

Meeting Agenda
SOUTH DAKOTA ATHLETIC COMMISSION
Via [ZOOM](#)
Or
Call: 1-312-626-6799
Meeting ID: 891 7405 7641
Passcode: 417165

Friday, September 26, 2025, 12:30 p.m. CDT

Proposed Agenda

- A. Call to Order
- B. Roll Call
- C. Approval of the Agenda
- D. Open Forum: 5 minutes for the public to address the Commission
- E. Approval of Meeting Minutes: May 9, 2025
- F. Financial Reports: June 30, 2025 and August 31, 2025
- G. Old Business
 - 1) Approved Events Update
 - i. MMA 2025-04 (LFA – Sioux Falls)
 - 2) Administrative Rule Change Process Update
- H. New Business
 - 1) Open Meetings Law Review (required by SDCL 1-25-13)
 - 2) Event Applications
 - 3) Election of Officers
- I. Other Business
 - 1) Office Update
- J. Announcements
 - 1) Next Meeting Date – December 5, 2025 at 12:30 pm CST
- K. Adjourn

Meeting Minutes
SOUTH DAKOTA ATHLETIC COMMISSION
Via Teleconference
May 9, 2025 12:30 p.m. CST

Chairman Valentine called the meeting to order at 12:31p.m. A quorum was present.

Members Present Electronically: Verle Valentine, Kaleb Paulsen, Jeremy Fox, and Chet Kilmer

Members Absent: None

Others Present Electronically: Jennifer Stalley, executive secretary, and Jerry McCabe, Department of Labor, Commission legal counsel

Fox made a motion to approve the agenda. Paulsen seconded the motion. **MOTION PASSED.**

Valentine asked for any public comments. No comments were offered.

Paulsen made a motion to approve December 13, 2024, January 29, 2025, and January 30, 2025 commission meeting minutes. Fox seconded the motion. **MOTION PASSED.**

Kilmer made a motion to accept the March 31, 2025 financial report as presented. Kilmer seconded the motion. **MOTION PASSED.**

Fox made a motion to go into executive session for consultation with legal counsel for consideration of proposed contested cases or litigation and preparing for contract negotiations and invited Stalley and McCabe to join the executive session at 12:37 pm. Kilmer seconded the motion. **MOTION PASSED.**

Valentine declared the Commission out of executive session at 12:55 pm.

Paulsen made a motion to affirm the result of the Nagy/Mohammad bout of the January 30, 2025 boxing event. Kilmer seconded the motion. **MOTION PASSED.**

Paulsen made a motion to dismiss Complaint 2022-01 without prejudice and reserve the Commission's right to refile the complaint. Kilmer seconded the motion. **MOTION PASSED.**

Stalley provided an update on previously approved events.

Kilmer made a motion to proceed with changes proposed to ARSD 20:81:01, 20:81:02, 20:81:03 and 20:81:08 subject to suggestions by the Legislative Research Council and approval of the Department of Labor and Regulation. Paulsen seconded the motion. **MOTION PASSED.**

Fox made a motion to proceed with changes proposed to ARSD 20:81:04, 20:81:05, 20:81:06, 20:81:07, 20:81:09, 20:81:10 subject to suggestions by the Legislative Research Council and approval of the Department of Labor and Regulation. Kilmer seconded the motion. **MOTION PASSED.**

Stalley provided the Commission with a timeline of the administrative rules process. Stalley will work on style and form changes to the proposed changes approved by the Commission and provide a final version to Commissioners electronically by the end of June. The formal rule process begins in July, subject to approval by the Department of Labor and Regulation. The Commission holds a public hearing on the proposed rules on September 26th. The final adopted rules are submitted to the Interim Rules Review Committee on October 7th.

Fox moved to adopt the revised Pre-Post Medical Evaluation Form. Paulsen seconded the motion. **MOTION PASSED.**

Kilmer moved to renew the contract with Midwest Solutions for executive services with a 1.25% increase. Fox seconded the motion. **MOTION PASSED.**

Stalley reported there are no event applications for consideration.

Stalley provided the Commission with an office update.

Fox provided the Commission with a report on the officials training he attended in Minneapolis. Fox recommended that other Commissioners attend the training.

The Commission announced its next meeting for September 26, 2025 at 12:30 pm (CST) via zoom.

Kilmer made a motion to adjourn the meeting at 1:49 p.m. Paulsen seconded the motion. **MOTION PASSED.**

Respectfully Submitted,

Jeremy Fox, Secretary

BA1409R1

STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 06/30/2025

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AGENCY: 10 LABOR & REGULATION
BUDGET UNIT: 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	1039000887	1140000	95,876.55	DR	BOXING COMMISSION FUND
COMPANY/SOURCE TOTAL 6503 887			95,876.55	DR *	
COMP/BUDG UNIT TOTAL 6503 1039			95,876.55	DR **	
BUDGET UNIT TOTAL 1039			95,876.55	DR ***	

