

Governor Dennis Daugaard
EXECUTIVE REORGANIZATION ORDER
No. 2011-01

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 86th Legislative Assembly on the 2nd legislative day, being the 12th day of January, 2011;

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 2011-01".

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 specifically 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, however,

that both 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 executive 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 executive 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 or 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 the holders of bonds and other obligations issued, and of the parties to contracts, leases, indentures, 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, 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 his official capacity or in relation to the discharge of his 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 #2011-01 shall be ninety days after its submission to the Legislature.

Department of the Military created

Section 18. There is hereby created a Department of the Military. The head of the Department of the Military is the Adjutant General who shall be appointed and serve pursuant to the provisions of the Constitution of the State of South Dakota, Article IV, §9.

Department of the Veterans Affairs created

Section 19. There is hereby created a Department of Veterans Affairs. The head of the Department of the Veterans Affairs is the Secretary of Veterans Affairs who shall be appointed and serve pursuant to the provisions of the Constitution of the State of South Dakota, Article IV, §9.

Section 20. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative Research Council are requested to designate a new Title 33A, entitled Veterans Affairs, to transfer chapters 33-16, 33-17, 33-17A, 33-18 and 33-19 to that Title and that all references to “the Department of Military and Veterans Affairs” in those chapters be amended to “the Department of Veterans Affairs”.

**Department of Military and Veterans Affairs Abolished, functions of former
Department of Military and Veterans Affairs transferred to other Departments**

Section 21. The Department of Military and Veterans Affairs is hereby abolished. The position of Secretary of the Department of Military and Veterans Affairs is hereby abolished.

Section 22. The Veterans Commission and its functions in the former Department of Military and Veterans Affairs are transferred to the Department of Veterans Affairs created by this Executive Reorganization Order. The Secretary of Veterans Affairs shall perform the functions of the former Secretary of Department of Military and Veterans Affairs, relating to the Veterans Commission.

Section 23. The Division of Veterans Affairs created by chapter 1-46 and its functions in the former Department of Military and Veterans Affairs are transferred to the Department of Veterans Affairs created by this Executive Reorganization Order. The Secretary of Veterans Affairs shall perform the functions of the former Secretary of Department of Military and Veterans Affairs, relating to the Division of Veterans Affairs.

Section 24. The State Veterans Home created by chapter 33-18 and its functions in the former Department of Military and Veterans Affairs are transferred to the Department of Veterans Affairs created by this Executive Reorganization Order. The Secretary of Veterans Affairs shall perform the functions of the former Secretary of Department of Military and Veterans Affairs, relating to the State Veterans Home.

Section 25. The Office of the Adjutant General created by chapter 1-46 and its functions in the former Department of Military and Veterans Affairs are transferred to the Department of the Military created by this Executive Reorganization Order. The Adjutant General shall perform the functions of the former Secretary of Department of Military and Veterans Affairs, relating to the Office of Adjutant General.

Section 26. The Board of Military Affairs created by chapter 33-1 and its functions in the former Department of Military and Veterans Affairs are transferred to the Department of the Military created by this Executive Reorganization Order. The Adjutant General shall perform the functions of the former Secretary of the Department of Military and Veterans Affairs, relating to the Board of Military Affairs.

Section 27. The National Guard and its functions in the former Department of Military and Veterans Affairs are transferred to the Department of the Military created by this Executive Reorganization Order. The Adjutant General shall perform the functions of the former Secretary of Department of Military and Veterans Affairs, relating to the National Guard.

Department Tribal Relations created

Section 28. There is hereby created a Department of Tribal Relations. The head of the Department of Tribal Relations is the Secretary of Tribal Relations who shall be appointed and serve pursuant to the provisions of the Constitution of the State of South Dakota, Article IV, §9.

Section 29. The Office of Tribal Government Relations established by chapter 1-4 and its functions is hereby transferred to the Department of Tribal Relations.

Section 30. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative Research Council are requested to designate a new chapter 1-54, entitled Department of Tribal Relations.

Department of Labor Abolished. Department of Labor and Regulation created. Functions of former Department of Labor transferred to Department of Labor and Regulation

Section 31. The Department of Labor established pursuant to chapter 1-37 is abolished. The position of Secretary of Labor is abolished.

Section 32. There is hereby created a Department of Labor and Regulation. The head of the Department of Labor and Regulation is the Secretary of Labor and Regulation who shall be appointed and serve pursuant to the provisions of the Constitution of the State of South Dakota, Article IV, §9.

Section 33. The functions and programs of the former Department of Labor and the duties of the Secretary of Labor are transferred to the Department of Labor and Regulation and the Secretary of Labor and Regulation.

