

REGISTER



South Dakota Legislative Research Council

Volume 44

Monday, 8:00 a.m., October 2, 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 Agriculture:

Division of Agriculture Services:

(September 25, 2017) intends to amend rules regarding shell eggs to be in alignment with USDA guidelines. The general authority for these rules, as cited by the department, is SDCL § 39-11-7.

A public hearing will be held in Room 122 of the Alfred Dairy Science Hall, South Dakota State University, Brookings, South Dakota, on October 24, 2017, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Agriculture, Alfred Dairy Science Hall, Box 2104, Brookings, SD 57007. Material sent by mail must reach the Department by October 23, 2017, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the Department of Agriculture can make arrangements are asked to call (605) 688-6455 at least 48 hours in advance of the hearing.

Bureau of Human Resources:

(September 25, 2017) intends to amend rules to match current practice regarding Family Status Change Forms. The general authority for these rules, as cited by the department, is SDCL § 3-6E-13.

A public hearing will be held in Room 413,

4th floor of the State Capitol, 500 East Capitol Avenue, Pierre, South Dakota, on October 23, 2017, at 8:30 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Bureau of Human Resources, Room 110, State Capitol, 500 E. Capitol Avenue, Pierre, SD 57501. Material sent by mail must reach the Bureau by November 3, 2017, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the Bureau of Human Resources can make arrangements are asked to call (605) 773-4479 at least 48 hours in advance of the hearing.

Bureau of Human Resources: Civil Service

Commission: (September 25, 2017) intends to amend rules to allow fathers to take sick leave after the birth of a child; update reasons for using the Family Medical Leave Act (FMLA); and standardize how rates of pay and salary increases are administered. The general authority for these rules, as cited by the department, is SDCL §§ 3-6C-7, 3-6C-18, and 3-6D-11.

A public hearing will be held in Room 413, 4th floor of the State Capitol, 500 East Capitol Avenue, Pierre, South Dakota, on October 23, 2017, at 9:00 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Bureau of Human Resources, Room 110, State Capitol, 500 E. Capitol Avenue, Pierre, SD 57501. Material sent by mail must reach the Bureau by October 20, 2017, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which

the Bureau of Human Resources can make arrangements are asked to call (605) 773-4479 at least 48 hours in advance of the hearing.

Department of Social Services:

Divisions of Economic Assistance, Child Support, Child Protection, Medical Services, and Child Care Services: (September 27, 2017)

intends to amend rules to reflect annual changes; update terminology and other language to align with current practice and provide clarification; update citations; update the recommended immunization standards to align with the Department of Health; provide clarity of what practitioners can provide and bill for certain services; new rules to distinguish non-emergency medical transportation; repeal duplicative rules; and update certain child support enforcement and child protection provisions to comply with new federal regulations. The general authority for these rules, as cited by the department, is SDCL §§ 25-4-45.3, 26-4-7, 26-4-9.1, 26-6-16, 26-13-1, 28-1-50, 28-1-61, 28-1-64, 28-6-1, 28-6-18, 28-6A-12, 28-7A-3, 28-7A-24, 28-8-28, 28-12-1, and 42 U.S.C. § 1396d.

A public hearing will be held in Kneip Conference Room 1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on October 23, 2017, at 4:00 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to Teresa Schulte, Department of Social Services, 700 Governors Drive, Pierre, SD 57501. Material sent by mail must reach the Department by November 2, 2017, to be considered. Copies of the proposed rules are also available at <http://rules.sd.gov>. This hearing is being held in a physically accessible place. Persons who have special needs for which the Department of Social Services can make arrangements are asked to call (605) 773-3165 at least 48 hours in advance of the hearing.

Department of Revenue: South Dakota Lottery Commission: (September 29, 2017) intends to amend a rule to allow the Winner Take All

Promotion for the Powerball lotto game. The general authority for this rule, as cited by the department, is SDCL § 42-7A-21.