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 06/30/2025

AGENCY 10 LABOR & REGULATION
BUDGET UNIT 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO 6503					
COMPANY NAME PROFESSIONAL & LICENSING BOARDS					
1039000887	6503	4293070	PROMOTER LICENSE	.00	900.00
ACCT: 4293		BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)		.00	900.00 *
1039000887	6503	4299080	EVENT FEE	3,303.20	42,461.24
1039000887	6503	4299081	CONTESTANT REGIST FEE	.00	3,500.00
1039000887	6503	4299082	JUDGE REGISTRATION FEE	.00	700.00
1039000887	6503	4299083	REFEREE REGISTRATION FEE	.00	350.00
1039000887	6503	4299084	SECOND REGISTRATION FEE	.00	3,000.00
1039000887	6503	4299085	TIMEKEEPER REGIST FEE	.00	75.00
1039000887	6503	4299087	AMATEUR EXEMPTION FEE	.00	100.00
ACCT: 4299		OTHER LIC, PRMTS, & FEES (NON-GOVERNMENTAL)		3,303.20	50,186.24 *
ACCT: 42		LICENSES, PERMITS & FEES		3,303.20	51,086.24 **
1039000887	6503	4920045	NONOPERATING REVENUES	.00	4,772.11
ACCT: 4920		NONOPERATING REVENUE		.00	4,772.11 *
ACCT: 49		OTHER REVENUE		.00	4,772.11 **
CNTR: 1039000887				3,303.20	55,858.35 ***
COMP: 6503				3,303.20	55,858.35 ****
B UNIT: 1039				3,303.20	55,858.35 *****

BATE02MJ 06/28/2025

STATE OF SOUTH DAKOTA
MONTHLY REVENUE AND JOURNAL VOUCHER REPORT
FOR PERIOD ENDING: 06/30/2025

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1,446

AGENCY 10 LABOR & REGULATION
BUD UNIT 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO

COMP	CENTER	ACCOUNT	DOCUMENT ID	POST DATE	APPROVAL, VENDOR, OR PO #	EFFECT DATE	AMOUNT	DR CR	
COMPANY NO 6503									
COMPANY NAME PROFESSIONAL & LICENSING BOARDS									
6503	1039000887	4299080	C105AC019	06/16/2025	402625	06/11/2025	3,303.20	DR	
6503	1039000887	4299080	C105AC019	06/16/2025	402625	06/11/2025	3,303.20	CR	
6503	1039000887	4299080	C105AC019	06/16/2025	402625	06/11/2025	3,303.20	CR	
TOTAL ACCOUNT GROUP NET CHANGE									
6503	1039000887	52042000	PL505070	06/06/2025		06/04/2025	228.60	DR	
6503	1039000887	5228000	T105-103	06/04/2025		06/04/2025	96.32	DR	
TOTAL ACCOUNT GROUP NET CHANGE									
6503	1039000887	82040900	25-1000-005 2363	06/04/2025	25SC1000005	06/03/2025	2,165.74	CR	
6503	1039000887	82041300	25SC1000003	06/20/2025	12199902	06/20/2025	6,750.00	CR	
6503	1039000887	82040900	25SC1000005	06/20/2025	12199902	06/20/2025	10,213.21	CR	
6503	1039000887	82040900	25SC100002A	06/20/2025	12199902	06/20/2025	11,262.57	CR	
TOTAL ACCOUNT GROUP NET CHANGE									
								30,391.52	CR *
TOTAL COMPANY--NET CHANGE								33,369.80	CR **

STATE OF SOUTH DAKOTA
MONTHLY EXPENDITURE REPORT
FOR PERIOD ENDING: 06/30/2025

AGENCY 10 LABOR & REGULATION
BUDGET UNIT 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO
CENTER-5 10390 SD ATHLETIC COMMISSION

COMP	CENTER	ACCOUNT	DOCUMENT NUMBER	POSTING DATE	JV APPVL #, OR PAYMENT #	SHORT NAME	VENDOR NUMBER	VENDOR GROUP	AMOUNT	DR/ CR
COMPANY NO 6503 COMPANY NAME PROFESSIONAL & LICENSING BOARDS										
6503	1039000887	52032300	CGEX250603	06/04/2025	832782				356.44	DR
	OBJSUB: 5203230	AUTO-PRIV. (OUT-STATE)	H/R						356.44	DR *
6503	1039000887	52033000	CGEX250603	06/04/2025	832782				345.96	DR
	OBJSUB: 5203300	LODGING/OUT-OF-STATE							345.96	DR *
6503	1039000887	52033500	CGEX250603	06/04/2025	832782				158.00	DR
	OBJSUB: 5203350	NON-TAXABLE MEALS/OUT-ST							158.00	DR *
	OBJECT: 5203	TRAVEL							860.40	DR **
6503	1039000887	52040900	25-1000-005 2363	06/06/2025	00972844	MIDWESTSOL	12199902		2,165.74	DR
	OBJSUB: 5204090	MANAGEMENT CONSULTANT							2,165.74	DR *
6503	1039000887	52042000	PL505070	06/06/2025					228.60	DR
	OBJSUB: 5204200	CENTRAL SERVICES							228.60	DR *
	OBJECT: 5204	CONTRACTUAL SERVICES							2,394.34	DR **
6503	1039000887	5228000	T105-103	06/04/2025					96.32	DR
	OBJSUB: 5228000	OPER TRANS OUT -NON BUDGT							96.32	DR *
	OBJECT: 5228	NONOP EXP/NONBGTD OP TR							96.32	DR **
	GROUP: 52	OPERATING EXPENSES							3,351.06	DR ***
	COMP: 6503								3,351.06	DR ****
	CNTR: 1039000887								3,351.06	DR *****
	B. UNIT: 1039								3,351.06	DR *****

