



# SOUTH DAKOTA REGISTER

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## LEGISLATIVE RESEARCH COUNCIL ACTIONS

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### Superseded Rules Addressed

Effective July 1, 2024, and pursuant to authority provided in [SDCL 1-26A-1](#), Code Counsel has made the following revisions "to eliminate or clarify obviously obsolete . . . rules" described below:

- [SB 152](#), enacted in the 2024 Legislative Session, eliminated the rulemaking authority for the Bureau of Human Resources and Administration to set the maximum fee to be charged for publications required by law, and instead placed the maximum fee in statute. See [SDCL 17-2-19](#). While this automatically means the provisions of [ARSD chapter 10:02:02](#) no longer have effect on July 1, 2024, (per [SDCL 1-26-8.1](#)), the wholesale incorporation of the substance of chapter 10:02:02 in amended SDCL 17-2-19 means that ARSD chapter 10:02:02 is clearly obsolete and therefore its sections will be denoted as "Superseded" in the ARSD.
- [HB 1060](#) is a bill that, in relevant part, placed mileage reimbursement in statute at [SDCL 3-9-1](#) and eliminated the Board of Finance's authority to propose rules for mileage reimbursement. The following revisions have been made:
  - Designating as "Superseded" the following rule sections on which [SDCL 3-9-1](#) is relied upon as rulemaking authority, the substantive content of which has been incorporated into SDCL 3-9-1:
    - [ARSD 5:01:02:01](#); and
    - [ARSD 5:01:02:01.01](#);
  - Revising cross-references to § 5:01:02:01 and/or 5:01:02:02 in the following sections, to be replaced by cross-references to "SDCL 3-9-1":
    - [ARSD 5:01:02:04](#);
    - [ARSD 12:10:02:32](#);
    - [ARSD 20:04:01:28](#);
    - [ARSD 20:18:10:10](#);
    - [ARSD 20:74:05:09](#);
    - [ARSD 20:81:09:08](#);
    - [ARSD 67:14:31:51](#); and
    - [ARSD 67:55:04:07](#); and
  - Striking subdivisions (1) and (3) of [ARSD 5:01:02:14](#), which refer to a maximum lodging reimbursement of \$75 plus tax and a flat \$14 meal allowance for uniformed highway patrol officers on field duties, respectively. That content, with the latter slightly increased, is now found in [SDCL 3-9-2](#) and new [SDCL 3-9-2.4](#), respectively, effective July 1.

These revisions were presented to the Interim Rules Review Committee at its June 10, 2024, meeting and were made in consultation with legal counsel from the Executive Branch.

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## FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

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### 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:** (June 24, 2024) intends to amend a rule to increase the fee for medical cannabis establishments, per [Senate Bill 43](#) which was passed by the 2024 South Dakota Legislature. The general authority for this rule, as cited by the department, is SDCL [34-20G-72](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rule will be held at the Kneip Building Conference Room #3, 700 Governor's Drive, Pierre, South Dakota, on July 29, 2024, at 1:30 p.m. (CT). Copies of the proposed rule may be obtained without charge from, and written comments may be sent to, the Department of Health, Medical Cannabis Program, 600 East Capitol Avenue, Pierre, South Dakota 57501. Copies of the rule are also available online at <http://rules.sd.gov>. Comments may be emailed to [DOHAdminRules@state.sd.us](mailto:DOHAdminRules@state.sd.us) or [mcquestions@state.sd.us](mailto:mcquestions@state.sd.us). The deadline to submit any written comments for consideration is August 8, 2024. 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.

**Department of Health:** (June 24, 2024) intends to repeal rules related to the regulation of emergency medical responders (EMRs) and emergency medical technicians (EMTs) as regulation of EMRs and EMTs is being transferred from the Department of Health to the Board of Medical and Osteopathic Examiners. The rules also update language related to ambulance services including changing the deadline for ambulance services to submit required electronic patient care reports from monthly to within seventy-two hours of completion of an ambulance run; establishing a process for ambulance services to request a hardship exemption for the medical director requirement; and establishing quality assurance standards for advanced life support ambulance services. The general authority for these rules, as cited by the department, is SDCL [34-11-3](#), [34-11-5](#), and [34-11-12.2](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rules will be held at the Robert Hayes Building Main Conference Room, 600 East Capitol Avenue, Pierre, South Dakota, on July 19, 2024, at 11:00 a.m. (CT). Copies of the proposed rules may be obtained without charge from, and written comments may be sent to, the Department of Health, Office of EMS and Trauma, 600 East Capitol Avenue, Pierre, South Dakota 57501. Copies of the rules are also available online at <http://rules.sd.gov>. The deadline to submit any written comments for consideration is August 2, 2024. 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.

**Division of Labor and Management (Department of Labor and Regulation):** (June 25, 2024) intends to amend rules to update the source of the reference used to calculate reimbursement rates for providers of workers' compensation dental procedures to the 2023 edition and increase the conversion factor for dental fees. The general authority for these rules, as cited by the department, is SDCL [62-7-8](#).

A public hearing at which persons may present amendments, data, opinions, and arguments for or against the proposed rules will be held via Microsoft Teams on August 1, 2024, at 9:00 a.m. (CT). Interested persons may attend at <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting> by using meeting ID 248 687 435 765 and passcode SPWK5H or by calling (605) 679-7263 and using conference ID 426 138 32#. Copies of the proposed rules may be obtained without charge from, and written comments may be sent to, the Department of Labor and Regulation, Division of Labor and Management, Attn: Riley Bennett, 123 West Missouri Avenue, Pierre, South Dakota 57501. Copies of the rules are also available online at <https://rules.sd.gov>. The deadline to submit any written comments for consideration is ten days after the date of the public 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) 773-3681 at least 48 hours before the public hearing.

