

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

991E0629

## SENATE BILL NO. 128

Introduced by: Senators Dennert, Bogue, and de Hueck and Representatives Smidt,  
Kloucek, and Michels

1 FOR AN ACT ENTITLED, An Act to require an agency to serve minutes of the rules hearing  
2 before the agency appears before the Interim Rules Committee.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-26-4 be amended to read as follows:

5 1-26-4. The following procedure shall be complied with prior to the adoption, amendment,  
6 or repeal of any rule, except an emergency rule:

7 (1) An agency shall serve a copy of a proposed rule and any publication described in  
8 § 1-26-6.6 upon the departmental secretary, bureau commissioner, or constitutional  
9 officer of the department to which it is attached;

10 (2) Fifteen days after the service required by subdivision (1) or upon receiving the written  
11 approval of that officer to proceed, whichever comes first, and twenty days before the  
12 hearing, the agency shall serve the director with a copy of the proposed rules, a copy  
13 of any publication described in § 1-26-6.6, a copy of the fiscal note described in  
14 § 1-26-4.2, and a copy of the notice of hearing required by § 1-26-4.1. Any  
15 publication described in § 1-26-6.6 shall be returned to the agency upon completion

1 of the director's review and retained by the agency. Also, twenty days before the  
2 hearing, the agency shall serve the Bureau of Finance and Management with a copy  
3 of the proposed rules, a copy of the fiscal note described in § 1-26-4.2, and a copy of  
4 the notice of hearing required by § 1-26-4.1;

5 (3) The agency shall publish the notice of hearing in the manner prescribed by § 1-26-4.1,  
6 at least twenty days before the hearing;

7 (4) The agency shall afford all interested persons reasonable opportunity to submit data,  
8 opinions, or arguments, either orally or in writing, or both, at a hearing held for that  
9 purpose. The hearing may be continued from time to time until its business has been  
10 completed. The agency shall keep minutes of the hearing. A majority of the members  
11 of any board or commission authorized to pass rules must be present during the  
12 course of the hearing required by this subdivision;

13 (5) For a period of ten days after the hearing, the agency shall accept written comments  
14 regarding the proposed rule, unless the entity promulgating the rule is a part-time  
15 citizen board, commission, committee, task force, or other multiperson decision  
16 maker, in which case the record of written comments shall be closed at the conclusion  
17 of the public hearing. However, the hearing may be specifically continued for the  
18 purpose of taking additional comments;

19 (6) After the written comment period, the agency shall fully consider all written and oral  
20 submissions regarding the proposed rule. A proposed rule may be modified or  
21 amended at this time to include or exclude matters which were described in the notice  
22 of hearing;

23 (7) After reviewing the proposed rule, the director shall advise the agency of any  
24 recommended corrections to the proposed rule;

1 (8) If the agency does not concur with any recommendation of the director, the agency  
2 shall appeal the recommended correction to the Interim Rules Review Committee for  
3 appropriate action; and

4 (9) The agency shall, prior to the time set for the agency to appear before the committee  
5 to present the rules, serve the minutes of the hearing, a complete record of written  
6 comments, and a corrected copy of the rules on the members of the Interim Rules  
7 Review Committee.

8 The time periods specified in this section may be extended by the agency.