BA20JB61

BUDGET UNIT 1039

AVAILABLE FUNDS
AS OF: 06/29/2025
FY YEAR REMAINING: 0.5%
PAY DAYS REMAINING: 0

SEMI-FINAL #1

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DATE 06/28/2025

CENTER NAME SOUTH DAKOTA ATHLETIC COMMISSION - INFO

COMP	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	YEAR-TO-DATE EXPENDITURES	AVAILABLE APPROPRIATIONS	CASH BALANCE
6503-I	65,805.00	0.00	0.00	0.00	65,024.07	780.93	95,876.55
BUDGETED TOT	65,805.00	0.00	0.00	0.00	65,024.07	780.93	
ALL COMP TOT	65,805.00	0.00	0.00	0.00	65,024.07	780.93	

TOTAL BUDGETED:

OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	EXPENDITURES		BUDGET AVAILABLE	PCT AVL
				MONTHLY	YEAR-TO-DATE		
5101 EMPLOYEE SALARIES	15,742.00	0.00	0.00	0.00	7,078.49	8,663.51	55.0
5102 EMPLOYEE BENEFITS	1,347.00	0.00	0.00	0.00	629.95	717.05	53.2
5203 TRAVEL	4,539.00	0.00	0.00	860.40	5,676.73	1,137.73-	0.0
5204 CONTRACTUAL SVCS	43,077.00	0.00	0.00	2,394.34	51,549.09	8,472.09-	0.0
5205 SUPPLIES & MATRLS	1,100.00	0.00	0.00	0.00	89.81	1,010.19	91.8
TOTALS	65,805.00	0.00	0.00	3,254.74	65,024.07	780.93	1.2

BREAKOUT BY COMPANY:

COMPANY 6503-I PROFESSIONAL & LICENSING BOARDS

5101000 EMPLOYEE SALARIES	15,742.00	0.00	0.00	0.00	7,078.49	8,663.51	55.0
5102000 EMPLOYEE BENEFITS	1,347.00	0.00	0.00	0.00	629.95	717.05	53.2
5203000 TRAVEL	4,539.00	0.00	0.00	860.40	5,676.73	1,137.73-	0.0
5204000 CONTRACTUAL SVCS	43,077.00	0.00	0.00	2,394.34	51,549.09	8,472.09-	0.0
5205000 SUPPLIES & MATRLS	1,100.00	0.00	0.00	0.00	89.81	1,010.19	91.8
PS SUBTOTALS	17,089.00	0.00	0.00	0.00	7,708.44	9,380.56	54.9
OE SUBTOTALS	48,716.00	0.00	0.00	3,254.74	57,315.63	8,599.63-	0.0
COMPANY 6503-I TOT	65,805.00	0.00	0.00	3,254.74	65,024.07	780.93	1.2

AGENCY: 10 LABOR & REGULATION
BUDGET UNIT: 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	1039000887	1140000	98,777.00	DR	BOXING COMMISSION FUND
COMPANY/SOURCE TOTAL		6503 887	98,777.00	DR *	
COMP/BUDG UNIT TOTAL		6503 1039	98,777.00	DR **	
BUDGET UNIT TOTAL		1039	98,777.00	DR ***	

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 08/31/2025

AGENCY 10 LABOR & REGULATION
BUDGET UNIT 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO 6503					
COMPANY NAME PROFESSIONAL & LICENSING BOARDS					
1039000887	6503	4299080	EVENT FEE	.00	609.40
1039000887	6503	4299081	CONTESTANT REGIST FEE	950.00	950.00
1039000887	6503	4299082	JUDGE REGISTRATION FEE	50.00	50.00
1039000887	6503	4299083	REFEREE REGISTRATION FEE	50.00	50.00
1039000887	6503	4299084	SECOND REGISTRATION FEE	1,250.00	1,250.00
ACCT: 4299			OTHER LIC, PRMTS, & FEES (NON-GOVERNMENTAL)	2,300.00	2,909.40 *
ACCT: 42			LICENSES, PERMITS & FEES	2,300.00	2,909.40 **
1039000887	6503	4920045	NONOPERATING REVENUES	4,888.26	4,888.26
ACCT: 4920			NONOPERATING REVENUE	4,888.26	4,888.26 *
ACCT: 49			OTHER REVENUE	4,888.26	4,888.26 **
CNTR: 1039000887				7,188.26	7,797.66 ***
COMP: 6503				7,188.26	7,797.66 ****
B UNIT: 1039				7,188.26	7,797.66 *****

AGENCY 10 LABOR & REGULATION
BUD UNIT 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO

