

REGISTER



South Dakota Legislative Research Council

Volume 45

Monday, 8:00 a.m., October 1, 2018

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.)

Bureau of Human Resources: Civil Service Commission: (September 24, 2018) intends to amend rules to list the probationary period in terms of months employed, not hours, and detail the application of a promotional salary increase during the probationary period. The general authority for these rules, as cited by the commission, is SDCL §§ 3-6C-3, 3-6C-5, 3-6C-7, 3-6C-18, 3-6D-7, 3-6D-10, 3-6D-11, and 3-6D-14.

A public hearing will be held in Room 413 of the State Capitol, 500 East Capitol Avenue, Pierre, South Dakota, on October 29, 2018, at 10:00 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Civil Service Commission, c/o South Dakota Bureau of Human Resources, Room 110, 500 E. Capitol, Pierre, SD 57501. Material sent by mail must reach the commission by October 26, 2018, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-4479 or contact Heather Perry at

heather.perry@state.sd.us at least 48 hours before the public hearing.

Department of Health: (September 25, 2018) intends to amend rules to add newly emerging communicable diseases with public health impact to the Category II reportable diseases and condition list and clarify the methods of reporting. The general authority for these rules, as cited by the department, is SDCL §§ 34-1-17, 34-22-9, 34-22-12, and 34-23-13.

A public hearing will be held at the South Dakota State Health Laboratory, Room 102, 615 East Fourth Street, Pierre, South Dakota, on October 22, 2018, at 10:00 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to South Dakota Department of Health, 615 E. Fourth Street, Pierre, SD 57501. The rules are available online at <https://rules.sd.gov/> or <http://doh.sd.gov/News>. Materials sent by mail must reach the department by November 1, 2018, 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) 773-3661 at least 48 hours before the public hearing.

Department of Transportation: (September 25, 2018) intends to amend rules to reduce the speed limit from 65 miles per hour to 55 miles per hour on State Trunk Highway 50 in and around Tabor. 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, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota, on October 25, 2018, at 9:00 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to Secretary of Transportation, South Dakota Department of Transportation, Becker-Hansen Building, 700 E. Broadway Avenue, Pierre, SD 57501. The proposed rules are also posted online at <https://open.sd.gov/>. Comments may be sent by email to darin.bergquist@state.sd.us. Information submitted by mail or email must reach the department by October 21, 2018, 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) before the public hearing.

Department of Social Services:

(September 27, 2018) intends to amend rules to update terminology and other language to align with current practice and provide clarification; update citations; add categories of eligible providers for mental health services; clarify coverage for collateral contacts for mental health services; add child development to required orientation training for child care providers; establish a single method for the valuation of life estates for the Medicaid program; repeal duplicate rules; incorporate the reauthorized child care services block grant requirements into rule; replace annual submission of ICAPs within the CHOICES Medicaid waiver program with an ICAP submission requirement upon initiation of services as individual's needs change and every three years; and clarify annual redetermination requirements for the CHOICES waiver. The general authority for these rules, as cited by the department, is SDCL §§ 25-4-45.3, 26-6-16, 28-1-61, 28-6-1, 28-6A-12, 28-7A-3, and 28-7A-24.

A public hearing will be held in Kneip Conference Room 1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on October 19, 2018, at 11:00 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Social Services, Attn: Teresa Schulte, 700 Governors Drive, Pierre, SD 57501. Copies of the proposed rules are also available at <https://rules.sd.gov>. Materials sent by mail must reach the department by October 29, 2018, 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) 773-3165 at least 48 hours before the public hearing.

NOTICE:

The Department of Social Services

intends to hold a public forum regarding the Former Foster Care Youth Demonstration. The demonstration was approved by the Center for Medicare & Medicaid Services on May 1, 2018 and provides the State the authority to continue Medicaid coverage for individuals who were in foster care under the responsibility of another state and enrolled in Medicaid in that state, and now reside in South Dakota. To be eligible for Medicaid coverage under the demonstration, a person must be a U.S. citizen or have non-citizen status that qualifies for federally funded Medicaid; be a South Dakota resident; age 26 or younger; not otherwise be mandatorily eligible for coverage under the state plan; have been in foster care in another state and enrolled in Medicaid under another state's plan or 1115 demonstration when they turned 18 or at the time of aging out of the state's foster care program; and have an income less than 182% of the Federal Poverty Level. The forum will be held in the Kneip 1 Conference Room, Kneip Building, 700 Governors Drive, Pierre, South Dakota, on October 30, 2018, at 11:00 a.m. CT. To appear telephonically, call

866-410-8397 and enter conference code 6256779181. Questions regarding the forum may be sent to DSS.Medicaid@state.sd.us.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Representative Doug Barthel, Sioux Falls, was appointed on September 21, 2018, to the **South Dakota Public Safety Communications Council**, effective August 27, 2018, and shall continue until June 30, 2021.

