REGISTER

South Dakota Legislative Research Council

Volume 43 *Monday, 8:00 a.m., June 26, 2017*

FILINGS IN THE LEGISLATIVE RESEARCH COUNCIL'S OFFICE:

Notice of Proposed Rules: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Game, Fish, and Parks: (June 19, 2017) intends to amend a Custer State Park Restrictions rule to amend the 200 yard hunting restriction near roads and buildings within Custer State Park presently applicable to big game species to include coyotes; amend a Sage Grouse Hunting Season rule to close the season; amend an Antelope Hunting Season rule to adjust the number of hunting licenses; amend a Custer State Park Antelope Hunting Season rule to close the season; and amend Custer State Park Coyote Hunting Season rules to reopen the coyote hunting season, adjust the season dates from the second Monday in December to December 31, inclusive, to December 26 to March 31, inclusive, allow any resident possessing a valid resident predator/varmint license, resident furbearer license, or any resident hunting license to hunt coyotes in the Custer State Park hunting unit (Unit CUC-CU1), and require a hunter to obtain and possess a free access permit issued by the department in order to hunt coyotes in Custer State Park. The general authority for these rules, as cited by the department, is SDCL §§ 41-2-18, 41-11-5, and 41-17-1.

A public hearing will be held at the AmericInn, TeTon Conference Center, 312 Island Dr., Ft. Pierre, South Dakota, on July 13, 2017, at 2:00 p.m. CDT. Copies of the proposed rules may be obtained from and written comments sent to the office of the Secretary of the Department of Game, Fish and Parks, Foss Building, 523 East Capitol, Pierre, SD 57501. Copies of the proposed rules are also available at: https://rules.sd.gov/. Written comments must be received by and in the office of the Secretary of the Department of Game, Fish and Parks on or before 12:00 p.m. on the date of the hearing. Comments may also be sent by email to either wildinfo@state.sd.us or gfpadminrules@state.sd.us. All written and email comments must include the commenter's name, home town/city, and state. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3718 or (605) 223-7684 (Telecommunication Device for the Deaf) before the hearing.

Department of Social Services: Board of Social Work Examiners: (June 20, 2017) intends to amend rules to update the Code of Ethics to the most recent version, repeal temporary license fees, repeal the rules related to social work by equivalency, and establish rules for licensing Behavior Analysts. The general authority for these rules, as cited by the board, is SDCL §§ 36-26-19, 36-26-29, and 36-38-27.

A public hearing will be held via the Digital Dakota Network (DDN) on July 25, 2017, at 11:00 a.m. MDT/12:00 p.m. CDT at the following locations: Spearfish – BHSU, E.Y. Berry Library Room 011, 1200 University St.; Brookings – SDSU, Room 203, 101 Pugsley Cnt.; Pierre – Capitol A, Room B12, 500 E. Capitol; Sioux Falls – USF, FADM 145, 4801 N. Career Ave.; Yankton – DHS, Kanner Building, 3113 N. Spruce; and Burke – High School, 900 Washington St. Written comments

may be sent to South Dakota Board of Social Work Examiners, 810 N. Main Street #298, Spearfish, South Dakota 57783 or via email to proflic@rushmore.com. Copies of the proposed rule may be obtained from Teresa Schulte, Department of Social Services, 700 Governors Dr., Pierre, SD 57501 or at http://rules.sd.gov. Written comments must be received by July 25, 2017, to be considered. Persons who have special needs for which the board can make arrangements are asked to call (605) 642-1600 at least 48 hours before the hearing.

Department of Social Services: Division of Child Care Services: (June 20, 2017) intends to amend rules to update the definition of full-time student, align language with current practice and federal requirements, correct a citation, and move the co-payment rates for child care assistance to the department's website and modifies the sliding fee scale. The general authority for these rules, as cited by the department, is SDCL § 28-1-61.

A public hearing will be held in Kneip Conference Room 1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on July 27, 2017, at 3:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to Teresa Schulte, Department of Social Services, 700 Governors Dr., Pierre, SD 57501. Copies of the proposed rules are also available at: http://rules.sd.gov. Written comments must be received by August 7, 2017, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3165 at least 48 hours before the hearing.

NOTICE:

The **Department of Social Services** intends to make the following changes to the South Dakota Medicaid State Plan concerning outpatient hospital payment methodology effective July 1, 2017. The proposed State Plan Amendment (SPA) removes duplicative language from the outpatient hospital payment methodology section. The SPA amends page 1b of Attachment 4.19-B of the South Dakota Medicaid State Plan. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Year 2017 and Federal Fiscal Year 2018. The SPA is available on the department's website at http://dss.sd.gov/medicaid/medicaidstateplan.aspx**.** Copies of the proposed SPA pages are also available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to: Department of Social Services, Division of Medical Services, 700 Governors Dr., Pierre, SD 57501-2291.

