



2025 South Dakota Legislature

House Bill 1051

Introduced by: The Chair of the Committee on Judiciary at the request of the Interim Rules Review Committee

1 **An Act to update provisions on the interim legislative oversight of administrative**
 2 **rulemaking.**

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

4 **Section 1. That § 1-26-1 be AMENDED:**

5 **1-26-1.** Terms used in this chapter mean:

- 6 (1) "Agency," each association, authority, board, commission, committee, council,
 7 department, division, office, officer, task force, or other agent of the state vested
 8 with the authority to exercise any portion of the state's sovereignty. The term
 9 includes a home-rule municipality that has adopted its own administrative appeals
 10 process, whose final decisions, rulings, or actions rendered by that process are
 11 subject to judicial review pursuant to this chapter. The term does not include the
 12 Legislature, the Unified Judicial System, any unit of local government, or any
 13 agency under the jurisdiction of ~~such~~ these exempt departments and units unless
 14 the department, unit, or agency is specifically made subject to this chapter by
 15 statute;
- 16 (2) "Contested case," a proceeding, including rate-making and licensing, in which the
 17 legal rights, duties, or privileges of a party are required by law to be determined
 18 by an agency after an opportunity for hearing but the term does not include the
 19 proceedings relating to rule making other than rate-making, proceedings related
 20 to inmate disciplinary matters as defined in § 1-15-20, or student academic
 21 proceedings under the jurisdiction of the Board of Regents;
- 22 (3) ~~"Emergency rule," a temporary rule that is adopted without a hearing or which~~
 23 ~~becomes effective less than twenty days after filing with the secretary of state, or~~
 24 ~~both;~~
- 25 (4) "License," the whole or part of any agency permit, certificate, approval,
 26 registration, charter, or similar form of permission required by law;

- 1 ~~(5)~~(4) "Licensing," the agency process respecting the grant, denial, renewal, revocation,
 2 suspension, annulment, withdrawal, or amendment of a license;
- 3 ~~(6)~~(5) "Party," each person or agency named or admitted as a party, or properly seeking
 4 and entitled as of right to be admitted as a party;
- 5 ~~(7)~~(6) "Person," all political subdivisions and agencies of the state;
- 6 ~~(8)~~(7) "Rule," each agency statement of general applicability that implements, interprets,
 7 or prescribes law, policy, procedure, or practice requirements of any agency. The
 8 term includes the amendment or repeal of a prior rule, but does not include:
- 9 (a) Statements concerning only the internal management of an agency ~~and~~;
 10 (b) Statements not affecting private rights or procedure available to the public;
 11 ~~(b)~~(c) Declaratory rules issued pursuant to § 1-26-15;
 12 ~~(c)~~(d) Official opinions issued by the attorney general pursuant to § 1-11-1;
 13 ~~(d)~~(e) Executive orders issued by the Governor;
 14 ~~(e)~~(f) Student matters under the jurisdiction of the Board of Regents;
 15 ~~(f)~~(g) Actions of the ~~railroad board~~ Department of Transportation pursuant to § 1-
 16 44-28;
 17 ~~(g)~~(h) Inmate disciplinary matters as defined in § 1-15-20;
 18 ~~(h)~~(i) Internal control procedures adopted by the Gaming Commission pursuant
 19 to § 42-7B-25.1;
 20 ~~(i)~~(j) Policies governing specific state fair premiums, awards, entry, and exhibit
 21 requirements adopted by the ~~State Fair Commission~~ Department of
 22 Agriculture and Natural Resources pursuant to § 1-21-10; ~~and~~
 23 ~~(j)~~(k) Lending procedures and programs of the South Dakota Housing
 24 Development Authority; and
- 25 ~~(8A)~~ "Small business," a business entity that employs twenty five or fewer full-time
 26 employees.
- 27 ~~(9)~~(8) "Substantial evidence," such relevant and competent evidence as a reasonable
 28 mind might accept as being sufficiently adequate to support a conclusion.

