

MINUTES

Rules Review Committee



Senator Jean Hunhoff, Chair
Representative Jon Hansen, Vice Chair

Four hundred twenty-first meeting
Tuesday, November 7, 2023

Room 414 – State Capitol
Pierre, South Dakota

The four hundred twenty-first meeting of the Interim Rules Review Committee (IRRC) was called to order by Senator Jean Hunhoff, Chair, at 7:59 a.m. (CT) on November 7, 2023, in Room 414 at the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members present: Senators Jean Hunhoff, Chair, Red Dawn Foster (remote), and Jim Mehlhaff; and Representatives Jon Hansen, Vice Chair, Roger DeGroot and Erin Healy (remote). Staff members present were Justin Goetz, Code Counsel; Kelly Thompson, Supervisor of Text Editing Services; and Hilary Carruthers, Legislative Systems Analyst.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. All referenced documents distributed at the meeting are hyperlinked to the document on the Legislative Research Council website. This meeting was live streamed. The archived live stream is available at sdlegislature.gov.

Approval of Minutes

Representative Hansen moved, seconded by Representative DeGroot, that the September 21, 2023, meeting minutes be approved. Motion prevailed on a roll call vote with 4 AYES and 2 EXCUSED. Voting AYE: DeGroot, Mehlhaff, Hansen, and Hunhoff. EXCUSED: Foster and Healy.

Rules Reviewed

Department of Health: Adopt and amend rules to:

- Update and clarify definitions related to medical cannabis;
- Review allowable amounts of cannabis product and scale certification for scales used to weigh and measure cannabis product;
- Define additives and terpenes in the manufacturing process;
- Clarify that all sales of cannabis and cannabis products must be in a certified medical cannabis dispensary;
- Clarify the definition of final form of cannabis prior to retail sale;
- Remove the exemption of pre-roll cannabis from testing requirements;
- Add expiration dates and use by dates to packaged cannabis product;
- Clarify use of inventory tracking system plant tags;
- Increase the establishment certification fee to reflect the inflationary increase allowed by statute; and
- Repeal the petition process for debilitating conditions.

Ms. Tamara Lee, Department of Health, reviewed the proposed rules which relate to the passage of [Senate Bill 1](#) by the 2023 South Dakota Legislature. Ms. Lee said the department met with stakeholders prior to submitting the rules for consideration. One rule was removed from the package as a result of that discussion and while several other rules were opposed by the industry, the department retained them in the interest of patient safety.

Public Testimony

Mr. Jeremiah M. Murphy, Cannabis Industry Association of South Dakota, testified as both a proponent and an opponent. His organization voiced strong support for proposed rule changes regarding allowable quantities of cannabis products and mandatory testing prior to retail sales of cannabis products as the changes are consistent with industry standards. Mr. Murphy expressed strong opposition to proposed rule 44:90:07:10 that would ban the use of certain additives in cannabis products. While he agreed that some additives are unsafe, others are neutral or have medical properties that would benefit patients. Mr. Murphy asked that the rule be reverted to a prior step so the industry could work with the department on the rule. The organization was also concerned about a proposed change to ARSD 44:90:09:07.01 that would exempt pre-rolls from the requirement that cannabis products be in final form, ready to be packaged, while awaiting passing results for all required sampling tests. Mr. Murphy asserted that the cannabis for the pre-roll was already tested, and an alternative of testing the paper separately was preferable to ensure safety without needing to test pre-rolls.

Mr. Tyler Koehne, KTTK LLC, Rapid City, spoke in opposition to 44:90:07:10, saying its adoption would create a landscape in which manufacturers would not be able to flavor their products as flavorings often contain terpenes, the use of which are banned in most forms under the proposed rule. Mr. Koehne explained that terpenes are the aromatic compounds that create flavor and smell in cannabis products and that as he understands the rule, both botanically derived terpenes and synthetically derived terpenes will be banned, leaving only cannabis-derived terpenes.

Mr. Ned Horsted, 605 Cannabis, Worthing, voiced his opposition to the additive rule for the same reasons noted by previous opponents. He also said that the proposed rule did not define trace amounts which could be present in cannabis products because of processing, packaging, shipping, or storing.

Rebuttal

Ms. Lee clarified that the proposed rule regarding additives does not prevent the use of naturally derived additives if they come from the cannabis plant itself. In response to Mr. Murphy's opposition to 44:90:09:07.01, she stated the department is concerned that the paper used in pre-roll products may contain heavy metals and pesticides, making them potentially hazardous to patients when used.

Representative Hansen asked for clarification on whether non-cannabis-derived terpenes are allowable under proposed rule 44:90:07:10. Ms. Lee responded that the natural terpenes contained in cannabis are allowed but synthetic or artificial terpenes are prohibited.

Representative Hansen inquired as to why the proposed increases in tetrahydrocannabinol (THC) content are necessary and how the change would impact the health benefits provided by cannabis products. Ms. Lee said the change will bring South Dakota's content levels closer to the industry standard, that the industry wanted a higher standards and this was therefore a compromise, and that how much and what type of products provide the most health benefits to a patient are determined by the patient and their doctor.

Senator Mehlhaff asked if the papers used in pre-roll cannabis products can be approved for use without testing. Ms. Lee replied that doing so could result in a revolving list of acceptable products in which first the paper was deemed safe then was found to be unsafe. She said the department determined it was more prudent to test the product before it gets to the patient, as the heavy metal content of papers can vary even within the package.

Senator Hunhoff requested a definition of pre-roll and explanation of what type of cannabis products use tinctures. Mr. Koehne explained that pre-rolls are cannabis products available for purchase with the cannabis already

wrapped in rolling paper, essentially ready for use, and that tinctures are used in products that are consumed such as edibles like fruit-flavored THC gummies.

Representative DeGroot asked how the proposed rule on additives affects the flavors of cannabis products. Mr. Koehne said passage of the rule would mean only cannabis-flavored products could be produced. Responding to Representative DeGroot on whether if that was true, why the department was making it illegal to use additives, Ms. Lee stated that studies show additives can be potentially harmful to consumers and the department proposed the rule in the interest of patient health and safety, specifically citing a white paper from Oregon that talks about non-cannabis additives added to inhalable cannabis products were harmful to the lungs. When asked by Representative DeGroot for further comment, Mr. Koehne said the distinction should be made as to whether the additive ban is directed towards inhaled or ingested flavors which is why the proposed rule should be reverted for further discussion.

