

# REGISTER



## South Dakota Legislative Research Council

Volume 44

Monday, 8:00 a.m., October 16, 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:**  
**Division of Wildlife:** (October 12, 2017) intends to amend rules to eliminate the ability to pay for individual park entrances and instead charge by vehicle only; alter the definitions of "preferred" and "prime" campgrounds and eliminate "primitive" campgrounds from the definitions; remove Fort Sisseton, Union Grove, Pease Creek and Buryanek campsites from the "modern campground" category; increase camping cabin fees for all State Parks from \$40 to \$45 except at Custer State Park where the cabin fee would remain \$50; add Fisher Grove and Buryanek campsites to the "preferred campground" category; remove from the "preferred campground" category Oakwood Lakes, Angostura including Sheps Canyon, Lake Vermillion, Lewis and Clark, Newton Hills, Snake Creek, Palisades, Roy Lake, Lake Herman, Lake Poinsett, Walker's Point, Pickerel, Shadehill Ketterlings Point, Sandy Shore, Lake Cochrane, Farm Island, Lake Louise, Lake Thompson, Mina Lake, Chief White Crane, Pierson Ranch, North Point, Big Sioux, Hartford Beach, Richmond, Rocky Point, and South Pelican campsites and add them to the "prime campground" category; add to the "prime campground" category Union Grove and Pease Creek; remove Fort Sisseton from the "primitive lodging campsite" category and add it to the "prime campsite" category except for during the

Fort Sisseton Festival; increase the group lodging fee at Mina Lake and Shadehill from \$185 to \$205 per night; increase the group lodging fee at Lake Thompson, Palisades, Sheps Canyon, and Newton Hills from \$240 to \$280 per night; increase the fee at French Creek Horse Camp from \$26 to \$31 per night; increase the use of Fort Sisseton's south barracks from \$300 to \$500 for a weekend; increase the catamaran dry slip storage at Lewis and Clark from \$300 to \$325 per seasonal occupancy period; increase the catamaran dry slip storage at Angostura from \$150 to \$175 per seasonal occupancy period; establish standards for marking closed areas of nonmeandered waters by landowners; require mandatory submission of elk harvested in Custer State Park to be tested for chronic waste disease; increase the number of antlerless elk licenses from no more than 20 to no more than 60 and establish four separate hunting seasons in four separate hunting units; allow for no more than five bighorn sheep licenses to be issued for the Black Hills bighorn sheep hunting season; allow one bighorn sheep license to be issued for sale by auction; eliminate the identification of the license type and number of license from each of the bighorn sheep hunting units; allow for the continued pursuit of a mountain lion that originated on private land onto public land; remove the 15 inch minimum restriction for walleye on Lake Poinsett; allow nonresidents to obtain an aerial hunting permit; require all bait dealers to list employees/agents on their application that will engage in trapping, transporting, delivering, raising, or seining bait and allow the Department to refuse the issuance of a license to a bait dealer with an employee/agent who has received a suspension or revocation of their bait dealer license;

update the scientific name of the Interior Least Tern (*Sterna antillarum athalassos*) to Least Tern (*Sternula antillarum*); update the scientific name of the Finescale dace (*Phoxinus neogaeus*) to Finscale dace (*Chrosomus neogaeus*); update the scientific name of Northern redbelly dace (*Phoxinus eos*) to Northern redbelly dace (*Chrosomus eos*); and update the scientific name of Pearl dace (*Margariscus margarita*) to Northern pearl dace (*Margariscus nachtriebi*). The general authority for these rules, as cited by the department, is SDCL §§ 34A-8-3, 41-2-18, 41-8-15, 41-17-1, 41-17-1.1, 41-17-13, 41-23-5, and 41-23-12.

A public hearing will be held at the McCrory Gardens, 631 22<sup>nd</sup> Avenue, Brookings, South Dakota, on November 2, 2017, at 2:00 p.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Office of the Secretary, Department of Game, Fish and Parks, Foss Building, 523 E. Capitol, Pierre, SD 57501. Copies of the proposed rules are also available for review on the internet at <https://rules.sd.gov>. Comments may also be sent by email to [wildinfo@state.sd.us](mailto:wildinfo@state.sd.us) or [gfpadminrules@state.sd.us](mailto:gfpadminrules@state.sd.us). Material sent by mail or email must reach the Department at least 72 hours before the hearing to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the Department of Game, Fish and Parks can make arrangements are asked to call (605) 773-3718 or (605) 773-7684 (Telecommunication Device for the Deaf).

**FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

**DEPARTMENT OF LABOR AND REGULATION: BOARD OF BARBER EXAMINERS:** 20:39:02:04; 20:39:03:01 to 20:39:03:06, inclusive; 20:39:04:01 to 20:39:04:03, inclusive; and 20:39:05:02.