29 **Section 2. That § 1-26-1.1 be AMENDED:**

30 **1-26-1.1.** There is ~~hereby~~ created a legislative committee of six members, no
 31 more than four of whom ~~shall~~ may be of the same political party, ~~which shall be~~
 32 as the Interim Rules Review Committee. The committee ~~shall be~~ is composed of three
 33 members of the Senate, to be appointed by the president pro tempore of the Senate, and
 34 three members of the House of Representatives, to be appointed by the speaker of the

1 House of Representatives ~~and no~~. No more than two senators and two representatives
 2 ~~shall may~~ be of the same political party. Members ~~shall must~~ be appointed prior to the
 3 adjournment of each regular session in odd-numbered years and shall serve for two-year
 4 terms ending at noon on the second Tuesday in January in each odd-numbered year;
 5 ~~however, members otherwise, a member~~ shall serve until ~~their successors are the~~
 6 member's successor is appointed or until the member ceases to be a member of the
 7 Legislature. Vacancies on the committee ~~shall must~~ be filled by the original appointing
 8 authority for the remainder of the term. ~~A vacancy shall exist whenever a committee~~
 9 ~~member ceases to be a member of the Legislature.~~

10 **Section 3. That § 1-26-1.2 be AMENDED:**

11 **1-26-1.2.** ~~The interim rules review committee~~ Interim Rules Review Committee
 12 shall choose a chair and a vice chair from its members and prescribe its rules of procedure.
 13 Meetings of the committee ~~shall be~~ are at the call of the chair or a majority of the
 14 committee.

15 On or before the first Monday following the last day of the legislative session, the
 16 committee and the agencies shall determine a schedule of dates for meetings to be held
 17 during the following twelve months. However, the committee is not required to hold a
 18 meeting if ~~no proposed rules have been filed pursuant to subdivision 1-26-6(4) prior to~~
 19 the meeting submission has been made to committee members in accordance with
 20 subdivision 1-26-4(8). All meetings are open to the public and any interested person may
 21 be heard and present evidence.

22 The committee shall review all proposed agency rules and make recommendations
 23 to the agencies regarding rules and legislation authorizing rules, and to the Legislature
 24 regarding administrative law. ~~All meetings, regular or special, shall be open to the public~~
 25 ~~and any interested person may be heard and present evidence.~~

26 Members of the committee ~~shall be~~ are compensated for their attendance at
 27 meetings and for time spent in the conduct of committee business, at rates established
 28 by the Executive Board of the Legislative Research Council. ~~The director of the Legislative~~
 29 ~~Research Council, or one or more persons from the director's office, shall act as secretary~~
 30 ~~to the committee, or the committee may employ a secretary~~ Code counsel, and one or
 31 more personnel from the Legislative Research Council with the consent of the council's
 32 director, shall staff the committee.

33 **Section 4. That § 1-26-1.3 be AMENDED:**

1 **1-26-1.3.** ~~The director code counsel, with the consent of the director of the~~
 2 Legislative Research Council, may delegate the duties imposed by this chapter to other
 3 persons in the ~~Legislative Research Council's~~ council's office. Each person to whom the
 4 duties are delegated has the same power and authority as the ~~director code counsel~~ for
 5 the purposes of this chapter. The papers specifying the delegation of duties ~~shall~~ must be
 6 filed with the secretary of state.

7 **Section 5. That § 1-26-2.1 be AMENDED:**

8 **1-26-2.1.** An agency shall, when submitting any proposed rule that will have a
 9 direct impact on small business, prepare an impact statement that includes the following:

10 (1) ~~A narrative explanation in plain, easy-to-read language of the effect of the rule on~~
 11 ~~small business, the basis for its enactments, and why the rule is needed;~~

12 (2) ~~—~~An identification and estimate of the number of small businesses subject to the
 13 proposed rule;

14 (3)(2) The projected reporting and recordkeeping required for compliance with the
 15 proposed rule, including the types of professional skills necessary for preparation
 16 of the report or record;

17 (4)(3) ~~A statement narrative explanation, in plain and easy-to-read language,~~ of the
 18 probable effect of the rule on impacted small ~~business~~ businesses; and

19 (5)(4) A description of any less intrusive or less costly alternative methods of achieving
 20 the purpose of the proposed rule.