Paul Beran, Pierre, was appointed on September 21, 2018, to the **Research and Commercialization Council**, to replace Dr. Mike Rush, effective September 11, 2018.

Paul Beran, Pierre, was appointed on September 21, 2018, to the **South Dakota Workforce Development Council**, to replace Dr. Mike Rush, effective September 11, 2018.

Paul Beran, Pierre, was appointed on September 21, 2018, to the **Western Interstate Commission for Higher Education**, to replace Dr. Mike Rush, effective September 11, 2018, and shall continue until June 30, 2019.

Kevin L. Bjordahl, Milbank, was reappointed on September 21, 2018, to the **State Board of Medical and Osteopathic Examiners**, effective October 31, 2018, and shall continue until October 30, 2021.

Autumn Cavender-Wilson, Granite Falls, was reappointed on September 21, 2018, to the **Board of Certified Professional Midwives**, effective November 1, 2018, and shall continue until October 31, 2021.

Burdette Clifford, Mission, was appointed on September 21, 2018, to the **Board of Service to the Blind and Visually Impaired**,

to replace **Roberta Ecoffey**, effective August 27, 2018.

Rebekah Craddock, Sioux Falls, was reappointed on September 21, 2018, to the **South Dakota Board of Nursing**, effective October 31, 2018, and shall continue until October 30, 2021.

Senator Justin R. Cronin, Gettysburg, was appointed on September 21, 2018, to the **South Dakota Public Safety Communications Council**, effective August 27, 2018, and shall continue until June 30, 2021.

Todd Decker, Watertown, was reappointed on September 21, 2018, to the **South Dakota Board of Hearing Aid Dispensers and Audiologists**, effective November 1, 2018, and shall continue until October 30, 2021.

Tony Farnen, Pierre, was reappointed on September 21, 2018, to the **State Board of Funeral Service**, effective November 1, 2018, and shall continue until October 30, 2021.

Zona Hornstra, Sioux Falls, was reappointed on September 21, 2018, to the **State Board of Dentistry**, effective October 31, 2018, and shall continue until October 30, 2021.

Kay S. Jorgensen, Spearfish, was reappointed on September 21, 2018, to the **South Dakota Board of Directors for Educational Telecommunications**, effective August 27, 2018, and shall continue until June 30, 2021.

Deborah Letcher, Brandon, was reappointed on September 21, 2018, to the **South Dakota Board of Nursing**, effective October 31, 2018, and shall continue until October 30, 2021.

Roger Musick, Mitchell, was appointed on September 21, 2018, to the **South Dakota Science and Technology**

Authority, to replace Paul Christen, effective September 19, 2018, and shall continue until August 8, 2022.

Tom Nelson, Spearfish, was reappointed on September 21, 2018, to the **State Board of Pharmacy**, effective October 2, 2018, and shall continue until October 1, 2021.

Sharon K. Neuharth, Burke, was reappointed on September 21, 2018, to the **South Dakota Board of Nursing**, effective October 31, 2018, and shall continue until October 30, 2021.

Douglas K. Ode, Brandon, was reappointed on September 21, 2018, to the **American Dairy Association of South Dakota**, effective October 31, 2018, and shall continue until October 30, 2021.

Lorin Pankratz, Sioux Falls, was reappointed on September 21, 2018, to the **Board of Massage Therapy**, effective October 31, 2018, and shall continue until October 30, 2021.

Jessica Peterson, Aberdeen, was appointed on September 21, 2018, to the **Board of Minerals and Environment**, to replace Peter Bullene, effective August 27, 2018, and shall continue until June 30, 2019.

Robin Peterson-Lund, Kadoka, was reappointed on September 21, 2018, to the **South Dakota Board of Nursing**, effective October 31, 2018, and shall continue until October 30, 2021.

Leonard J. Petrick, Rapid City, was reappointed on September 21, 2018, to the **State Board of Pharmacy**, effective October 2, 2018, and shall continue until October 1, 2021.

Jackie Protector, Pierre, was appointed on September 21, 2018, to the **Board of Examiners for Speech-Language Pathology**,

to replace Kristin Gohn, effective August 27, 2018, and shall continue until July 30, 2021.

