

# REGISTER



## South Dakota Legislative Research Council

Volume 44

Monday, 8:00 a.m., July 10, 2017

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### 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 Transportation:** (July 5, 2017) is proposing to amend Highway and Bridge Improvement Plan Requirements rules to state that the format of annual plan updates must substantially conform to the department's guidelines, the annual plan updates may be submitted electronically or by hard copy, the annual plan updates must contain up-to-date information about the five-year project list from the previous year's plan or update, eliminates the deadline of December 16, 2015, which applied to county bridge improvement grant applications considered in 2016, clarify that county grant applicants must submit highway and bridge improvement plans, or plan updates, by October 15 of the calendar year preceding the grant application deadline, clarify that bridge improvement grant recipients must submit highway and bridge improvement plan updates by October 15 of each year, allow counties to make amendments to highway and bridge improvement plans at any time, repeal a rule regarding emergency changes to bridge improvement plans, amend Local Bridge Improvement Grant Requirements rules to replace the reference to an "approved" county highway and bridge improvement plan with an "accepted" county highway and bridge improvement plant, change the deadline to October 30 for the Transportation Commission to consider preliminary engineering grant applications submitted by August 1 of that year, and eliminate the requirement regarding

extensions. The general authority for these rules, as cited by the department, is SDCL §§ 1-44-7.5 and 32-11-39.

A public hearing will be held in the Commission Room, Becker-Hansen Building, 700 East Broadway Ave., Pierre, South Dakota, on July 27, 2017, at 9:30 a.m. CT. Copies of the proposed rule may be obtained without charge from and written comments sent to the Secretary of Transportation, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, SD 57501-2586 or comments may be emailed to [Darin.Bergquist@state.sd.us](mailto:Darin.Bergquist@state.sd.us). Copies of the proposed rule are also available at: <http://open.sd.gov>. Material sent by mail or email must reach the department by 5:00 p.m. CT on July 21, 2017, to be considered. 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) 773-3540 or 1-800-877-1113 (Telecommunication Device for the Deaf).

### Legislative Appointments:

**Representative Kent Peterson** was appointed to the **Initiative and Referendum Task Force**, to fill the vacancy created by the resignation of Representative Don Haggar.

**Representative Steve Livermont** was appointed to the **State-Tribal Relations Committee**, to fill the vacancy created by the resignation of Representative Don Haggar.

**FILINGS IN THE SECRETARY OF STATE'S OFFICE: (None)**

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**

7-11-2017	<p><b>Department of Agriculture: Animal Industry Board</b> 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.</p>
7-13-2017	<p><b>Department of Game, Fish and Parks</b> 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.</p>
7-14-2017	<p><b>Department of Education: State Historical Society</b> 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.</p>
7-17-2017	<p><b>Department of Education: Board of Education</b> Amend Principal Performance Standards &amp; Evaluations rules to create local flexibility in decisions regarding implementation of principal evaluation systems; 43 SDR 175, June 19, 2017.</p>
<p><del>6-20-2017</del> <b>Changed to</b> 7-18-2017</p>	<p><b>Department of Public Safety</b> 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.</p>
7-20-2017	<p><b>Department of Environment and Natural Resources: Board of Minerals and Environment</b> Update the state's existing hazardous waste rules by incorporating updated, codified</p>

	<p>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.</p>
<b>7-20-2017</b>	<p><b>Department of Environment and Natural Resources: Board of Minerals and Environment</b> 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.</p>
<b>7-25-2017</b>	<p><b>Department of Health: Division of Health Systems Development and Regulation</b> Adopt rules to give the department authority to license and regulate community living homes in South Dakota; 44 SDR 1, July 5, 2017.</p>
<b>7-25-2017</b>	<p><b>Department of Human Services: Board of Social Work Examiners</b> 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.</p>
<b>7-27-2017</b>	<p><b>Department of Social Services: Division of Child Care Services</b> 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.</p>
<b>7-27-2017</b>	<p><b>Department of Transportation</b> Amend Highway and Bridge Improvement Plan Requirements rules to state that the format of annual plan updates must substantially conform to the department's guidelines, the annual plan updates may be submitted electronically or by hard copy, the annual plan updates must contain up-to-date information about the five-year project list from the previous year's plan or update, eliminates the deadline of December 16, 2015, which applied to county bridge improvement grant applications considered in 2016, clarify that county grant applicants must submit highway and bridge improvement plans, or plan updates, by October 15 of the calendar year preceding the grant application deadline, clarify that bridge improvement grant recipients must submit highway and bridge improvement plan updates by October 15 of each year, allow counties to make amendments to highway and bridge improvement plans at any time, repeal a rule regarding emergency changes to bridge improvement plans, amend Local Bridge Improvement Grant Requirements rules to replace the reference to an "approved" county highway and bridge improvement plan with an "accepted" county highway and bridge improvement plant, change the deadline to October 30 for the Transportation Commission to consider preliminary engineering grant applications submitted by August 1 of that year, and eliminate the requirement regarding extensions; 44 SDR 9, July 10, 2017.</p>
<b>7-28-2017</b>	<p><b>Department of Human Services: Division of Developmental Disabilities</b> Amend rules to revise the definition of a community support provider to align the rule with statute; change the definition of an organized health care delivery system to include community services provider; align the rule definition of community services provider</p>

with statutory definition, allowing a for profit entity to provide direct services; add a definition of home and community services; repeal duplicative rule; require similar enrollment documents for profit and not for profit entities; replace the phrase "CSP or SP" with provider; clarify the applicable ARSD chapters for the biennial review of providers; change the language from CSP to provider to make the process applicable to SP's; clarify that either a CSP or SP provider of direct HCB services establish and use a human rights committee for certain rights restrictions; clarify that either a CSP or SP must have policies and procedures for calculations of wages owing to participants in a vocational training and employment setting; extend the time frame for implementing ISP revisions; require providers of direct HCB services to meet certain standards in owned or leased buildings and meet certain fire extinguisher requirements and updates the DOH reference to linens and fire code; require any provider of direct HCB services to provide a medication administration system; extend fair hearing protections to a termination of waiver services by a SP; allow an individual employed by a SP to be a coordinator of family support waiver services; allow a SP to be an employer of record; allow a SP to provide home and community based services; allow a SP to be a provider and specifies the responsibilities of being a provider; correct references to ARSD; transfer a section regarding confidentiality; add SP to entities required to provide notice of a critical incident; add SP to those entities available to deliver services under the family support program; add SP to the agency of choice model of service delivery; allow an individual to use a SP to deliver services; allow a SP to provide family support coordination; clarify the services available through the agency with choice service model; add SP to the transfer of records process; add SP to the entities subject to biennial review and to a participant satisfaction survey; add SP to those entities subject to revocation of a provider agreement for failure to meet ARSD standards; require CSP's, SP's and qualified providers to recognize rights of participants, parents and guardians; expand definition of coordinator; remove definition of provider; specify that a local family support provider can be a SP; shorten and clarify rule by changing phrase to provider; and clarify that community training services must meet the service standards of Chapter 46: 11 :05. The primary effect of the rules will be to allow for profit entities to deliver community services to individuals with intellectual and developmental disabilities; 44 SDR 1, July 5, 2017.

### **RULES REVIEW COMMITTEE MEETINGS**

The next meeting of the Interim Rules Review Committee will be held on Monday, July 17, 2017, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor of the State Capitol. The other DDN site will be: Sioux Falls – University Center, 4801 N. Career Ave., Room FADM 145. 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>.