21 An agency is only required to use readily available information and existing
 22 resources to prepare the impact statement.

23 For purposes of this section, "small business" means a nongovernmental entity
 24 that employs twenty-five or fewer full-time employees.

25 **Section 6. That § 1-26-4 be AMENDED:**

26 **1-26-4.** The following notice, service, and public hearing procedure must be used
 27 to adopt, amend, or repeal a permanent rule:

28 (1) An agency shall serve a copy of a proposed rule and any publication described in
 29 § 1-26-6.6 upon the departmental secretary, bureau commissioner, public utilities
 30 commissioner, or constitutional officer to which it is attached for the secretary's,
 31 commissioner's, or officer's written approval to proceed;

32 (2) After receiving the written approval of the secretary, commissioner, or officer to
 33 proceed, the agency shall serve ~~the director code counsel~~ with a copy of: the

- 1 proposed rule; any publication described in § 1-26-6.6; the fiscal note required by
 2 § 1-26-4.2; the impact statement on small business required by § 1-26-2.1;~~the~~
 3 any housing cost impact statement required by § 1-26-2.3; and the notice of
 4 hearing required by § 1-26-4.1. The copy of these documents must be served at
 5 least twenty days before the public hearing to adopt the proposed rule. Any
 6 publication described in § 1-26-6.6 must be returned to the agency upon
 7 completion of the ~~director's~~ code counsel's review and retained by the agency.
 8 Twenty days before the public hearing, the agency shall serve the commissioner of
 9 the Bureau of Finance and Management with a copy of: the proposed rule; the
 10 fiscal note required by § 1-26-4.2; the impact statement on small business
 11 required by § 1-26-2.1;~~the~~ any housing cost impact statement required by § 1-
 12 26-2.3; and the notice of hearing required by § 1-26-4.1;
- 13 (3) At least twenty days before the public hearing, the agency shall:
- 14 (a) Publish the notice of hearing in the manner prescribed by § 1-26-4.1; and
 15 (b) Publish, on the agency's website, ~~the~~ any housing cost impact statement
 16 required by § 1-26-2.3;
- 17 (4) After reviewing the proposed rule pursuant to § 1-26-6.5, ~~the director~~ code counsel
 18 shall advise the agency of any recommended corrections to the proposed rule. If
 19 the agency does not concur with any recommendation of ~~the director~~ code counsel,
 20 the agency may appeal the recommended correction to the Interim Rules Review
 21 Committee for appropriate action;
- 22 (5) The agency shall afford all interested persons reasonable opportunity to submit
 23 amendments, data, opinions, or arguments at a public hearing held to adopt the
 24 rule. The hearing may be continued from time to time. The agency shall keep
 25 minutes of the hearing. A majority of the members of any board or commission
 26 authorized to pass rules must be present during the course of the public hearing;
- 27 (6) If the authority promulgating the rule is a secretary, commissioner, or officer, the
 28 agency shall accept written comments regarding the proposed rule for a period of
 29 ten days after the public hearing. If the authority promulgating the rule is a ~~part-~~
 30 ~~time citizen~~ board, commission, committee, or task force, each interested person
 31 shall submit written comments at least seventy-two hours before the public
 32 hearing. The seventy-two hours does not include the day of the public hearing. The
 33 written comments may be submitted by mail or email. The record of written
 34 comments may be closed at the conclusion of the public hearing. The hearing may
 35 be continued for the purpose of taking additional comments;

1 (7) After the written comment period, the agency shall consider all amendments, data,
 2 opinions, or arguments regarding the proposed rule. A proposed rule may be
 3 modified or amended at this time to include or exclude matters that were described
 4 in the notice of hearing; and

5 (8) The agency shall serve the minutes of the hearing, a complete record of written
 6 comments, the impact statement on small business, ~~the~~ any housing cost impact
 7 statement, the fiscal note, the information required by § 1-26-4.8, and a corrected
 8 copy of the rule on the members of the Interim Rules Review Committee, and on
 9 code counsel at least seven days before the agency appears before the committee
 10 to present the rules.