A public hearing will be held in Room 412, 4th floor, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota, on October 26, 2017, at 10:00 a.m. CT. Copies of the proposed rule may be obtained from and written comments sent to the Department of Revenue, Legal Division, 445 E. Capitol Avenue, Pierre, SD 57501-3185. Copies of the rules are also available at <http://rules.sd.gov/> or http://dor.sd.gov/Publications/Public_Notices/PDFs/Powerballrules2017.pdf. Material sent by mail must reach the department by October 25, 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) 773-4701 at least 48 hours before the hearing.

Department of Transportation:

(September 29, 2017) intends to amend speed limit rules for State Trunk Highway 38 in Minnehaha County, State Trunk Highway 44 in Pennington County, U.S. Highway 281 in Brown County, U.S. Highway 85 in Lawrence County, Interstate Highway 90 Business Loop in Brule County, State Trunk Highway 46 in Charles Mix County, U.S. Highway 12 in Day County, State Trunk Highway 22 in Deuel County, U.S. Highway 18 in Fall River County, U.S. Highway 14 in Hand County, State Trunk Highway 25 in Kingsbury County, State Trunk Highway 25 in Marshall County, State Trunk Highway 20 in Perkins County, State Trunk Highway 19 in Turner County, and U.S. Highway 18 and State Trunk Highway 407 in Oglala Lakota County; in Bennett County, add a 45 mile per hour speed zone to State Trunk Highway 73 immediately south of the 35 mile per hour speed zone in Martin extending for 0.45 miles; in Butte County, extend a 25 mile per hour speed zone on U.S. Highway 85 to include the stretch of

highway between Indian Street and Lawrence Street in Belle Fourche; change the speed limit to 35 miles per hour on U.S. Highway 85 between Lawrence Street and State Trunk Highway 34 in Belle Fourche; in Clay County, reduce the speed limit on State Trunk Highway 50 through Vermillion from 55 miles per hour to 50 miles per hour; and amend Highway Construction Contract rules to set bidding capacity ratings on a per-contract basis rather than establishing an overall maximum rating. The general authority for these rules, as cited by the department, is SDCL §§ 31-5-10, 32-25-7, and 32-25-7.1.

A public hearing will be held in the Commission Room, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota, on October 26, 2017, at 9:00 a.m. CT. Copies of the proposed rules may be obtained from and written comments sent to the Department of Transportation, Becker-Hansen Building, 700 E. Broadway Avenue, Pierre, SD 57501-2586. Comments may also be sent by email to Darin.Bergquist@state.sd.us. Material sent by mail or email must reach the department on or before October 22, 2017, to be considered. Copies of the proposed rules are also available at <http://open.sd.gov>. 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 (800) 877-1113 (Telecommunications Device for the Deaf).

NOTICE:

The **Office of the Secretary of State: Board of Elections** withdrew the rules filed with the Legislative Research Council per 44 SDR 55; September 18, 2017.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF GAME, FISH AND PARKS: 41:04:06:01:01, 41:04:06:01:02, 41:04:06:01:03, and 41:04:06:01:04.

History-Notice: 44 SDR 31, August 14, 2017
 Hearing: September 7, 2017
 Filed: September 25, 2017
 Effective: October 16, 2017

DEPARTMENT OF HUMAN SERVICES: DIVISION OF DEVELOPMENTAL DISABILITIES: 46:11:01:01; 46:11:02:05, 46:11:02:05.01, 46:11:02:06, 46:11:02:09, 46:11:02:10; 46:11:03:09; 46:11:04:08; 46:11:05:01.01; 46:11:06:09; 46:11:07:07; 46:11:08:05; 46:11:09:01, 46:11:09:02, 46:11:09:04 to 46:11:09:08, inclusive, 46:11:09:10, 46:11:09:12, 46:11:09:17 to 46:11:09:19, inclusive, 46:11:09:22, 46:11:09:23; 46:11:10:01, 46:11:10:04, 46:11:10:06; and 46:11:11:02.

