

# REGISTER



## South Dakota Legislative Research Council

Volume 30

Monday, 8:00 a.m., April 19, 2004

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**NOTICES OF PROPOSED RULES:** (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

**South Dakota Board of Regents:** (April 15, 2004) intends to adopt rules to implement the South Dakota Opportunity Scholarship Program. The rules will establish the conditions of eligibility to receive the scholarship award, the requirements for retaining eligibility and the conditions recipients and participating institutions must meet to assure the operation of the program as envisioned by the Legislature. The general authority for these rules, as cited by the board, is SDCL 13-55-36.

A public hearing will be held in the Centennial Rooms of the Northern State University Student Union in Aberdeen, South Dakota, on May 13, 2004, at 11:30 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Regents, Office of the Executive Director, 306 East Capitol, Suite 200, Pierre, South Dakota 57501. Written comments must be received by May 11, 2004, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call (605) 773-3455 at least forty-eight hours before the hearing.

**Department of Commerce and Regulation:**  
**Division of Securities:** (April 15, 2004) is proposing the adoption and amendment of rules concerning broker-dealer and agent rules, registration requirements and procedures, investment adviser rules, and notice filings for covered securities and registration exemptions to conform with the adoption of the new Uniform Securities Act 2002, chapter 47-31B,

which is effective July 1, 2004. The general authority for these rules, as cited by the division, is SDCL 47-31B-605.

A public hearing will be held in Room 109, 1<sup>st</sup> floor, Anderson Building, 445 E. Capitol Avenue, Pierre, South Dakota, on May 7, 2004, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Revenue and Regulation, Division of Securities, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. Written comments must be received by May 17, 2004, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the division can make arrangements are asked to call (605) 773-4823 at least forty-eight hours before the hearing.

**Department of Game, Fish and Parks:**  
(April 16, 2004) intends to amend rules regarding the Youth Deer Season - establish the number and types of licenses and tags available in the applicable existing, modified, and new hunting Units, modify the hunting season dates, exclude Waubay National Wildlife Refuge and Waubay Lake State Game Refuge from the hunting Unit in Day County, and establish a new hunting Unit and season dates in Sand Lake National Wildlife Refuge in Brown County; regarding the Black Hills Deer Hunting Season - establish the number and types of licenses available in the applicable special deer hunting Units, and provide and clarify that resident landowner preference applies; regarding the Fall Wild Turkey Hunting Season - modify the hunting season dates in applicable existing, modified, and new hunting Units, establish a new hunting Unit in a portion of Grant County, make Unit modifications within Black Hills

Unit 352-BHA modify (increase) the number of licenses a person may obtain, and establish the number and types of turkey licenses and tags available in the applicable existing, modified, and new hunting Units; regarding the Special Canada Goose Hunting Season - modify the hunting season dates of Units 452-01A and 452-01B (Minnehaha County); regarding the Nonresident Waterfowl Licenses - modify the date when a nonresident may purchase an unlimited number of available nonresident waterfowl licenses on a first-come, first-served basis, and transfer a number of licenses (suggested 50) available from Unit 455-00B to Unit 455-00A (counties of Union, Clay, Yankton, Bon Homme and Charles Mix); regarding the Youth Pheasant Hunting Season - prohibit the required accompanying parent or guardian from carrying a firearm or actively participating in shooting pheasants while accompanying the youth; and regarding Aerial Hunting - permit aerial hunting upon or over certain publicly owned lands under certain circumstances and at certain times, and allow a permitted landowner pilot to aerial hunt property (with permission) located within 4 miles of and contiguous to property owned or leased by the landowner pilot. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-13, 41-6-18.2, 41-6-18.4, 41-6-21, 41-8-39.2, and 41-11-5.

A public hearing will be held at the Sylvan Lake Resort in Custer State Park, South Dakota, on May 6, 2004, at 2:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to John L. Cooper, Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received prior to the hearing date. Comments may also be sent by e-mail to [chuck.schlueter@state.sd.us](mailto:chuck.schlueter@state.sd.us). E-mail comments must include the commenter's name and address. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3387 before the hearing.

### **DECLARATORY RULING:**

The South Dakota Commission on Gaming has filed two Declaratory Rulings with the Legislative Research Council.

In the Matter of the Declaratory Ruling Relating to Major Gaming, LLC, the Commission determined that the properties located at 153, 155, and 157 Sherman Street, Deadwood, South Dakota, constitute three separate buildings for the purpose of determining the number of gaming devices that can be placed within these buildings.