11 The time periods specified in this section may be extended by the agency. The
 12 requirement to serve the committee and code counsel within the time limit specified in
 13 subdivision (8) may be waived by the committee chair, if the agency presents sufficient
 14 reasons to the committee chair that the agency is unable to comply with the time limit.
 15 The waiver may not be granted solely for the convenience of the agency.

16 **Section 7. That § 1-26-4.1 be AMENDED:**

17 **1-26-4.1.** ~~The~~ An agency shall publish a notice of a public hearing ~~of an~~ on the
 18 agency's intent to adopt, amend, or repeal a rule ~~shall be published in a manner selected~~
 19 ~~to notify persons likely to be affected by the proposed rule. At a minimum the notice of~~
 20 ~~the public hearing shall be published,~~ in at least three newspapers of general circulation
 21 in different parts of the state. The provisions of chapter 17-2 do not apply to notices
 22 required by this section.

23 ~~The~~ An agency shall provide the notice of a public hearing, ~~or the notice of intent~~
 24 ~~to adopt an emergency rule shall be mailed and a copy of the emergency rule,~~ to each
 25 person who has made a timely request of the agency for advance notice of its rule-making
 26 proceedings.

27 A notice of hearing or a notice of intent to adopt emergency rules ~~shall contain a~~
 28 must provide:

- 29 (1) A narrative description of the effect of the proposed rule ~~and the;~~
- 30 (2) The reasons for adopting the proposed rule. ~~A notice of hearing shall also state~~
 31 where;
- 32 (3) Where and when the hearing will be held, ~~how;~~
- 33 (4) How amendments, data, opinions, and arguments may be presented, ~~the;~~
- 34 (5) The deadline to submit written comments, ~~and how~~

1 (6) How the public may obtain copies of the proposed rule.

2 **Section 8. That § 1-26-4.2 be AMENDED:**

3 **1-26-4.2.** An agency shall, when submitting any proposed rule, except an
4 emergency rule, include a fiscal note. The fiscal note ~~shall state~~ must provide what effect,
5 if any, the proposed rule will have on the revenues, expenditures, or fiscal liability of the
6 state or its agencies and subdivisions. The fiscal note ~~shall~~ must include an explanation of
7 how such effect, if any, was computed.

8 The Bureau of Finance and Management shall prepare its own fiscal note and serve
9 it on the agency, ~~the director~~ code counsel, and the ~~co-chairmen~~ co-chairs of the Joint
10 Appropriations Committee prior to the hearing. If a proposed rule has a negative fiscal
11 impact on a political subdivision, the agency ~~shall~~ must direct the bureau to transmit a
12 copy of the bureau's fiscal note to the South Dakota Municipal League, the Associated
13 School Boards of South Dakota, and the South Dakota Association of County
14 Commissioners ~~Association~~, as applicable, prior to the hearing.

15 **Section 9. That § 1-26-5 be AMENDED:**

16 **1-26-5.** Prior to the adoption or amendment of an emergency rule, an agency shall
17 publish the text of the emergency rule on its website, publish a notice of intent to adopt
18 an emergency rule in the manner prescribed in § 1-26-4.1, and ~~shall~~ serve on the person
19 specified by subdivision 1-26-4(1), each member of the Interim Rules Review Committee,
20 and ~~the director~~ code counsel:

21 (1) A copy of the proposed rule, ~~which shall bear~~ bearing a special number to
22 distinguish it from a permanent rule; and

