



# SOUTH DAKOTA REGISTER

Published weekly by the Legislative Research Council

Volume 50

Monday, 8:00 a.m., May 20, 2024

---

## FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

---

### Notice of Holiday Hours

---

The Legislative Research Council office will be closed Monday, May 27, 2024, for the Memorial Day holiday. The office reopens for regular business hours at 8:00 a.m. on Tuesday, May 28, 2024.

### 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.

**South Dakota Board of Podiatry Examiners (Department of Health):** (May 14, 2024) intends to amend a rule to update the renewal fees to ensure financial viability of the board. The general authority for this rule, as cited by the board, is SDCL [36-8-3](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rules will be held at the South Dakota Board of Podiatry Examiners Board Office, 521 South 32<sup>nd</sup> Street, Suite B, Spearfish, South Dakota, on August 16, 2024, at 11:00 a.m. (MT). Interested persons may also attend the public hearing remotely, via videoconference, through Microsoft Teams at the following link: <https://teams.microsoft.com/l/meetup-join/19%3ameetingZWM3YjY3YjMtYmU2ZC00ZThmlTljOGUt-MzJjODViODM1ZDJi%40thread.v2/0?context=%7b%22Tid%22%3a%22e69efb98-56ef-4797-a76b-elec658a639c%22%2c%22Oid%22%3a%22ee0a24e7-6d2c-4495-ade54377098865d2%22%7d> Copies of the proposed rules may be obtained without charge from the South Dakota Board of Podiatry Examiners, 810 North Main Street #298, Spearfish, South Dakota 57783. Copies are also available at <https://rules.sd.gov> and by emailing [office@sdlicensing.com](mailto:office@sdlicensing.com). Written comments on the proposed rules may be sent to South Dakota Board of Podiatry Examiners, 810 North Main Street #298, Spearfish, South Dakota 57783 or by going to <https://rules.sd.gov>. Material sent by mail or email must reach the board by August 12, 2024, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the office can make arrangements may call (605) 773-3361 at least 48 hours before the public hearing.

**Department of Human Services:** (May 14, 2024) intends to amend rules to update and add definitions; clarify institutionalized and clarify the setting for eligibility; add the requirement for HOPE waiver services to include that the individual must have an Individual Support Plan per the Centers for Medicare and Medicaid Services; update the provisions; clarify the requirement for each individual to participate in a needs assessment when applying for HOPE waiver services; specify the contents of the individual support plan and that it must be signed by the participant; clarify the department must annually redetermine the participant's level of care; update and reorder the list of services available through the HOPE waiver; clarify language on the participant cost share when applicable; update the location of the fee schedule; update reasons for discontinuance or denial; and add the cost of services and an exceptions process. The general authority for these rules, as cited by the department, is SDCL [1-36A-26](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rule will be held at the Hillview Plaza, Bridges Conference Room, 3800 East Highway 34, Pierre, South Dakota, on June 11, 2024, at 11:00 a.m. (CT). Interested persons may also participate by telephone by calling (605) 679-7263 and using conference

code 188911552# or by video conference at <https://bit.ly/43E8RwP>. Copies of the proposed rules may be obtained without charge from, and written comments on the proposed rules may be sent to, the Department of Human Services, Hillview Plaza, 3800 East Highway 34, c/o 500 East Capitol Avenue, Pierre, South Dakota 57501 or by email to [DHSInfo@state.sd.us](mailto:DHSInfo@state.sd.us). Copies of the rules are also available at <https://rules.sd.gov>. Material sent by mail or email must reach the department by June 21, 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) 773-5990 at least 48 hours before the public hearing.

**Department of Game, Fish and Parks:** (May 16, 2024) intends to amend rules to describe a new prairie elk season license type; describe a qualifying landowner or landowner-operator; establish the fee for the landowner on own land antlerless elk license; repeal ARSD 41:06:27:02.07 in order to allow an individual to obtain more than one elk raffle license in a lifetime; and modify the restrictions of nonresidents in the taking of a raccoon. The general authority for these rules, as cited by the department, is SDCL [41-2-18](#), [41-6-10](#), [41-6-18.4](#), [41-6-19.3](#), [41-6-19.4](#), [41-6-19.6](#), [41-6-21](#), [41-6-84](#), [41-8-20](#), and [41-17-1.1](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rules will be held at the National Field Archery Association, 800 Archery Lane, Yankton, South Dakota, on June 6, 2024, at 2:00 p.m. (CT). 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 the Department of Game, Fish and Parks, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. The rules are also available online at <https://rules.sd.gov>. Comments may also be submitted at <http://gfp.sd.gov/forms/positions>. All written and email comments must include the name, city, and state of the person submitting them. The comment period will close 72 hours prior to the date of the hearing. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 773-3718 or (605) 223-7684 (Telecommunication Device for the Deaf).