Senator Hunhoff requested a definition of inhalable cannabis products and asked whether such products are tasteless without flavorings. Ms. Lee said inhalable products are those that are smoked or vaped. Senator Hunhoff further inquired as to whether medical cannabis' taste was offensive and it needed to be flavored like some medicines. Mr. Koehne noted that different strains of cannabis have their own natural flavor, but most patients are accustomed to having that natural flavor masked by an added flavor.

Representative DeGroot asked what happens to the rest of the rules package if specific rules are reverted. Senator Hunhoff explained that the committee can revert specific rules while approving the remaining rules in the package.

Senator Mehlhaff moved, seconded by Representative DeGroot, that rule 44:90:09:07.01 as proposed by the Department of Health be reverted to a step prior under SDCL 1-26-4.7. Motion prevailed on a roll call vote with 4 AYES, 1 NAY, and 1 EXCUSED. Voting AYE: DeGroot, Foster, Mehlhaff, and Hunhoff. Voting NAY: Hansen. EXCUSED: Healy.

Senator Mehlhaff moved, seconded by Representative Hansen, that rule 44:90:07:10 as proposed by the Department of Health be reverted to a step prior under SDCL 1-26-4.7. Motion prevailed on a roll call vote with 5 AYES and 1 EXCUSED. Voting AYE: DeGroot, Foster, Mehlhaff, Hansen, and Hunhoff. EXCUSED: Healy.

Senator Mehlhaff moved, seconded by Representative DeGroot, that the review of the remaining rules proposed by the Department of Health is complete. Motion prevailed on a roll call vote with 5 AYES and 1 EXCUSED. Voting AYE: DeGroot, Foster, Mehlhaff, Hansen, and Hunhoff. EXCUSED: Healy.

Department of Health: Adopt and amend rules to:

- Update and clarify the minimum regulations related to operation, physical environment, fire protection, management and administration, physician services, nursing and related care services, dietetic services, medication control, medical record services, hospital diagnostic services, hospital complimentary services, long-term care supportive services, construction standards, additional hospital standards, and swing bed patients' rights necessary for hospitals, specialized hospitals, critical access hospitals, and rural emergency hospitals to maintain the health and safety of patients receiving services in these facilities; and
- Add rural emergency hospitals to ARSD article [44:75](#), as authorized by [House Bill 1123](#) during the 2022 legislative session, to outline the minimum regulations necessary to operate a rural emergency hospital.

Ms. Cassie Deffenbaugh and Ms. Jean Koch, Department of Health, reviewed the proposed rules, noting that it has been several years since the rules regarding minimum regulations have been updated and that rural emergency hospitals are a new provider type for critical access hospitals following the passage of [House Bill 1123](#) in 2022. At the prompting of Senator Hunhoff, it was explained that the rural emergency hospital designation is a subtype of critical access hospital that are emergency hospitals without acute care facilities. No patients can stay over a twenty-

four-hour period. The hospital can have outpatient services such as therapy, same-day surgical services, and wound care services but cannot have any inpatients.

Senator Hunhoff asked if any facilities have expressed an interest in becoming rural emergency hospitals. Ms. Koch responded that while no providers have yet shown strong interest due to the potential impact to their communities, the department will continue to work on refining the requirements to make it a more feasible option for providers.

Responding to Senator Hunhoff as to why the department brought House Bill 1123 for consideration, Ms. Deffenbaugh replied that the department works with the Centers for Medicare and Medicaid Services to certify facilities and has the responsibility to license them so adding the provider type was necessary in the event that providers were interested.

Representative Hansen moved, seconded by Senator Mehlhaff, that the review of the rules proposed by the Department of Health is complete. Motion prevailed on a roll call vote with 5 AYES and 1 EXCUSED. Voting AYE: DeGroot, Foster, Mehlhaff, Hansen, and Hunhoff. EXCUSED: Healy.

South Dakota Board of Nursing (Department of Health): Adopt and amend rules to:

- Revise and modernize the RN and LPN scope and standards of practice to be consistent with practice statutes in SDCL [36-9-3](#) and [36-9-4](#) and national standards of practice;
- Update definitions and terms used;
- Clarify supervision requirements of the LPN;
- Update and modernize the IV therapy tasks an LPN may perform, including the administration of blood components, after obtaining additional education and training; and
- Update tasks and IV medications an LPN may not perform or administer.

Ms. Linda Young, South Dakota Board of Nursing, reviewed the proposed rules, noting that many of the rules had not been updated for twenty-five years.

Senator Hunhoff told the committee members that she had spoken to Ms. Young about the new roles the rules would create for licensed practical nurses (LPNs) and, based upon that conversation, she supports the proposed changes and will hold the facilities accountable for ensuring the LPNs have the training and support they need to fulfill the new duties.

Representative DeGroot moved, seconded by Representative Hansen, that the review of the rules proposed by the South Dakota Board of Nursing (Department of Health) is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

South Dakota Board of Nursing Facility Administrators (Department of Health): Adopt and amend rules to complete a fee update that was originally scheduled in 2020 and delayed due to the pandemic and update statutory references.

Ms. Brittany Novotny, South Dakota Board of Nursing Facility Administrators, reviewed the proposed rules and told members that the industry supports the fee adjustment.

Representative Hansen moved, seconded by Senator Mehlhaff, that the review of the rules proposed by the South Dakota Board of Nursing Facility Administrators (Department of Health) is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

South Dakota Board of Physical Therapy (Department of Health): Adopt and amend rules to:

- Update the application and license renewal fee to accommodate biennial licensure;
- Update the code of ethics for physical therapists;
- Adopt a code of ethics for physical therapist assistants;
- Update the hours of continuing education required for license renewal to accommodate biennial licensure; and
- Update references to the Board of Physical Therapy.

Ms. Brooke Tellinghuisen Geddes and Mr. Howard Pallotta, South Dakota Board of Physical Therapy, reviewed the proposed rules.

Representative Hansen asked how the proposed code of ethics differs from the current version. Ms. Tellinghuisen Geddes replied that the code of ethics for physical therapists will be updated from the 2010 version to the 2020 edition. There is currently no code of ethics for physical therapist assistants, which this rule now adds.

