



# SOUTH DAKOTA REGISTER

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## FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

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### Notice of Proposed Rules

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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 Social Services:** (April 19, 2024) intends to amend and adopt rules to allow for the Temporary Assistance to Needy Families (TANF) program to accept a verbal statement if an individual wants to close their case; to update federal medical services eligibility standards that are reflected in rule; and to update the personal needs allowance for individuals in nursing or intermediate care facilities. The general authority for these rules, as cited by the department, is SDCL [28-6-1](#), [28-6-18](#), and [28-7A-3](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rules will be held at the Department of Social Services Building, Prairie Conference Room, 811 East 10<sup>th</sup> Street, Sioux Falls, South Dakota, on May 17, 2024, at 10:00 a.m. (CT). Interested parties may also attend by calling (605) 679-7263 and using conference code 616 077 14#. Copies of the proposed rules may be obtained without charge from, and written comments on the proposed rules may be sent to, Teresa Schulte, Administrative Rules, Department of Social Services, 811 East 10<sup>th</sup> Street, Sioux Falls, South Dakota 57103. The rules are also available online at <http://rules.sd.gov>. Comments may also be emailed to [DSSAdminRules@state.sd.us](mailto:DSSAdminRules@state.sd.us). Written comments must reach the department by May 27, 2024, 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 (605) 367-5444, extension 1000309, at least 48 hours before the public hearing.

**South Dakota Board of Education Standards (Department of Education):** (April 24, 2024) intends to amend rules to align with the appeal window in codified law and make updates for consistent reference to due process complaints and the 30-day resolution period. The general authority for these rules, as cited by the board, is SDCL [13-37-1.1](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rules will be held at the MacKay Building, First Floor, Library Commons, 800 Governors Drive, Pierre, South Dakota, on July 8, 2024, at 9:00 a.m. (CT). Copies of the proposed rules may be obtained without charge from South Dakota Department of Education, Attn: Kristin Berger, 800 Governors Drive, Pierre, South Dakota 57501. Written comments on the proposed rules may be sent to South Dakota Department of Education, Attn: Linda Turner, 800 Governors Drive, Pierre, South Dakota 57501; emailed to [Linda.Turner@state.sd.us](mailto:Linda.Turner@state.sd.us); or submitted at <https://rules.sd.gov>. Material sent by mail or email must reach the department by July 3, 2024, 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) 773-5669 at least 48 hours before the public hearing.

**South Dakota Division of Insurance (Department of Labor and Regulation):** (April 26, 2024) intends to amend rules to update the sources referenced in rule. The general authority for these rules, as cited by the division, is SDCL [58-3-11](#), [58-3-26](#), [58-4-48](#), [58-5A-70](#), [58-5A-94](#), [58-5A-95](#), [58-6-75](#), [58-26-13.1](#), [58-26-45.1](#), [58-26-46](#), [58-27-7](#), and [58-27-108](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rules will be held in the Oahe Conference Room, 124 South Euclid Avenue, 1<sup>st</sup> Floor, Pierre, South Dakota, on May 20, 2024, at 1:30 p.m. (CT). Copies of the proposed rules may be obtained without charge from, and written comments may be sent to, South Dakota Division of Insurance, Administrative Rules, 124 South Euclid Avenue, 2<sup>nd</sup> Floor, Pierre, South Dakota 57501. Comments may also be emailed to [lisa.harmon@state.sd.us](mailto:lisa.harmon@state.sd.us). Copies of the proposed rules are also available at [http://dlr.sd.gov/insurance/admin\\_rules/public\\_hearings.aspx](http://dlr.sd.gov/insurance/admin_rules/public_hearings.aspx) or by email request to [lisa.harmon@state.sd.us](mailto:lisa.harmon@state.sd.us). Information submitted in writing must be received on or before May 30, 2024, 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 (605) 773-3563 at least 48 hours before the public hearing.