23 (2) ~~Any publication described in § 1-26-6.6 which shall be returned to the agency upon~~
24 ~~completion of the director's review and retained by the agency; and~~

25 ~~(3)~~ A statement, with the reasons, that the emergency procedure is necessary for one
26 or more of the following circumstances: because

27 (a) Because of imminent peril to the public health, safety, or welfare; ~~to~~

28 (b) To prevent substantial unforeseen financial loss to state government; or
29 because

30 (c) Because of the occurrence of an unforeseen event at a time when the
31 adoption of a rule in response to such event by the emergency procedure
32 is required to secure or protect the best ~~interests~~ interest of the state or its
33 residents.

1 If a publication is incorporated by reference in the proposed emergency rule,
 2 pursuant to § 1-26-6.6, the publication and statement must also be served on the person
 3 specified by subdivision 1-26-4(1) and on code counsel. Code counsel shall return the
 4 publication to the agency upon completion of code counsel's review and the agency shall
 5 retain the publication.

6 Any agency may use the emergency rule adoption procedure. ~~However, no~~ An
 7 agency may not use the emergency rule adoption procedure for the convenience of the
 8 agency merely to avoid the consequences for failing to timely promulgate rules.

9 **Section 10. That § 1-26-5.1 be AMENDED:**

10 **1-26-5.1.** ~~A~~ An emergency rule may ~~be temporarily suspended~~ suspend, but not
 11 ~~repealed, by the adoption of an emergency repeal, a permanent~~ rule. A permanent rule
 12 amended by an emergency rule ~~will revert~~ reverts to its original form ninety days after it
 13 has been in effect, or at an earlier date if so specified in the emergency rule, unless further
 14 amended within that period.

15 **Section 11. That § 1-26-6 be AMENDED:**

16 **1-26-6.** The adoption, amendment, or repeal of a rule is complete when:
 17 (1) ~~All the~~ The requirements of § 1-26-4 have been completed or, if the rule is an
 18 emergency rule, three days have passed since ~~all~~ the requirements of § 1-26-5
 19 have been ~~complied with~~ met;
 20 (2) It has been signed by a majority of the members of the multi-member body or by
 21 the officer having the authority to adopt it;
 22 (3) It has been signed by ~~the director~~ code counsel;
 23 (4) A copy has been filed with ~~the director~~ code counsel, in a form prescribed by ~~the~~
 24 director code counsel to show amendments, deletions, and other changes to
 25 existing rules, for use in preparation of copy for the Administrative Rules of South
 26 Dakota;
 27 (5) The rule and a certificate have been filed with the secretary of state. The certificate
 28 ~~shall~~ must affirm that the rule filed is a true and correct copy of the rule as adopted
 29 and that the agency has complied with § 1-26-4 or 1-26-5, and with this section;
 30 and
 31 (6) For a permanent rule, the agency has appeared and presented the proposed rule
 32 to the Interim Rules Review Committee.

1 ~~Certificates~~A certificate required by this section ~~shall must be affidavits~~ an affidavit
 2 executed, under oath, by the ~~officers~~ officer authorized by statute to promulgate the rule.
 3 If a rule is promulgated by a multi-member body, the body's presiding officer must sign
 4 the certificate ~~shall be signed by its presiding officer.~~

5 ~~Emergency rules are~~An emergency rule is provisionally effective immediately after
 6 being filed. Notwithstanding § 15-6-6(a), all other rules are provisionally effective on the
 7 twentieth day after being filed, not counting the day of filing. In either case a later effective
 8 date may be specified as part of the rules being filed. A rule ~~which~~ that is not yet effective
 9 or a provisionally effective rule may be suspended in the manner specified by § 1-26-38
 10 any time prior to the first day of July of the year following the year in which it became, or
 11 would have become, effective. The rule's provisional status ends at that time, and the rule
 12 may not thereafter be suspended by the rules committee. Unless suspended, a
 13 provisionally effective rule ~~shall must~~ be enforced by the agency and the courts as if it
 14 were not so conditioned.

