

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

193Z0223

SENATE BILL NO. 112

Introduced by: Senators Nelson, Frerichs, Greenfield (Brock), Jensen (Phil), Kolbeck, Maher, Monroe, Otten (Ernie), Russell, Stalzer, and Tapio and Representatives Kaiser, Beal, Bordeaux, Brunner, Campbell, Dennert, DiSanto, Frye-Mueller, Goodwin, Gosch, Howard, Latterell, Lesmeister, Livermont, Marty, May, Peterson (Sue), Pischke, and Rasmussen

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions requiring the attorney general
2 to obtain the consent of the Governor prior to commencing an investigation.

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

4 Section 1. That § 1-11-8 be repealed.

5 ~~1-11-8. Whenever the attorney general shall upon his own relation commence an~~
6 ~~investigation, the consent of the Governor shall be obtained by attaching to the record provided~~
7 ~~in § 1-11-9 a written request for such consent. A copy of the record and request shall be~~
8 ~~provided to the Governor for his file and the Governor shall acknowledge receipt of such request~~
9 ~~in writing on the original, which shall be retained by the attorney general. The request shall state~~
10 ~~in general terms the reasons for the request, and, if denied, such denial shall be in writing~~
11 ~~containing a statement in general terms of the reasons for the denial.~~

12 Section 2. That § 1-11-7 be amended to read:

13 1-11-7. Either branch house of the state Legislature may by its separate resolution, or both



1 ~~houses of the Legislature may by a concurrent resolution of both branches, or the Governor may~~
2 ~~by an executive order filed in with the office~~ Office of the ~~secretary~~ Secretary of state State, ~~may~~
3 direct the attorney general to ~~investigate, or the attorney general may upon his own relation with~~
4 ~~consent of the Governor,~~ investigate any office, department, bureau, board, commission,
5 institution, or any other component ~~part of the~~ state government, or any particular transaction
6 ~~which that~~ that may require investigation. The attorney general may also, without the direction of
7 the Legislature or Governor, conduct such an investigation. Upon the delivery ~~to him~~ of a copy
8 of ~~such~~ any resolution certified by the presiding officer and secretary or chief clerk of either
9 house of the Legislature or executive order certified by the secretary of state ~~or by the presiding~~
10 ~~officer and secretary or chief clerk of either branch of the Legislature,~~ it shall be the duty of, the
11 attorney general ~~to make~~ shall conduct the investigation and make any required report ~~or reports~~
12 ~~thereof regarding the investigation,~~ and ~~to take~~ such any further action as may be required.

13 Section 3. That § 1-11-9 be amended to read:

14 1-11-9. ~~Whenever~~ If an investigation is directed by the Legislature or either branch thereof,
15 ~~or ordered by the Governor, or whenever an investigation is commenced by the attorney general,~~
16 ~~upon his own relation with the consent of the Governor,~~ conducted by the attorney general
17 pursuant to § 1-11-7, the attorney general shall keep a record of the ~~same shall be kept by the~~
18 ~~attorney general~~ investigation entitled as follows:

19 In the matter of the investigation of the ___ (naming the matter being investigated) pursuant
20 to ___ resolution number ___ (describing the resolution), or the executive order of the
21 Governor, or the attorney general's own relation ~~with the consent of the Governor.~~

22 Section 4. That § 1-11-10 be amended to read:

23 1-11-10. ~~Under such resolution or order of the Governor, or the attorney general's own~~
24 ~~relation with consent of the Governor, the~~ During any investigation conducted pursuant to § 1-

1 ~~11-7, the attorney general and his assistants, agents, and employees~~ any assistant, agent, or
2 employee of the attorney general shall have access to ~~any and~~ all books, blanks, reports,
3 correspondence, records, property, office documents, and materials and equipment of the office,
4 department, bureau, board, commission, or any other component ~~part of the state government~~
5 ~~or any branch, arm, or agency of the~~ state government, or any transaction, being investigated.
6 ~~When acting under any such resolution, or his own relation with the consent of the Governor,~~
7 ~~or order of the Governor~~ During any investigation conducted pursuant to § 1-11-7, the attorney
8 general ~~or his assistants shall have the power to~~ and any assistant of the attorney general may
9 administer oaths, examine witnesses under oath, and make a record of the testimony. ~~He shall~~
10 ~~have authority to~~ The attorney general may issue subpoenas for witnesses and for books, blanks,
11 reports, correspondence, records, documents, and exhibits ~~and such witnesses may be~~
12 ~~subpoenaed~~ from any part of the state to Pierre, ~~South Dakota,~~ or to any other point location in
13 the state from distances not exceeding one hundred miles from the location. ~~Such witnesses~~ Any
14 witness who is subpoenaed pursuant to this section shall be allowed the same per diem and
15 mileage; ~~as witnesses~~ a witness in the circuit court. Any witness refusing to obey ~~such a~~
16 subpoena issued under this section, or to testify when subpoenaed, or to bring evidence required
17 ~~to be brought by said~~ a subpoena issued under this section, may be certified to the nearest circuit
18 court ~~to the point located~~ where the subpoena requires the witness's appearance, ~~and the said.~~
19 The circuit court may then enforce obedience to ~~said~~ a subpoena issued under this section by
20 order, the disobedience of which shall be treated the same as a contempt of ~~said~~ court.