Senator Hunhoff inquired as to whose code of ethics would be adopted if the rules are approved. Ms. Tellinghuisen Geddes confirmed it would be the 2020 edition of the code of ethics promoted by the American Physical Therapy Association.

Representative Hansen moved, seconded by Representative DeGroot, that the review of the rules proposed by the South Dakota Board of Physical Therapy (Department of Health) is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

Department of Human Services: Adopt, amend, and repeal rules to:

- Add regulatory definitions for the terms "abuse," "exploitation," and "neglect;"
- Revise criteria for imposing probation on certain providers;
- Specify that providers must afford all participants their rights;
- Specify providers may not allow or condone abuse, neglect, or exploitation;
- Update appeal provisions when services are terminated by a provider;
- Update definitions concerning Family Support Waiver Services;
- Clarify hiring responsibilities under the agency with choice model;
- Add new language concerning the common-law employer model;
- Add specialized therapies as a service covered under the Family Support Waiver;
- Repeal review of a qualified provider;
- Update notice requirements for when an intermediate care facility terminates services; and
- Repeal certain registration requirements for interpreters and amend a cross-reference.

Ms. Jenna Howell, Department of Human Services, reviewed the proposed rules which were prompted by the passage of [Senate Bills 9](#) and [10](#) during the 2023 Legislative Session.

Public Testimony

Mr. Dan Cross, Community Support Providers of South Dakota (CSP), provided written testimony ([Document 1](#)) and spoke in opposition to proposed changes concerning the definitions of abuse and neglect ([ARSD 46:11:01:01](#)), the threshold for determining and from whose perspective the determination is made for revocation of license or probation ([ARSD 46:11:02:12](#) and [46:11:02:14](#)), and the termination of waiver services ([ARSD 46:11:08:05](#)). As community support providers are mandatory reporters for abuse and neglect, there is concern over from whose perspective the interpretations are made. Mr. Cross acknowledged that the Department of Human Services had

worked with stakeholders on the rules but stated a solution is needed regarding termination of services and the rule should be reverted to give both sides the opportunity to work together towards finding that solution.

Mr. Steve Watkins, LifeScape, provided written testimony ([Document 2](#)) and testified in opposition to the proposed changes to 46:11:08:05. Mr. Watkins told committee members that people with developmental disabilities require medically complex support by staff that is capable of providing a high level of care, and providers should not be forced to provide ongoing care for people who need a higher level of care than an organization can provide while awaiting a final determination on termination of services. In some cases, providers are subject to workplace violence and are injured by a patient while providing care to that patient, which brings enforcement actions against the providers from the Occupational Safety and Health Administration (OSHA). Mr. Watkins requested that the rule be reverted for further discussion.

Mr. Brad Saathoff, Black Hills Works, stated his organization is opposed to the changes to 46:11:08:05 and he provided written testimony detailing their concerns ([Document 3](#)). While providers have an obligation to serve their patients, they also have an obligation to protect their workforce. Mr. Saathoff stated that OSHA was also involved in his organization and he requested the rule be reverted.

Ms. Jennifer Gray, Aspire, echoed the opposition of the previous testifiers and cited examples of workplace violence involving her providers and OSHA's involvement. She also provided written testimony ([Document 4](#)) to the committee.

Written testimony in opposition was submitted by **Ms. Mackenzie Yost, RHD SD Shared Living** ([Document 5](#)) who did not testify in person.

Rebuttal

In regard to the definition of abuse and neglect, Ms. Howell stated the definitions are the same as those used by the Department of Health.

Representative Hansen said the definitions set a fairly high bar and he asked Mr. Cross how he would prefer them to read if not the language used by the department. Mr. Cross responded that a list may not be necessary but rather descriptors that could be used by those individuals having to perform the investigations.

Senator Hunhoff asked what constitutes substantial evidence and whether investigations have been performed that were contradictory. Mr. Cross explained that CSP had conducted an investigation during which no evidence was found to support the abuse allegation but the subsequent investigation by the Department of Human Services ruled that such evidence existed. He said such conflicting rulings can cause additional confusion in situations involving emotional issues like abuse, neglect, and exploitation.

Senator Hunhoff requested an explanation of how the complaint process works. **Ms. Jaze Sollars, Department of Human Services**, said an initial verbal report is made by the employee to the community service provider followed by a written report. The provider reports the incident to the department who investigates the complaint using guidelines provided by the Centers for Medicare and Medicaid Services. A final report is submitted following the investigation. Ms. Sollars reported that of the six hundred to seven hundred allegations reported annually, about three hundred are substantiated instances, with ten to twenty investigations by the Division annually.

Representative Hansen inquired about the current working definitions of abuse and neglect. Ms. Sollars responded that current rules reference the definitions used in statute and the proposed definition is one that is already established with the Department of Health.

Senator Mehlhaff asked if the current process for termination of services is open-ended until a final ruling is made. Mr. Cross replied yes, acknowledging that the department did make changes to the rule that were supported by his organization but what the opposition is really seeking is an actual end date for when services could be terminated. Senator Hunhoff wanted to know the department's rationale for the timeframe. Ms. Howell said while other options have not been discussed, if the patient is so medically ill that the situation is a matter of life or death, they would be taken to a hospital. In the case of a behavioral issue, the individual would go to a provider better equipped to provide services. If it is necessary to move the person, the department cannot guarantee placement with a private provider. What is at issue here is a long-term disability placement, and those are not available immediately. Out-of-state placements are an option if no appropriate services can be found in state.

Representative Healy asked if CSP offered the department any suggestions and, if so, were they incorporated. Mr. Cross confirmed suggestions were offered to the termination of services rule – that under exigent circumstances that could jeopardize health or life, services may be terminated within five days -- but they did not appear in the rules for consideration.

In answer to an inquiry by Representative Healy regarding an OSHA investigation at LifeScape, Mr. Watkins responded that the incidents involved children and adults causing multiple injuries to staff. Best practices are still being developed, among them the use of helmets and Kevlar arm guards to protect against bites, and LifeScape is working with Dakota State University on technologies that could protect workers.

Senator Mehlhaff asked what happens to the patient if services are terminated. Ms. Howell said a timeline is in place that allows participants to appeal and work with their case manager to find alternative placement. Appeals generally last ninety days. Under state law, guardians are not required to provide subsistence care or lodging to an individual; that responsibility would revert to whomever is willing to provide the assistance.