15 No rule promulgated after June 30, 1975, is valid unless adopted in compliance
 16 with § 1-26-4 or 1-26-5, and this section and copies of the rule are made available to the
 17 public upon request, by the agency.

18 **Section 12. That § 1-26-6.2 be AMENDED:**

19 **1-26-6.2.** ~~The director~~Code counsel shall prescribe a uniform style in which rules
 20 ~~shall must~~ be prepared and the standard form and forms to be used in filing rules pursuant
 21 to this chapter. ~~Such~~ The form ~~shall must~~ contain a provision for a reference to be made
 22 by the agency for each rule proposed by it, citing its general authority to promulgate rules
 23 and then refer to the section, subdivision, or subsection of statute ~~which~~ that the rule is
 24 intended to implement, and direct the agency to identify prior rules amended or repealed.

25 **Section 13. That § 1-26-6.3 be AMENDED:**

26 **1-26-6.3.** ~~The director~~Code counsel may notify any agency whose rules are not in
 27 the proper style and form. A copy of this notice ~~shall must~~ be filed with the secretary of
 28 state. One hundred eighty days after an agency receives ~~such~~ the notification, the rules
 29 of that agency ~~shall be~~ are of no further force and effect unless redrafted in the prescribed
 30 style and form and filed with the secretary of state and ~~the director~~ code counsel.

31 **Section 14. That § 1-26-6.5 be AMENDED:**

1 **1-26-6.5.** ~~The director~~Code counsel shall review each rule for compliance with the
2 requirements for form, style, and clarity.

3 ~~The director~~Code counsel shall review each rule for legality. The review for legality
4 is a determination that the rule is authorized by the standards provided in the statutes
5 cited by the agency to promulgate the rule.

6 ~~The director~~Code counsel shall review the statement of reasons that the emergency
7 procedure is necessary. If ~~the director~~ code counsel finds need for change, ~~the director~~
8 code counsel shall make the requirements known in writing to the agency prior to the
9 hearing, or within three days of when the requirements of § 1-26-5 have been met in the
10 case of emergency rules.

11 **Section 15. That § 1-26-6.6 be AMENDED:**

12 **1-26-6.6.** An agency may adopt other comprehensive regulations as its own by
13 making reference to them in a rule, but only when the comprehensive regulations are
14 published by an organization ~~which that~~ is not part of the state government and only when
15 the publication is generally available to the public at a reasonable cost. A rule ~~which that~~
16 incorporates material by reference ~~shall~~ must describe the exact section or portion of the
17 publication ~~which is~~ being incorporated. Immediately following a rule ~~which that~~
18 incorporates published material by reference, other than material contained in the ~~code~~
19 ~~of federal regulations~~ Code of Federal Regulations, the ~~federal register~~ Federal Register,
20 the United States ~~code~~ Code, or the United States ~~statutes~~ Statutes at Large Large, the
21 agency shall place a reference note ~~which that~~ identifies the publication by its title, date
22 of publication, or enactment and author, and ~~which that~~ states where the publication may
23 be obtained and its cost, if any.

24 A statement ~~shall~~ must be attached to the face of ~~the~~ any physical publication
25 ~~which shall state~~ submitted to code counsel stating the agency's name, the section number
26 of the rule ~~which that~~ incorporates the material within, and the date the rule was served
27 pursuant to § 1-26-4 or 1-26-5 ~~or~~ and filed pursuant to § 1-26-6.

28 A publication that is available only as an electronic document must contain, on the
29 first page, a legible, distinguishable statement that sets forth the agency's name, the
30 section number of the rule that incorporates the material within, and the dates the rule
31 was served pursuant to § 1-26-4 or 1-26-5 and filed pursuant to § 1-26-6.

32 **Section 16. That § 1-26-6.7 be AMENDED:**

1 **1-26-6.7.** Once a rule has been adopted, it may not be amended, repealed, or
 2 suspended, except by compliance with ~~§ 1-26-4 or 1-26-5,~~ and with § 1-26-6 this chapter,
 3 even if it has not taken effect.