COMP	CENTER	ACCOUNT	DOCUMENT ID	POST DATE	APPROVAL, VENDOR, OR PO #	EFFECT DATE	AMOUNT	DR CR
COMPANY NO 6503								
COMPANY NAME PROFESSIONAL & LICENSING BOARDS								
6503	1039000887	4299081	C106AC002	08/27/2025	408864	08/21/2025	950.00	DR
6503	1039000887	4299081	C106AC002	08/27/2025	408864	08/21/2025	950.00	CR
6503	1039000887	4299081	C106AC002	08/27/2025	408864	08/21/2025	950.00	CR
6503	1039000887	4299082	C106AC002	08/27/2025	408864	08/21/2025	50.00	CR
6503	1039000887	4299083	C106AC002	08/27/2025	408864	08/21/2025	50.00	CR
6503	1039000887	4299084	C106AC002	08/27/2025	408864	08/21/2025	1,250.00	CR
TOTAL ACCOUNT GROUP NET CHANGE							2,300.00	CR *
6503	1039000887	4920045	IP25124	08/31/2025	IP25124	08/01/2025	4,888.26	CR
TOTAL ACCOUNT GROUP NET CHANGE							4,888.26	CR *
6503	1039000887	82040900	25-1000-005 2384	08/21/2025	26SC10005A	08/21/2025	1,904.08	CR
TOTAL ACCOUNT GROUP NET CHANGE							1,904.08	CR *
TOTAL COMPANY--NET CHANGE							9,092.34	CR **

AGENCY 10 LABOR & REGULATION
BUDGET UNIT 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO
CENTER-5 10390 SD ATHLETIC COMMISSION

COMP	CENTER	ACCOUNT	DOCUMENT NUMBER	POSTING DATE	JV APPVL #, OR PAYMENT #	SHORT NAME	VENDOR NUMBER	VENDOR GROUP	AMOUNT	DR/ CR
COMPANY NO 6503										
COMPANY NAME PROFESSIONAL & LICENSING BOARDS										
6503	1039000887	51010300	CGEX250827	08/31/2025					664.00	DR
OBJSUB: 5101030 BOARD & COMM MERS FEES										
OBJECT: 5101 EMPLOYEE SALARIES										
6503	1039000887	51020100	CGEX250827	08/31/2025					664.00	DR *
OBJSUB: 5102010 OASI-EMPLOYER'S SHARE										
OBJECT: 5102 EMPLOYEE BENEFITS										
GROUP: 51 PERSONAL SERVICES										
6503	1039000887	52040900	25-1000-005 2384	08/27/2025	00984565	MIDWESTSOL	12199902		50.80	DR *
OBJSUB: 5204090 MANAGEMENT CONSULTANT										
OBJECT: 5204 CONTRACTUAL SERVICES										
GROUP: 52 OPERATING EXPENSES										
COMP: 6503										
CNTR: 1039000887										
B. UNIT: 1039										
									714.80	DR ***
									1,904.08	DR ***
									1,904.08	DR *
									1,904.08	DR **
									1,904.08	DR ***
									2,618.88	DR ****
									2,618.88	DR *****
									2,618.88	DR *****

AGENCY 10 LABOR & REGULATION
BUDGET UNIT 1039 SOUTH DAKOTA ATHLETIC COMMISSION - INFO
CENTER-5 10390 SD ATHLETIC COMMISSION

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO 6503					
COMPANY NAME PROFESSIONAL & LICENSING BOARDS					
1039000887	6503	51010300	BOARD & COMM MERS FEES	664.00	664.00
ACCT: 5101		EMPLOYEE SALARIES		664.00	*
1039000887	6503	51020100	OASI-EMPLOYER'S SHARE	50.80	50.80
ACCT: 5102		EMPLOYEE BENEFITS		50.80	*
ACCT: 51		PERSONAL SERVICES		714.80	**
1039000887	6503	52040900	MANAGEMENT CONSULTANT	1,904.08	3,787.36
1039000887	6503	52042000	CENTRAL SERVICES	.00	375.06
ACCT: 5204		CONTRACTUAL SERVICES		1,904.08	*
ACCT: 52		OPERATING EXPENSES		1,904.08	**
COMP: 6503 PROFESSIONAL & LICENSING BOARDS					
				2,618.88	***
CENTER: 1039000887					
				2,618.88	****
B UNIT: 1039					
				4,877.22	*****
				4,877.22	*****

BUDGET UNIT 1039

SOUTH DAKOTA ATHLETIC COMMISSION - INFO

CENTER NAME	COMP	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	YEAR-TO-DATE EXPENDITURES	AVAILABLE APPROPRIATIONS	CASH BALANCE
6503-I		79,035.00	0.00	0.00	6,425.85	4,877.22	67,731.93	98,777.00
BUDGETED TOT		79,035.00	0.00	0.00	6,425.85	4,877.22	67,731.93	
ALL COMP TOT		79,035.00	0.00	0.00	6,425.85	4,877.22	67,731.93	

