



SOUTH DAKOTA REGISTER

Published weekly by the Legislative Research Council

Volume 47

Monday, 8:00 a.m., March 29, 2021

FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

Notice of Proposed Rules

Date in parentheses indicates when rules were filed with the Legislative Research Council.
Copies of proposed rules may be obtained for no charge at <https://rules.sd.gov> or from the agency directly.

Department of Agriculture: (March 23, 2021) intends to amend rules to allow for an external embargo on regulated articles originating outside of South Dakota's border, giving the Department of Agriculture the authority to regulate those articles in the same manner as the current emerald ash borer quarantine within South Dakota. The general authority for these rules, as cited by the department, is SDCL 38-24A-9.

A public hearing will be held in the DENR Conference Room, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota, on April 16, 2021, at 10:00 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Agriculture, Division of Resource Conservation and Forestry, 523 East Capitol Avenue, Pierre, South Dakota 57501. The comment period will close on April 26, 2021. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 773-3623 at least 48 hours before the public hearing.

South Dakota Lottery (Department of Revenue): (March 25, 2021) intends to amend rules to adopt official game rules that are set and adopted by the Multi-State Lottery Association and New England Lotteries for Powerball, Mega Millions, Lucky for Life, and Lotto America. The general authority for these rules, as cited by the department, is SDCL 42-7A-21.

A public hearing will be held in Room 412, State Capitol, 500 Governors Drive, Pierre, South Dakota, on April 22, 2021, at 9:45 a.m. CT. Interested parties may attend through the [Zoom link](#) or by calling (312) 626-6799. The meeting ID is 961 3049 4596 and the passcode is 887130. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Revenue, 445 East Capitol Avenue, Pierre, South Dakota 57501. The comment period will close on April 16, 2021. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 773-3311 at least 48 hours before the public hearing.

Law Enforcement Officers Standards and Training Commission (Office of the Attorney General): (March 26, 2021) intends to amend rules to require that a hiring agency conduct an adequate background investigation for officers and 911 telecommunicators, and that the commission is notified when an officer ceases employment with a law enforcement agency; require at least 2 hours of response-to-resistance training for law enforcement officers to meet their continuing educational requirements and provide that an officer who fails to maintain all required continuing educational requirements will have their certification become inactive; require the executive secretary to place on a national decertification index the officer's name in the case of a revocation or suspension of the officer's certification and that the investigation into allegations of misconduct will continue even if an officer consents to decertification; amend the definition of "moral turpitude" to refer to the statutory definition for officers and 911 telecommunicators; require officers and 911 communicators to cooperate with investigations, disclose arrests, intervene in situations when another officer is subjecting a person to excessive force, and prohibit the use of marijuana or controlled substances; amend the procedures for filing a complaint against law enforcement officers or 911 communicators; and strike unneeded language from the

rule regarding the burden of proof at a hearing on a complaint against law enforcement officers and 911 telecommunicators. The general authority for these rules, as cited by the commission, is SDCL 23-3-35, 23-3-42, 34-45-26, and 34-45-29.

A public hearing will be held in the Roosevelt Room at the Lodge in Deadwood, 100 Pine Crest Lane, Deadwood, South Dakota, on April 21, 2021, at 10:30 a.m. MT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Law Enforcement Officers Standards and Training Commission, 1302 East Highway 14, Pierre, South Dakota 57501. Materials sent by mail must be received by April 19, 2021, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the commission can make arrangements may call (605) 773-3584 at least 48 hours before the public hearing.

Notice

The **Department of Social Services** intends to make changes to the South Dakota Medicaid State Plan regarding the health home program. The proposed amendment updates the quality incentive payment methodology for the program; the funds for the quality incentive payment were appropriated for in the 2020 Legislative Session. The payment methodology continues the small clinic payment with a total payment pool of \$75,000. This payment incentivizes health homes with small caseloads in rural and frontier areas to participate in the program. The clinical outcome payment pool is \$425,000. This payment methodology has been updated based on provider and stakeholder feedback and is calculated based on 10 weighted measures regarding improved outcomes, met and exceeded targets, and caseload severity. The proposed amendment amends the health home payment methodology pages, Attachment 3.1-H, pages 11-19, of the South Dakota State Medicaid Plan. The department intends to make this SPA effective May 1, 2021 and estimates the fiscal impact will be \$500,000 in Federal Fiscal Year 2022 and \$500,000 in Federal Fiscal Year 2023.

The Amendment can be viewed on the department's website at <http://dss.sd.gov/medicaid/medicaidstateplan.aspx>. 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, South Dakota 57501-2291.

SCHEDULED PUBLIC HEARINGS

4-1-2021	South Dakota Retirement System: Amend rules to correspond with the changes resulting from passage of House Bill 1030 by the 2021 Legislature relating to required minimum distributions consistent with IRC §401(a)(9); to clarify certification requirements when a retired member is reemployed; to update language relating to the maximum annual retirement benefit consistent with statutory changes; to revise the process for unforeseeable emergency distributions; and to repeal obsolete language and provisions; 47 SDR 100, March 15, 2021.
4-6-2021	Department of Social Services: Amend rules to clarify that services, procedures, and drugs granted an emergency use authorization are not necessarily excluded from coverage on the basis of South Dakota Medicaid's non-coverage of experimental services, procedures, and drugs; 47 SDR 100, March 15, 2021.
4-16-2021	Department of Agriculture: Amend rules to allow for an external embargo on regulated articles originating outside of South Dakota's border, giving the Department of Agriculture the authority to regulate those articles in the same manner as the current emerald ash borer quarantine within South Dakota; 47 SDR 103, March 29, 2021.
4-21-2021	Law Enforcement Officers Standards and Training Commission (Office of the Attorney General): Amend rules to require that a hiring agency conduct an adequate background investigation for officers and 911 telecommunicators, and that the commission is notified when an officer ceases employment with a law enforcement agency; require at least 2 hours of response-to-resistance training for law enforcement officers to meet their continuing educational requirements and provide that an officer who fails to maintain all required continuing educational requirements will have their certification become inactive; require the executive secretary to place on a national decertification index the officer's name in the case of a revocation or suspension of the officer's certification and that the investigation into allegations of misconduct will continue even if an officer consents to decertification; amend the definition of "moral turpitude" to refer to the statutory definition for

	officers and 911 telecommunicators; require officers and 911 communicators to cooperate with investigations, disclose arrests, intervene in situations when another officer is subjecting a person to excessive force, and prohibit the use of marijuana or controlled substances; amend the procedures for filing a complaint against law enforcement officers or 911 communicators; and strike unneeded language from the rule regarding the burden of proof at a hearing on a complaint against law enforcement officers and 911 telecommunicators; 47 SDR 103, March 29, 2021.
4-22-2021	South Dakota Lottery (Department of Revenue) : Amend rules to adopt official game rules that are set and adopted by the Multi-State Lottery Association and New England Lotteries for Powerball, Mega Millions, Lucky for Life, and Lotto America; 47 SDR 103, March 29, 2021.

RULES REVIEW COMMITTEE MEETINGS

The first meeting of the Interim Rules Review Committee for the 2021 Interim is Tuesday, April 6, 2021, at 10:00 a.m. via electronic conference and in Room 414 of the Capitol. Future meetings for the 2021 Interim are scheduled for May 10, June 7, July 19, August 2, September 13, and November 1. Find notices of 2021 meetings in this publication, on the [LRC website](#), and at the Capitol.

The Drafting Manual for Administrative Rules in South Dakota is available on the [Administrative Rules Manual page](#) of the LRC website and will be updated regularly to reflect changes in drafting styles and procedures.