4 **Section 17. That § 1-26-6.9 be AMENDED:**

5 **1-26-6.9.** If a professional or occupational licensing board or commission is
 6 authorized in statute to establish fees by rule and no maximum fee limit is specified, the
 7 fees ~~shall~~ must be reasonable and necessary to provide enough money to meet the
 8 budgetary needs of the licensing board or commission for ~~such things as:~~ per diem, travel
 9 expenses, office expense, salaries and benefits, utilities, supplies, testing, licensing,
 10 inspections, disciplinary actions, and legal fees. However, the total amount of increase in
 11 the fees imposed by a licensing board or commission under this section may not exceed
 12 the previous year's budget by more than twenty percent.

13 **Section 18. That § 1-26-6.10 be AMENDED:**

14 **1-26-6.10.** No state agency may adopt or promulgate any rule that restricts any
 15 right or privilege to carry or possess ~~a pistol in contravention to authority being exercised~~
 16 ~~in accordance with being licensed to carry a concealed pistol pursuant to chapter 23-7.~~

17 **Section 19. That § 1-26-7.1 be AMENDED:**

18 **1-26-7.1.** Upon adoption of a rule or upon the rejection of a petition filed pursuant
 19 to § 1-26-13, an agency, if requested to do so in writing by an interested person either
 20 prior to adoption or rejection or within thirty days thereafter, shall issue a written, concise
 21 statement of the principal reasons for and against the rule's adoption, ~~incorporating~~
 22 ~~therein~~ and its reasons for overruling the considerations urged against the rule's adoption
 23 or rejection. ~~A~~ The agency must serve a copy of the statement ~~shall be served~~ on the
 24 members of the Interim Rules Review Committee ~~and the director of the Legislative~~
 25 ~~Research Council~~ code counsel.

26 **Section 20. That § 1-26-12 be AMENDED:**

27 **1-26-12.** ~~Publications and copies of rules authorized under or required by this~~
 28 ~~chapter shall upon request be made available to agencies and officials of this state free of~~
 29 ~~charge and to other persons at prices fixed by the Interim Rules Review Committee to~~
 30 ~~cover mailing and publication costs.~~ An agency may not charge the public for copies of

1 notices or intentions to pass rules required by § 1-26-4.1. The provisions of § 1-8-10,
 2 except as to certification, do not apply to copies of publications distributed by the secretary
 3 of state under this chapter.

4 **Section 21. That § 1-26-13 be AMENDED:**

5 **1-26-13.** An interested person, other than an inmate as defined in § 1-15-20.1,
 6 may petition an agency requesting the promulgation, amendment, or repeal of a rule. The
 7 petition ~~shall~~ must contain the text or substance of any new rule or amendment sought,
 8 the identification of any rule sought to be repealed, reasons for the proposal, and the
 9 name and address of the petitioner. Within thirty days after submission of a petition, the
 10 agency ~~either shall deny the petition in writing (stating its reasons for the denial)~~ denial,
 11 or shall initiate rule-making proceedings in accordance with § 1-26-4. The agency shall
 12 serve a copy of any ~~petitions~~ petition and ~~denials~~ denial on the members of the Interim
 13 Rules Review Committee and ~~the director of the Legislative Research Council~~ code counsel.

14 **Section 22. That § 1-26-15 be AMENDED:**

15 **1-26-15.** Each agency shall provide by rule for the filing and prompt disposition of
 16 ~~petitions~~ a petition for declaratory ~~rulings~~ ruling as to the applicability of any statutory
 17 provision or of any rule or order of the agency. No inmate as defined in § 1-15-20.1 may
 18 petition an agency for a declaratory ruling on the applicability of a ~~statutory provisions~~
 19 provision, ~~rules~~ rule, or ~~orders~~ order of the agency. ~~Rulings~~ A ruling disposing of ~~petitions~~
 20 have a petition has the same status as an ~~agency decisions~~ decision or ~~orders~~ order in a
 21 ~~contested cases~~ case. ~~A copy of all such rulings shall be filed~~ The agency shall file a copy
 22 of the ruling with ~~the director~~ code counsel for publication in the Administrative Rules of
 23 South Dakota.