Representative DeGroot wondered if a facility had to maintain an unmanageable client until a hearing is held. Ms. Howell said yes. If it is an emergency situation, it can be addressed through emergency services but if it is not an emergency, the provider must continue to provide services to the individual. Ms. Howell noted that generally these situations do not arise overnight.

The opposition was asked to comment on the availability of emergency care. Mr. Watkins noted that while LifeScape has both Avera Health and Sanford Health in Sioux Falls, both providers have declined to take people in crisis, citing that emergency services for their care are not available. Mr. Watkins clarified that of the 3,500 persons supported, there have been seven discharges for people who cannot be provided the services they need at LifeScape. Mr. Saathoff said Monument Health in Rapid City is also reluctant to provide care, telling his organization that patients are exceeding Monument's capacity to care for them.

Senator Hunhoff commented that a lack of options for where to send patients has long been a problem in South Dakota and it may be necessary to look at some different levels for crisis intervention.

Representative Hansen moved, seconded by Representative DeGroot, that rule 46:11:08:05 as proposed by the Department of Human Services be reverted to a step prior under SDCL 1-26-4.7. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

Senator Mehlhaff moved, seconded by Representative Hansen, that the review of the remaining rules proposed by the Department of Human Services is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

[South Dakota State Board of Dentistry \(Department of Health\)](#): Amend rules to update license, registration, and permit fees that have not been updated since 2012.

Ms. Brittany Novotny, South Dakota State Board of Dentistry, reviewed the proposed rules.

Senator Hunhoff moved, seconded by Representative DeGroot, that the review of the rules proposed by the South Dakota State Board of Dentistry (Department of Health) is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

[Department of Social Services](#): Amend and adopt rules to:

- Update citations;
- Update procedure codes that are reimbursed at a percent of the provider's usual and customary charge and included on the applicable fee schedule;
- Clarify coverage for the removal of implanted contraceptives;
- Clarify coverage for routine foot care services for those diagnosed with metabolic, neurologic, or peripheral vascular diseases;
- Update personal care assessment frequency and the information reviewed;
- Clarify reasons for discontinuation of personal care services;
- Remove the certificate of medical necessity requirement to align with Medicare;
- Increase the timeliness of access to breast pumps by updating billing provisions;
- Update treatment plan timing to coordinate with the mental health chapter and current practice;
- Clarify and detail the specialized therapy services that are covered under the Family Support 360 waiver program and update the applicable procedure codes for billing those services; and
- Remove repealed rule references.

Mr. Jeremy Lippert, Department of Social Services, reviewed the proposed rules.

Senator Hunhoff asked why personal adjustments and economic resources were being eliminated from needs assessments. Mr. Lippert explained that the proposed change impacts the state plan and not the HOPE waiver.

In response to a question from Senator Hunhoff regarding denial of services to participants, Mr. Lippert requested that **Ms. Jenna Howell, Department of Human Services**, be allowed to comment as well as the Department of Social Services and Department of Human Services are working together to ensure the administrative rules align. Ms. Howell responded to Senator Hunhoff that stricken language from that proposed rule was incorporated elsewhere in the packet.

Senator Hunhoff requested an explanation of the process for justifying medical necessity. **Mr. Matthew Ballard, Department of Social Services**, said the proposed rule change will provide guidance regarding when and how documentation of medical necessity should be updated and maintained.

Senator Hunhoff asked about the length of coverage for specialized therapy. **Ms. Jaze Sollars, Department of Human Services**, replied that the annual allotment is fifteen-hundred dollars and refreshes every plan year with the caps being in the Factor 360 waiver.

Senator Hunhoff moved, seconded by Senator Mehlhaff, that the review of the rules proposed by the Department of Social Services is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

Department of Social Services: Adopt and amend rules to replace the term "division" with "department" throughout most of ARSD articles 67:61 and 67:62 to coincide with the transition of the accreditation and licensing of providers or agencies to the newly formed Office of Licensing and Accreditation within the Department of Social Services.

Mr. Jeremy Lippert, Department of Social Services, reviewed the proposed rules which reflect the relocation of administrative duties for behavioral health licensing and accreditation in the department.

Public Testimony

Mr. Terry Dosch, South Dakota Council of Community Behavioral Health, spoke in support of the bulk of the rules, which reinforce a new system of care model that is being employed to assist providers in the development of navigational services in schools and facilities. Mr. Dosch said employing system of care coordinators is a benefit to the facilities and the updates to the rules respect the changes being made through that model.

Senator Hunhoff asked about the skill set needed for system of care coordinators, now that care coordinators need only have a high school diploma. Mr. Dosch explained that the coordinators are lay people, not licensed counselors or social workers, who have personal experience with the system and services available. The model also utilizes clinical case managers who have bachelor's degrees.

Senator Hunhoff moved, seconded by Senator Mehlhaff, that the review of the rules proposed by the Department of Social Services is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

Department of Game, Fish and Parks: Adopt, amend, and repeal rules to:

- Restrict the number of applications a person may submit during certain draws for Prairie Spring Turkey, Fall Turkey, and Prairie Antelope;
- Consolidate in administrative rule the costs of resident hoop net, trap, and setline licenses with other license fees;
- Permit invasive carps and rough fish to be taken with dip nets;
- Clarify the term, resident, in a rule authorizing landowners to perform fisheries management activities;
- Establish a catch-and-release lake sturgeon season on Big Stone Lake;
- Modify the number of resident paddlefish tags on Lake Francis Case;
- Repeal a rule that establishes hoop net and trap license fees in order to move the fees into another administrative rule;
- Clarify the number of floatlines that may be fished under a setline license;
- Clarify what methods may be used to take bait species; and
- Specify the methods for harvesting bait.

Mr. Tom Kirschenmann, Department of Game, Fish and Parks, reviewed the proposed rules, noting that additional language needs to be added to ARSD 41:09:04:04 and, if the rules are approved, would be added to the final rules that will be filed with the Office of the Secretary of State.

Senator Mehlhaff moved, seconded by Senator Hunhoff, that the review of the rules proposed by the Department of Game, Fish and Parks is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

Department of Game, Fish and Parks: Amend and repeal rules to:

- Consolidate all park entrance license exemptions into one rule;
- Modify park entrance license exemptions and repeal the rule in its entirety; and
- Adjust license allocations that are issued in the Hunt for Habitat drawing.

