

# REGISTER

*South Dakota Legislative Research Council*



*Volume 35*

*Monday, 8:00 a.m., May 11, 2009*

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

***Department of Labor: South Dakota***

***Retirement System:*** (May 7, 2009) is proposing to amend rules to repeal a rule made unnecessary by 2009 legislation related to purchase of nonqualified permissive service credit; to clarify agency procedures related to service calculations and benefit eligibility determinations; to establish agency procedures in regard to retired members who return to employment with the same employer; to conform a rule to a statute regarding credited service during a period of disability; to amend a Board of Trustees election date and election procedures; to establish agency procedures in regard to member repayment of overpayments; and to specify member participation in the South Dakota Deferred Compensation Plan when the member receives an unforeseeable emergency distribution. The general authority for these rules, as cited by the board, is SDCL 3-12-58.

A public hearing will be held at View 34, 4251 E. Highway 34, Pierre, South Dakota, on June 4, 2009, at 1:30 p.m., CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Retirement System, 222 E. Capitol Avenue, P.O. Box 1098, Pierre, South Dakota 57501-1098. Material sent by mail must be received by June 3, 2009, 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) 773-3731 at least 48 hours before the hearing.

***Department of Revenue and Regulation:***

***Commission on Gaming:*** (May 8, 2009) is proposing to amend a Racing rule to substitute the generic name for the brand name of authorized drugs; amend Gaming rules to create a modification for three-card poker allowing a progressive wager and progressive payout; adopt a variation of poker known as Mississippi Stud; adopt a variation of poker known as Ultimate Texas Hold'em; accommodate new nomenclature for receipts, vouchers and coupons as utilized in slot machines; accommodate new nomenclature for vouchers; eliminate the requirement for hard meters and to define the time required for meter preservation after power is removed from a slot machine and to utilize industry standards of nomenclature relating to vouchers, receipts and coupons; update current game recall standards to accommodate a greater level of game recall; utilize new nomenclature for vouchers, coupons and receipts; update error messages to more clearly display situations when the stacker is full; clarify that if hoppers are utilized, that they must meet the specification requirements; utilize new nomenclature for vouchers, receipts and coupons; repeal slot machine specifications for bill hoppers; accommodate slight variances in progressive odds for software with different maximum bet amounts on the same link; utilize new nomenclature for vouchers, receipts, coupons and off-line vouchers; define cashless systems for slot machines; create phases of certification for cashless systems; provide for the regulation and requirements of cashless slot machine environments; create standards regarding configuration of cashless features; provide audit trails for cashless transactions; provide for meter requirements and standards in cashless slot machines; provide for confirmation

of all cashless transactions; identify error conditions that apply in cashless slot machine systems; provide standards for notifying patrons when transactions would exceed game configured limits; provide for identification of cashless compatible machines; provide for rules relating to changing of associated parameters in a cashless system or accessing patron accounts; provide for requirements in the modification of patron information; provide for requirements regarding adjustments to account balances; set forth security levels relating to user roles; create minimal controls to prevent unauthorized transactions; provide that any testing or test accounts must be logged by the system; allow for smart card technology; set forth procedures when communication between cashless accounting systems and slot machines are lost; require that the communication relating to cashless operations must utilize encryption; create requirements for logs on pending and completing cashless transactions; require systems to produce various financial and player reports; set forth requirements for monetary transactions between a supporting gaming machine and a cashless host; set forth standards for adding money to a player's account; provide for standards for removal of money from a player's account; provide for the option of moving money from a player's system credits to slot machines and moving money from slot machines into players' accounts; set forth standards for issuing personal identification numbers to patrons; set forth standards for account balance information; create requirements and standards for independent integrity checks of all components within a cashless system; recognize that associated equipment includes monitoring and control systems for promotional, bonusing and cashless systems; and require slot machines utilized in promotional systems to display information relating to the nature of the transaction. The general authority for these rules, as cited by the commission, is SDCL 42-7-56, 42-7B-4, and 42-7B-7, 42-7B-11.

A public hearing will be held at the City Hall,

102 Sherman Street, Deadwood, South Dakota, on June 3, 2009, at 9:00 a.m. MT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Commission on Gaming, 221 West Capitol Avenue, Suite 101, c/o 1320 East Sioux Avenue, Pierre, South Dakota 57501-3100. Materials sent by mail must reach the Commission on Gaming by June 2, 2009, to be considered. However, the Commission requests that all written comments be received by May 29, 2009, to allow for adequate consideration prior to the hearing. This hearing is being held in a physically accessible place. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-6050 or (605) 578-3074 at least 48 hours before the hearing.

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

### **Executive Appointments:**

**Timothy R. Johns**, Lead, was appointed on May 1, 2009, to the Board of Minerals and Environment, to replace Michael DeMersseman, effective May 1, 2009, and shall continue until June 30, 2010.