Lloyd Rave, Dell Rapids, was appointed on September 21, 2018, to the **Statewide One-Call Notification Center Board**, to replace Kurt Pfeifle, effective August 27, 2018, and shall continue until October 31, 2021.

Timothy Rave, Baltic, was appointed on September 21, 2018, to the **South Dakota Public Safety Communications Council**, to replace Scott Duke, effective August 27, 2018, and shall continue until June 30, 2019.

Shawnie C. Rechtenbaugh, Pierre, was appointed on September 21, 2018, to the **South Dakota Public Safety Communications Council**, effective August 27, 2018, and shall continue until June 30, 2021.

James W. Ross, Whitewood, was reappointed on September 21, 2018, to the **Veterans Commission**, effective October 2, 2018, and shall continue until October 1, 2024.

Mark S. Shlanta, Sioux Falls, was reappointed on September 21, 2018, to the **South Dakota Board of Directors for Educational Telecommunications**, effective August 27, 2018, and shall continue until June 30, 2021.

Neal Skea, Rapid City, was reappointed on September 21, 2018, to the **State Board of Podiatry Examiners**, effective October 31, 2018, and shall continue until October 30, 2021.

Brenda Tidball-Zeltinger, Pierre, was appointed on September 21, 2018, to the **Board of Internal Control**, to replace Tami Darnall, effective August 27, 2018, and shall continue until March 29, 2021.

Janelle Toman, Pierre, was appointed on September 21, 2018, to the **South Dakota Board of Directors for Educational Telecommunications**, to replace Dr. Mike Rush, effective September 11, 2018.

Rod Bowar, Kennebec, was reappointed on September 24, 2018, to the **South Dakota Board of Technical Education**, effective November 1, 2018, and shall continue until October 31, 2021.

Scott Knuppe, Rapid City, was reappointed on September 24, 2018, to the **South Dakota Board of Technical Education**, effective November 1, 2018, and shall continue until October 31, 2021.

Ed Mallett, Watertown, was reappointed on September 24, 2018, to the **South Dakota Board of Technical Education**, effective November 1, 2018, and shall continue until October 31, 2021.

Harold Doerr, Rapid City, was reappointed on September 25, 2018, to the **State Board of Dentistry**, effective October 31, 2018, and shall continue until October 30, 2021.

Richard Hainje, Hill City, was reappointed on September 25, 2018, to the **State Board**

of Medical and Osteopathic Examiners, effective October 31, 2018, and shall continue until October 30, 2021.

Dan Smith, Yankton, was reappointed on September 25, 2018, to the **South Dakota Board of Hearing Aid Dispensers and Audiologists**, effective October 31, 2018, and shall continue until October 30, 2021.

Amber F. Finnesand, Sioux Falls, was appointed on September 26, 2018, to the **Family Support Council**, to replace Shelley Means, effective September 25, 2018, and shall continue until June 30, 2020.

Lucas G. Lund, Vermillion, was appointed on September 26, 2018, to the **State Board of Regents**, to replace Conrad Adam, effective September 26, 2018, and shall continue until July 1, 2020.

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

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| 10-2-2018 | Department of Agriculture: Amend rules to allow quarantines to be established in South Dakota to combat the spread of emerald ash borer; 45 SDR 30, August 27, 2018. |
| 10-4-2018 | Department of Game, Fish and Parks: Amend rules to restrict applicants for East River, West River, Black Hills, or Muzzleloader deer hunting seasons to submitting no more than one license application for the combined drawing for these seasons; establish a drawing structure in which applicants have to choose a preferred license in either the special buck drawing or the first combined drawing of the East River, West River, Black Hills, or Muzzleloader deer hunting seasons; allow applicants a choice to use preference points for leftover licenses in the first three combined deer drawings; allow for an elk license to be made for a raffle conducted by a nonprofit organization; eliminate the definition of "liberalized fishing" and create a definition for "possession limit"; repeal the liberalized fishing waters |