**South Dakota Commission on Gaming (Department of Revenue):** (May 17, 2024) intends to amend rules to incorporate the most recent version of the Association of Racing Commissioners International Uniform Clarification Guidelines for Foreign Substances and Recommend Penalties as applied to authorized drugs used in relation to horse racing. The general authority for the rules, as cited by the Commission, is SDCL [42-7-56](#) and [42-7-96](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rules will be held at the Deadwood City Hall, 102 Sherman Street, Deadwood, South Dakota, on June 25, 2024, at 9:00 a.m. (MT). Copies of the proposed rules may be obtained without charge from the South Dakota Commission on Gaming, 120 Industrial Drive, Suite 1, Spearfish, South Dakota, 57783, or online at <https://rules.sd.gov>. Comments may be emailed to [mark.heltzel@state.sd.us](mailto:mark.heltzel@state.sd.us). The deadline to submit written comments is 72 hours before the public hearing. This hearing is being held in a physically accessible location. Persons with special needs for which the Commission can make arrangements may call (605) 578-3074 at least 48 hours before the public hearing.

## Petitions for Rules

---

The **Department of Game, Fish and Parks** on May 14 and May 17, 2024, served on the Interim Rules Review Committee and the director of the Legislative Research Council petitions received from interested persons, per [SDCL 1-26-13](#), to create a new rule within ARSD [41:07:05:02](#) to allow for catch and release Paddlefish licenses, and to create a new rule within ARSD [41:04:02:49](#) to allow for the use of electric trolling motors only. The [Game, Fish and Parks Commission](#) will review the petitions at its June 6, 2024, meeting.

---

## FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

---

## Final Administrative Rules

---

**SOUTH DAKOTA BOARD OF PHARMACY (DEPARTMENT OF HEALTH):** 20:51:01:01, 20:51:01:03, 20:51:01:09, 20:51:01:11, 20:51:01:12; 20:51:02:01, 20:51:02:04.01, 20:51:20:05, 20:51:02:11, 20:51:02:12.01, 20:51:02:13, 20:51:02:13.01,

20:51:02:15, 20:51:02:16, 20:51:02:17; 20:51:04:02, 20:51:04:04; 20:51:05:00, 20:51:05:14, 20:51:05:15, 20:51:05:15.01, 20:51:05:18, 20:51:05:19, 20:51:05:20, 20:51:05:21, 20:51:05:22; 20:51:06:01, 20:51:06:02, 20:51:06:02.01, 20:51:06:03, 20:51:06:04, 20:51:06:05, 20:51:06:06, 20:51:06:07, 20:51:06:09, 20:51:06:10, 20:51:06:11, 20:51:06:12; 20:51:07:01, 20:51:07:03, 20:51:07:04; 20:51:13:02, 20:51:13:02.01, 20:51:13:02.03, 20:51:13:02.04, 20:51:13:03, 20:51:13:04, 20:51:13:05, 20:51:13:06; 20:51:14:04; 20:51:15:01, 20:51:15:03, 20:51:15:07, 20:51:15:09, 20:51:15:10, 20:51:15:12, 20:51:15:13, 20:51:15:15, 20:51:15:15.01, 20:51:15:16; 20:51:16:03, 20:51:16:04; 20:51:17:01, 20:51:17:01.01, 20:51:17:01.02, 20:51:17:02, 20:51:17:03; 20:51:19:03, 20:51:19:04, 20:51:19:05.01, 20:51:19:06, 20:51:19:07, 20:51:19:08, 20:51:19:10, 20:51:19:11, 20:51:19:16; 20:51:20:01, 20:51:20:02, 20:51:20:03, 20:51:20:04; 20:51:21:01, 20:51:21:01.01, 20:51:21:03, 20:51:21:05, 20:51:21:05.01, 20:51:21:06, 20:51:21:07; 20:51:22:05, 20:51:22:06; 20:51:23:01, 20:51:23:02, 20:51:23:03, 20:51:23:05, 20:51:23:06, 20:51:23:07; 20:51:24:01, 20:51:24:02, 20:51:24:04; 20:51:25:01, 20:51:25:02, 20:51:25:03; 20:51:27:02, 20:51:27:03, 20:51:27:04; 20:51:28:02.02; 20:51:29:00, 20:51:29:01, 20:51:29:02, 20:51:29:03, 20:51:29:04, 20:51:29:05, 20:51:29:06, 20:51:29:07, 20:51:29:08, 20:51:29:09, 20:51:29:10, 20:51:29:11, 20:51:29:12, 20:51:29:13, 20:51:29:14, 20:51:29:15, 20:51:29:16, 20:51:29:17, 20:51:29:18, 20:51:29:19, 20:51:29:20, 20:51:29:21, 20:51:29:22, 20:51:29:23, 20:51:29:24, 20:51:29:25, 20:51:29:26, 20:51:29:27; 20:51:30:01, 20:51:30:10, 20:51:30:12; 20:51:31:01, 20:51:31:02, 20:51:31:03, 20:51:31:04, 20:51:31:05, 20:51:31:06, 20:51:31:07, 20:51:31:08, 20:51:31:09, 20:51:31:10, 20:51:31:11, 20:51:31:12, 20:51:31:13, 20:51:31:14, 20:51:31:15, 20:51:31:16, 20:51:31:17, 20:51:31:18, 20:51:31:19, 20:51:31:20, 20:51:31:21, 20:51:31:22, 20:51:31:23, 20:51:31:24, 20:51:31:25, 20:51:31:26, 20:51:31:27, 20:51:31:28, 20:51:31:29, 20:51:31:30, 20:51:31:31, 20:51:31:32, 20:51:31:33, 20:51:31:34, 20:51:31:35, 20:51:31:36, 20:51:31:37, 20:51:31:38; 20:51:36:01, 20:51:36:02, 20:51:36:03, 20:51:36:04, 20:51:36:05, 20:51:31:06.