**Lee C. McCahren**, Pierre, was reappointed on May 5, 2009, to the **Abstracters' Board of Examiners**, effective immediately and shall continue until April 1, 2012.

**Dan W. Roe**, Sturgis, was appointed on May 5, 2009, to the **Abstracters' Board of Examiners**, to replace William Clark, effective May 1, 2009, and shall continue until April 1, 2012.

**Gregory N. Wick**, Rapid City, was reappointed on May 5, 2009, to the **Abstracters' Board of Examiners**, effective immediately and shall continue until April 1, 2012.

**Victoria A. Wilds**, Canton, was reappointed on May 5, 2009, to the **Abstracters' Board of Examiners**, effective immediately and shall

continue until April 1, 2012.

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 Revenue and Regulation, and the Department of Labor for Article 47:03.

### REMINDER OF HEARINGS SCHEDULED

5-12-2009	Education: Board of Education	Amend rules to clarify the addition of state fees being charged students at the state Technical Institutes, establish a higher amount of funding for facilities at the state technical institutes, and clarify the distribution and allocation of funds for each full time equivalent student; 35 SDR 243.
5-12-2009	Social Services	Amend rules to add definitions, remove sales tax on food refund eligibility for food stamp households, delete obsolete provisions relating to automatically eligible households, and amend the time frame to submit a quarterly report; 35 SDR 244.
5-12-2009	Labor: Board of Accountancy	Amend rules to update references; correct erroneous references; repeal rules for conditional credit and transitional credits for the paper and pencil exam to the computerized exam; update language in rules to allow online renewals submission as signature and verification of information provided and the submitted time as the received date; eliminate pro-rated fees for firms and renewal of certificates; clarification of credit for CPE for instructors or discussion leaders; change definition of lapsed license to expired license; allow the board to be petitioned by an applicant or licensee to show other good cause to waive certain requirements; repeal and amend rules to reflect changes required by the passage of House Bill 1058 in the 2009 legislative session to no longer require notification forms to be filed with the Board, out-of-state firms will need permits only to perform audit work, certificates and firm permits will not be required to be displayed, and disciplinary procedures to include those with practice privileges; 35 SDR 251.

5-13-2009	Social Services	Amend rules relating to reimbursement for nursing facilities which will amend definitions; update internal references; clarify administrative hearing procedure; delete obsolete provisions; update internal references; repeal rules that are either obsolete or no longer represent the Department's current reimbursement methodology; increase the ceiling for capital costs; establish a new rule that specifies the reimbursement methodology used if an existing facility experiences a change in operational ownership; and specify that the amount of a facility's add-on payment for the use of a specialty bed will be established in the Department's contract with the provider; 35 SDR 244.
5-18-2009	Health: Health Systems Development and Regulations	Amend rules to assure the public health and safety requirements are met in the licensed lodging and campground facilities regulated by the department; 35 SDR 251.
5-18-2009	Health: Health Systems Development and Regulations	Repeal license fees for certain health care facilities that are now established in statute and to update fees for controlled substance registration and abortion facility licenses; 35 SDR 252.
5-19-2009	Public Safety: Driver Licensing	Amend rules to revise the definitions of terms; clarify documents required for issuance of a first-time driver license or identification card; clarify documents required for issuance to an applicant holding an out-of-state license or identification card; clarify documents required for an applicant holding a South Dakota identification card; clarify a reference to fraudulent documents to reflect changed definition of terms; revise the fee for a prorated driver license for those under twenty-one years of age; revise existing guidelines regarding commercial driver licenses to reflect adoption of current federal regulations; revise certain commercial vehicle criteria to reflect current standards; and revise the seasonal commercial driver license rule to allow for issuance during two ninety day periods within a calendar year; 35 SDR 252.
5-27-2009	Environment and Natural Resources: Board of Water and Natural Resources	Adopt rules to establish a system for awarding funding provided to the State Revolving Fund programs by the American Recovery and Reinvestment Act of 2009, to allow the waiver

		of a financial status summary for certain applications, and to modify the deadline for forfeiture of principal forgiveness; 35 SDR 261.
5-28-2009	Transportation	Amend a speed zone in Beadle County on State Trunk Highway 28 in the City of Hitchcock to reduce the speed limits on a segment of highway near the east edge of the city; amend a speed zone in Buffalo County in the City of Fort Thompson to provide for a reduced speed limit along South Dakota Highway 47 southwest of the junction with South Dakota Highway 249; amend a speed zone in Buffalo County in the City of Fort Thompson to correct the highway number and to clarify the rule; amend a speed zone in Buffalo County at the City of Fort Thompson to provide for a reduced speed limit along South Dakota Highway 34 north of the junction with State Highway 47; amend a speed zone in Buffalo County in the City of Fort Thompson to provide for a reduced speed limit along South Dakota Highway 249 northeast of the junction with South Dakota Highway 47; amend a speed zone in Walworth County on US Highway 12 in the City of Mobridge to reduce the speed limits on a segment of highway near the business section of town; and amend a speed zone in Todd County on US Highway 18 and US Highway 83 in the City of Mission to reduce the speed limits on a segment of highway at the west edge of town; 35 SDR 261.
6-3-2009	Revenue and Regulation: Gaming Commission	Amend a Racing rule to substitute the generic name for the brand name of authorized drugs; amend Gaming rules to create a modification for three-card poker allowing a progressive wager and progressive payout; adopt a variation of poker known as Mississippi Stud; adopt a variation of poker known as Ultimate Texas Hold'em; accommodate new nomenclature for receipts, vouchers and coupons as utilized in slot machines; accommodate new nomenclature for vouchers; eliminate the requirement for hard meters and to define the time required for meter preservation after power is removed from a slot machine and to utilize industry standards