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| | <p>restriction; eliminate the license and fee requirement for game fish spearing and archery fishing; remove the closed fishing season for game fish during the spring; repeal rules regulating liberalized fishing; eliminate restrictions on waters in Codington, Hamlin, Day, Marshall, Roberts, and Lake Counties; eliminate the daily harvest restriction of 25 white bass and rock bass, and make the daily limit and possession limit unlimited for inland waters; eliminate the 15 inch minimum requirement for large and small mouth bass except on Lake Yankton and Burke Lake; eliminate or revise length limits for certain fish caught on special management waters; remove the reference to snagging being allowed as a method of take on waters where liberalized fishing rules are in place; allow for the use of a legal bow and arrow to take a paddlefish on Lake Francis Case during the established annual paddlefish snagging season; allow for the use of a legal crossbow and spear guns to take fish and expand the season to year-round; eliminate the requirement to purchase a game fish spearing and archery fishing permit and expand the areas and times in which spearing can take place; change the SD-NE boundary waters gamefish spearing and archery season from July 1 through November 30 to July 1 through December 31; allow the taking of gamefish below Gavins Point Dam on the Missouri River by spearing and archery during established season dates; expand the areas where spearing and bowfishing are prohibited to include the Lewis and Clark and Angostura marinas; add the starry stonewort to the list of plants that are considered aquatic invasive species; allow for the commercial harvest and landowner removal of certain aquatic invasive species; authorize the department secretary to allow for instances in which removal of all water from a boat would not be required prior to leaving a boat ramp parking area; and add Lake Yankton to the list of lakes designated as containment waters; 45 SDR 39, September 17, 2018.</p> |
| <p>10-10-2018</p> | <p>Department of Environment and Natural Resources: Amend rules to increase the air fees assessed to businesses that are applicable to the Title V air quality permitting program; 45 SDR 37, September 10, 2018.</p> |
| <p>10-12-2018</p> | <p>Department of Health: Amend rules to allow air ambulance services to transport critical care patients by ground under specific circumstances; 45 SDR 40, September 17, 2018.</p> |
| <p>10-15-2018</p> | <p>Department of Social Services: Board of Social Work Examiners: Establish rules for the Assistant Behavior Analyst or Paraprofessional, and amend rules for Social Workers to remove language related to licensure by equivalency; update to the most recent code of ethics; remove the fee schedule for examinations not conducted by the department; revise language for continuing education to allow more hours via online providers; and remove prior Board approval for preparation or publication of a professional social work topic or paper; 45 SDR 43, September 24, 2018.</p> |
| <p>10-17-2018</p> | <p>Department of Human Services: Amend rules to reflect new federal mandates in the CHOICES waiver services program; 45 SDR 40, September 17, 2018.</p> |
| <p>10-18-2018</p> | <p>Department of Labor and Regulation: South Dakota State Plumbing Commission: Amend rules regulating plumbing installation practices as they relate to the 2015 SD Uniform Plumbing Code; and offset increasing expenditures to maintain operations; 45 SDR 44, September 24, 2018.</p> |
| <p>10-19-2018</p> | <p>Department of Health: South Dakota Board of Podiatry Examiners: Amend rules to update language relating to continuing education requirements; remove language regarding examinations by the Board; update language for qualifications of</p> |

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| | license applicants; update language for applicants holding an out of state license; replace verbiage of certificate of registration with license; remove antiquated language relating to officers of the Board; and update to the most recent version of the Code of Ethics of the American Podiatric Medical Association; 45 SDR 44, September 24, 2018. |
| 10-19-2018 | Department of Social Services: Amend rules to update terminology and other language to align with current practice and provide clarification; update citations; add categories of eligible providers for mental health services; clarify coverage for collateral contacts for mental health services; add child development to required orientation training for child care providers; establish a single method for the valuation of life estates for the Medicaid program; repeal duplicate rules; incorporate the reauthorized child care services block grant requirements into rule; replace annual submission of ICAPs within the CHOICES Medicaid waiver program with an ICAP submission requirement upon initiation of services as individual's needs change and every three years; and clarify annual redetermination requirements for the CHOICES waiver; 45 SDR 49, October 1, 2018. |
| 10-22-2018 | Department of Health: Amend rules to add newly emerging communicable diseases with public health impact to the Category II reportable diseases and condition list and clarify the methods of reporting; 45 SDR 48, October 1, 2018. |
| 10-23-2018 | Department of Health: South Dakota Board of Pharmacy: Amend rules to provide for an organized way of handling complaints and discipline for the Board of Pharmacy; 45 SDR 43, September 24, 2018. |
| 10-25-2018 | Department of Transportation: Amend rules to reduce the speed limit from 65 miles per hour to 55 miles per hour on State Trunk Highway 50 in and around Tabor; 45 SDR 48, October 1, 2018. |
| 10-29-2018 | Bureau of Human Resources: Civil Service Commission: Amend rules to list the probationary period in terms of months employed, not hours, and detail the application of a promotional salary increase during the probationary period; 45 SDR 48, October 1, 2018. |

RULES REVIEW COMMITTEE MEETINGS

The final meeting of the Interim Rules Review Committee for the 2018 Interim is November 20, 2018, at 10:00 a.m. in Room 414 of the State 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>.