**History/Notice:** 50 SDR 112, March 25, 2024

**Hearing:** April 12, 2024

**Filed:** May 13, 2024

**Effective:** June 2, 2024

**DEPARTMENT OF HEALTH:** 44:19:01:04.

**History/Notice:** 50 SDR 59, October 30, 2023

**Hearing:** November 30, 2023

**Filed:** May 13, 2024

**Effective:** June 2, 2024

**DEPARTMENT OF HEALTH:** 44:19:01:04.

**History/Notice:** 50 SDR 98, February 20, 2024

**Hearing:** March 12, 2024

**Filed:** May 13, 2024

**Effective:** June 2, 2024

**DEPARTMENT OF HEALTH:** 44:70:01:05.

**History/Notice:** 50 SDR 104, March 4, 2024

**Hearing:** April 19, 2024

**Filed:** May 13, 2024

**Effective:** June 2, 2024

### Executive Appointments

| <u>Appointee</u>                 | <u>Appointed by</u> | <u>Succeeding</u> | <u>Effective/End Date</u> |
|----------------------------------|---------------------|-------------------|---------------------------|
| <b>Board of Barber Examiners</b> |                     |                   |                           |
| Benjamin E. Estabrook            | Governor            | Jennifer Bunkers  | 5/13/2024 – 10/30/2024    |
| Pierre                           |                     |                   |                           |

**Board of Water and  
Natural Resources**

|                                    |          |            |                       |
|------------------------------------|----------|------------|-----------------------|
| Bruce A. Jennings<br>Belle Fourche | Governor | Paul Gnirk | 5/14/2024 – 6/30/2026 |
|------------------------------------|----------|------------|-----------------------|

**Cosmetology Commission**

|                            |          |            |                       |
|----------------------------|----------|------------|-----------------------|
| Trish A. Bates<br>Mitchell | Governor | Zoe Hiller | 5/13/2024 – 4/15/2027 |
|----------------------------|----------|------------|-----------------------|

|                                |          |               |                       |
|--------------------------------|----------|---------------|-----------------------|
| Jason M. Pettigrew<br>Aberdeen | Governor | Debra Pageler | 5/14/2024 – 4/30/2027 |
|--------------------------------|----------|---------------|-----------------------|

**Council of Juvenile Services**

|                                |          |            |                       |
|--------------------------------|----------|------------|-----------------------|
| Julian J. Woodward<br>Aberdeen | Governor | Mason Best | 5/8/2024 – 10/30/2026 |
|--------------------------------|----------|------------|-----------------------|

**Fire Marshal's  
Advisory Board**

|                             |          |             |                                                                              |
|-----------------------------|----------|-------------|------------------------------------------------------------------------------|
| Richard C. Gustad<br>Platte | Governor | Reappointed | 9/18/2023 – 4/12/2026<br>(corrects previously<br>published dates of service) |
|-----------------------------|----------|-------------|------------------------------------------------------------------------------|

**South Dakota State  
Railroad Board**

|                         |          |            |                        |
|-------------------------|----------|------------|------------------------|
| Jack D. Nelson<br>Volga | Governor | Jerry Cope | 5/13/2024 – 10/30/2025 |
|-------------------------|----------|------------|------------------------|