## Notice

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The **Department of Human Services** has proposed an amendment to the HOPE Waiver, which is operated by the **Division of Long Term Services and Supports**, and serves South Dakotans age 65 and older as well as individuals over the age of 18 who have a qualifying disability. The proposed changes in this amendment are:

- Effective July 1, 2024, in accordance with legislation passed by the South Dakota Legislature, for participants receiving Assisted Living or Community Living Home services, the maintenance needs allowance has been updated from an amount equal to the SSI benefit standard plus \$20 to an amount equal to the SSI benefit standard plus \$60. This change will allow participants residing in these settings to keep an additional \$40 per month to adjust for the rising cost of living.
- Effective pending the Administrative Rules of South Dakota with an anticipated effective date of September 9, 2024, Appendix C-4, Additional Limits on the Amount of Wavier Services, has been amended to reflect a limit that is equal to the average cost of nursing home care. Services that exceed one hundred percent of the cost of nursing home care are subject to an exceptions process. The cost of all services for a participant with an approved exception cannot exceed one hundred fifty percent of the average cost of nursing home care except for participants exceeding one hundred fifty percent of the average cost of nursing home care at the time of the waiver approval.
- Language throughout the waiver has been updated to allow alternatives to a home visit when a home visit may pose a health or safety risk to the LTSS Specialist.
- The rate methodology section has been updated to reflect recent rate methodology reviews. There were no substantive changes to rate methodologies based on the reviews; however, for tiered services, there was a redistribution of tiers resulting in more participants in the higher tiers. No rates were decreased as a result of the reviews.

The proposed HOPE Waiver amendment is available for public comment for 30 days, from May 1, 2024, to May 30, 2024. There are four ways to make a comment or request a printed or electronic copy of the HOPE Waiver amendment: by email to [hcbs@state.sd.us](mailto:hcbs@state.sd.us); by phone to (605) 773-3656; by mail to Caitlin Clarey, Department of Human Services, Division of Long Term Services and Supports, Hillview Plaza, 3800 East Highway 34, Pierre, South Dakota 57501; or at the public hearing May 22, 2024, at 11:00 a.m. (CT) by conference call at (605) 679-7263 with conference ID 558 867 932#.

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## FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

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### Final Administrative Rules

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**DEPARTMENT OF GAME, FISH AND PARKS:** 41:03:01:01.01, 41:03:01:01.04, 41:03:01:19, 41:03:01:35, 41:03:01:36; 41:06:16:07; 41:06:26:01; 41:06:27:01; 41:06:28:01; 41:06:43:01, 41:06:43:02; 41:06:47:01; 41:06:56:02, 41:06:56:03; 41:06:59:01, 41:06:59:02.

**History/Notice:** 50 SDR 109, March 18, 2024

**Hearing:** April 4, 2024

Filed: April 25, 2024

Effective: May 15, 2024

### Executive Appointments

| <u>Appointee</u>                                                                   | <u>Appointed by</u> | <u>Succeeding</u> | <u>Effective/End Date</u> |
|------------------------------------------------------------------------------------|---------------------|-------------------|---------------------------|
| <b>Board of Barber Examiners</b><br>James S. McGuire<br>Colman                     | Governor            | Reappointed       | 4/22/2024 – 10/30/2026    |
| <b>Board of Economic Development</b><br>Reed T. Kessler<br>Aberdeen                | Governor            | Reappointed       | 4/24/2024 – 4/19/2028     |
| <b>South Dakota Real Estate Commission</b><br>Bobbie N. Tibbetts<br>Sioux Falls    | Governor            | Ken Cotton        | 4/22/2024 – 4/14/2027     |
| <b>State Board of Veterinary Medical Examiners</b><br>Joe W. Spoo<br>Renner        | Governor            | Reappointed       | 4/24/2024 – 10/30/2026    |
| <b>State Historical Society Board of Trustees</b><br>David J. Grettler<br>Aberdeen | Governor            | Billie Kingfisher | 4/22/2024 – 4/15/2027     |
| <b>Transportation Commission</b><br>Ronald D. Rosenboom<br>Sturgis                 | Governor            | Reappointed       | 4/25/2024 – 4/18/2028     |