The **Department of Social Services** intends to make the following changes to the South Dakota Medicaid State Plan concerning nursing facility payment methodology effective July 1, 2017. The proposed State Plan Amendment (SPA) clarifies payment methodology for Access Critical nursing facilities and nursing facilities operating under Indian Health Service, Public Law 93-638 authority. The SPA amends pages 8, 12, and 17 of Attachment 4.19-D of the South Dakota Medicaid State Plan. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Year 2017 and Federal Fiscal Year 2018. The SPA is available on the department's website at http://dss.sd.gov/medicaid/medicaidstateplan.aspx**.** Copies of the proposed SPA pages are also available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to: Department of Social Services, Division of Medical Services,

700 Governors Dr., Pierre, SD 57501-2291.

The **Department of Social Services** intends to make the following changes to the South Dakota Medicaid State Plan concerning disproportionate share payments effective July 1, 2017. The proposed State Plan Amendment (SPA) clarifies the criteria for qualifying for disproportionate share payments. The SPA amends pages 6, 7, and 8 of Attachment 4.19-A of the South Dakota Medicaid State Plan. The Department estimates there will be no federal fiscal impact associated with this SPA in Federal Fiscal Year 2017 and Federal Fiscal Year 2018. The SPA is available on the department's website at http://dss.sd.gov/medicaid/medicaidstateplan.aspx**.** Copies of the proposed SPA pages are also available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to: Department of Social Services, Division of Medical Services, 700 Governors Dr., Pierre, SD 57501-2291.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF LABOR AND REGULATION: DIVISION OF INSURANCE: 20:06:12:07; 20:06:13 Appendix D; 20:06:18:05, 20:06:18:05.03; 20:06:19:04; 20:06:25:01, 20:06:25:02; 20:06:26:01; and 20:06:36:01.

History-Notice: 43 SDR 141, May 1, 2017
Hearing: May 15, 2017
Filed: June 16, 2017
Effective: July 7, 2017

DEPARTMENT OF LABOR AND REGULATION: DIVISION OF LABOR AND MANAGEMENT: 47:03:05:01, 47:03:05:02, and 47:03:05:05.

History-Notice: 43 SDR 141, May 1, 2017
Hearing: May 15, 2017
Filed: June 16, 2017
Effective: July 7, 2017

DEPARTMENT OF HEALTH: BOARD OF MASSAGE THERAPY: 20:76:01:01 to 20:76:01:04, inclusive, 20:76:01:06; 20:76:02:01; 20:76:03:01, 20:76:03:03, 20:76:03:04, 20:76:03:05, 20:76:03:07, 20:76:03:08; 20:76:05:01, 20:76:05:02; 20:76:06:01; and 20:76:08:01 to 20:76:08:03, inclusive.

History-Notice: 43 SDR 109, February 6, 2017
Hearing: April 10, 2017
Filed: June 20, 2017
Effective: July 10, 2017

DEPARTMENT OF LABOR AND REGULATION: SD ELECTRICAL COMMISSION: 20:44:14:01; 20:44:16:08, 20:44:16:09, 20:44:16:24; 20:44:19:01, 20:44:19:03, 20:44:19:05, 20:44:19:07; 20:44:20:10; 20:44:22:02 to 20:44:22:05, inclusive, 20:44:22:07, 20:44:22:12, 20:44:22:24, 20:44:22:27, 20:44:22:28; 20:44:24:01, and 24:44:24:04 to 20:44:24:06, inclusive.

History-Notice: 43 SDR 135, April 17, 2017
Hearing: May 4, 2017
Filed: June 20, 2017
Effective: July 10, 2017

Executive Appointments:

Wendy Figland, Mitchell, was appointed on June 7, 2017, to the **Behavioral Health Advisory Council**, to replace Sara Weishaar, effective immediately and shall continue until October 30, 2018.

Jane Grant, Mission Hill, was appointed on June 7, 2017, to the **Behavioral Health Advisory Council**, to replace Patricia R. Johnson-Riibe, effective immediately and shall continue until October 30, 2017.

Executive Order:

The Governor has signed **Executive Order 2017-06** dated June 16, 2017. This order declares a state of emergency to exist due to widespread drought conditions, low humidity, and high temperatures in the state of South Dakota. This order declares that a state of drought emergency exists and that the following administrative rules are hereby suspended: ARSD 70:04:06:06 - prohibiting the mowing of the right-of-way east of the Missouri River before July 10th and ARSD 61:25:02:01 - limiting the farm vehicle operators commercial driver's license exemption to within 150 miles of a person's farm. This order shall expire on December 16, 2017. A copy of the Executive Order is available from the Secretary of State's office.