Mr. Tom Kirschenmann, Department of Game, Fish and Parks, reviewed the proposed rules.

Senator Foster asked how the removal of free entry into state parks on Mother's Day and Father's Day would impact local economies. **Mr. Al Nedved, Department of Game, Fish and Parks,** acknowledged that the practice did benefit communities near state parks, but it is difficult to quantify to what extent those areas were impacted. In making the decision to remove free entry on those holidays, the department looked at how the dates fell on the calendar in relation to other free entry weekends, such as the annual Open House weekend, and determined that three free entry weekends within a five-week period was not feasible, while one weekend in which the department could focus its efforts would be best.

Senator Hunhoff inquired about what elk licenses are included in the Hunt for Habitat drawing. Mr. Kirschenmann said the program includes "any elk" tags (mostly bulls) and "antlerless elk" tags (mainly cows), and that the number of elk licenses in this proposal are the same as currently available.

Senator Hunhoff moved, seconded by Representative Hansen, that the review of the rules proposed by the Department of Game, Fish and Parks is complete. Motion prevailed on a roll call vote with 5 AYES and 1 EXCUSED. Voting AYE: DeGroot, Foster, Mehlhaff, Hansen, and Hunhoff. EXCUSED: Healy.

Department of Transportation: Amend a rule to change the speed limit on State Trunk Highway 50 in and around Yankton.

Mr. Dustin DeBoer, Department of Transportation, reviewed the proposed rules which are supported by the South Dakota Highway Patrol and local law enforcement.

Senator Mehlhaff moved, seconded by Representative Hansen, that the review of the rules proposed by the Department of Transportation is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

State Board of Elections (Office of the Secretary of State): Adopt rules to:

- Define terms related to post-election audits;
- Prescribe the form to be used for the notice of appointment of post-election auditing boards;
- Require members of such boards to sign an oath of office;
- Require the county auditor to provide administrative support and staff for post-election auditing boards;
- Prescribe the form to be used for the board's receipt for the official ballots;
- Specify the process for a public vote count including the opening of ballot receptacles and containers, hand-counting ballots, and tallying the audit vote count;
- Prescribe the form to be used to certify the results of a post-election audit;
- Define the procedure for placing post-election audit voted ballots in a ballot receptacle or container;
- Prescribe the form to be used for the seal to be placed on a ballot receptacle or container; and
- Define the process for reimbursement of post-election audit costs.

Mr. Tom Deadrick, Office of the Secretary of State, reviewed the proposed rules which are the result of the passage of [Senate Bill 160](#) by the 2023 South Dakota Legislature.

Public Testimony

Ms. Sheri Lund, Auditor, Lincoln County, testified in support of the rules, saying passage of the rules today would give ample time to provide post-election audit training before the process goes into effect in June. Other county auditors appearing as proponents and echoing Ms. Lund's comments were **Ms. Jill Hansen, Beadle County; Ms. Jackie Sieverding, Union County; Mr. Thomas Oliva, Hughes County; Ms. Jamalia Franzen, Dewey County; Ms. Brenda McGruder, Lawrence County; and Ms. Lindley Howard, McPherson County.**

Mr. Rick Weibe, self, spoke in opposition, citing the following issues: lack of clarification as to what constitutes an overvote; timeline, notification, and posting issues with the notice of appointment for post-election auditing boards; proposed oath for post-election auditing board members is represented as a template, not a form; and no guidelines for ensuring that the board has party balance so all sides are represented. Mr. Weibe said the proposed rules need more work, despite being a good effort between the Office of the Secretary of State, county auditors, and election activists.

Rebuttal

Mr. Deadrick noted the law was followed in developing the proposed rules, which are based on the recount rules which have served South Dakota for many years. He said county auditors are comfortable with the rules package as presented, and it represents a good starting point for the process.

Ms. Howard, who is also a member of the State Board of Elections, added that some of the comments made by the opposition could be incorporated into best practices and training materials and do not necessarily need to be specified in administrative rule.

Representative Hansen asked Mr. Deadrick to comment on the process for appointing post-election audit boards in regard to the absence of specified timelines and posting guidelines. Mr. Deadrick responded that the timeline is specified in statute and notices will be posted in the same manner as other meeting notices.

Representative Hansen requested clarification on whose duty it is to place the counted ballots in the container – the county auditor or the post-election audit board – and in what form the certificate of post-election audit needs to be. He said statute and administrative rule contradict each other on these points. Mr. Deadrick responded that the auditor will be present, as well as the post-election audit board, when the counted ballots are sealed in the container, and that the actions of the post-election audit board in rule are effectively under the oversight of the auditor. He went on to state that the Board of Elections does not believe there is a discrepancy between law and rule but if the committee reverts the rules today, the board can return with revised rules in the 2024 Interim.

Senator Hunhoff asked Ms. Lund to explain the opposition received at the public hearing. Ms. Lund replied that there were some concerns over how the audit process would work, especially for the first time, but it was determined that after the counties had gone through the process once, changes could be made if necessary to work out any problems with its operation.

Representative Hansen asked where the notice of post-election audit board members would be published. Ms. Lund said publication of the notice will be handled in the same manner as other public meeting notices with posting on the county's public board and website.

Responding to Representative DeGroot on whether she felt comfortable that the counts will be accurate, and the law will be followed, Ms. Lund replied yes. She noted that Lincoln County goes through a recount for almost every election, and this is simply a manual version of what a machine does during a recount.

Representative Hansen inquired as to whether reverting proposed rules 05:02:23:13 and 05:02:23:14 to a prior step would cause problems for the upcoming primary election. Mr. Deadrick responded that it is still his belief that there is no contradiction between law and rule but perhaps the rules could be fixed prior to the election.

Senator Mehlhaff commented that as the county auditors put a lot of effort into the rules, they should have the opportunity to run through the process once and work out any resulting glitches through statute or rule.

Representative Hansen said he appreciated the work that went into the proposed rules but acknowledged that it can be difficult to develop these types of processes on the first try, adding that he felt the two rules should be reverted to be faithful to statute and the board could bring back an improved version in April so they could be heard and approved prior to the election.

