

SOUTH DAKOTA ADVISORY TASK FORCE ON OPEN MEETINGS LAWS

PROPOSED AGENDA

November 25, 2025
10:00 a.m. Central Time

George S. Mickelson Criminal Justice Training Center
1302 East SD Highway 1889 – 2nd Floor
Pierre, South Dakota 57501

If you wish to join this meeting by **Microsoft Teams**, please join meeting at:

Meeting ID: 283 505 293 723 5

Passcode: va7bS25c

Or to join by **telephone** dial:

1 (605) 679-7263 with Phone Conference ID: **769 965 137#**

CALL TO ORDER, ROLL CALL, CONFLICTS OF INTEREST

1. Welcome by Marty Jackley
2. Introduction for online participants and Roll Call – Reminder: For the benefit of listeners who are remote, please state your name before you speak. – *Beverly Katz, Assistant Attorney General*
 - * *Michael Smith* – Clay County State’s Attorney
 - * *Austin Hoffman* – McPherson County State’s Attorney
 - * *Karla Engle* – Chief Legal Counsel for the Department of Transportation
 - * *Kirsten Jasper* – Chief Legal Counsel for the Department of Revenue
 - * *Tracey Kelley* – Custer County State’s Attorney
 - * *Dylan Kirchmeier* – Roberts County State’s Attorney
 - * *Dave Bordewyk* – South Dakota News Media Association
 - * *Steve Willard* – South Dakota Broadcasters Association
 - * *Shane Roth* – DeSmet School District Board President and Associated School Boards of South Dakota President
 - * *Garret Bischoff* – Huron School District Board Vice-President and Associated School Boards of South Dakota Immediate Past President
 - * *Honorable Geoffrey Gray-Lobe* – Clay County Commissioner
 - * *Honorable Cole Heisey* – Minnehaha County Commissioner
 - * *Kellen Willert* – City Attorney for the City of Belle Fourche, Municipal League representative
 - * *Terry Sletten* – SDATAT Executive Director
 - * *Jim Urban* – SDATAT Board of Director Member
3. Election of Officers of the Task Force: Chair and Vice Chair – *Beverly Katz, Assistant Attorney General*
4. Additions or Changes to the Proposed Agenda; Motion for Proposed Agenda to become a Final Agenda – *New Chair*
5. Public Comment period as per SDCL § 1-25-1 – Public comments will be limited to 10 minutes per person – *New Chair*

6. Consideration of Proposed Draft Revisions or New Sections – *New Chair*
 - A. **No. 1:** New Section (“Enough detail for items of official business”)
 - B. **No. 2:** Kellen Willert’s proposed draft on New Section (“Identifiable citations for reasons for going into executive session”)
 - C. **No. 3:** SDCL § 1-25-2 (“Executive Session detail”)
 - D. **No. 4:** SDCL § 1-25-2 (Kellen Willert’s proposed draft concerning “Executive Session detail”)
 - E. **No. 5:** SDCL § 1-25-3 (“Minutes must reflect results of each vote”)
 - F. **No. 6:** SDCL § 1-25-1.3 (“72 hours ahead deadline for posting on website for state”)
 - G. **No. 7:** New Section (“Official action preceded by mandatory motion and vote”)
 - H. Other proposed drafts
7. Discussion regarding future meeting – *New Chair*
8. Adjournment – *New Chair*

All items are scheduled for 10:00 a.m. Central Time. Scheduled items may be delayed at the discretion of the Chair of the Advisory Task Force on Open Meetings Laws.

Notice is given to individuals with disabilities that this meeting is being held in a physically accessible location. Please notify the Attorney General’s Office, 605-773-3215, at least 48 hours before the meeting if you have a disability for which special arrangements must be made.

No. 1

ENTITLED, An Act to Define the Contents of an Agenda for Purposes of the Open Meetings Laws

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1: That chapter 1-25 be amended by adding thereto a new section to read as follows:

The proposed agenda required by § 1-25-1.1 or 1-25-1.3 must contain a statement of the items scheduled to be considered by a public body during any official meeting.

The agenda items must be clearly and concisely described in enough detail to reasonably inform the public of the items of official business or public policy intended to be considered at the official meeting.

The agenda of each meeting must include notice of any executive session held pursuant to § 1-25-2 that may be conducted at that meeting. The notice of executive session must include reference to the reasons supporting entry by the public body into executive session.

No. 2

Kellen Willert's addition for executive notice language for the new section

The proposed agenda required by § 1-25-1.1 or 1-25-1.3 must contain a statement of the items scheduled to be considered by a public body during any official meeting.

The agenda items must be clearly and concisely described in enough detail to reasonably inform the public of the items of official business or public policy intended to be considered at the official meeting.

The agenda of each meeting must include notice of any executive session held pursuant to § 1-25-2 that may be conducted at that meeting, with a citation to the applicable subparagraph of SDCL § 1-25-2 or other applicable law for which said executive session is intended to be held. ~~The notice of executive session must include reference to the reasons supporting entry by the public body into executive session.~~

No. 3

ENTITLED, An Act to Amend the Open Meetings Laws Concerning Executive Session

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1: That § 1-25-2 be amended by adding thereto a new section to read as follows:

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;

No. 3 (continued)

- (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.

An executive session, or closed meeting, must be held only upon a majority vote of the members of the public body present and voting. A motion must be made to enter executive session that clearly and concisely states the reasons supporting entry into executive session. The motion and reasons for entry into executive session must be reported in the minutes of the proceedings. Discussion during executive session is restricted to the purposes specified in the motion to enter executive session. Any official action concerning the matters considered 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.

No. 4

Kellen Willert's suggested language for SDCL 1-25-2

An executive session, or closed meeting, must be held only upon a majority vote of the members of the public body present and voting. A motion to enter executive session must clearly state the specific subparagraph of SDCL § 1-25-2 or other applicable law for which said executive session is to be held, which also must be reported in the minutes of the proceedings. Discussion during executive session is restricted to the purposes specified in the motion to enter executive session.

Any official action concerning the matters considered 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.

No. 5

ENTITLED, An Act to Require All Public Bodies to Keep and Post Minutes of any Official Open Meeting

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1: That § 1-25-3 be amended as follows:

~~The state~~ All public bodies shall keep detailed minutes of the proceedings of all regular or special meetings. The minutes required in this section ~~shall~~ must report the results of each vote taken by the public body, and how each individual member voted on any motion on which a roll call vote is taken. The minutes shall be available for inspection by the public at all times at the principal place of business of the ~~board or commission~~ public body. A violation of this section is a Class 2 misdemeanor.

No. 6

ENTITLED, An Act to Require Post Agenda of any Official Open Meeting on a state website at least seventy-two hours before the meeting is scheduled to start according to the agenda

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1: That § 1-25-1.3 be amended as follows:

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 at least seventy-two hours before the meeting is scheduled to start according to the agenda 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.

No. 7

ENTITLED, An Act to Require Official Action of a Public Body to Occur Only
After a Motion and Vote of the Public Body

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1: That chapter 1-25 be amended by adding thereto a new section to read
as follows:

Official action by any public body must be preceded by a motion and vote of the
members of the public body present and voting.