



2026 South Dakota Legislature  
**House Bill 1234**  
**ENROLLED**

AN ACT

**ENTITLED An Act to revise provisions related to serving a subpoena in a contested case.**

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

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

**1-26-18.** Opportunity shall be afforded to all parties to respond and present evidence on issues of fact and argument on issues of law or policy. Each agency, upon the motion of any party, may dispose of any defense or claim:

- (1) If the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and a party is entitled to a judgment as a matter of law; or
- (2) At the close of the evidence offered by the proponent of the defense or claim, if the agency determines that the evidence offered by the proponent of the defense or claim is legally insufficient to sustain the defense or claim.

A party to a contested case proceeding may appear in person or by counsel, or both, and may be present during the giving of all evidence. The party or the party's attorney of record may have reasonable opportunity to inspect all documentary evidence, examine and cross-examine witnesses, present evidence in support of the party's interest, and issue subpoenas to compel attendance of witnesses and production of evidence on the party's behalf.

**Section 2. That § 1-26-19.1 be AMENDED:**

**1-26-19.1.** Each agency and any attorney of record or officer of the agency charged with the duty to administer the laws of the state and the rules of the agency may:

- (1) Administer oaths as provided by chapter 18-3; and

- (2) Subpoena witnesses or interested parties to appear and give testimony and to produce records, books, papers, and documents relating to any matter in a contested case, as provided in § 15-6-45.

Unless otherwise provided by law, fees for witnesses are as set forth in chapter 19-5 and must be paid by the agency or party for whom the witness is subpoenaed.

Failure of a person to obey a subpoena issued pursuant to this chapter may be punished as a contempt of court in the manner provided by chapter 21-34.

**Section 3. That a NEW SECTION be added to chapter 1-26:**

Before a subpoena commanding the production of documentary evidence pursuant to § 1-26-19.1 is served on the person to whom it is directed, a notice and copy of the subpoena must be served on each party to the matter pending. The hearing examiner or administrative law judge, upon motion made promptly and at or before the time specified in the subpoena for compliance with the subpoena, may:

- (1) Quash or modify the subpoena if it is unreasonable and oppressive; or
- (2) Condition denial of the motion upon the advancement, by the person on whose behalf the subpoena is issued, of the reasonable cost of producing the records, books, papers, or documents.

An Act to revise provisions related to serving a subpoena in a contested case.

\_\_\_\_\_  
I certify that the attached Act originated in  
the:  
House as Bill No. 1234

\_\_\_\_\_  
Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_,  
2026 at \_\_\_\_\_ M.

\_\_\_\_\_  
Chief Clerk of the House  
\_\_\_\_\_

By \_\_\_\_\_  
for the Governor  
\_\_\_\_\_

\_\_\_\_\_  
Speaker of the House

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 2026

Attest:

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Governor  
\_\_\_\_\_

**STATE OF SOUTH DAKOTA,**

Office of the Secretary of State

ss.

\_\_\_\_\_  
President of the Senate

Filed \_\_\_\_\_, 2026  
at \_\_\_\_\_ o'clock \_\_ M.

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Secretary of State

House Bill No. 1234  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State