

REGISTER



South Dakota Legislative Research Council

Volume 37

Monday, 8:00 a.m., August 9, 2010

NOTICES OF PROPOSED RULES: (None)

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Russell D. Johnson, Beresford, was reappointed on July 30, 2010, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until June 30, 2013.

Paul Batcheller, Sioux Falls, was reappointed on August 2, 2010, to the **2010 Research and Commercialization Council**, effective immediately and shall continue until June 30, 2012.

Pat Lebrun, Rapid City, was reappointed on August 2, 2010, to the **2010 Research and Commercialization Council**, effective immediately and shall continue until June 30, 2012.

David Link, Sioux Falls, was reappointed on August 2, 2010, to the **2010 Research and Commercialization Council**, effective immediately and shall continue until June 30, 2012.

David Kennedy, Spearfish, was reappointed on August 2, 2010, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until June 30, 2013.

Al Nagel, Aberdeen, was reappointed on August 2, 2010, to the **South Dakota Snowmobile Advisory Council**, effective

immediately and shall continue until June 30, 2013.

Eddie J. Sullivan, Sioux Falls, was reappointed on August 2, 2010, to the **2010 Research and Commercialization Council**, effective immediately and shall continue until June 30, 2012.

Patrick L. Weber, Montrose, was appointed on August 2, 2010, to the **State Board of Regents**, to replace Melanie Satchell, effective August 2, 2010, and shall continue until June 30, 2012.

Brad Wheeler, Lemmon, was reappointed on August 2, 2010, to the **2010 Research and Commercialization Council**, effective immediately and shall continue until June 30, 2012.

David Ackerman, Leola, was appointed on August 3, 2010, to the **South Dakota Public Safety Communications Council**, to replace Fred Lamphere, effective July 27, 2010, and shall continue until June 30, 2013.

Steve Christensen, Platte, was reappointed on August 3, 2010, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2013.

Rebekah Craddock, Sioux Falls, was reappointed on August 3, 2010, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2013.

Bob Fischer, Custer, was reappointed on August 3, 2010, to the **South Dakota Public**

Safety Communications Council, effective immediately and shall continue until June 30, 2013.

Dennis Gorton, Rapid City, was reappointed on August 3, 2010, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2013.

Larry Jandreau, Lower Brule, was reappointed on August 3, 2010, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2013.

Kurt Klunder, Black Hawk, was appointed on August 3, 2010, to the **South Dakota Public Safety Communications Council**, to replace Danny Hayes, effective July 27, 2010, and shall continue until June 30, 2013.

Brad Steifvater, Salem, was reappointed on August 3, 2010, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2013.

Matt Tooley, Sioux Falls, was reappointed on August 3, 2010, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2013.

Bob Wilcox, Pierre, was reappointed on August 3, 2010, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2013.

Executive Orders:

The Governor has signed **Executive Order 2010-22** dated July 30, 2010, and **Executive Order 2010-23** dated August 2, 2010. These orders protect public health, safety, and property. Executive Order 2010- 22 establishes a no boating zone for Lake Alvin in

Lincoln County due to the heavy rainfall and high water level. Executive Order 2010-23 establishes a no boating zone for Lake Mitchell in Davison County for the same reasons. Both Executive Orders will remain in effect until rescinded by the Governor or the Secretary of the Department of Game, Fish and Parks.

The Governor has signed **Executive Order 2010-24** dated July 29, 2010. This order declares a state of emergency for the State of South Dakota due to the severe weather with extremely heavy rainfall. The corresponding flooding has caused widespread damage to infrastructure and property. Resources within state government will be made available to support local government.

The Governor has signed **Executive Order 2010-25** dated August 4, 2010, and **Executive Order 2010-26** dated August 5, 2010. These orders protect public health, safety, and property. Executive Order 2010- 25 establishes a use prohibition for the Big Sioux River and its tributaries within the boundaries of Minnehaha County effective from 9:30 p.m. on August 4, 2010, until removed by a subsequent declaration. Executive Order 2010-26 establishes a use prohibition for the Big Sioux River and its tributaries within the boundaries of Lincoln County effective from 11:00 a.m. on August 5, 2010, until removed by a subsequent declaration.