Senator Hunhoff asked **Code Counsel Justin Goetz** if there is a conflict between statute and rule regarding the role of the county auditor in the post-election audit process, can the committee revert the rules. Mr. Goetz said one of the grounds for reversion is if the rule does not conform to the intent of the Legislature in passing the law and another is where the rule is not a valid exercise of delegated legislative authority.

Representative Hansen moved, seconded by Representative Healy, that rules 05:02:23:13 and 05:02:23:14 as proposed by the State Board of Elections (Office of the Secretary of State) be reverted to a step prior under SDCL 1-26-4.7. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

Representative Hansen moved, seconded by Senator Mehlhaff, that the review of the remaining rules proposed by the State Board of Elections (Office of the Secretary of State) is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

State Board of Elections (Office of the Secretary of State): Amend and adopt rules to:

- Prescribe the form to be used for the acknowledgement notice for invalid or incomplete voter registration applications;
- Provide instructions for voters using optical scan ballots and those voting absentee;
- Define the process for absentee voting at a nursing facility, assisted living center, or hospital; and
- Clarify the procedure for securing ballot boxes.

Mr. Tom Deadrick, Office of the Secretary of State, reviewed the proposed rules.

Public Testimony

Ms. Sheri Lund, Auditor, Lincoln County, voiced her support for the rules, saying that many of the rules reflect the best practices already being utilized by the counties. Other county auditors appearing as proponents and echoing Ms. Lund's comments were **Ms. Jill Hansen, Beadle County; Ms. Jackie Sieverding, Union County; Mr. Thomas Oliva, Hughes County; Ms. Jamalia Franzen, Dewey County; Ms. Brenda McGruder, Lawrence County; and Ms. Lindley Howard, McPherson County.**

Mr. Rick Weibe, self, testified as an opponent, recommending that the reasons why an application was rejected should be added to the notice for invalid or incomplete voter registration application with checkboxes the auditors could use to denote the reason; that an explanation should be provided as to why certain pens cannot be used to mark a ballot; and that padlocks should be used in conjunction with the seal for ballot boxes.

Rebuttal

Mr. Deadrick stated there are only a handful of reasons why an application gets rejected and the auditors do note that already by writing it on the application. He went on to say that county auditors know what they are doing with the registration process, nursing home absentee voting process, and ballot boxes, and there is no reason why the rules need to explain those duties in more depth than they do currently.

Senator Hunhoff asked if courthouses still provide pens to voters who come to the courthouse to vote. Ms. Lund and Ms. Sieverding confirmed that it is a common practice among the counties.

Senator Hunhoff requested an explanation of the voting process for residents of nursing homes. Ms. Lund explained that the county auditor or a member of the auditor's staff takes a sealed bag of ballots to the nursing home and the residents will either assemble in a common area to vote or the auditor will take a ballot to an individual's room and help them to vote, if needed. Either the auditor or a member of their staff is always present when a resident is voting. Ms. Lund said the goal is to give nursing home residents the same voting experience as a person would get while voting at the auditor's office.

Representative Healy asked what the concern is over the use of pencils or different ink colors when voting. Ms. Sieverding replied that initially, pencils were used but problems could arise when people would attempt to erase their vote. Black or blue ink reads most effectively through the machine while gel and felt tip pens may bleed through the ballot. Ms. Sieverding confirmed for Representative Healy that ballots that do not use black or blue ink are still retained and considered valid.

Representative Hansen inquired as to whether a ballot receptacle must be located in the county auditor's office and be visible to both the public and staff at all times. Ms. McGruder said for county offices that use such receptacles, it must be visible to the public and the staff must be able to view it in person and via camera within the office, and then collect the ballots and lock them in a secure location daily.

Representative DeGroot moved, seconded by Senator Mehlhaff, that the review of the rules proposed by the State Board of Elections (Office of the Secretary of State) is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

[South Dakota Board of Accountancy \(Department of Labor and Regulation\)](#): Adopt and amend rules to update education measurements and accrediting agency names and expand the qualifying period to pass the Uniform CPA exam.

Ms. Nicole Kasin, South Dakota Board of Accountancy, reviewed the proposed rules.

Representative Hansen moved, seconded by Senator Mehlhaff, that the review of the rules proposed by the South Dakota Board of Accountancy (Department of Labor and Regulation) is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

[South Dakota Board of Education Standards \(Department of Education\)](#): Adopt a rule to require all school districts to uniformly transcribe postsecondary credits onto a student's high school transcript.

Ms. Amanda LaCroix and Ms. Laura Scheibe, Department of Education, reviewed the proposed rule, which was prompted by the passage of [Senate Bill 182](#) by the 2023 South Dakota Legislature. Ms. Scheibe told committee members that a committee of ten school districts was formed to review the options for the transcription of high school credits and that a majority of districts agreed to the process outlined in the rule.

Public Testimony

Mr. Bert Falak, Northeast Technical High School, testified as an opponent, saying the proposed rule was written for the corporate structure of schools and not for the best interest of students as it decreases the amount of high school credit obtainable for a dual credit course. Mr. Falak noted that most schools agreed with the best practices that were presented in May, which are not reflected in the rule. He said the rule does not provide a uniform method for calculating credits by not treating condensed and non-condensed courses the same, and discriminates against students who reside in districts that utilize a block schedule.

Mr. Jeff Danielsen, Superintendent, Watertown School District, spoke in opposition to the rule. According to Mr. Danielsen, the rule will impact students who have already planned out their senior year for credits and disrupt the number of credits they expect to receive. His district, which is affiliated with Northeast Technical High School and has oversight of Lake Area Technical College, uses a 4x4 block schedule. With a 4x4 block schedule, students can take four courses per semester for a total of eight courses per year instead of seven.

Rebuttal

Ms. Scheibe stated when school districts were polled, about half of the districts in South Dakota award a half credit versus a full credit, and the board knew whichever method was chosen, half of the districts in the state would be opposed to the decision.

Representative DeGroot asked what advice the board and the department would give to districts like Aberdeen and Watertown that run a 4x4 block schedule. Ms. Scheibe responded that the rule meets the statutory requirement to devise a uniform method for credits and it is up to each district as to how to meet the barriers raised by this method.

Senator Hunhoff asked why Senate 182 was brought before the legislature. Ms. Scheibe said constituents were not happy with the current method, claiming it hampered some students. The original proposal was a full credit for three credits of post-secondary study, but public comment was against that proposal.