Note: A copy of the rules may be obtained directly from the above agencies or at https://rules.sd.gov. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

6-28-2017	**Office of Attorney General: Law Enforcement Officers Standards and Training Commission** Adopt a rule to permit the temporary appointment of certified law enforcement officers in South Dakota in order to provide assistance under an Emergency Management Assistance Compact; 43 SDR 169, June 12, 2017.
6-29-2017	**Department of Education: SD School Finance and Accountability Board** Adopt rules to establish an appeals process and a set of factors that will be used to determine if a school district be recommended for a waiver from their accountabilities in regards to teacher compensation as outlined in SDCL § 13-13-73.6; 43 SDR 169, June 12, 2017.
6-30-2017	**Department of Labor and Regulation: Appraiser Certification Program** Amend rules to define each appraiser classification; define a certificate, license and registration as a credential; modify certain language, re-structure sentences, and correct errors; allow reciprocal appraisers to be eligible to become supervisory appraisers without having to be certified in South Dakota for three years; and clarify that a state-registered appraiser is required to complete an examination prescribed by the secretary; 43 SDR 159, May 30, 2017.
7-11-2017	**Department of Agriculture: Animal Industry Board** Amend rules to include composting as a carcass disposal option for livestock producers, change and update current language of reference material, allow for individuals in South Dakota to possess non-domestic swine (family Suidae) under permit from the board, eliminate the grandfather type of captive non-domestic possession permit, and repeal rules that are no longer applicable; 43 SDR 175, June 19, 2017.
7-13-2017	**Department of Game, Fish, and Parks** Amend a Custer State Park Restrictions rule to amend the 200 yard hunting restriction near roads and buildings within Custer State Park presently applicable to big game species to include coyotes; amend a Sage Grouse Hunting Season rule to close the season; amend an Antelope Hunting Season rule to adjust the number of hunting licenses; amend a Custer State Park Antelope Hunting Season rule to close the season; and amend Custer State Park Coyote Hunting Season rules to reopen the coyote hunting season,

	adjust the season dates from the second Monday in December to December 31, inclusive, to December 26 to March 31, inclusive, allow any resident possessing a valid resident predator/varmint license, resident furbearer license, or any resident hunting license to hunt coyotes in the Custer State Park hunting unit (Unit CUC-CU1), and require a hunter to obtain and possess a free access permit issued by the department in order to hunt coyotes in Custer State Park; 43 SDR 179, June 26, 2017.
7-14-2017	**Department of Education: State Historical Society** Amend rules to update reference materials; set standard fees for services provided; revise the museum rental fees; eliminate the fee for purchasing a USGS map; and correct a SDCL reference; 43 SDR 159, May 30, 2017.
7-17-2017	**Department of Education: Board of Education** Amend Principal Performance Standards & Evaluations rules to create local flexibility in decisions regarding implementation of principal evaluation systems; 43 SDR 175, June 19, 2017.
~~6-20-2017~~ Changed to 7-18-2017	**Department of Public Safety** Amend rules to adopt the 2015 edition of the National School Transportation Specifications and Procedures, adopt the 2017 Commercial Vehicle Safety Alliance's "North American Standard Out-of-Service Criteria", revise the requirements for motorcycle safety education courses, remove the requirement of providing a social security number when transferring a compliant out of state driver's license to South Dakota, and updating the federal adoption to match statute; 43 SDR 153, May 22, 2017.
7-20-2017	**Department of Environment and Natural Resources: Board of Minerals and Environment** Update the state's existing hazardous waste rules by incorporating updated, codified federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2012 through June 30, 2016. Changes include establishing procedures for identifying and managing certain hazardous secondary materials destined for recycling, management standards for solvent-contaminated wipes, establishing a framework for the use of electronic manifests, revisions to requirements involving imports and exports of hazardous wastes, and incorporating technical and typographical corrections to the federal rules; 43 SDR 159, May 30, 2017.
7-20-2017	**Department of Environment and Natural Resources: Board of Minerals and Environment** Amend air quality rules by incorporating updated, codified regulations by reference and clarifying when air quality modeling is required. The proposed amendments primarily reflect changes made to the federal air quality regulations as of June 30, 2016; 43 SDR 169, June 12, 2017.
7-25-2017	**Department of Social Services: Board of Social Work Examiners** Amend rules to update the Code of Ethics to the most recent version, repeal temporary license fees, repeal the rules related to social work by equivalency, and establish rules for licensing Behavior Analysts; 43 SDR 179, June 26, 2017.
7-27-2017	**Department of Social Services: Division of Child Care Services** Amend rules to update the definition of full-time student, align language with current practice and federal requirements, correct a citation, and move the co-payment rates for child care assistance to the department's website and modifies the sliding fee scale; 43 SDR 180, June 26, 2017.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held on Monday, July 17, 2017, in Room 414, Fourth Floor of the State Capitol. The committee chair has set the following meeting schedule for the 2017 interim: August 22, September 25, and November 14.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the LRC website at http://www.sdlegislature.gov/Rules/RulesManual.aspx.

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