

REGISTER



South Dakota Legislative Research Council

Volume 44

Monday, 8:00 a.m., August 7, 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 Transportation: (July 31, 2017) intends to amend rules to change and extend a limited speed zone on State Trunk Highway 115 in and around Dell Rapids, reducing the speed limit from 65 miles per hour to 55 miles per hour on a 1.08 mile segment of State Trunk Highway 115 immediately southeast of the existing speed limit zone and proposing a 35 mile per hour zone for a 1.44 mile segment in Dell Rapids and then a 50 mile per hour speed zone for a 0.2 mile segment immediately west of the 35 mile per hour zone; extend a 35 mile per hour speed zone on U.S. Highway 14 east of the Interstate Highway 29 interchange in Brookings an additional 0.42 mile and then transition to 50 miles per hour for 0.20 mile; replace a 40 mile per hour speed zone on U.S. Highway 18 over Interstate Highway 29 at Exit 62 with a 55 mile per hour speed zone; and reduce the speed limits on U.S. Highway 18 in and around Mission and the Antelope Community in Todd County by extending a 35 mile per hour speed zone an additional 0.58 mile to the east of Mission and a 45 mile per hour speed zone to the east of the Antelope Community. The general authority for these rules, as cited by the department, is SDCL § 32-25-7.

A public hearing will be held in the Commission Room of the Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota, on August 24, 2017, at

9:00 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of Transportation, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586 or comments may be emailed to Darin.Bergquist@state.sd.us. Copies of the proposed rules are also available at <http://open.sd.gov>. Material sent by mail or email must reach the Department of Transportation on or before August 18, 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).

Department of Labor and Regulation:

Board of Barber Examiners: (August 1, 2017) intends to amend rules to remove references to apprentice barbers, update and remove language, update reference to the Department of Labor and Regulation, and update laws implemented. The general authority for these rules, as cited by the board is SDCL § 36-14-9.

A public hearing will be held by teleconference, with public meeting space available at the Board of Barber Examiners' office, 629 Main Street, Suite 298, Spearfish, South Dakota, on August 28, 2017, at 1:00 p.m. MDT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Board of Barber Examiners, 810 N. Main Street, Suite 298, Spearfish, South Dakota 57783. Material sent by mail must reach the Board of Barber Examiners by August 25, 2017, to be considered. Those attending by phone can call

(605) 224-1125 and enter the access code of 0118628#. For assistance call (605) 773-3011. This hearing is being held in a physically accessible place. 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 Human Services: Division of Developmental Disabilities: (August 4, 2017) intends to 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 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. The general authority for these rules, as cited by the department, is SDCL §§ 27B-2-25, 27B-2-26, and 36-9-28.

A public hearing will be held in the Large Conference Room, Hillview Plaza, 3800 E. Highway 34, Pierre, South Dakota, on August 30, 2017, at 11:00 a.m. to 12:00 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to Department of Human Services, Hillview Properties Plaza, 3800 E. Hwy. 34, c/o 500 East Capitol, Pierre, SD 57501-5070. Copies of the proposed rules may be obtained at the department's website at <http://dhs.sd.gov/> or by emailing Katherine.Osterloh@state.sd.us. Persons interested in presenting data, statements, opinions and arguments for or against the proposed rules may do so by appearing in person at the hearing. Material sent by mail must reach the Department of Human Services by September 11, 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) 773-5990 within 48 hours of the hearing.

Legislative Appointment:

Representative Thomas Holmes was appointed to the **Retirement Laws Committee**, to fill the vacancy created by the resignation of Representative Don Haggar.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF LABOR AND REGULATION: APPRAISER

CERTIFICATION PROGRAM: 20:14:01:01; 20:14:02:01, 20:14:02:03; 20:14:03:01 to 20:14:03:06, inclusive; 20:14:04:14, 20:14:04:16, 20:14:04:16.01, 20:14:04:17; 20:14:05:01.01, 20:14:05:02, 20:14:05:02.00, 20:14:05:02.01, 20:14:05:03, 20:14:05:03.01, 20:14:05:04, 20:14:05:05, 20:14:05:05.05, 20:14:05:06.01, 20:14:05:06.02, 20:14:05:07, 20:14:05:07.01, 20:14:05:07.02, 20:14:05:07.03, 20:14:05:08, 20:14:05:08.01, 20:14:05:08.02, 20:14:05:11, 20:14:05:19; 20:14:10:02, 20:14:10:05, 20:14:10:05.01; 20:14:11:01 to 20:14:11:03, inclusive; 20:14:12:02, 20:14:12:03; 20:14:13:01, 20:14:13:01.01, 20:14:13:01.02, and 20:14:13:13.

History-Notice: 43 SDR 159, May 30, 2017
 Hearing: June 30, 2017
 Filed: July 24, 2017
 Effective: August 14, 2017

Executive Appointments:

Lori A. Nelson, Pierre, was appointed on July 17, 2017, to the **Independent Living Council**, to replace Isabel Trobaugh, effective immediately and shall continue until June 30, 2020.

Sharon Casey, Chamberlain, was appointed on July 31, 2017, to the **South Dakota Economic Development Finance Authority Board of Directors**, to replace Ronald Wagner, effective immediately and shall continue until June 30, 2021.