History-Notice: 44 SDR 1, July 5, 2017
 Hearing: August 30, 2017
 Filed: September 25, 2017
 Effective: October 16, 2017

DEPARTMENT OF TRANSPORTATION: 70:01:02:01, 70:01:02:06, 70:01:02:44, and 70:01:02:67.

History-Notice: 44 SDR 25, August 7, 2017
 Hearing: August 24, 2017
 Filed: September 25, 2017
 Effective: October 16, 2017

DEPARTMENT OF REVENUE: SOUTH DAKOTA COMMISSION ON GAMING: 20:04:20:17, 20:04:20:103; 20:04:24:124; 20:04:33:03; 20:18:15:30.17; 20:18:16:11, 20:18:16:15.22; and 20:18:33:13.

History-Notice: 44 SDR 35, August 21, 2017
 Hearing: September 6, 2017
 Filed: September 26, 2017
 Effective: October 16, 2017

**DEPARTMENT OF HEALTH:
DIVISION OF HEALTH SYSTEMS
DEVELOPMENT AND REGULATION:**

Effective: October 19, 2017

44:82:01:01 to 44:82:01:10, inclusive;
44:82:02:01 to 44:82:02:11, inclusive;
44:82:03:01, 44:82:03:02, 44:82:03:03,
44:82:03:04, 44:82:03:05; 44:82:04:01,
44:82:04:02, 44:82:04:03, 44:82:04:04;
44:82:05:01, 44:82:05:02; 44:82:06:01,
44:82:06:02, 44:82:06:03, 44:82:06:04,
44:82:06:05, 44:82:06:06, 44:82:06:07,
44:82:06:08, 44:82:06:09, 44:82:06:10,
44:82:06:11, 44:82:06:12, 44:82:06:13,
44:82:06:14; 44:82:07:01, 44:82:07:02,
and 44:82:07:03.

Executive Appointments:

Terry Nebelsick, Huron, was appointed on September 22, 2017, to the **School Finance Accountability Board**, to replace Mike Lodmel, effective immediately and shall continue until June 30, 2020.

Laura Scheibe, Pierre, was appointed on September 26, 2017, to the **South Dakota Workforce Development Council**, to replace Tiffany Sanderson, effective immediately.

History-Notice: 44 SDR 17, July 24, 2017
Hearing: August 29, 2017
Filed: September 27, 2017
Effective: October 17, 2017

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 the Department of Labor and Regulation for Article 47:03.

**DEPARTMENT OF REVENUE: SOUTH
DAKOTA LOTTERY COMMISSION:**

48:03:15:04; 48:03:19:01, 48:03:19:02,
48:03:19:03, and 48:03:19:04.

History-Notice: 44 SDR 21, July 31, 2017
Hearing: August 24, 2017
Filed: September 29, 2017

REMINDER OF HEARINGS SCHEDULED

10-5-2017	Department of Environment and Natural Resources: Water Management Board Adopt rules to update South Dakota's existing surface water discharge and concentrated animal feeding operation permitting rules by incorporating the latest federal regulations by reference and clarifying current rule language; 44 SDR 47, September 5, 2017.
10-10-2017	Office of the Secretary of State Adopt rules to update notary public application and change forms; 44 SDR 47, August 28, 2017.
10-18-2017	Department of Environment and Natural Resources: Division of Environmental Services Amend rules to increase the air fees assessed to businesses that are applicable to the Title V air quality permitting program; 44 SDR 51, September 11, 2017.
10-20-2017	Department of Health: South Dakota 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.
10-20-2017	Department of Labor and Regulation: South Dakota Athletic Commission Amend rules to clarify provisions of current rules including general definitions; safety