In the Matter of the Declaratory Ruling Relating to Bullock Express, the Commission determined that the structure located at 68 Main Street, Deadwood, South Dakota, constitutes two separate buildings for the purpose of determining the number of gaming devices that can be placed within this structure.

The Declaratory Rulings are dated March 30, 2004, and may be reviewed or copied at the office of the Legislative Research Council during normal business hours.

### **FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

**DEPARTMENT OF SOCIAL SERVICES:**  
67:46:07:03.

History-Notice: 30 SDR 133, Feb. 23, 2004  
Hearing: N/A  
Filed: April 1, 2004  
Effective: July 1, 2004

### **JOINT POWERS AGREEMENTS ON FILE WITH THE LEGISLATIVE RESEARCH COUNCIL:**

Agreement between the **South Dakota Board of Water and Natural Resources** and the **Department of Agriculture** regarding

assistance to operators of confined animal feeding operations for the development of manure management systems and plans. The agreement is dated March 26, 2004.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Commerce and Regulation for commercial driver licensing, the Department of Labor for Article 47:03, and the Department of Revenue.

### REMINDER OF HEARINGS SCHEDULED

4-20-2004	Revenue and Regulation: Division of Insurance	Clarify who is entitled to special enrollment provisions under HIPAA and to incorporate the updated mortality tables for ordinary life insurance; 30 SDR 151.
4-20-2004	Secretary of State	Repeal standard form rules regarding the Uniform Commercial Code and the central filing system; outline county requirements for the central recording of real property liens through Dakota Fast File; update the notary public forms; and amend the voter registration system; 30 SDR 151.
4-20-2004	Revenue and Regulation: Division of Banking	Adopt an examination fee for trust company examinations and a licensing fee for money order businesses, and amend the license fee rates for mortgage brokers, mortgage bankers, and money lending businesses; 30 SDR 155.
4-21-2004	Health	Amend rules regarding the Children's Special Health Services; 30 SDR 152.
4-23-2004	Revenue and Regulation	Impose municipal rate changes on sales by catalog companies that are preprinted; update reference material in rules; change the capitalization factor used to determine the capitalized income value; provide for two separate methods for sellers to compute tax on gross receipts; clarify definition of receive and receipt; clarify what portion of the delivery charge is taxable; repeal rules on the tax on transportation; clarify definition of permanent foundation for manufactured homes; change when the contractors' excise tax applies to manufactured buildings; 30 SDR 157.
4-26-2004	Agriculture: Division of Ag Development	Amend rules regarding the farm mediation program; 30 SDR 152.
5-3-2004	Corrections: Board of Pardons and Paroles	Amend rules to modernize the Parole Board's, Parole Service's, and the release date calculation operational procedures; 30 SDR 158.

5-6-2004	Game, Fish and Parks	Amend rules regarding the Youth Deer Season, the Black Hills Deer Hunting Season, the Fall Wild Turkey Hunting Season, the Nonresident Waterfowl Licenses, the Youth Pheasant Hunting Season, and Aerial Hunting; 30 SDR 165.
5-7-2004	Revenue & Regulation: Division of Securities	Adopt and amend rules to comply with the adoption of the new Uniform Securities Act 2002, chapter 47-31B; 30 SDR 165.
5-10-2004	Labor: Board of Technical Professions	Amend rules that will make it possible to use applications interactive over the internet, update references, change definitions, allow test vendors, permit students with five semesters of engineering to take the FE exam, provide for licensees to reactivate and reinstate, retake land surveying exam, add rules for fire alarm systems, and clarify expectations from licensees on exempt projects; 30 SDR 161.
5-11-2004	Labor: Division of Labor and Management	Updated the Workers' Compensation fee schedule; 30 SDR 152.
5-11-2004	Agriculture: Division of Agricultural Services	Update rules to meet the 2003 Pasteurized Milk Ordinance; 30 SDR 156.
5-11-2004	Agriculture: Division of Agricultural Services	Update manufacturing grade rules pertaining to the production of milk and milk products; 30 SDR 157.
5-11-2004	Agriculture: Division of Agricultural Services	Update rules regarding the quarantine against Karnal bunt, a wheat disease; 30 SDR 157.
5-11-2004	Agriculture: Division of Agricultural Services	Update the noxious weed list; 30 SDR 157.
5-13-2004	Board of Regents	Adopt rules to implement the South Dakota Opportunity Scholarship program; 30 SDR 165.

### *Rules Review Committee Meetings*

The next meeting of the Interim Rules Review Committee will be held Tuesday, April 20, 2004, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2004 interim: May 18, June 3, August 3, and October 15.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the LRC web site.

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