Autumn Cavender-Wilson, Granite Falls, MN, was appointed on July 31, 2017, to the **Board of Certified Professional Midwives**, effective immediately and shall continue until October 31, 2018.

The Honorable David Gienapp, Madison, was appointed on July 31, 2017, to the **Government Accountability Board**, effective immediately and shall continue until June 30, 2019.

Tom Jones, Viborg, was appointed on July 31, 2017, to the **South Dakota Economic Development Finance Authority Board of Directors**, to replace Jody Engel, effective immediately and shall continue until June 30, 2021.

The Honorable Gene Paul Kean, Sioux Falls, was appointed on July 31, 2017, to the **Government Accountability Board**, effective immediately and shall continue until June 30, 2020.

Don Kettering, Yankton, was reappointed on July 31, 2017, to the **South Dakota Economic Development Finance Authority Board of Directors**, effective immediately and shall continue until June 30, 2021.

Kimberlee McKay, MD, Sioux Falls, was appointed on July 31, 2017, to the **Board of Certified Professional Midwives**, effective immediately and shall continue until October 31, 2020.

Debbie Pease, Centerville, was appointed on July 31, 2017, to the **Board of Certified Professional Midwives**, effective immediately and shall continue until October 31, 2020.

The Honorable Patricia C. Riepel, Sioux Falls, was appointed on July 31, 2017, to the **Government Accountability Board**, effective immediately and shall continue until June 30, 2021.

Kylie Riggins, Rapid City, was appointed on July 31, 2017, to the **Visitation Grant Advisory Group**, to replace Catherine Piersol, effective immediately and shall continue until June 30, 2018.

Susan Rooks, Oral, was appointed on July 31, 2017, to the **Board of Certified Professional Midwives**, effective immediately and shall continue until October 31, 2019.

Pat Schwaiger, Billings, MT, was appointed on July 31, 2017, to the **Board of Certified Professional Midwives**, effective immediately and shall continue until October 31, 2019.

Kaye Wickard, Mina, was appointed on July 31, 2017, to the **South Dakota Professional Teachers Practices and Standards Commission**, to replace Beverly

Kopen, effective immediately and shall continue until December 31, 2019.

Justice Lori Wilbur, Sioux Falls, was appointed July 31, 2017, to the **Government Accountability Board**, effective immediately and shall continue until June 30, 2022.

Jackie Juhala, Spearfish, was appointed on August 1, 2017, to the **Independent Living Council**, to replace Monte Tschetter, effective immediately and shall continue until June 30, 2020.

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

8-11-2017	Department of Agriculture: Division of Agricultural Services Amend rules to change the requirement for testing of lawn seed from every 12 months to every 15 months, require liquid feed manufacturers to label the moisture content for feed that contains more than 20% moisture, and repeal rules pertaining to the manufacture of ruminant livestock feed that are unnecessary; 44 SDR 13, July 17, 2017.
8-24-2017	Department of Revenue: South Dakota Lottery Commission Amend rules to increase the price of a Mega Millions' play from \$1 to \$2, raise the starting jackpot from \$15 million to \$40 million, reconstruct the game matrix, and allow the Just the Jackpot Promotion for the Mega Millions lotto game; and adopt rules to allow the sale of the Lotto America lotto game; 44 SDR 21, July 31, 2017.
8-24-2017	Department of Transportation Amend rules to change and extend a limited speed zone on State Trunk Highway 115 in and around Dell Rapids, reducing the speed limit from 65 miles per hour to 55 miles per hour on a 1.08 mile segment of State Trunk Highway 115 immediately southeast of the existing speed limit zone and proposing a 35 mile per hour zone for a 1.44 mile segment in Dell Rapids and then a 50 mile per hour speed zone for a 0.2 mile segment

	<p>immediately west of the 35 mile per hour zone; extend a 35 mile per hour speed zone on U.S. Highway 14 east of the Interstate Highway 29 interchange in Brookings an additional 0.42 mile and then transition to 50 miles per hour for 0.20 mile; replace a 40 mile per hour speed zone on U.S. Highway 18 over Interstate Highway 29 at Exit 62 with a 55 mile per hour speed zone; and reduce the speed limits on U.S. Highway 18 in and around Mission and the Antelope Community in Todd County by extending a 35 mile per hour speed zone an additional 0.58 mile to the east of Mission and a 45 mile per hour speed zone to the east of the Antelope Community; 44 SDR 25, August 7, 2017.</p>
8-28-2017	<p>Department of Labor and Regulation: Board of Barber Examiners Amend rules to remove references to apprentice barbers, update and remove language, update reference to the Department of Labor and Regulation, and update laws implemented; 44 SDR 25, August 7, 2017.</p>
8-29-2017	<p>Department of Health: Division of Health Systems Development and Regulation Adopt rules to give the department authority to license and regulate community living homes in South Dakota; 44 SDR 17, July 24, 2017.</p>
8-30-2017	<p>Department of Human Services: Division of Developmental Disabilities 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 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</p>

	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 26, August 7, 2017.
10-20-2017	Department of Health: State Board of Dentistry Amend rules to update the registration process for dental entities to bring it into compliance with SB 47 and repeal obsolete provisions; 44 SDR 21, July 31, 2017.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held on August 22, 2017, in Room 414, Fourth Floor of the State Capitol. The committee chair has set the following meeting schedule for the 2017 interim: 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>.