Department of Revenue and Regulation Abolished. Department of Revenue created. Functions of former Department of Revenue and Regulation transferred to other Departments

Section 34. The Department of Revenue and Regulation established pursuant to chapter 10-1 is abolished. The position of Secretary of Revenue and Regulation is abolished.

Section 35. There is hereby created a Department of Revenue. The head of the Department of Revenue is the Secretary of Revenue who shall be appointed and serve pursuant to the provisions of the Constitution of the State of South Dakota, Article IV, §9.

Section 36. The Division of Banking created by chapter 51A-2 and its functions in the former Department of Revenue and Regulation are transferred to the Department of Labor

and Regulation created by this Executive Reorganization Order. The Secretary of Labor and Regulation shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Division of Banking.

Section 37. The South Dakota State Banking Commission created by 51A-2 and its functions in the former Department of Revenue and Regulation are transferred to the Department of Labor and Regulation created by this Executive Reorganization Order. The Secretary of Labor and Regulation shall perform the functions of the former Secretary of Revenue and Regulation, relating to the South Dakota State Banking Commission.

Section 38. The Division of Securities and its functions in the former Department of Revenue and Regulation are transferred to the Department of Labor and Regulation created by this Executive Reorganization Order. The Secretary of Labor and Regulation shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Division of Securities.

Section 39. The Division of Insurance created by chapter 58-2 and its functions in the former Department of Revenue and Regulation are transferred to the Department of Labor and Regulation created by this Executive Reorganization Order. The Secretary of Labor and Regulation shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Division of Insurance.

Section 40. The Insurance Fraud Prevention Unit created by chapter 58-4A and its functions in the former Department of Revenue and Regulation are transferred to the Attorney General except for the Division's assessment authority set out in 58-4A-14 which shall remain with the Division of Insurance. The Attorney General shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Insurance Fraud Prevention Unit.

Section 41. The Real Estate Commission, created by chapter 36-21A, and its functions in the former Department of Revenue and Regulation are transferred to the Department of Labor and Regulation created by this Executive Reorganization Order. The Secretary of Labor and Regulation shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Real Estate Commission.

Section 42. The Abstractors Board of Examiners, created by chapter 36-13, and its functions in the former Department of Revenue and Regulation are transferred to the Department of Labor and Regulation created by this Executive Reorganization Order. The Secretary of Labor and Regulation shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Abstractors Board of Examiners.

Section 43. The Appraiser Certification Program, created by chapter 36-21B, and its functions in the former Department of Revenue and Regulation are transferred to the Department of Labor and Regulation created by this Executive Reorganization Order.

The Secretary of Labor and Regulation shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Appraiser Certification Program.

Section 44. 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 Release 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 45. 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 46. The Division of the Secretariat and its functions in the former Department of Revenue and Regulation are transferred to the Department of Revenue created by this Executive Reorganization Order. The Secretary of Revenue shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Division of the Secretariat.

Section 47. The Division of Business Tax and its functions in the former Department of Revenue and Regulation are transferred to the Department of Revenue created by this Executive Reorganization Order. The Secretary of Revenue shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Division of Business Tax.

Section 48. The Division of Motor Vehicles and its functions in the former Department of Revenue and Regulation are transferred to the Department of Revenue created by this Executive Reorganization Order. The Secretary of Revenue shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Division of Motor Vehicles.

Section 49. The Division of Property and Special Taxes and its functions in the former Department of Revenue and Regulation are transferred to the Department of Revenue created by this Executive Reorganization Order. The Secretary of Revenue shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Division of Property and Special Taxes.

Section 50. The Division of Audits and its functions in the former Department of Revenue and Regulation are transferred to the Department of Revenue created by this Executive Reorganization Order. The Secretary of Revenue shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Division of Audits.

Section 51. The Division of Lottery, created by chapter 42-7A and its functions in the former Department of Revenue and Regulation are transferred to the Department of Revenue created by this Executive Reorganization Order. The Secretary of Revenue shall perform the functions of the Executive Director of the Lottery and the former Secretary of Revenue and Regulation, relating to the Division of Lottery.

Section 52. The Lottery Commission, created by chapter 42-7A and its functions in the former Department of Revenue and Regulation are transferred to the Department of Revenue created by this Executive Reorganization Order. The Secretary of Revenue shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Lottery Commission.

Section 53. The Commission on Gaming, created by chapter 42-7B and its functions in the former Department of Revenue and Regulation are transferred to the Department of Revenue created by this Executive Reorganization Order. The Secretary of Revenue shall perform the functions of the former Secretary of Revenue and Regulation, relating to the Commission on Gaming.

