title 41:  
41-20A-1; 41-20A-2; 41-20A-3; 41-20A-4; 41-20A-5; 41-20A-6; 41-20A-8; 41-20A-9; 41-20A-10; 41-20A-12.

Dated in Pierre, South Dakota, this 19th day of January, 2021.



  
Kristi Noem  
Governor of South Dakota

ATTEST:

  
Steve Barnett  
Secretary of State