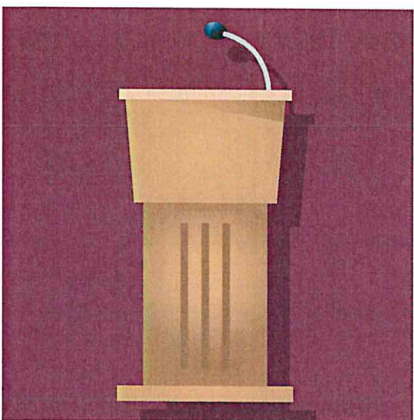
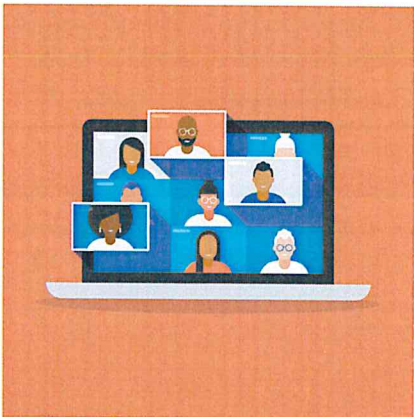
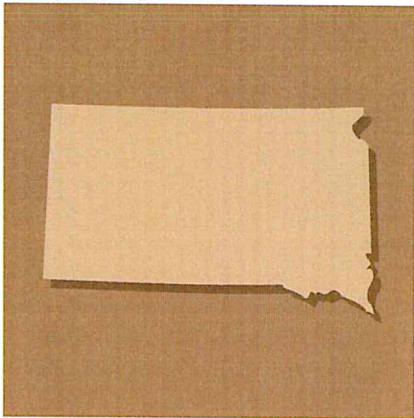
TOTAL BUDGETED:

OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	EXPENDITURES MONTHLY	EXPENDITURES YEAR-TO-DATE	BUDGET AVAILABLE	PCT AVL
5101 EMPLOYEE SALARIES	15,098.00	0.00	0.00	664.00	664.00	14,434.00	95.6
5102 EMPLOYEE BENEFITS	2,221.00	0.00	0.00	50.80	50.80	2,170.20	97.7
5203 TRAVEL	4,539.00	0.00	0.00	0.00	0.00	4,539.00	100.0
5204 CONTRACTUAL SVCS	56,077.00	0.00	6,425.85	1,904.08	4,162.42	45,488.73	81.1
5205 SUPPLIES & MATRLS	1,100.00	0.00	0.00	0.00	0.00	1,100.00	100.0
TOTALS	79,035.00	0.00	6,425.85	2,618.88	4,877.22	67,731.93	85.7

BREAKOUT BY COMPANY:

COMPANY 6503-I PROFESSIONAL & LICENSING BOARDS

5101000 EMPLOYEE SALARIES	15,098.00	0.00	0.00	664.00	664.00	14,434.00	95.6
5102000 EMPLOYEE BENEFITS	2,221.00	0.00	0.00	50.80	50.80	2,170.20	97.7
5203000 TRAVEL	4,539.00	0.00	0.00	0.00	0.00	4,539.00	100.0
5204000 CONTRACTUAL SVCS	56,077.00	0.00	6,425.85	1,904.08	4,162.42	45,488.73	81.1
5205000 SUPPLIES & MATRLS	1,100.00	0.00	0.00	0.00	0.00	1,100.00	100.0
PS SUBTOTALS	17,319.00	0.00	0.00	714.80	714.80	16,604.20	95.9
OE SUBTOTALS	61,716.00	0.00	6,425.85	1,904.08	4,162.42	51,127.73	82.8
COMPANY 6503-I TOT	79,035.00	0.00	6,425.85	2,618.88	4,877.22	67,731.93	85.7



Conducting the Public's Business in Public

A guide to South Dakota's
Open Meetings Laws
(Revised 2025)

Prepared by:
S.D. Attorney General's Office
in partnership with the
S.D. NewsMedia Association

Published by:
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Q: WHAT ARE SOUTH DAKOTA'S OPEN MEETINGS LAWS?

A: South Dakota's open meetings laws embody the principle that the public is entitled to the greatest possible information about public affairs and are intended to encourage public participation in government. SDCL Ch. 1-25 requires that official meetings of public bodies must be public and advance notice is to be given of such meetings. The statutes define an "official meeting" as one where a quorum of the public body is present and at which official business or public policy of the body is discussed or decided. Openness in government is encouraged.

Q: WHO DOES THE OPEN MEETINGS LAWS APPLY TO?

A: The open meetings laws apply to all public bodies of the state and its political subdivisions. SDCL 1-25-1, 1-25-12(3). This includes cities, counties, school boards and other public bodies created by ordinance or resolution, such as appointed boards, task forces, and committees, so long as they have authority to exercise sovereign power. SDCL 1-25-12(2). Although no court decisions have been issued on the subject, this probably does not include bodies that serve only in an advisory capacity. The State Constitution allows the Legislature and the Unified Judicial System to create rules regarding their own separate functions.

Q: ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?

A: Yes. The open meetings laws allow meetings, including executive or closed meetings, to be conducted by teleconference – defined as an exchange of information by audio, video, or electronic means (including the internet) – if a place is provided for the public to participate. SDCL 1-25-1.5, 1-25-12(5). In addition, for teleconferences where

less than a quorum of the public body is present at the location open to the public, arrangements must also be made for the public to listen by telephone or internet (except for portions of meetings properly closed for executive sessions). SDCL 1-25-1.6. The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting.

Q: HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?

A: SDCL 1-25-1.1 requires that all political subdivisions (except the state and its boards, commissions, or departments as provided in § 1-25-1.3) prominently post a notice and copy of the proposed agenda at the political subdivision's principal office. At a minimum, the proposed agenda must include the date, time, and location of the meeting and must be visible, readable, and accessible to the public for 24 continuous hours immediately preceding the meeting. Also, if the political subdivision has its own website, the notice must be posted on the website upon dissemination of the notice. For special or rescheduled meetings, political subdivisions must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by email, or by telephone to all local news media who have asked to be notified. It is good practice for local media to renew requests for notification of special or rescheduled meetings at least annually.