---

**SCHEDULED PUBLIC HEARINGS**


---

|           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5-20-2024 | <a href="#">South Dakota Division of Insurance (Department of Labor and Regulation)</a> : Amend rules to update the sources referenced in rule; 50 SDR 128, April 29, 2024.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 5-20-2024 | <a href="#">South Dakota Board of Education Standards (Department of Education)</a> : Amend rules to repeal the athletic coaching permit; move the international exchange teacher permit to reciprocity; create a one-year CTE instructor permit; and clean up language within the current rules; 50 SDR 132, May 6, 2024.                                                                                                                                                                                                                                                                                                                                                                                |
| 5-20-2024 | <a href="#">South Dakota Board of Education Standards (Department of Education)</a> : Amend rules to remove the youth suicide awareness and prevention training requirement from the certification process; 50 SDR 132, May 6, 2024.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 5-23-2024 | <a href="#">Department of Transportation</a> : Amend rules to change speed limits on State Trunk Highway 87, U.S. Highway 16, and State Trunk Highway 40 in Pennington County; on U.S. Highway 14 and 14B in Brookings County; on State Trunk Highway 34, State Trunk Highway 79, and U.S. Highway 212 in Butte County; on U.S. Highway 16A, State Trunk Highway 87, State Trunk Highway 89, and U.S. Highway 385 in Custer County; on U.S. Highway 212 and the Interstate 90 eastbound off ramp into the Tilford port of entry in Meade County; and on State Trunk Highway 20 in Perkins County. The proposed rules will also eliminate duplication and make stylistic changes; 50 SDR 133, May 6, 2024. |
| 5-31-2024 | <a href="#">South Dakota State Board of Dentistry (Department of Health)</a> : Amend rules to update the collaborative supervision administrative rules and remove a clinical practice requirement to make the rules consistent with <a href="#">House Bill 1074</a> , which was passed by the 2024 Legislature; 50 SDR 118, April 8, 2024.                                                                                                                                                                                                                                                                                                                                                               |
| 6-5-2024  | <a href="#">South Dakota Board of Nursing (Department of Health)</a> : Adopt and amend rules to revise the approval process for clinical enrichment programs and use of nurse preceptors, add requirements for nurses and registrants to report to the board within 60 days a new address, name, or other reportable event; 50 SDR 132, May 6, 2024.                                                                                                                                                                                                                                                                                                                                                      |

|                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>6-11-2024</b> | <b><a href="#">South Dakota Secretary of State:</a></b> Amend rules to add e-notary to the current notary public form and modify the oath to better conform to other oaths currently in use; 50 SDR 135, May 13, 2024.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>6-11-2024</b> | <b><a href="#">Department of Human Services:</a></b> Amend rules to update and add definitions; clarify institutionalized and clarify the setting for eligibility; add the requirement for HOPE waiver services to include that the individual must have an Individual Support Plan per the Centers for Medicare and Medicaid Services; update the provisions; clarify the requirement for each individual to participate in a needs assessment when applying for HOPE waiver services and participate in the assessment; specify the contents of the individual support plan and that it must be signed by the participant; clarify the department must annually redetermine the participant's level of care; and update and reorder the list of services available through the HOPE waiver; clarify language on the participant cost share when applicable; update the location of the fee schedule; update reasons for discontinuance or denial; and add the cost of services and an exceptions process; 50 SDR 137, May 20, 2024. |
| <b>6-11-2024</b> | <b><a href="#">Department of Game, Fish and Parks:</a></b> Amend rules to describe a new prairie elk season license type; describe a qualifying landowner or landowner-operator; establish the fee for the landowner on own land antlerless elk license; repeal ARSD 41:06:27:02.07 in order to allow an individual to obtain more than one elk raffle license in a lifetime; and modify the restrictions of nonresidents in the taking of a raccoon; 50 SDR 138, May 20, 2024.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>6-25-2024</b> | <b><a href="#">South Dakota Commission on Gaming (Department of Revenue):</a></b> Amend rules to incorporate the most recent version of the Association of Racing Commissioners International Uniform Clarification Guidelines for Foreign Substances and Recommend Penalties as applied to authorized drugs used in relation to horse racing; 50 SDR 138, May 20, 2024.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>7-8-2024</b>  | <b><a href="#">South Dakota Board of Education Standards (Department of Education):</a></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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>8-16-2024</b> | <b><a href="#">South Dakota Board of Podiatry Examiners (Department of Health):</a></b> Amend a rule to update the renewal fees to ensure financial viability of the board; 50 SDR 137, May 20, 2024.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

## RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee for the 2024 Interim is Monday, June 10, 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 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.