

**STATE OF SOUTH DAKOTA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER 2024-01**

Whereas, Article IV, Section 8, of the Constitution of the State of South Dakota provides in relevant part 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 [the Governor] 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 99th Legislative Assembly on the 1st legislative day, the 9th day of January, 2024:

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 2024-01".

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 agency of which the division is a part and shall be removable at the pleasure of the agency 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 reorganized by this Order, 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 the rules, regulations, and standards 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. 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 11. 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 12. 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 13. 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 14. Any provisions of law in conflict with this Order are superseded.

Section 15. 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 16. The effective date of this Executive Reorganization Order 2024-01 shall be ninety days after its submission to the Legislature.

Bureau of Human Resources and Administration Created.

Section 17. There is hereby created a Bureau of Human Resources and Administration. The head of the Bureau of Human Resources and Administration will be the Commissioner of the Bureau of Human Resources and Administration who shall be appointed by, and serve at the pleasure of, the Governor pursuant to § 1-33-4.

Section 18. Except as otherwise provided in this Order, the functions and programs of the former Bureau of Administration and the former Bureau of Human Resources, along with the functions of the former Commissioner of Administration and the former Commissioner of Human Resources are hereby transferred to the Bureau of Human Resources and Administration and the Commissioner of Human Resources and Administration, respectively.

Bureau of Human Resources Abolished. Functions of former Bureau of Human Resources transferred to Bureau of Human Resources and Administration.

Section 19. The Bureau of Human Resources is hereby abolished. The position of Commissioner of Human Resources is hereby abolished.

Section 20. The Bureau of Human Resources Student Internship created under § 1-33-10.1 and its functions are transferred to the Bureau of Human Resources and Administration.

Bureau of Administration Abolished. Functions of former Bureau of Administration transferred to Bureau of Human Resources and Administration.

Section 21. The Bureau of Administration is hereby abolished. The position of Commissioner of Administration is hereby abolished.

Section 22. The Administrative functions performed by Bureau of Administration for boards and commissions created under § 1-33-8.1 and their functions are transferred to the Bureau of Human Resources and Administration.

Other Reorganization Provisions.

Section 23. That § 1-14-2 be REPEALED: ~~No person may be appointed as the commissioner of administration unless the person has had progressively responsible experience in administration.~~

Section 24. That § 1-14-3 be REPEALED: ~~The commissioner of administration, under the general direction and control of the Governor, shall execute the powers and discharge the duties~~

vested by law in the Bureau of Administration. The commissioner shall qualify by taking and filing with the secretary of state the constitutional oath of office.

Section 25. That § 1-14-12 be REPEALED: ~~The commissioner of administration shall administer the Bureau of Administration. The bureau shall:~~

- ~~(1) Keep an exact and true inventory of all property, real and personal, belonging to the State of South Dakota and promulgate rules pursuant to chapter 1-26 enumerating the types and classes of public personal property to be included in the inventory required by § 5-24-1;~~
- ~~(2) Administer the procurement of supplies, services, and public improvements as prescribed in chapters 5-18A, 5-18B, and 5-18D;~~
- ~~(3) Supervise such central administrative services as transportation, mail, records management, and document reproduction services, make provisions for the supplying of office supplies and furniture;~~
- ~~(4) Maintain the buildings and grounds of the capitol complex and install central facilities to be used by all state agencies under such rules the Bureau of Administration promulgates pursuant to chapter 1-26;~~
- ~~(5) Contract for the provision of food services, candy, and beverages in the capitol complex;~~
- ~~(6) Supervise the administration of the Office of Hearings Examiners;~~
- ~~(7) Administer the federal surplus property allotted to the State of South Dakota;~~
- ~~(8) Provide for the lease of such real property as shall be necessary for the operation of state government;~~
- ~~(9) Administer a program of risk management for state government;~~
- ~~(10) Contract for such services as are required by multiple state agencies, if such a contract improves the efficiency of state government; and~~
- ~~(11) Any other function as may be required by statute, executive order, or administrative action.~~

Section 26. That chapter 1-33 be amended with a NEW SECTION:

No person may be appointed as the commissioner of human resources and administration unless the person has had experience in administration.