SDCL 1-25-1.3 varies slightly from SDCL 1-25-1.1 and requires the State and its agencies, boards, commissions, or departments to give notice by posting a proposed agenda at least 72 continuous hours before a meeting is scheduled to start (this does not include any weekend or legal holiday). The State is also required to give notice of a public meeting by posting its proposed agenda on <http://boardsandcommissions.sd.gov>.

Q: WHO ARE LOCAL NEWS MEDIA?

A: There is no definition of “local news media” in SDCL ch. 1-25. “News media” is defined in SDCL 13-1-57 generally as those personnel of a newspaper, periodical, news service, radio station, or television station regardless of the medium through which their content is delivered. The Attorney General is of the opinion that “local news media” is all news media – broadcast and print – that regularly carry news to the community.

Q: IS A PUBLIC COMMENT PERIOD REQUIRED AT PUBLIC MEETINGS?

A: Yes. Public bodies are required to provide at every official meeting a period of time on their agenda for public comment. SDCL 1-25-1. Each public body has the discretion to limit public comment as to the time allowed for each topic commented on, and as to the total time allowed for public comment. Public comment is not required at meetings held solely for an executive session, inauguration, presentation of an annual report, or swearing in of elected officials.

Q: CAN PUBLIC MEETINGS BE RECORDED?

A: Yes, SDCL 1-25-11 requires public bodies to allow recording (audio or video) of their meetings if the recording is reasonable, obvious, and not disruptive. This requirement does not apply to those portions of a meeting confidential or closed to the public.

Q: WHEN CAN A MEETING BE CLOSED TO THE PUBLIC AND MEDIA?

A: SDCL 1-25-2 allows a public body to close a meeting for the following purposes: 1) to discuss personnel issues pertaining to officers or employees; 2) consideration of the performance or discipline of a student, or the student's participation in interscholastic activities; 3) consulting with legal counsel, or reviewing communications from legal counsel about proposed or pending litigation or

contractual matters; 4) employee contract negotiations; 5) to discuss marketing or pricing strategies of a publicly-owned competitive business; or 6) to discuss information related to the protection of public or private property such as emergency management response plans or other public safety information. The statute also recognizes that executive session may be appropriate to comport with other laws that require confidentiality or permit executive or closed meetings. Federal law pertaining to students and medical records will also cause school districts and other entities to conduct executive sessions or conduct meetings to refrain from releasing confidential information. Meetings may also be closed by cities and counties for certain economic development matters. SDCL 9-34-19.

Note that SDCL 1-25-2 and SDCL 9-34-19 do not require meetings be closed in any of these circumstances.

Any official action based on discussions in executive session must, however, be made at an open meeting.

Q: WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?

A: Motions for executive sessions must refer to the specific state or federal law allowing for the executive session i.e. “pursuant to SDCL 1-25-2(3).” Also, best practice to avoid public confusion would be that public bodies explain the reason for going into executive session. For example, the motion might state “motion to go into executive session pursuant to SDCL 1-25-2(1) for the purposes of discussing a personnel matter,” or “motion to go into executive session pursuant to SDCL 1-25-2(3) for the purposes of consulting with legal counsel.”

Discussion in the executive session must be strictly limited to the announced subject. No official votes may be taken on any matter during an executive session. The public body must return to open session before any official action can be taken.

Q: WHAT HAPPENS IF THE MEDIA OR PUBLIC IS IMPROPERLY EXCLUDED FROM A MEETING OR OTHER VIOLATIONS OF THE OPEN MEETING LAWS OCCUR?

A: Excluding the media or public from a meeting that has not been properly closed subjects the public body or the members involved to: (a) prosecution as a Class 2 misdemeanor punishable by a maximum sentence of 30 days in jail, a \$500 fine or both; or (b) a reprimand by the Open Meeting Commission ("OMC"). The same penalties apply if the agenda for the meeting is not properly posted, or other open meeting violations occur.

Also, action taken during any meeting that is not open or has not been properly noticed could, if challenged, be declared null and void.

Q: HOW ARE ISSUES REFERRED TO THE OPEN MEETINGS COMMISSION ("OMC")?

A: Persons alleging violations of the open meetings laws must make their complaints with law enforcement officials in the county where the offense occurred. After a signed and notarized complaint is made under oath, and any necessary investigation is conducted, the State's Attorney may: (a) prosecute the case as a misdemeanor; (b) find that the matter has no merits and file a report with the Attorney General for statistical purposes; or (c) forward the complaint to the OMC for a determination. The OMC is comprised of five State's Attorneys or Deputy State's Attorneys appointed by the Attorney General. The OMC examines whether a violation has occurred and makes written public findings explaining its reasons. If you have questions on the procedures or status of a pending case, you may contact the Attorney General's Office at 605-773-3215 to talk to an assistant for the OMC. Procedures for the OMC are posted on the website for the Office of Attorney General. <http://atg.sd.gov/>.

Q: WHAT DOES THE TERM "SOVEREIGN POWER" MEAN?