The Governor has signed **Executive Order 2010-27** dated August 5, 2010, and **Executive Order 2010-28** dated August 5, 2010. These orders protect public health, safety, and property. Executive Order 2010- 27 establishes a no wake zone over the entire lake for Lake Mitchell in Davison County due to the heavy rainfall and high water level. Executive Order 2010-28 establishes a no wake zone over the entire lake for McCook Lake in Union County for the same reasons. Both Executive Orders will remain in effect until rescinded by the Governor or the Secretary of the Department of Game, Fish and Parks.

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

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| 8-10-2010 | Revenue and Regulation: Division of Insurance | Amend a Premium Tax rule to clarify the definition of "Annuity Considerations Returned"; amend Individual Plans rules to prohibit discrimination in individual health plan coverage based on genetic information; and amend Employer Plans rules to prohibit discrimination in group health plan coverage based on genetic information; 37 SDR 9. |
| 8-12-2010 | Board of Regents | Amend rules to allow students an opportunity to complete coursework in Career and Technical education, allow for an alternative calculation of the credit hour requirements for continuing eligibility in the South Dakota Opportunity Scholarship program, and allow for students pursuing alternative forms of instruction to establish initial eligibility in the program; 37 SDR 9. |
| 8-13-2010 | Revenue and Regulation: Sales Tax and Motor Vehicles | Amend Business Tax rules to comply with the Streamlined Sales Tax Agreement; correct language; and clarify that a daily pass or membership fee to a fitness club is not subject to the municipal gross receipts tax or tourism tax; and adopt a Motor Vehicles rule to make the boat licensing process consistent with other vehicles and trailers; 37 SDR 13. |
| 8-25-2010 | Military and Veteran Affairs | Amend a rule regarding furloughs for residents of the Michael J. Fitzmaurice South Dakota Veterans Home; 36 SDR 199. |
| 9-2-2010 | Human Services: Division of Developmental Disabilities | Amend ICR/MR rules to change individual to person supported or supported person throughout the article, ensure the article is applicable to any facility that qualifies as an intermediate care facility for persons with mental retardation (ICR/MR), clarify what comprehensive functional assessments are needed versus evaluations, clarify when an individual support team must meet, clarify the responsibilities of a qualified mental |

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| | <p>retardation professional, remove language from the rule on time-out rooms due to their redundancy, clarify who may prescribe psychotropic medication other than a physician, change terminology throughout from strategies to behavior treatment plan, repeal the requirement to notify the parent or legal guardian at least quarterly of the status of the individual support plan, clarify who may discontinue medications other than the physician, add a new chapter that addresses those issues only applicable to a private ICF/MR not otherwise covered in the existing article including: the provision of an on-site review for the completion of an inspection of a minimum of five percent of the persons supported, a requirement to submit a plan to the division for approval of any new construction or remodeling; a requirement that no more than eight people may reside in any home managed by the private ICR/MR after January 1, 2011, a requirement that the division may visit at any time without notice and the requirement that the private ICR/MR must grant access to the division, requirements on completing an inventory for client and agency planning to determine the supported person's functional limitations, an additional listing of rights that should be afforded to the supported person, a requirement that rights be limited to protection of the supported person or others, to provide specific services or supports and to promote the least restrictive alternative, and a requirement that the supported person, parent or guardian, be made aware of the appeal process, requirement to develop and implement a restoration plan any time rights are limited; requirement that the facility develop a policy on abuse neglect, exploitation or injury of unknown source and procedures for notifying the appropriate entities, a requirement to ensure that any allegations of abuse, neglect, exploitation or injury of unknown source is investigated by the ICR/MR or other officials pursuant to state law, a requirement to give verbal notice the next working day of any critical incident, what constitutes a critical incident and a requirement</p> |
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| | | to submit a critical incident report using the division's on-line system within seven calendar days, a requirement to demonstrate how the supported person's preferences are identified and prioritized during the individual support plan development, a requirement to develop a transition plan within 180 days from the date of admission, to review that plan annually, and to provide the supported person, parent or guardian, with a list of home and community based services and the community support providers; 37 SDR 17. |
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RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, August 31, 2010, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2010 interim: September 28, November 17, and December 20.

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>.

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