History-Notice: 44 SDR 25, August 7, 2017  
 Hearing: August 28, 2017  
 Filed: October 12, 2017  
 Effective: November 1, 2017

**Executive Appointments:**

**Tom Nelson**, Spearfish, was appointed on October 5, 2017, to the **State Library Board**, to replace Diane Olson, effective immediately and shall continue until October 30, 2020.

**Carol Twedt**, Sioux Falls, was appointed on October 5, 2017, to the **State Library Board**, to replace Steven Willard, effective immediately and shall continue until October 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 the Department of Labor and Regulation for Article 47:03.

**REMINDER OF HEARINGS SCHEDULED**

<p><b>10-18-2017</b></p>	<p><b>Department of Environment and Natural Resources:                  Division of Environmental Services</b>                  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.</p>
--------------------------	---

<b>10-20-2017</b>	<b>Department of Health: South Dakota Board of Dentistry</b> 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.
<b>10-20-2017</b>	<b>Department of Labor and Regulation: South Dakota Athletic Commission</b> 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.
<b>10-20-2017</b>	<b>Department of Health: South Dakota Board of Examiners in Optometry</b> 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.
<b>10-23-2017</b>	<b>Bureau of Human Resources</b> Amend rules to match current practice regarding Family Status Change Forms; 44 SDR 63, October 2, 2017.
<b>10-23-2017</b>	<b>Bureau of Human Resources</b> 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.
<b>10-23-2017</b>	<b>Department of Social Services: Divisions of Economic Assistance, Child Support, Child Protection, Medical Services, and Child Care Services</b> 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.
<b>10-24-2017</b>	<b>Department of Agriculture: Division of Agriculture Services</b> Amend rules regarding shell eggs to be in alignment with USDA guidelines; 44 SDR 63, October 2, 2017.
<b>10-24-2017</b>	<b>Department of Labor and Regulation: Division of Insurance</b> Amend rules to fix outdated references to the Division of Securities and the Department of Revenue and Regulation; and establish a notice filing requirement for Regulation A – Tier 2 offerings and crowdfunding offerings; 44 SDR 69, October 10, 2017.
<b>10-25-2017</b>	<b>Department of Health: Division of Health Systems Development and Regulation</b> Amend rules to revise ambulance equipment standards and air ambulance operations, and for the purposes of general cleanup; 44 SDR 59, September 25, 2017.

<b>10-25-2017</b>	<b>Department of Labor and Regulation: Appraiser Certification Program</b> 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.
<b>10-26-2017</b>	<b>Department of Revenue: South Dakota Lottery Commission</b> Amend a rule to allow the Winner Take All Promotion for the Powerball lotto game; 44 SDR 64, October 2, 2017.
<b>10-26-2017</b>	<b>Department of Transportation</b> Amend rules to 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; 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; reduce the speed limit on State Trunk Highway 50 through Vermillion from 55 miles per hour to 50 miles per hour; and set bidding capacity ratings on a per-contract basis rather than establishing an overall maximum rating; 44 SDR 64, October 2, 2017.
<b>10-27-2017</b>	<b>Department of Human Services: Division of Developmental Disabilities</b> Amend rules to define and to create standards for a shared living home service; and allow the delivery of statewide family support services to adults who meet certain criteria; 44 SDR 69, October 10, 2017.
<b>10-27-2017</b>	<b>Department of Revenue: Divisions of Business Tax and Property and Special Taxes</b> Amend rules to update manuals and price of manuals to current version and ensure that the language of the rules is consistent; and repeal a rule regarding how use tax applies to the storage of tangible personal property; 44 SDR 69, October 10, 2017.
<b>10-30-2017</b>	<b>Office of the Secretary of State: Board of Elections</b> Amend rules to specify a 30 day deadline date for a voter to return the invalid/incomplete voter registration acknowledgment notice; add another voter designation for the federally required Election Assistance Commission Election Day Survey; create two voter registration list maintenance forms; change the name of a Secondary Election to Runoff Election; add judicial office to the races to be listed in the notice of deadline for filing nominating petitions for the primary election; adding to the general election ballot the language "Legislative Research Council's Prison/Jail Population Cost Estimate and/or Fiscal Note"; updating the primary and general election ballot formats to include notations for front and reverse sides, clarify ballot printing notes, add an option for county finance officer, and provide the format for State Representative Districts 26 and 28 A and B; clarify the tax levy opt-out ballot format to be used by counties, municipalities or schools; create a new ballot format for capital outlay elections for school districts; create a new ballot format for school sentinel program elections; create a new ballot format to assist county auditors with tax levy ballots for maintaining, repairing, constructing or reconstructing roads and bridges; clarify that a petition sheet must be printed on a self-contained sheet of paper printed front and reverse side; add the Attorney General's Title of a statewide ballot question to information required from the sponsor(s) on the two affidavits for statewide ballot questions; repeal two petitions for conservation district candidates and amend the third petition to show that candidates for district supervisors must run at large instead of by areas; clarify what type of ballot a resolution board will use to duplicate a ballot that is rejected from the automatic tabulating machine; amend the application for absentee voting to clarify what category of