A: The open meetings laws do not define this term, but it generally means the power to levy taxes, impose penalties, make special assessments, create ordinances, abate nuisances, regulate the conduct of others, or perform other traditional government functions. The term may include the exercise of many other governmental functions. If an entity is unclear whether it is exercising "sovereign power" it should consult with legal counsel.

Q: MAY AGENDA ITEMS BE CONSIDERED IF THEY ARE ADDED LESS THAN 24 HOURS BEFORE A MEETING?

A: Proposed agendas for public meetings must be posted at least 24 hours in advance of the meeting. The purpose of providing advance notice of the topics to be discussed at a meeting is to provide information to interested members of the public concerning the governing body's anticipated business. Typically, the public body adopts the final agenda upon convening the meeting. At the time the final agenda is adopted, the governing body may add or delete agenda items and may also change the order of business. See *In re Yankton County Commission, Open Meetings Commission Decision # 20-03*, December 31, 2020. New items cannot be added after the agenda has been adopted by the governing body.

Public bodies are strongly encouraged to provide at least 24 hours' notice of all agenda items so as to be fair to the public and to avoid dispute.

For special or rescheduled meetings, public bodies are to comply to the extent circumstances permit. In other words, posting less than 24 hours in advance may be permissible in emergencies.

Q: ARE EMAIL DISCUSSIONS "MEETINGS" FOR PURPOSES OF THE OPEN MEETINGS LAWS?

A: The definition of an "official meeting" in SDCL 1-25-12(1) specifically includes meetings conducted by "electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform[.]" A quorum of a public body that discusses official business of that body via electronic means is conducting an official meeting for purposes of the open meetings laws. Electronic communications made solely for scheduling purposes do not fall within the definition of an official meeting.

Q: WHAT RECORDS MUST BE AVAILABLE TO THE PUBLIC IN CONJUNCTION WITH PUBLIC MEETINGS?

A: SDCL 1-25-1.4 requires state boards, commissions, or departments to make public meeting materials available on <http://boardsandcommissions.sd.gov>. SDCL 1-27-1.16 requires that any other public body must post meeting materials on the public body's website or make those materials available to the public at least twenty-four hours prior to the hearing or when made available to the members of the public body, whichever is later. Finally, SDCL 1-27-1.17 requires that draft minutes of public meetings must be made available to the public at the principal place of business for the public body within 10 business days after the meeting (or made available on the website for the public body within five business days).

These laws are in addition to any specific requirements for public bodies (i.e., publication requirements in state laws pertaining to cities, counties, or school districts). Enforcement of public records laws contained in SDCL Ch. 1-27 are handled by separate procedures found in SDCL 1-27-35, et. seq. rather than the open meeting procedures described above. Violations of SDCL 1-27-1.16 and 1-27-1.17 are also Class 2 misdemeanors.

Q: WHAT REQUIREMENTS APPLY TO TASK FORCES, COMMITTEES AND WORKING GROUPS?

A: Task forces and committees that exercise "sovereign power," and are created by statute, ordinance, or proclamation are required to comply with the open meetings laws. SDCL 1-25-12(1). Task forces, committees, and working groups that are not created by statute, ordinance, or proclamation, or are advisory only, may not be subject to the open meetings laws, but are encouraged to comply to the extent possible when public matters are discussed. Ultimately, if such advisory task forces, committees and working groups present any reports or recommendations to public bodies, the public bodies must wait until the next meeting (or later) before taking final action on the recommendations. SDCL 1-27-1.18.

Q: ARE PUBLIC BODIES REQUIRED TO REVIEW THE OPEN MEETINGS LAWS?

A: Public bodies must annually review an explanation of the open meetings laws provided by the Attorney General, along with any other material pertaining to the open meetings laws made available by the Attorney General. SDCL 1-25-13. Each public body must report in its minutes that the annual review of the open meetings laws was completed.

PERTINENT S.D. OPEN MEETINGS STATUTES

(other specific provisions may apply depending on the public body involved)

1-25-1. OPEN MEETINGS. An official meeting of a public body is open to the public unless a specific law is cited by the public body to close the official meeting to the public.

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements of § 1-25-1.1 or 1-25-1.3 have been met. It is not an official meeting of a public body if its members attend a press conference called by a representative of the public body.

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the public body may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum must meet the posting requirements of § 1-25-1.1 or 1-25-1.3 and must contain, at a minimum, the date, time, and location of the event.

The public body shall reserve at every official meeting a period for public comment, limited at the public body's discretion as to the time allowed for each topic and the total time allowed for public comment, but not so limited as to provide for no public comment.

Public comment is not required at an official meeting held solely for the purpose of meeting in executive session, an inauguration, presentation of an annual report to the public body, or swearing in of a newly elected official, regardless of whether the activity takes place at the time and place usually reserved for an official meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meets solely for purposes of implementing previously publicly adopted policy; carrying out ministerial functions of that township, district, or municipality; or undertaking a factual investigation of conditions related to public safety; the meeting is not subject to the provisions of this chapter.

A violation of this section is a Class 2 misdemeanor.