Senator Foster inquired as to what the concern was against full credits. Ms. Scheibe replied that districts primarily wanted a half credit instead of a full credit or else have the decision left up to the local district itself but there were concerns about students graduating early or opting out of taking classes from local teachers.

Representative DeGroot noted that sometimes the legislature makes mistakes, and, in this case, the issue should be sent back to the legislature for another review. He said he is concerned for superintendents who have to find a way to meet the requirements of the rule.

Senator Mehlhaff cited concerns he has heard from his district, especially regarding foreign language opportunities for credits and scholarships, and said the proposed rule is out of step with the best practices recommended by the Department of Education.

Representative Healy moved, seconded by Senator Hunhoff, that the rule proposed by the South Dakota Board of Education Standards (Department of Education) be reverted to a step prior under SDCL 1-26-4.7. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

Professional Teachers Practices and Standards Commission (Department of Education): Amend rules to clarify references to educators and add a requirement to the code of ethics for the reporting of violations of the code.

Ms. Amanda LaCroix and Dr. Joseph Graves, Department of Education, reviewed the proposed rules which are the result of the passage of [Senate Bill 39](#) by the 2023 South Dakota Legislature. Dr. Graves cited a lack of adherence to

the obligation of teachers to report violations to the code of ethics and the use of non-disclosure agreements that allow an educator to resign from one district and move to another without reports of prior bad behavior as reasons for the proposed rules.

Public Testimony

Mr. Jeremiah M. Murphy, South Dakota Education Association, testified in opposition to the rules and provided written testimony ([Document 6](#)) to the committee members. Mr. Murphy noted that in some cases, an educator may not report a violation because the violator is that individual's supervisor and reports of less serious violations should be made through the chain of command at the local level. He also questioned how anonymous reports could be investigated, saying his organization would be happy to work with the department on the issue although its ideas were rejected previously.

Mr. Jeff Danielsen, Superintendent, Watertown School District, expressed concern with the meaning of "knowledge" necessary to trigger the reporting obligation and with anonymous reports of violations, telling the committee that education can be an emotional profession and the rules do not contain a mechanism for handling false reports that could do irreparable harm. He said there is already a chain of command in the local process to handle complaints.

Ms. Paula McMahon, self, a teacher in the Elk Point Jefferson School District and former member of the Commission, spoke in opposition to the rules which she said many educators were unaware were being proposed, thus curtailing stakeholder input. Ms. McMahon commented that social media now plays a big role in spreading misinformation which could result in false reports. She also advocated reporting at the local level through the district's chain of command.

Mr. Gerry Kaufman, self, opposed the removal of "non-certified educator" from the definitions in ARSD 24:08:01:01 as the code of ethics would then no longer apply to district staff who are not certified educators, like cooks, bus drivers, teacher aides, and administrative staff. He also said the proposed rules do not make it clear when a report must be made and what the timeframe is before an individual would be in violation of the code for not reporting an incident.

Rebuttal

Ms. LaCroix stated the removal of the term "non-certified educator" is intended as clean-up as the term does not appear anywhere else in statute; that the code of ethics is similar to that used by other entities in South Dakota; and that non-disclosure agreements generally apply to resignation agreements. She agreed that the commission should determine whether a person failed to make a report when a report was warranted.

Representative DeGroot asked how the department knows about disclosures that are anonymous and what the consequences are for not reporting an incident. Dr. Graves responded that copies of anonymous reports have been sent to his office as part of non-formal complaints and the consequences for non-reporting are determined by the commission.

Responding to Representative DeGroot as to if the proposed rules mandate that a teacher break the chain of command at the local level, Dr. Graves said he disagreed and the mandatory reporting rule regarding child abuse and neglect is in statute and would not be viewed by a district as breaking the chain of command.

Representative DeGroot noted that grooming, child abuse, and harassment would be criminal offenses; he asked how the department justified putting them in the same category as an incident being reported that simply involves two teachers arguing, without any language prohibiting false reporting. Dr. Graves responded the code of ethics

acts as the list of behaviors that can be reported, and that instances of grooming may not reach the criminal, but only an ethical violation level. Ms. LaCroix went on to add that if a report comes in, it is investigated, and the commission determines if there is enough evidence to file a complaint. It has yet to be reviewed as to whether there should be a punishment for false reporting.

Senator Hunhoff asked if a notice of the commission's public hearing had been published. Ms. McMahon said to her knowledge, it had been published in three newspapers but suggested that formal invitations could have been extended to stakeholders. **Mr. Paul Bachand, Professional Teachers Practices and Standards Commission**, said the commission complied with the necessary notice requirements for the meeting.

Senator Hunhoff inquired as to whether there was concern over the range of complaints that could be filed. Mr. Bachand replied the commission had looked at all the ethical requirements for a teacher in developing the range.

Senator Mehlhaff requested a definition of an anonymous complaint. Ms. LaCroix explained that currently, complaints may be received by telephone or written communication, and that the identity of the complainant is not always clear. A general email address may be used in the complaint process and if the complainant requests to be anonymous, that request is honored to the extent it can be.

Representative Hansen asked if there is a problem with false reporting currently. Mr. Bachand replied that he could not recall an instance of a false report, like what one might find in law enforcement. Most of the complaints are from parents, which the commission has no jurisdiction to address.

Representative DeGroot asked when a teacher is notified that a complaint has been made against them. Mr. Bachand said a copy of the complaint is provided to the teacher who is then given the chance to respond; the process is conducted confidentially.

Senator Hunhoff commented that the definition of a profession includes a code of conduct under which an individual operates as a professional. In the case of teachers, parents put their kids in the trust of professionals. She said she understands there is a lot of fear about the ramifications. Senator Hunhoff indicated that she wanted the opponents' commitment to come together with the department to ensure that the code had a reporting provision as with other professions.

Senator Mehlhaff moved, seconded by Senator Hunhoff, that the review of the rules proposed by the Professional Teachers Practices and Standards Commission (Department of Education) is complete. Motion failed on a roll call vote with 3 AYES and 3 NAYS. Voting AYE: Mehlhaff, Hansen, and Hunhoff. Voting NAY: DeGroot, Foster, and Healy.