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## FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

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### Executive Order

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Governor Noem has signed [Executive Order 2024-05](#), dated June 24, 2024, declaring a state of emergency in South Dakota under provisions of [SDCL chapter 34-48A](#) due to the recent severe storms, flooding, and predicted water flows that could cause additional flooding, which have resulted in damage to roads, bridges, dams, and other public infrastructure. The purpose of the Order, as described in the document, is to exempt transportation and delivery of needed supplies in support of flood relief efforts from the United States Department of Transportation's Motor Carrier Safety Regulations (49 C.F.R. Parts 395.3 and 395.5). It does not require nor allow fatigued drivers to operate transport vehicles and does not exempt drivers from other requirements concerning the use of controlled substances or alcohol and associated testing requirements, maintaining a commercial driver's license and financial responsibility, and meeting applicable size and weight requirements, among other requirements. The Order goes into effect immediately and will expire upon the conclusion of the emergency, but no later than July 8, 2024.

### Final Administrative Rules

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**DEPARTMENT OF SOCIAL SERVICES:** 67:10:10:04; 67:46:04:13; 67:46:05:15; 67:46:06:05; 67:46:07:12.

**History/Notice:** 50 SDR 128, April 29, 2024

**Hearing:** May 17, 2024

**Filed:** June 10, 2024

**Effective:** June 30, 2024

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## SCHEDULED PUBLIC HEARINGS

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<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>7-9-2024</b>	<b><a href="#">South Dakota Housing Development Authority:</a></b> Amend rules to modify the definition of "political subdivision" to include political subdivisions of a federally recognized Indian tribe, and modify the eligibility for the housing infrastructure program to eliminate the requirement that the political subdivision be of the state of South Dakota; 50 SDR 152, June 17, 2024.
<b>7-11-2024</b>	<b><a href="#">South Dakota One Call Board (Department of Public Safety):</a></b> Amend rules to mandate excavators to identify the precise site being excavated by pre-marking the area of excavation with white paint or flags ("white lining"); mandate operators to participate in a Positive Response program in which operators must provide response to the notification center prior to the ticket start date and time; and limit excavators from updating current tickets after sixty-three calendar days have elapsed from the state date of the original ticket; 50 SDR 152, June 17, 2024.
<b>7-11-2024</b>	<b><a href="#">Department of Game, Fish and Parks:</a></b> Amend rules to eliminate the option to purchase a discounted second annual park entrance license through the stub/coupon method; eliminate the ability to buy multiple discounted annuals through common vehicle registration; provide for the availability of a double license option; modify landowner own land license types from one "any antelope" or one two-tag "any antelope" and "any doe-fawn antelope" to one "buck antelope" only; close the mentored antelope season; reduce the minimum factory rated muzzle velocity of one thousand feet per second

	to six hundred feet per second for an air gun with hunting pellets to hunt cottontail rabbit, red squirrel, fox squirrel, grey squirrel, coyote, wolf, gray fox, red fox, skunk, gopher, ground squirrel, chipmunk, jackrabbit, marmot, opossum, porcupine, crow, and prairie dog; adjust unit boundary descriptions and create new units; allow an individual that applies for a "special antelope" license to apply for another antelope license in the second lottery drawing instead of the third lottery drawing; and remove the availability of access permits within the Black Hills Fire Protection District; 50 SDR 160, June 24, 2024.
<b>7-19-2024</b>	<b><u>Department of Health:</u></b> Repeal rules related to the regulation of emergency medical responders (EMRs) and emergency medical technicians (EMTs) as regulation of EMRs and EMTs is being transferred from the Department of Health to the Board of Medical and Osteopathic Examiners. The rules also update language related to ambulance services including changing the deadline for ambulance services to submit required electronic patient care reports from monthly to within seventy-two hours of completion of an ambulance; establishing a process for ambulance services to request a hardship exemption for the medical director requirement; and establishing quality assurance standards for advanced life support ambulance services; 51 SDR 2, July 1, 2024.
<b>7-23-2024</b>	<b><u>South Dakota Electrical Commission (Department of Labor and Regulation):</u></b> Amend rules to adopt the 2023 National Electrical Code (NEC); implement standards for the approval and management of third-party inspectors; apply the statutory minimum inspection fee of one hundred dollars under SDCL 36-16-30; and formalize the third-party inspector process; 50 SDR 142, May 28, 2024.
<b>7-29-2024</b>	<b><u>Department of Health:</u></b> Amend a rule to increase the fee for medical cannabis establishments, per Senate Bill 43 which was passed by the 2024 South Dakota Legislature; 51 SDR 1, July 1, 2024.
<b>8-1-2024</b>	<b><u>Division of Labor and Management (Department of Labor and Regulation):</u></b> Amend rules to update the source of the reference used to calculate reimbursement rates for providers of workers' compensation dental procedures to the 2023 edition and increase the conversion factor for dental fees; 51 SDR 2, July 1, 2024.
<b>8-16-2024</b>	<b><u>South Dakota Board of Podiatry Examiners (Department of Health):</u></b> Amend a rule to update the renewal fees to ensure financial viability of the board; 50 SDR 137, May 20, 2024.
<b>8-20-2024</b>	<b><u>South Dakota Board of Physical Therapy (Department of Health):</u></b> Amend rules to update the activities that meet continuing education requirements and update the waiver of continuing education requirements; 50 SDR 142, May 28, 2024.

## RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee for the 2024 Interim is Tuesday, July 23, 2024, at 10:00 a.m. (CT) via electronic conference and in Room 414 of the Capitol; please note the change from the original meeting date of July 16, 2024. Future meetings for the 2024 Interim are scheduled for 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.