Department of Tourism created

Section 54. There is hereby created a Department of Tourism. The head of the Department of Tourism is the Secretary of Tourism who shall be appointed and serve pursuant to the provisions of the Constitution of the State of South Dakota, Article IV, §9.

Governor's Office of Economic Development created

Section 55. There is hereby created a Governor's Office of Economic Development within the Department of Executive Management. The head of the Governor's Office of Economic Development is the Commissioner of the Governor's Office of Economic Development who shall be appointed and serve pursuant to the provisions of the Constitution of the State of South Dakota, Article IV, §9.

Section 56. Pursuant to § 2-16-9, the Code Commission and Code Counsel of the Legislative Research Council are requested to designate a new chapter 1-53, entitled Governor's Office of Economic Development and that § 1-52-3.2, 1-52-3.3, 1-52-3.4, 1-52-3.5, 1-52-13 be transferred to that chapter.

Department of Tourism and State Development Abolished. Functions of former Department of Tourism and State Development transferred to other Departments

Section 57. The Department of Tourism and State Development is hereby abolished. The position of Secretary of the Department of Tourism and State Development is hereby abolished.

Section 58. The Governor's Office of Economic Development referenced in chapter 1-52 and its functions in the Department of Tourism and State Development are transferred to the Governor's Office of Economic Development created by this Executive Reorganization Order. The Commissioner of the Governor's Office of Economic Development shall perform the functions of the former Secretary of Department of Tourism and State Development relating to the activities of the Governor's Office of Economic Development.

Section 59. The Office of Research Commerce and its functions in the Department of Tourism and State Development are transferred to the Governor's Office of Economic Development created by this Executive Reorganization Order. The Commissioner of the Governor's Office of Economic Development shall perform the functions of the former Secretary of Department of Tourism and State Development relating to the activities of the Office of Research Commerce.

Section 60. The Economic Development Finance Authority created by Chapter 1-16B and its functions in the Department of Tourism and State Development are transferred to the Governor's Office of Economic Development created by this Executive Reorganization Order. The Commissioner of the Governor's Office of Economic Development shall perform the functions of the former Secretary of Department of Tourism and State Development relating to the activities of the Economic Development Finance Authority.

Section 61. The Board of Economic Development created by Chapter 1-16G and its functions in the Department of Tourism and State Development are transferred to the Governor's Office of Economic Development created by this Executive Reorganization Order. The Commissioner of the Governor's Office of Economic Development shall perform the functions of the former Secretary of Department of Tourism and State Development relating to the activities of the Board of Economic Development.

Section 62. The South Dakota Housing Development Authority created by chapter 11-11, and its functions in the former Department of Tourism and State Development are transferred to the Governor's Office of Economic Development created by this Executive Reorganization Order. The Commissioner of the Governor's Office of Economic Development shall perform the functions of the former Secretary of the Department of Tourism and State Development, relating to the South Dakota Housing Development Authority.

Section 63. The South Dakota Science and Technology Authority created by chapter 1-16H and its functions in the Department of Tourism and State Development are transferred to the Governor's Office of Economic Development created by this Executive Reorganization Order. The Commissioner of the Governor's Office of Economic Development shall perform the functions of the former Secretary of Department of Tourism and State Development relating to the activities of the South Dakota Science and Technology Authority.

Section 64. The South Dakota Energy Infrastructure Authority created by chapter 1-16I and its functions in the Department of Tourism and State Development are transferred to the Governor's Office of Economic Development created by this Executive Reorganization Order. The Commissioner of the Governor's Office of Economic Development shall perform the functions of the former Secretary of Department of Tourism and State Development relating to the activities of the South Dakota Energy Infrastructure Authority.

Section 65. The South Dakota Ellsworth Development Authority created by chapter 1-16J and its functions in the Department of Tourism and State Development are transferred to the Governor's Office of Economic Development created by this Executive Reorganization Order. The Commissioner of the Governor's Office of Economic Development shall perform the functions of the former Secretary of Department of Tourism and State Development relating to the activities of the South Dakota Ellsworth Development Authority.

Section 66. The Office of Tourism and its functions in the former Department of Tourism and State Development are transferred to the Department of Tourism created by this Executive Reorganization Order. The Secretary of Tourism shall perform the functions of the former Secretary of Tourism and State Development, relating to the Office of Tourism.

Section 67. The Board of Tourism created by chapter 1-52 and its functions in the former Department of Tourism and State Development are transferred to the Department of Tourism created by this Executive Reorganization Order. The Secretary of Tourism shall perform the functions of the former Secretary of Tourism and State Development, relating to the Board of Tourism.