		<p>of nomenclature relating to vouchers, receipts and coupons; update current game recall standards to accommodate a greater level of game recall; utilize new nomenclature for vouchers, coupons and receipts; update error messages to more clearly display situations when the stacker is full; clarify that if hoppers are utilized, that they must meet the specification requirements; utilize new nomenclature for vouchers, receipts and coupons; repeal slot machine specifications for bill hoppers; accommodate slight variances in progressive odds for software with different maximum bet amounts on the same link; utilize new nomenclature for vouchers, receipts, coupons and off-line vouchers; define cashless systems for slot machines; create phases of certification for cashless systems; provide for the regulation and requirements of cashless slot machine environments; create standards regarding configuration of cashless features; provide audit trails for cashless transactions; provide for meter requirements and standards in cashless slot machines; provide for confirmation of all cashless transactions; identify error conditions that apply in cashless slot machine systems; provide standards for notifying patrons when transactions would exceed game configured limits; provide for identification of cashless compatible machines; provide for rules relating to changing of associated parameters in a cashless system or accessing patron accounts; provide for requirements in the modification of patron information; provide for requirements regarding adjustments to account balances; set forth security levels relating to user roles; create minimal controls to prevent unauthorized transactions; provide that any testing or test accounts must be logged by the system; allow for smart card technology; set forth procedures when communication between cashless accounting systems and slot machines are lost; require that the communication relating to cashless operations must utilize encryption; create requirements for logs on pending and completing cashless transactions; require systems to produce</p>
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		<p>various financial and player reports; set forth requirements for monetary transactions between a supporting gaming machine and a cashless host; set forth standards for adding money to a player's account; provide for standards for removal of money from a player's account; provide for the option of moving money from a player's system credits to slot machines and moving money from slot machines into players' accounts; set forth standards for issuing personal identification numbers to patrons; set forth standards for account balance information; create requirements and standards for independent integrity checks of all components within a cashless system; recognize that associated equipment includes monitoring and control systems for promotional, bonusing and cashless systems; and require slot machines utilized in promotional systems to display information relating to the nature of the transaction; 35 SDR 269.</p>
6-4-2009	Labor: South Dakota Retirement System	<p>Amend rules to repeal a rule made unnecessary by 2009 legislation related to purchase of nonqualified permissive service credit; to clarify agency procedures related to service calculations and benefit eligibility determinations; to establish agency procedures in regard to retired members who return to employment with the same employer; to conform a rule to a statute regarding credited service during a period of disability; to amend a Board of Trustees election date and election procedures; to establish agency procedures in regard to member repayment of overpayments; and to specify member participation in the South Dakota Deferred Compensation Plan when the member receives an unforeseeable emergency distribution; 35 SDR 262.</p>
7-16-2009	Environment and Natural Resources: Board of Minerals and Environment	<p>Update the state's existing hazardous waste rules by incorporating updated federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2007 through June 30, 2008. Changes include amending existing requirements for recycling; clarification of compliance monitoring requirements for hazardous waste combustion operations; and</p>

		amending requirements for the management of wastewater treatment sludges generated by automobile assembly operations; 35 SDR 352.
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### RULES REVIEW COMMITTEE MEETINGS

The Interim Rules Review Committee will hold a special telephonic conference call meeting on Wednesday, May 20, 2009, to hear rules from the Department of Revenue and Regulation: Banking Commission.

The next regularly scheduled meeting of the Interim Rules Review Committee will be held Tuesday, June 9, 2009, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Aberdeen – Northern State University, 1200 S. Jay Street, Room Lib118; Huron – Department of Transportation, 901 Dakota St.; Mitchell – Mitchell Technical Institute, 1800 E. Spruce, Room TC156; Rapid City – South Dakota School of Mines and Technology, 501 E. St. Joseph St., Room CB108; and Sioux Falls – Sioux Falls University Center, 2205 Career Ave., Room 282S. The committee chair has set the following tentative meeting schedule for the 2009 interim: July 28, September 1, October 6, November 18, and December 15.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.