	<p>Uniformed Overseas Citizens Absentee Voter the applicant falls under and simplify the application instructions; remove language requiring a stateside Uniformed Overseas Citizens Absentee Voter to provide a photocopy of their identification or have their signature notarized on the absentee ballot application; remove language requiring a Uniformed Overseas Citizens Absentee Voter to provide their voting residence on the ballot return envelope and amend the maximum size of the envelope; and add legislative candidates as those who do not use this petition for recount; 44 SDR 70, October 10, 2017.</p>
<b>10-31-2017</b>	<p><b>Department of Agriculture: South Dakota State Fair</b> Amend rules to repeal duplicative, outdated and unnecessary rules applying to the State Fair Park; and raise camping and parking fees during the annual State Fair; 44 SDR 71, October 10, 2017.</p>
<b>11-2-2017</b>	<p><b>Department of Game, Fish and Parks: Division of Wildlife</b> Amend rules to eliminate the ability to pay for individual park entrances and instead charge by vehicle only; alter the definitions of "preferred" and "prime" campgrounds and eliminate "primitive" campgrounds from the definitions; remove Fort Sisseton, Union Grove, Pease Creek and Buryanek campsites from the "modern campground" category; increase camping cabin fees for all State Parks from \$40 to \$45 except at Custer State Park where the cabin fee would remain \$50; add Fisher Grove and Buryanek campsites to the "preferred campground" category; remove from the "preferred campground" category Oakwood Lakes, Angostura including Sheps Canyon, Lake Vermillion, Lewis and Clark, Newton Hills, Snake Creek, Palisades, Roy Lake, Lake Herman, Lake Poinsett, Walker's Point, Pickerel, Shadehill Ketterlings Point, Sandy Shore, Lake Cochrane, Farm Island, Lake Louise, Lake Thompson, Mina Lake, Chief White Crane, Pierson Ranch, North Point, Big Sioux, Hartford Beach, Richmond, Rocky Point, and South Pelican campsites and add them to the "prime campground" category; add to the "prime campground" category Union Grove and Pease Creek; remove Fort Sisseton from the "primitive lodging campsite" category and add it to the "prime campsite" category except for during the Fort Sisseton Festival; increase the group lodging fee at Mina Lake and Shadehill from \$185 to \$205 per night; increase the group lodging fee at Lake Thompson, Palisades, Sheps Canyon, and Newton Hills from \$240 to \$280 per night; increase the fee at French Creek Horse Camp from \$26 to \$31 per night; increase the use of Fort Sisseton's south barracks from \$300 to \$500 for a weekend; increase the catamaran dry slip storage at Lewis and Clark from \$300 to \$325 per seasonal occupancy period; increase the catamaran dry slip storage at Angostura from \$150 to \$175 per seasonal occupancy period; establish standards for marking closed areas of nonmeandered waters by landowners; require mandatory submission of elk harvested in Custer State Park to be tested for chronic waste disease; increase the number of antlerless elk licenses from no more than 20 to no more than 60 and establish four separate hunting seasons in four separate hunting units; allow for no more than five bighorn sheep licenses to be issued for the Black Hills bighorn sheep hunting season; allow one bighorn sheep license to be issued for sale by auction; eliminate the identification of the license type and number of license from each of the bighorn sheep hunting units; allow for the continued pursuit of a mountain lion that originated on private land onto public land; remove the 15 inch minimum restriction for walleye on Lake Poinsett; allow nonresidents to obtain an aerial hunting permit; require all bait dealers to list employees/agents on their application that will engage in trapping, transporting, delivering, raising, or seining bait and allow the Department to refuse the</p>

issuance of a license to a bait dealer with an employee/agent who has received a suspension or revocation of their bait dealer license; update the scientific name of the Interior Least Tern ( <i>Sterna antillarum athalassos</i> ) to Least Tern ( <i>Sternula antillarum</i> ); update the scientific name of the Finescale dace ( <i>Phoxinus neogaeus</i> ) to Finscale dace ( <i>Chrosomus neogaeus</i> ); update the scientific name of Northern redbelly dace ( <i>Phoxinus eos</i> ) to Northern redbelly dace ( <i>Chrosomus eos</i> ); and update the scientific name of Pearl dace ( <i>Margariscus margarita</i> ) to Northern pearl dace ( <i>Margariscus nachtriebi</i> ); 44 SDR 75, October 16, 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>.