Section 68. The South Dakota Arts Council, created by chapter 1-22, and its functions in the former Department of Tourism and State Development are transferred to the Department of Tourism created by this Executive Reorganization Order. The Secretary of Tourism shall perform the functions of the former Secretary of Tourism and State Development, relating to the South Dakota Arts Council.

Section 69. The Office of History in the former Department of Tourism and State Development and its functions are transferred to the Department of Tourism created by

this Executive Reorganization Order. The Secretary of the Department of Tourism shall perform the functions of the former Secretary of Tourism and State Development, relating to the Office of History.

**Certain Divisions of the Department of Human Services transferred to the
Department of Social Services, Mental Health Division**

Section 70. The Division of Alcohol and Drug Abuse created by chapter 1-36A is hereby transferred from the Department of Human Services to the Mental Health Division, Department of Social Services. The Secretary of the Department of Social Services shall perform the functions of the former Secretary of the Department Human Services, relating to the Division of Alcohol and Drug Abuse.

Section 71. The Human Services Center, Yankton, created by chapter 1-36A is hereby transferred from the Department of Human Services to the Mental Health Division, Department of Social Services. The Secretary of the Department of Social Services shall perform the functions of the Secretary of the Department Human Services, relating to the Human Services Center, Yankton.

Section 72. The Division of Mental Health created by chapter 1-36A is hereby transferred from the Department of Human Services to the Mental Health Division, Department of Social Services. The Secretary of the Department of Social Services shall perform the functions of the Secretary of the Department of Human Services, relating to the Division of Mental Health.

Section 73. The Board of Social Work Examiners, created by chapter 36-26, and its functions in the former Department of Human Services are transferred to the Department of Social Services. The Secretary of the Department of Social Services shall perform the functions of the Secretary of the Department of Human Services, relating to the Board of Social Work Examiners.

Section 74. The Board of Examiners of Psychologists, created by chapter 36-27A, and its functions in the former Department of Human Services are transferred the Department of Social Services. The Secretary the Department of Social Services shall perform the functions of the Secretary of the Department of Human Services, relating to the Board of Examiners of Psychologists.

Section 75. The Board of Counselor Examiners, created by chapter 36-32, and its functions in the former Department of Human Services are transferred the Department of Social Services. The Secretary of the Department of Social Services shall perform the functions of the Secretary of the Department of Human Services, relating to the Board of Counselor Examiners.

Section 76. The Certification Board for Alcohol and Drug Professionals created by chapter 36-34, and its functions in the former Department of Human Services are

transferred the Department of Social Services. The Secretary of the Department of Social Services shall perform the functions of the Secretary of the Department of Human Services, relating to the Certification Board for Alcohol and Drug Professionals.

Section 77. The Mental Health Planning and Coordination Advisory Board and its functions in the former Department of Human Services are transferred the Department of Social Services. The Secretary of the Department of Social Services shall perform the functions of the Secretary of the Department of Human Services, relating to the Mental Health Planning and Coordination Advisory Board.

Section 78. The Drug and Alcohol Abuse Advisory Council and its functions in the former Department of Human Services are transferred the Department of Social Services. The Secretary of the Department of Social Services shall perform the functions of the Secretary of the Department of Human Services, relating to the Drug and Alcohol Abuse Advisory Council.

Other Reorganization Provisions

Section 79. The authority of the State Brand Board to employ law enforcement officers pursuant to SDCL 40-18-14 and related functions are transferred to the Office of the Attorney General, Division of Criminal Investigation. The Attorney General of the State of South Dakota shall perform the functions relating to the enforcement of the provisions of chapters 40-19 to 40-22, inclusive, and chapter 40-29.

Section 80. That § 1-4-1 be transferred to chapter 1-54 and amended to read as follows.

1-4-1. ~~The Office of Tribal Governmental Relations~~ Department of Tribal Relations is hereby established to ~~shall~~ aid in securing and coordinating federal, state, and local resources to help solve ~~Indian~~ problems and to serve as an advocate ~~of the Indian~~ for Native American people.

Section 81. That § 1-4-1.1 be repealed.

Section 82. That § 1-4-25 be transferred to chapter 1-54.

Section 83. That § 1-4-26 be transferred to chapter 1-54.

Section 84. That §1-16B-10 be amended to read as follows:

1-16B-10. ~~The Secretary of tourism and state development~~ Commissioner of the Governor's Office of Economic Development shall serve as the chief administrative officer and direct and supervise the administration and technical affairs of the authority.

