

# REGISTER



*South Dakota Legislative Research Council*

*Volume 32*

*Monday, 8:00 a.m., November 28, 2005*

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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 Health: Board of Examiners in Optometry:*** (November 22, 2005) intends to amend rules to increase by \$50 the annual renewal fee; clarify the code of ethics regarding division of fees by an optometrist; clarify and implement a more objective standard regarding business relationships of an optometrist; and to provide for a listing of procedures within the scope of practice of optometry. The general authority for these rules, as cited by the board, is SDCL 36-7-15, 36-7-17, 36-7-20, and 36-7-25.

A public hearing will be held at Tieszen Law Office, LLP, 306 East Capitol, Suite 300, Pierre, South Dakota, on December 15, 2005, at 9:00 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Examiners in Optometry, Dr. Daniel Watson, Executive Secretary, Box 628, Sturgis, South Dakota 57785. Written comments must be received by December 12, 2005, 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 Tieszen Law Office, LLP, telephone (605) 224-1500 before the hearing.

***Department of Tourism and State Development: State Historical Society:*** (November 22, 2005) intends to amend a rule to set standard fees for microfilm, photographic shipping, handling and processing, and for staff assistance and record searches. The general authority for this rule, as cited by the department, is SDCL 1-18-31.2 and 1-20-21.1.

A public hearing will be held at 9:00 a.m. (CST) on December 9, 2005, at the Cultural Heritage Center, 900 Governors Drive, Pierre, South Dakota. Copies of the proposed rule may be obtained without charge from and written comments sent to the South Dakota State Historical Society, 900 Governors Drive, Pierre, South Dakota 57501-2217. Written comments must be received by December 9, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3458 at least 48 hours before the hearing.

## **FILINGS IN THE SECRETARY OF STATES OFFICE:**

### **Executive Appointments:**

**Mike Held**, Huron, was appointed on November 21, 2005, to the **South Dakota Energy Infrastructure Authority**, effective immediately.

**Paula Lewis**, Rapid City, was appointed on November 21, 2005, to the **South Dakota Real Estate Commission**, to replace Loren Anderson, effective immediately and shall continue until April 11, 2006.

**Audry Ricketts**, Pierre, was appointed on November 21, 2005, to the **South Dakota Energy Infrastructure Authority**, effective immediately.

**Mike Ropp**, Brookings, was appointed on November 21, 2005, to the **South Dakota Energy Infrastructure Authority**, effective immediately.

**Mike Trykoski**, Rapid City, was appointed on November 21, 2005, to the **South Dakota Energy Infrastructure Authority**, effective immediately.

**Kyle White**, Rapid City, was appointed on November 21, 2005, to the **South Dakota Energy Infrastructure Authority**, effective immediately.

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**

12-1-2005	Game, Fish and Parks	Amend a rule to increase the daily electrical charge imposed at all campground sites having electricity; 32 SDR 85.
12-5-2005	Social Services: Office of Medical Services	Amend rules to the Medicaid prescription drug program to require prior approval from the department for certain prescription drugs; based on recommendations from the department's Pharmaceutical and Therapeutics (P&T) committee, allow the department to establish a list of drugs that are subject to prior approval; require a provider to obtain approval from the department before supplying a drug subject to prior approval; when recommending drugs considered appropriate for placement on the prior approval list, require the P&T committee to include a preferred list of covered prescription drugs within the appropriate therapeutic class for a particular disease or condition and the criteria for prior authorization; before placing a drug on the prior authorization list, provide notice to interested parties offering an opportunity to present data, opinions, and arguments concerning placement of the drug on the list; provide a 30 day written notice to providers informing them of the intended placement of a drug on the prior authorization list, the implementation date, and therapeutically equivalent drugs that do not require prior authorization which may be substituted; deny payment if prior authorization is not obtained or a therapeutically equivalent drug is not substituted; in emergency situations, allow a provider to dispense an emergency supply of a drug that requires prior authorization if a prior authorization request cannot be submitted and

