

# REGISTER



## South Dakota Legislative Research Council

Volume 45

Monday, 8:00 a.m., March 25, 2019

**GET COPIES OF PROPOSED RULES AND OTHER INFORMATION AT NO CHARGE**

at <https://rules.sd.gov> or by contacting the agency directly via the means outlined in their notice of hearing.

**FILINGS IN THE LEGISLATIVE RESEARCH COUNCIL'S OFFICE:**

**Notice of Proposed Rules:** (The date in parentheses is the date the rules were filed with the Legislative Research Council.)

**Department of Agriculture:** (March 21, 2019) intends to amend rules to increase the number of voting districts for members of the Soybean Research and Promotion Council from seven to nine and reorganize the counties into those nine new districts. The general authority for these rules, as cited by the department, is SDCL § 38-29-3.

A public hearing will be held at the South Dakota Department of Agriculture Conference Room, 3<sup>rd</sup> Floor, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota, on April 17, 2019, at 10:00 a.m. CT. Copies of the rules may be obtained without charge from and written comments sent to the South Dakota Department of Agriculture, 523 E. Capitol, Pierre, SD 57501. Material sent by mail or email must reach the department by April 29, 2019 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) 773-5425.

**Office of the Secretary of State: Board of Finance:** (March 22, 2019) intends to amend rules to increase in-state lodging rates for state employees to \$75 plus tax per night and increase per diem rates for state employees to a maximum of \$40 per day for in-state and \$56 per day for out-of-state travel claims. The general authority for these rules, as cited by the board, is SDCL § 3-9-2.

A public hearing will be held in the Governor's Small Conference Room, 2<sup>nd</sup> floor, State Capitol, Pierre, South Dakota, on April 16, 2019, at 2:00 p.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of State, Room 204, State Capitol, 500 E. Capitol, Pierre, SD 57501. Material sent by mail must be received by April 16, 2019, to be considered. 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) 773-3537 at least 48 hours before the hearing.

**NOTICE:**

The **Department of Social Services** intends to make changes to the South Dakota Medicaid State Plan to implement inflationary rate increases appropriated by the state legislature during the 2019 legislative session. The updated fee schedules will be posted on the department's website on or around April 1, 2019 at: <http://dss.sd.gov/medicaid/providers/feeschedules/>. South Dakota Medicaid providers should

continue to submit claims and bill South Dakota Medicaid as they did prior to April 1, 2019. Fee schedules are the maximum allowable reimbursement amount; per ARSD 67:16:01:09 payment for services is limited to the provider's usual and customary charge.

The proposed amendment revises Attachment 4.19-A, page 1, page 2, and page 5 and Attachment 4.19-B, Introduction page 1 and page 1a. The Department intends to make this SPA effective April 1, 2019.

The following services are receiving a 1.5 percent inflationary increase:

- Instate DRG Inpatient Hospital Services
- Instate DRG Exempt Inpatient Hospital Units
- Instate APC Outpatient Hospital Services
- Physician Services including Health Homes Per Member Per Month
- Dental Services including Orthodontic Services and Dentures
- Optometric Services
- Chiropractic Services
- Nutritionists and Dietician Services
- Durable Medical Equipment (Not including items subject to Section 1903(i)(27)) of the Social Security Act)
- Clinic Services
- Physical Therapy
- Occupational Therapy
- Speech, Hearing, or Language, Disorder Services
- Prosthetic Devices
- Eyeglasses
- Diabetes Self-Management Training
- Nurse Midwife Services
- Community Transportation
- Secure Medical Transportation
- Air and Ground Ambulance except for the following codes which are receiving a targeted increase of

4 percent:

- A0429
- A0430
- A0431
- Home Health Agencies except for the following codes which are receiving a targeted increase of 4 percent:
  - S9123
  - S9122
  - S9124
- Independent Mental Health Practitioners Services except for the following codes which are receiving a targeted increase of 4 percent:
  - 90791
  - 90832
  - 90837
- Nutrition Items

The following services are receiving a 4.0 percent inflationary increase:

- Community Mental Health Centers
- Substance Use Disorder Agencies
- Personal Care Services
- Child Private Duty Nursing

The estimated expenditures listed below solely due to rate increases. No rates are being decreased. The department estimates the total annual aggregate increase in expenditures will be the following:

- Hospital Services - \$3,584,200
- Physician Services including Health Home Per Member Per Month - \$1,079,490
- Dental Services including Orthodontic Services and Dentures - \$339,596
- Optometric - \$28,778
- Chiropractic Services - \$10,357
- Air and Ground Ambulance Transportation - \$186,805
- Community Mental Health Centers and Substance Use Disorder Agencies - \$2,529,251

- Home Health Services, Child Private Duty Nursing, Personal Care Services - \$242,077
- Other Medical Services - \$336,494

The Other Medical Services category includes the following services:

- Independent Mental Health Practitioners Services
- Nutritionists and Dietician Services
- Durable Medical Equipment
- Clinic Services
- Physical Therapy
- Occupational Therapy
- Speech, Hearing, or Language, Disorder Services
- Prosthetic Devices
- Eyeglasses
- Diabetes Self-Management Training
- Nurse Midwife Services
- Community Transportation
- Secure Medical Transportation
- Nutrition Items

The SPA also contains language to allow the state to include hospital specific

data relative to at risk populations in capital costs. The SPA is available to view on the department’s website at <http://dss.sd.gov/medicaid/medicaidstateplan.aspx>. Copies of the proposed SPA pages are also available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, SD 57501.

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

(None)

**NOTE REGARDING ADOPTED 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>4-4-2019</b></p>	<p><b>South Dakota Retirement System:</b> Amend rules to update statutory citations of authority and internal cross references to correspond with the changes resulting from passage of House Bill 1010 of the 2019 Legislative Session, and to clarify language and repeal obsolete provisions; 45 SDR 115, March 11, 2019.</p>
<p><b>4-4-2019</b></p>	<p><b>Department of Game, Fish and Parks:</b> Amend or establish rules to alter the boundary of an existing unit as described in rule; close the antlerless elk units listed in ARSD 41:06:47:01; allow for an individual who submits a habitat solution with such solution being deemed worthy by the Secretary to receive either authorization to access the state park system or hunt small game without a fee for one calendar year; establish a resident special any whitetail deer license and set a fee; establish a nonresident special any whitetail deer license and set a fee; set application fees and create one Custer State Park any bison license and three super license packages that include tags for one any elk, one any deer, and one any antelope; extend the date from May 1 to August 31 that traps, snares, and associated equipment may be used on public lands and improved road rights-of-ways; require that traps, snares, and associated equipment be actively operated and checked in accordance with trap-check rules; outline the guidelines of the Nest Predator Bounty Program; simplify</p>

	the times the park system is open for use; simplify the definitions of commercial use and limit the restriction to the state park system; strike the "fifteen day" limitation and change it to "fourteen nights" for camping in state parks, recreation areas, and state lakeside use areas; repeal the rule prohibiting uncased .22 caliber rimfire firearms in the state park system; alter the dates that tree stands, elevated platforms, and portable blinds be allowed in the park; allow any enrolled Crow Creek tribal member and their family to enter West Bend Recreational Area without a park entrance license; simplify the times and dates a park entrance license is valid; allow South Dakota veterans organizations or groups to participate in permitted group activities on the Mickelson Trail without purchasing a trail pass; allow a user without a pass the option to purchase a daily pass or an annual pass depending on the length of time they plan to use the trail; and remove the \$15 annual pass late fee; 45 SDR 117, March 18, 2019.
<b>4-16-2019</b>	<b>Office of the Secretary of State: Board of Finance:</b> Amend rules to increase in-state lodging rates for state employees to \$75 plus tax per night and increase per diem rates for state employees to a maximum of \$40 per day for in-state and \$56 per day for out-of-state travel claims; 45 SDR 120, March 25, 2019.
<b>4-17-2019</b>	<b>Department of Agriculture:</b> Amend rules to increase the number of voting districts for members of the Soybean Research and Promotion Council from seven to nine and reorganize the counties into those nine new districts; 45 SDR 120, March 25, 2019.

### RULES REVIEW COMMITTEE MEETINGS

The first meeting of the Rules Review Committee for the 2019 Interim is Thursday, March 28, 2019, at 10:00 a.m. CT in Room 414 of the State Capitol. Other meetings scheduled for the 2019 interim will be held May 6, June 3, July 8, August 12, September 9, and November 4.

Watch for notices of 2019 Rules Review Committee meetings in this publication, on the LRC website, and at the Capitol.

**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>.