### SCHEDULED PUBLIC HEARINGS

|                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| <b>4-30-2024</b>                                                                                                                                    | <b>Department of Human Services:</b> Amend a rule to allow providers of CHOICES waiver services to cease providing services to participants appealing a termination notice after a decision is issued, or ninety days from the date of the termination notice, whichever is sooner; to clarify who may appeal; and clarify what is reviewed during appeal hearings; 50 SDR 115, April 2, 2024.                                                                                                                                                                                                                                                                                                                                                   |
| <b>5-2-2024</b><br><b>NOTE: The initial listing of proposed rules to be considered at this hearing referenced some rules that have already been</b> | <b>Department of Game, Fish and Parks:</b> (April 11, 2024) intends to amend rules to create consistency in the use of the terms "bull" and "non-trophy"; consider the use of archery equipment during the Custer State Park trophy and non-trophy bison harvest season; modify the allowable hunting days and number of licenses for trophy bison; modify the dates for grouse, quail, and partridge hunting seasons; modify the word "common" in the rule for a snipe hunting season and set guidelines for daily bag and possession limits; modify the cottontail rabbit hunting season on publicly accessible land; modify the tree squirrel hunting season; and modify the number of non-trophy bison licenses; 50 SDR 122, April 15, 2024. |

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| <b>acted upon.<br/>The listing as<br/>shown here<br/>corrects those<br/>errors.</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>5-8-2024</b>                                                                     | <b><u>South Dakota Board of Funeral Service (Department of Health):</u></b> Amend rules to reflect changes to statutes during the 2023 and 2024 legislative sessions, the effect of which is to remove unnecessary barriers to licensure, update language to reflect current terminology and practice, and correct legal and authority references; 50 SDR 101, February 26, 2024.                                                          |
| <b>5-9-2024</b>                                                                     | <b><u>Department of Revenue:</u></b> Repeal obsolete rules; amend rules to reflect current practices and eliminate the dealer technology exemption; and adopt rules regarding the motor vehicle excise tax exemption for rental companies; 50 SDR 122, April 15, 2024.                                                                                                                                                                     |
| <b>5-17-2024</b>                                                                    | <b><u>Department of Social Services:</u></b> Amend and adopt rules to allow for the Temporary Assistance to Needy Families (TANF) program to accept a verbal statement if an individual wants to close their case; to update federal medical services eligibility standards that are reflected in rule; and to update the personal needs allowance for individuals in nursing or intermediate care facilities; 50 SDR 128, April 29, 2024. |
| <b>5-20-2024</b>                                                                    | <b><u>South Dakota Division of Insurance (Department of Labor and Regulation):</u></b> Amend rules to update the sources referenced in rule; 50 SDR 128, April 29, 2024.                                                                                                                                                                                                                                                                   |
| <b>5-31-2024</b>                                                                    | <b><u>South Dakota State Board of Dentistry (Department of Health):</u></b> Amend rules to update the collaborative supervision administrative rules and remove a clinical practice requirement to make the rules consistent with <u>House Bill 1074</u> , which was passed by the 2024 Legislature; 50 SDR 118, April 8, 2024.                                                                                                            |
| <b>7-8-2024</b>                                                                     | <b><u>South Dakota Board of Education Standards (Department of Education):</u></b> Amend rules to align with the appeal window in codified law and make updates for consistent reference to due process complaints and the 30-day resolution period; 50 SDR 128, April 29, 2024.                                                                                                                                                           |

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## RULES REVIEW COMMITTEE MEETINGS

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The next meeting of the Interim Rules Review Committee for the 2024 Interim is Tuesday, May 7, 2024, at 10:00 a.m. (CT) via electronic conference and in Room 414 of the Capitol. Future meetings for the 2024 Interim are scheduled for June 10, July 16, August 20, September 10, and October 22. 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.