		a response received within 24 hours; establish an appeal process for denied requests; and repeal rules that allowed a physician to override the multiple-source drug payment limit if "brand necessary" or "brand medically necessary" was written on the prescription; 32 SDR 86.
12-5-2005	Social Services: Office of Economic Assistance	Amend rules to the Food Stamp Program to increase the standard telephone allowance, the standard utility allowance, the limited utility allowance, and the one-utility allowance used by the department when computing the household's shelter expenses; and incorporate the latest changes to the monthly gross and net income eligibility standards, the household's maximum food stamp allotment, and the thrifty food plan as required by the United States Department of Agriculture, Food and Nutrition Service and used by the department when determining a household's eligibility for the Food Stamp Program and computing the amount of benefits a household is entitled to receive; 32 SDR 87.
12-5-2005	Environment and Natural Resources: Water Management Board	Amend a rule that will designate the beneficial use of warmwater semipermanent and marginal fish life propagation waters and limited contact recreation waters to a segment of Long Creek, a tributary of the Vermillion River in Lincoln and Turner Counties; 32 SDR 93.
12-7-2005	Revenue and Regulation: Insurance	Amend rules to modify the requirements when paper copies of life replacement notices must be provided to applicants for life insurance; require disclosure of policy provisions allowing for premium increases in certain advertisements and solicitations; require disclosure of policy provisions allowing for premium increases in certain advertisements for Medicare supplement insurance; require disclosure of policy provisions allowing for premium increases in certain advertisements for health insurance solicitation; and increase the allowable credit for certain continuing education coursework; 32 SDR 86.
12-8-2005	Administration	Amend rules to increase the maximum fees chargeable for legal publications required by state law; 32 SDR 85.

12-9-2005	Tourism and State Development: State Historical Society	Amend a rule to set standard fees for microfilm, photographic shipping, handling and processing, and for staff assistance and record searches; 32 SDR 99.
12-13-2005	Revenue and Regulation: Gaming Commission	Amend Deadwood Gambling Rules to eliminate language in the rules relating to copyrighting, patenting and rights to the game, as well as requirements that the table display the appropriate layout for Hold 'em eighty-eight, Three-card poker, Let it ride and let it ride bonus including three card bonus optional side bet, Caribbean stud poker, Bonus 6 poker, Twisted Pineapple poker, Texas Shootout poker, a variation of Texas Hold 'em poker, Silverado Study poker, Four-Card poker, and Hold 'em 212 poker; and amend a rule to recognize that bonus awards may be based on not only a specific wager, but also on a specific event and to clarify the procedures adhered to in slot machine promotional and bonus systems; 32 SDR 85.
12-14-2005	Health	Adopt and amend rules to add or clarify definitions, terms, and statements. In addition, rules will more closely comply with federal regulations and define the scope of article 44:03 (Radiation Safety), 44:04 (Medical Facilities), and 44:58 (Drug Control) to improve operator safety on x-ray equipment, improve public safety, clarify the experience of social service designee, amend reporting requirements to reflect current federal requirement, clarify use of chemicals, require safe food service, permit additional laundry processes, permit additional ventilation options for clean storage rooms, permit flexibility in removing putrescible garbage, improve occupant protection, expand qualifications for an assisted living center administrator, clarify personnel education, clarify tuberculin skin testing and history and physical examination requirements, provide a phase-in time period for new dietary guidelines, rename dining assistance program, clarify the purpose of social services in nursing facilities, remove vapor barrier and drain tile requirements, redefine purpose of wall finishes, revise exhaust ventilation requirements for cooking appliances, repeal soil treatment for termite

		control, introduce requirement for composition of interdisciplinary team for self-administration of drugs, remove the requirement regarding income of adult foster care owners, prohibit the use of portable space heaters and portable halogen lamps in adult foster care homes, update references, reverse distributor registration, and update theft report requirements; 32 SDR 93.
12-15-2005	Health: Board of Examiners in Optometry	Amend rules to increase by \$50 the annual renewal fee; clarify the code of ethics regarding division of fees by an optometrist; clarify and implement a more objective standard regarding business relationships of an optometrist; and to provide for a listing of procedures within the scope of practice of optometry; 32 SDR 99.

### Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, December 6, 2005, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2005 interim: January 9, 2006.

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

The **South Dakota Register**, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 32 are \$20. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070. Information from the Register is available free of charge on the Internet at <http://legis.state.sd.us>. Subscribe to receive electronic notification of the availability of the **South Dakota Register** at **MyLRC** (<http://legis.state.sd.us/mylrc/index.htm>).