24 **Section 23. That § 1-26A-1 be AMENDED:**

25 **1-26A-1.** The Legislative Research Council shall publish on its website, from time
 26 to time, the Administrative Rules of South Dakota, ~~which shall contain~~ containing
 27 permanent rules of general application promulgated pursuant to chapter 1-26. In
 28 preparing the text of the rules for publication, ~~the Legislative Research Council~~ code
 29 counsel shall make ~~such~~ changes ~~as may be~~ necessary to correct apparent errors, to
 30 correlate and integrate all the rules, to harmonize, to assign a new title and other
 31 designation, and to eliminate or clarify obviously obsolete or ambiguous rules and rules

1 declared invalid by the South Dakota Supreme Court or the United States Supreme Court.
 2 ~~The Legislative Research Council~~ Code counsel may substitute terms or phraseology, and
 3 names of boards, commissions, and agencies, wherever the Legislature has expressly or
 4 by implication indicated an intention to do so. The publication may also contain information
 5 concerning executive orders, agreements made pursuant to chapter 1-24, agreements
 6 and changes made pursuant to chapter 1-32, and court rules, of permanent and general
 7 application ~~which that~~ are not otherwise generally available to the public. The Legislative
 8 Research Council shall also publish at periodic intervals, the South Dakota Register ~~which~~
 9 ~~shall contain,~~ containing notices of hearings on proposed rules at least ten days prior to
 10 hearing, notices of rules filed in the secretary of state's office, and other information
 11 relating to agency and judicial rules and executive actions.

12 ~~The Legislative Research Council~~ Code counsel shall prepare the manuscripts for
 13 the rules and the register and supervise their publication.

14 **Section 24. That § 1-36-20 be AMENDED:**

15 **1-36-20.** If the secretary of the Department of Social Services is authorized to
 16 promulgate rules and the adoption of certain rules is mandated by a federal rule or
 17 regulation, the secretary may, without following the procedures set forth in §§ 1-26-4 to
 18 1-26-6, inclusive, serve on code counsel a copy of the proposed rule; ~~;~~ a copy of the
 19 appropriate federal statute, rule, or regulation; ~~;~~ and an affidavit stating that ~~such the~~
 20 proposed rule is mandated by the attached federal statute, rule, or regulation ~~on the~~
 21 ~~director.~~ ~~The director~~ Code counsel shall review the rules received as to the sufficiency of
 22 the form and style and as to their legality. If ~~the director~~ code counsel finds need for
 23 change, ~~the director shall~~ code counsel must make any requirements known in writing
 24 within three days of service. Five days after service, and upon complying with the
 25 requirements of ~~the director~~ code counsel, the secretary may file the proposed rule with
 26 the secretary of state.

27 Any rule adopted under this section is provisionally effective immediately upon
 28 filing or at a later date if required in the federal statute or rule and specified by the
 29 department.

30 **Section 25. That § 1-26-11 be REPEALED.**

31 ~~Each agency promulgating professional or regulatory examining and licensing rules~~
 32 ~~or other rules under this chapter may cause the same, or any portion thereof, to be~~

1 ~~published in pamphlet form, subject to the supervision of the director regarding style and~~
2 ~~form and such other limitations of certification.~~

3 **Section 26. That § 1-26A-8 be REPEALED.**

4 ~~Publications authorized under this chapter shall upon request be distributed by the~~
5 ~~Bureau of Human Resources and Administration to state agencies and elected state~~
6 ~~officials of this state free of charge and to other persons at prices fixed by the director to~~
7 ~~cover mailing and publication costs.~~