	requirements for events; responsibilities of event promoters; requirements for contestants in mixed martial arts contests; penalties for mixed martial artists who fail to make weight for a contracted bout; options for correcting a score entered in error; officials required to be in attendance at an event; the role of a cut man at an event; the authority of a ringside physician during a bout; allowable wraps for a mixed martial artist during a bout; requirements for a ring used for a contest; the process by which a contestant can request a review of a bout; and the adoption of unified rules of mixed martial arts; 44 SDR 31, August 14, 2017.
10-20-2017	Department of Health: South Dakota Board of Examiners in Optometry Adopt rules to clarify the expiration of contact lens and spectacle prescriptions; revise minimum requirements for a comprehensive optometric examination to make the rule consistent with current standards for the profession; and allow an optometrist in certain situations to receive credit for live stream continuing education presentations as "live" continuing education; 44 SDR 51, September 11, 2017.
10-23-2017	Bureau of Human Resources Amend rules to match current practice regarding Family Status Change Forms; 44 SDR 63, October 2, 2017.
10-23-2017	Bureau of Human Resources Amend rules to allow fathers to take sick leave after the birth of a child; update reasons for using the Family Medical Leave Act (FMLA); and standardize how rates of pay and salary increases are administered; 44 SDR 63, October 2, 2017.
10-23-2017	Department of Social Services: Divisions of Economic Assistance, Child Support, Child Protection, Medical Services, and Child Care Services Amend rules to reflect annual changes; update terminology and other language to align with current practice and provide clarification; update citations; update the recommended immunization standards to align with the Department of Health; provide clarity of what practitioners can provide and bill for certain services; new rules to distinguish non-emergency medical transportation; repeal duplicative rules; and update certain child support enforcement and child protection provisions to comply with new federal regulations; 44 SDR 64, October 2, 2017.
10-24-2017	Department of Agriculture: Division of Agriculture Services Amend rules regarding shell eggs to be in alignment with USDA guidelines; 44 SDR 63, October 2, 2017.
10-25-2017	Department of Health: Division of Health Systems Development and Regulation Amend rules to revise ambulance equipment standards and air ambulance operations, and for the purposes of general cleanup; 44 SDR 59, September 25, 2017.
10-25-2017	Department of Labor and Regulation: Appraiser Certification Program Amend a rule to adopt the 2018-2019 Edition of the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Foundation's Appraisal Standards Board effective January 1, 2018; 44 SDR 59, September 25, 2017.
10-26-2017	Department of Revenue: South Dakota Lottery Commission Amend a rule to allow the Winner Take All Promotion for the Powerball lotto game; 44 SDR 64, October 2, 2017.
10-26-2017	Department of Transportation Amend speed limit rules for State Trunk Highway 38 in Minnehaha County, State Trunk Highway 44 in Pennington County, U.S. Highway 281 in Brown County, U.S. Highway 85 in Lawrence County, Interstate Highway 90 Business Loop in Brule County, State Trunk Highway 46 in Charles Mix County, U.S. Highway 12 in

Day County, State Trunk Highway 22 in Deuel County, U.S. Highway 18 in Fall River County U.S. Highway 14 I Hand County, State Trunk Highway 25 in Kingsbury County, State Trunk Highway 25 in Marshall County, State Trunk Highway 20 in Perkins County, State Trunk Highway 19 in Turner County, and U.S. Highway 18 and State Trunk Highway 407 in Oglala Lakota County; in Bennett County, add a 45 mile per hour speed zone to State Trunk Highway 73 immediately south of the 35 mile per hour speed zone in Martin extending for 0.45 miles; in Butte County, extend a 25 mile per hour speed zone on U.S. Highway 85 to include the stretch of highway between Indian Street and Lawrence Street in Belle Fourche; change the speed limit to 35 miles per hour on U.S. Highway 85 between Lawrence Street and State Trunk Highway 34 in Belle Fourche; in Clay County, reduce the speed limit on State Trunk Highway 50 through Vermillion from 55 miles per hour to 50 miles per hour; and amend Highway Construction Contract rules to set bidding capacity ratings on a per-contract basis rather than establishing an overall maximum rating.; 44 SDR 64, October 2, 2017.

RULES REVIEW COMMITTEE MEETINGS

The final meeting of the Interim Rules Review Committee for the 2017 interim will be 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>.