1-25-1.1. PUBLIC NOTICE OF POLITICAL SUBDIVISIONS. Each political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice, visible to the public, at the principal office of the political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the political subdivision's website upon dissemination of the notice, if a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by

telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each political subdivision shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.3. PUBLIC NOTICE OF STATE. The state shall provide public notice of a meeting by posting a copy of the proposed agenda at the principal office of the board, commission, or department holding the meeting. The proposed agenda shall include the date, time, and location of the meeting, and be visible, readable, and accessible to the public. The agenda shall be posted at least seventy-two hours before the meeting is scheduled to start according to the agenda. The seventy-two hours does not include Saturday, Sunday, or legal holidays. The notice shall also be posted on a state website, designated by the commissioner of the Bureau of Finance and Management. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, the state shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.5. TELECONFERENCE MEETING. Any official meeting may be conducted by teleconference. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference may be taken by voice vote. If any member votes in the negative, the vote shall proceed to a roll call vote.

1-25-1.6. TELECONFERENCE PARTICIPATION. At any official meeting conducted by teleconference, there shall be provided one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, that has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to official meetings closed to the public pursuant to specific law.

1-25-2. EXECUTIVE SESSION. Executive or closed meetings may be held for the sole purposes of:

(1) Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term, employee, does not include any independent contractor;

(2) Discussing the expulsion, suspension, discipline, assignment of or the educational program of a student or the eligibility of a student to participate in interscholastic activities provided by the South Dakota High School Activities Association;

(3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters;

(4) Preparing for contract negotiations or negotiating with employees or employee representatives;

(5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business; or

(6) Discussing information pertaining to the protection of public or private property and any person on or within public or private property specific to:

(a) Any vulnerability assessment or response plan intended to prevent or mitigate criminal acts;

(b) Emergency management or response;

(c) Public safety information that would create a substantial likelihood of endangering public safety or property, if disclosed;

(d) Cyber security plans, computer, communications network schema, passwords, or user identification names;

(e) Guard schedules;

(f) Lock combinations;

(g) Any blueprint, building plan, or infrastructure record regarding any building or facility that would expose or create vulnerability through disclosure of the location, configuration, or security of critical systems of the building or facility; and

(h) Any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; any location or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other military or law enforcement equipment or personnel.

However, any official action concerning the matters pursuant to this section shall be made at an open official meeting. An executive or closed meeting must be held only upon a majority vote of the members of the public body present and voting, and discussion during the closed meeting

is restricted to the purpose specified in the closure motion. Nothing in § 1-25-1 or this section prevents an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a class 2 misdemeanor.

1-25-6. DUTY OF STATE'S ATTORNEY. If a complaint alleging a violation of chapter 1-25 is made pursuant to § 23A-2-1, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. Upon doing so, the state's attorney shall send a copy of the complaint and any investigation file to the attorney general. The attorney general shall use the information for statistical purposes and may publish abstracts of such information, including the name of the government body involved for purposes of public education; or

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action.

1-25-6.1. DUTY OF STATE'S ATTORNEY (COUNTY COMMISSION ISSUES). If a complaint alleges a violation of this chapter by a board of county commissioners, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. The attorney general shall use the information for statistical purposes and may publish abstracts of the information as provided by § 1-25-6;

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action; or

(4) Refer the complaint to another state's attorney or to the attorney general for action pursuant to § 1-25-6.

1-25-7. REFERRAL TO OMC. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state's attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state's attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member's vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state's attorney,

and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state's attorney or the attorney general. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.

1-25-8. OMC Members. The South Dakota Open Meeting Commission is comprised of five state's attorneys or deputy state's attorneys appointed by the attorney general. Each commissioner serves at the pleasure of the attorney general. The members of the commission shall choose a chair of the commission annually by majority vote.

1-25-12. DEFINITIONS. Terms used in the open meetings laws mean:

(1) "Official meeting," any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided by the public body, whether in person or by means of teleconference or electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform, provided the term does not include communications solely to schedule a meeting or confirm attendance availability for a future meeting;

(2) "Political subdivision," any association, authority, board, municipality, commission, committee, council, county, school district, task force, town, township, or other local governmental entity, which is created by statute, ordinance, or resolution, and is vested with the authority to exercise any sovereign power derived from state law;

(3) "Public body," any political subdivision or the state;

(4) "State," each agency, board, commission, or department of the State of South Dakota, not including the Legislature; and

(5) "Teleconference," an exchange of information by any audio, video, or electronic medium, including the internet.

1-25-13. ANNUAL REVIEW OF OPEN MEETING LAWS. Any agency, as defined in § 1-26-1, or political subdivision of this state, that is required to provide public notice of its meetings pursuant to § 1-25-1.1 or 1-25-1.3 must annually review the following, during an official meeting of the agency or subdivision:

(1) The explanation of the open meeting laws of this state published by the attorney general, pursuant to § 1-11-1; and

(2) Any other material pertaining to the open meeting laws of this state provided by the attorney general.

The agency or subdivision must include in the minutes of the official meeting an acknowledgement that the review was completed.

1-27-1.16. MEETING PACKETS AND MATERIALS.

If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed material relating to an agenda item of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at the official business office of the governing body at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records, or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.17. DRAFT MINUTES. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.18. WORKING GROUP REPORTS. Any final recommendations, findings, or reports that result from a meeting of a committee, subcommittee, task force, or other working group which does not meet the definition of a political subdivision or public body pursuant to § 1-25-1, but was appointed by the governing body, shall be reported in open meeting to the governing body which appointed the committee, subcommittee, task force, or other working group. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body.