



SOUTH DAKOTA REGISTER

Published weekly by the Legislative Research Council

Volume 50

Tuesday, 8:00 a.m., September 5, 2023

FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

Notice of Proposed Rules

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

Department of Health: (August 29, 2023) intends to 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. The general authority for these rules, as cited by the department, is SDCL [34-20G-72](#).

A public hearing will be held at the Kneip Building Conference Room #3, 700 Governor's Drive, Pierre, South Dakota, on September 28, 2023, at 1:00 p.m. (CT). Copies of the proposed rules may be obtained without charge from the Department of Health, 600 East Capitol Avenue, Pierre, South Dakota 57501 or online at <https://rules.sd.gov>. Written comments may be sent to the Department of Health, Medical Cannabis Program, 600 East Capitol Avenue, Pierre, South Dakota 57501 or by going to <https://rules.sd.gov>. The deadline to submit any such written comments for consideration by the department is October 9, 2023. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 773-3361 at least 48 hours before the public hearing.

State Board of Elections (Office of the Secretary of State): (August 30, 2023) intends to 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. The general authority for these rules, as cited by the board, is SDCL [12-1-9](#).

A public hearing will be held in Room 362 of the State Capitol, 500 East Capitol Avenue, Pierre, South Dakota, on September 27, 2023, at 9:00 a.m. (CT). Copies of the proposed rules may be obtained without charge from the State Board of Elections, 500 East Capitol Avenue, Pierre, South Dakota 57501, or at <https://sdsos.gov> or <https://rules.sd.gov>. Written comments may be sent to State Board of Elections, 500 East Capitol Avenue, Pierre, South Dakota 57501 or emailed to elections@state.sd.us. Material sent by mail or email must reach the board seventy-two hours before the date of the hearing. This hearing is being held in a physically accessible location. Persons with special needs for which the board can make arrangements may call (605) 773-3537 at least 48 hours before the public hearing.

State Board of Elections (Office of the Secretary of State): (August 31, 2023) intends to 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. The general authority for these rules, as cited by the board, is SDCL [12-1-9](#), [12-4-5.3](#), [12-4-35](#), [12-19-9.1](#), and [12-19-9.3](#).

A public hearing will be held in Room 362 of the State Capitol, 500 East Capitol Avenue, Pierre, South Dakota, on September 27, 2023, at 9:00 a.m. (CT). Copies of the proposed rules may be obtained without charge from the State Board of Elections, 500 East Capitol Avenue, Pierre, South Dakota 57501, or at <https://sdsos.gov> or <https://rules.sd.gov>. Written comments may be sent to State Board of Elections, 500 East Capitol Avenue, Pierre, South Dakota 57501 or emailed to elections@state.sd.us. Material sent by mail or email must reach the board seventy-two hours before the date of the hearing. This hearing is being held in a physically accessible location. Persons with special needs for which the board can make arrangements may call (605) 773-3537 at least 48 hours before the public hearing.

South Dakota Board of Accountancy (Department of Labor and Regulation): (August 31, 2023) intends to adopt and amend rules to update education measurements and accrediting agency names and expand the qualifying period to pass the Uniform CPA exam. The general authority for these rules, as cited by the board, is SDCL [36-20B-12](#), [36-20B-15](#), and [36-20B-18](#).

A public hearing will be held via [Zoom](#) and conference call on September 28, 2023, at 9:00 a.m. (CT). Interested parties may participate by telephone by calling (346) 248-7799 and using meeting ID 729 257 1422 and passcode 957016. Copies of the proposed rules may be obtained without charge from, and written comments on the proposed rules may be sent to, the South Dakota Board of Accountancy, 301 East 14th Street, Suite 200, Sioux Falls, South Dakota 57104. The rules are also available online at <https://rules.sd.gov>. Comments may be emailed to accountancy@state.sd.us. Written comments must reach the board by September 22, 2023, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the board can make arrangements may call (605) 367-5770 at least 48 hours before the public hearing.

Department of Transportation: (September 1, 2023) intends to amend a rule to change the speed limit on State Trunk Highway 50 in and around Yankton. The general authority for this rule, as cited by the department, is SDCL [32-25-7](#) and [32-25-7.1](#).