Representative Healy moved, seconded by Representative DeGroot, that the rules proposed by the Professional Teachers Practices and Standards Commission (Department of Education) be reverted to a step prior under SDCL 1-26-4.7. Motion prevailed on a roll call vote with 4 AYES and 2 NAYS. Voting AYE: DeGroot, Foster, Healy, and Hunhoff. Voting NAY: Mehlhaff and Hansen.

[Professional Administrators Practices and Standards Commission \(Department of Education\)](#): Amend a rule to add a requirement to the code of ethics for the reporting of violations to the code.

Ms. Amanda LaCroix, Department of Education, reviewed the proposed rules.

Public Testimony

Mr. Jeremiah M. Murphy, South Dakota Education Association, told the committee his opposition from the previous packet of rules also applied to this packet, that there was concern about the cost of time and money to the commission in processing complaints, and that his organization would be happy to work with the department to improve the complaint process.

Mr. Gerry Kaufman and Mr. Jeff Danielsen testified they were opposed to the proposed rules as presented for the same reasons as the previous set of rules.

Rebuttal

Dr. Graves thanked the committee for their time and consideration of the proposed rules.

Senator Mehlhaff asked Mr. Murphy, given his comment about the financial aspects of the complaint process, how many complaints he expects the commission will receive. Mr. Murphy responded that he could not estimate the potential number but under the proposed rules, any ethics violation, regardless of the severity, would now need to be reported to the commission instead of locally.

Senator Mehlhaff commented he did not believe an inordinate amount of complaints would be generated if the rules packet was passed today and that while administrators are well-trained and professional, there should still be some guardrails in place so parents and the public know they are being held to high standards.

Representative Hansen said if an administrator is considered the top of the chain of command at the local level, to whom would a complaint about an administrator be directed, if it were handled by the district. Representative DeGroot offered that it would likely go to the school board.

Senator Mehlhaff moved, seconded by Senator Hunhoff, that the review of the rules proposed by the Professional Administrators Practices and Standards Commission (Department of Education) is complete. Motion failed on a roll call vote with 3 AYES and 3 NAYS. Voting AYE: Mehlhaff, Hansen, and Hunhoff. Voting NAY: DeGroot, Foster, and Healy.

Representative DeGroot moved, seconded by Representative Healy, that the rules proposed by the Professional Administrators Practices and Standards Commission (Department of Education) be reverted to a step prior under SDCL 1-26-4.7. Motion prevailed on a roll call vote with 4 AYES and 2 NAYS. Voting AYE: DeGroot, Foster, Healy, and Hunhoff. Voting NAY: Mehlhaff and Hansen.

Law Enforcement Officers Standards and Training Commission (Office of the Attorney General): Adopt and amend rules to:

- Update and clarify minimum standards, training, and employment regulations for law enforcement officers and 911 telecommunicators;
- Correct certain statutory references and definitions;
- Provide provisions for refusal of school sentinel applications; and
- Expand law enforcement employment eligibility in limited cases, permitting certain technical college students who complete a state-recognized law enforcement program to be potentially eligible for employment prior to reaching age 21.

Ms. Kelly Marnette and Mr. Hank Prim, Office of the Attorney General, reviewed the proposed rules, some of which are designed to balance the needs of law enforcement agencies needing more applicants amid the current retention and recruitment crisis in the field.

Senator Hunhoff asked how individuals eighteen years of age could complete law enforcement training classes at technical colleges. Mr. Prim responded that if still in high school, the student could do so through a dual credit program. It is also possible for a student to graduate high school early and complete law enforcement training at a technical college when they are eighteen.

Responding to Senator Hunhoff as to whether other states allow eighteen-year-olds to serve as state troopers, Mr. Prim confirmed that most require the individual to be twenty-one years of age although there are some states surrounding South Dakota that do allow eighteen-year-olds to serve in that capacity.

Senator Hunhoff requested evidence that a person who is eighteen years of age has the maturity to make decisions in a stressful situation, as highway patrol troopers are often required to do. Mr. Prim said the determination as to whether an applicant of that age could handle the duties will be made on a case-by-case basis.

Senator Hunhoff said while she is not naïve to the workforce issues, she questions whether allowing eighteen-year-olds to fill these positions, even when judged on their abilities and maturity on a case-by-case basis, is the best solution.

Senator Mehlhaff agreed, noting that a person who is eighteen years of age does not have the brain development and reasoning skills to make good decisions in pressure situations.

Senator Hunhoff moved, seconded by Senator Mehlhaff, that rule 02:01:02:01.01 proposed by the Law Enforcement Officers Standards and Training Commission (Office of the Attorney General) be reverted to a step prior under SDCL 1-26-4.7. Motion prevailed on a roll call vote with 5 AYES and 1 NAY. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, and Hunhoff. Voting NAY: Hansen.

Senator Hunhoff moved, seconded by Representative DeGroot, that the review of the remaining rules proposed by the Office of the Attorney General is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

[South Dakota Division of Insurance \(Department of Labor and Regulation\)](#): Amend a rule to remove the \$25 filing fee paid by a consumer when seeking an external review of an adverse determination made by a health carrier.

Ms. Lisa Harmon, South Dakota Division of Insurance, reviewed the proposed rule.

Representative Hansen moved, seconded by Senator Hunhoff, that the review of the rules proposed by the South Dakota Division of Insurance (Department of Labor and Regulation) is complete. Motion prevailed on a roll call vote with 6 AYES. Voting AYE: DeGroot, Foster, Healy, Mehlhaff, Hansen, and Hunhoff.

Staff Report

Mr. Justin Goetz, Code Counsel, reported that one technical correction had been made to administrative rules since the September 21, 2023, meeting. He thanked the committee for the opportunity to serve them during the 2023 Interim.

Public Testimony: General Purposes

No public testimony unrelated to proposed rules was received.

Closing Comments

Senator Hunhoff thanked the committee members and LRC staff for their hard work during the 2023 Interim and said the committee will hold its organizational meeting for the 2024 Interim in March. At that time, the meeting schedule for the new interim will be decided and once posted on the LRC website, agencies should schedule their rules packets and public hearings accordingly.

Other committee members also offered their thanks to LRC staff and their fellow committee members for the work accomplished during the 2023 Interim.

Adjournment

Senator Mehlhaff moved, seconded by Representative Hansen, that the meeting be adjourned. Motion prevailed on a voice vote.

Chair Hunhoff adjourned the meeting at 4:36 p.m.