Section 27. That chapter 1-33 be amended with a NEW SECTION:

The commissioner of human resources and administration, under the general direction and control of the Governor, shall execute the powers and discharge the duties vested by law in the Bureau of Human Resources and Administration. The commissioner shall qualify by taking and filing with the secretary of state the constitutional oath of office.

Section 28. That § 1-33-9 be AMENDED:

The Bureau of Human Resources and Administration shall:

- (1) Provide workers' compensation coverage and a group health and flexible benefit plan for all state employees unless such duties are delegated to another agency pursuant to chapter 1-24;

- (2) Administer recruitment and classification for all civil service employees unless such duties are delegated to another agency pursuant to chapter 1-24;
- (3) Provide human resource management and programs including programs governing human resource planning, training and development, internships, performance evaluation, employee assessment and testing, classification, compensation, recruitment, and other matters relating to human resource management for all of the executive branch of state government under the control of the Governor and by agreement for other state government agencies;
- (4) Perform all administrative functions for the Civil Service Commission;
- (5) Employ such staff as are necessary to perform its duties; and
- (6) Contract as is necessary to perform its duties-;
- (7) Keep an exact and true inventory of all property, real and personal, belonging to the state and promulgate rules pursuant to chapter 1-26 enumerating the types and classes of public personal property to be included in the inventory required by § 5-24-1;
- (8) Administer the procurement of supplies, services, and public improvements as prescribed in chapters 5-18A, 5-18B, and 5-18D;
- (9) Supervise such central administrative services as transportation, mail, records management, and document reproduction services, and make provisions for the supplying of office supplies and furniture;
- (10) Maintain the buildings and grounds of the capitol complex and install central facilities to be used by all state agencies under rules the bureau promulgates pursuant to chapter 1-26;
- (11) Contract for the provision of food services, candy, and beverages in the capitol complex;
- (12) Supervise the administration of the Office of Hearings Examiners;
- (13) Administer the federal surplus property allotted to the state;
- (14) Provide for the lease of real property necessary for the operation of state government;
- (15) Administer a program of risk management for state government;
- (16) Contract for services required by multiple state agencies, if the contract improves the efficiency of state government; and
- (17) Take any other function as may be required by statute, executive order, or administrative action.

Section 29. That chapter 1-33 be amended with a NEW SECTION:

The Bureau of Human Resources and Administration shall perform all administrative functions except special budgetary functions (as defined in § 1-32-1) of the following agencies:

- (1) The Records Destruction Board created by chapter 1-27; and
- (2) The Capitol Complex Restoration and Beautification Commission continued by chapter 5-15.

Section 30. That § 1-33-3 be AMENDED:

The Department of Executive Management consists of the Bureau of Finance and Management, the Bureau of ~~Administration, the Bureau of Human Resources and Administration,~~ the Bureau of Information and Telecommunications, the Governor's Office of Economic Development, and any other agencies created by administrative action or law and placed under the Department of Executive Management.

Section 31. 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 1-33, update the cross-references, and amend the following sections by striking “Bureau of Administration”, and inserting “Bureau of Human Resources and Administration” and by striking “commissioner of administration”, and inserting “commissioner of human resources and administration”:

Title 1:

1-33-9.1; 1-14-3.1; 1-14-4; 1-14-12.14; 1-14-12.15; 1-14-12.16; 1-14-12.17; 1-14-14; 1-14-14.1; 1-14-18; 1-14-19.

Section 32. Pursuant to § 2-16-9, the Code Commission and code counsel of the Legislative Research Council are requested to transfer § 1-33-64 to chapter 1-33.