A public hearing will be held in the Large Meeting Room of the Sioux Falls Area Office of the South Dakota Department of Transportation, 5316 West 60th Street North, Sioux Falls, South Dakota, on September 26, 2023, at 2:00 p.m. (CT). Interested parties may also participate by telephone by calling (866) 705-2554 and using conference code 153277. Copies of the proposed rules may be obtained without charge from, and written comments on the proposed rules may be sent to, the Secretary of Transportation, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586. Copies of the rules are also available at <https://rules.sd.gov>. Comments may also be emailed to Joel.Jundt@state.sd.us. Information submitted in writing must be received on or before September 22, 2023, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call the department's ADA Coordinator at (605) 773-3540 or (800) 877-1113 (Telecommunications Relay Services for the Deaf) at least 48 hours before the public hearing.

Department of Health: (September 1, 2023) intends to adopt and amend rules to allow the ground component of an air ambulance service to transfer patients from one healthcare facility to another healthcare facility, unless a local government agreement or ordinance provides otherwise, and to allow the ground ambulance component for healthcare facility-operated air ambulance services to provide interfacility transfers under certain conditions. The general authority for these rules, as cited by the department, is SDCL [34-11-5](#).

A public hearing will be held at the Robert Hayes Building, 600 East Capitol Avenue, Pierre, South Dakota, on October 3, 2023, at 2:30 p.m. (CT). Copies of the proposed rules may be obtained without charge from the Department of Health, 600 East Capitol Avenue, Pierre, South Dakota 57501 or online at <https://rules.sd.gov>. Written comments may be sent to the Department of Health, Office of Emergency Medical Services and Trauma, 600 East Capitol Avenue, Pierre, South Dakota 57501 or by going to <https://rules.sd.gov>. The deadline to submit any such written comments for consideration by the

department is October 13, 2023. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 773-3361 at least 48 hours before the public hearing.

Petition for Rules

The **Department of Transportation** on September 1, 2023, served on the Interim Rules Review Committee and director of the Legislative Research Council a petition received from interested persons, per [SDCL 1-26-13](#), to adopt an administrative rule reducing the speed limit on U.S. Highway 81 in the vicinity of its intersection with U.S. Highway 18 south of Freeman. Transportation Secretary Joel Jundt denied the request, pending the results of a safety audit to be conducted by representatives of the department, the Federal Highway Administration, and Hutchinson County in the specified area.

FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

Executive Appointments

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeding</u>	<u>Effective/End Date</u>
Planning Council on Developmental Disabilities			
Cole L. Uecker Pierre	Governor	Tim Neyhart	8/29/2023

SCHEDULED PUBLIC HEARINGS

9-7-2023	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; allow for rainbow trout to be harvested by legal spearing and archery methods from reservoirs within the Black Hills Fish Management Area; 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; 50 SDR 22, August 21, 2023.
9-20-2023	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; 50 SDR 22, August 21, 2023.
9-26-2023	Department of Transportation : Amend a rule to change the speed limit on State Trunk Highway 50 in and around Yankton; 50 SDR 28, September 1, 2023.
9-27-2023	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; 50 SDR 27, September 5, 2023.
9-27-2023	<u>State Board of Elections (Office of the Secretary of State):</u> 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; 50 SDR 28, September 6, 2023.
9-28-2023	<u>Department of Health:</u> 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; 50 SDR 27, September 5, 2023.
9-28-2023	<u>South Dakota Board of Accountancy (Department of Labor and Regulation):</u> Adopt and amend rules to update education measurements and accrediting agency names and expand the qualifying period to pass the Uniform CPA exam; 50 SDR 28, September 5, 2023.
10-3-2023	<u>Department of Health:</u> Adopt and amend rules to allow the ground component of an air ambulance service to transfer patients from one healthcare facility to another healthcare facility, unless a local government agreement or ordinance provides otherwise, and to allow the ground ambulance component for healthcare facility-operated air ambulance services to provide interfacility transfers under certain conditions; 50 SDR 28, September 5, 2023.
10-10-2023	<u>South Dakota Board of Nursing (Department of Health):</u> 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; 50 SDR 14, July 31, 2023.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee for the 2023 Interim is Thursday, September 21, 2023, at 10:00 a.m. (CT) via electronic conference and in Room 414 of the Capitol. Please note the date change from the original schedule of September 12, 2023. The final meeting for the 2023 Interim is scheduled for November 7. Find notices of committee meetings in this publication, on the [LRC website](#), and at the Capitol.

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