Section 33. That § 1-33-10 be REPEALED: ~~The Bureau of Human Resources is administered by a commissioner appointed by the Governor with the advice and consent of the Senate. The commissioner serves at the pleasure of the Governor.~~

Section 34. 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 “Bureau of Administration” and inserting “Bureau of Human Resources and Administration” and by striking “commissioner of the bureau of administration” or by striking “commissioner of administration” and inserting “commissioner of human resources and administration”:

Title 1:

1-6-6; 1-6-17; 1-6-18; 1-6-19; 1-6-21; 1-15-10; 1-26A-8; 1-26D-1; 1-27-11.1; 1-27-12; 1-27-12.1; 1-27-16; 1-27-17; 1-27-35; 1-27-45; 1-33-3; 1-33-42; 1-33B-6; 1-36A-1.11; 1-36A-1.19; 1-55-2; 1-55-4; 1-55-14; 1-55-15

Title 2:

2-7-1; 2-13-7; 2-13-12; 2-16-19

Title 3:

3-1-5; 3-5-5.1; 3-22-2; 3-22-5; 3-22-12

Title 4:

4-7-5; 4-8A-7

Title 5:

5-12-11.1; 5-12-12; 5-12-13; 5-12-37; 5-14-2; 5-14-3; 5-14-4; 5-14-5; 5-14-6; 5-14-8.1; 5-14-9; 5-14-11; 5-14-30; 5-14-31; 5-14-34; 5-14-35; 5-14-36; 5-14-37; 5-14-38; 5-14-39; 5-14-40; 5-15-1.1; 5-15-5; 5-15-6; 5-15-9; 5-15-24; 5-15-25; 5-15-26; 5-15-27; 5-15-28; 5-15-29; 5-15-30; 5-15-34; 5-15-45; 5-18A-11; 5-18A-13; 5-18A-22; 5-18A-27; 5-18A-28; 5-18A-34; 5-18A-38; 5-18A-41; 5-18A-52; 5-18B-5; 5-18B-20; 5-18D-1; 5-18D-2; 5-18D-3; 5-18D-4; 5-18D-5; 5-18D-6; 5-18D-7; 5-18D-8; 5-18D-9; 5-18D-10; 5-18D-11; 5-18D-12; 5-18D-13; 5-18D-14; 5-18D-15; 5-18D-16; 5-18D-17; 5-18D-23; 5-18D-24; 5-24-1; 5-24-1.1; 5-24-3; 5-24-7; 5-24-13; 5-24-14; 5-24A-1; 5-24A-2; 5-24A-14; 5-24A-16; 5-25-4

Title 6:
6-13-14

Title 13:
13-49-15

Title 15:
15-39-47

Title 17:
17-2-19

Title 23:
23-3-8

Title 31:
31-2-27

Title 34:
34-31-6

Title 38:
38-20-2

Title 41:
41-2-20

Title 46A:
46A-1-80.1

Section 35. 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 “Bureau of Human Resources” and inserting “Bureau of Human Resources and Administration” and by striking “commissioner of the bureau of human resources” and inserting “commissioner of the bureau of human resources and administration”:

Title 1:
1-18C-3; 1-18C-6; 1-33-10.1

Title 2:
2-14-2

Title 3:
3-6C-1; 3-8-13; 3-12C-101

Title 5:
5-18A-17.2; 5-18A-17.3; 5-18A-49; 5-24A-18

Title 15:
15-15A-7

Title 26:
26-8A-12.2

Title 36:
36-25-12

Title 38:
38-1-12; 38-1-13; 38-10-14

Title 49:
49-1-7

Title 58:
58-2-13; 58-2-17; 58-17-145.1

Dated in Pierre, South Dakota this 9th day of January, 2024.

A handwritten signature in black ink, appearing to read "Kristi Noem".

Kristi Noem
Governor of South Dakota

ATTEST:

A handwritten signature in blue ink, appearing to read "Monae L. Johnson".

Monae L. Johnson
Secretary of State