

# REGISTER



## South Dakota Legislative Research Council

Volume 34

Monday, 8:00 a.m., December 10, 2007

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

**Department of Agriculture: State Fair:** (December 7, 2007) intends to amend rules to update the admission fees for the South Dakota State Fair, to maximize profitability and to take into account the recent change in State Fair length from a 7-day fair to a 5-day fair, as well as to update and clarify additional rules governing State Fair operations. The general authority for these rules, as cited by the department, is SDCL 1-21-10.

A public hearing will be held in the South Dakota State Fair Administrative Building Conference Room, 890 3<sup>rd</sup> St. SW, Huron, South Dakota, on December 27, 2007, at 11:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to South Dakota State Fair, Attn: Pam Crawford, 890 3<sup>rd</sup> St. SW, Huron, South Dakota 57350 or comments may be emailed to [pam.crawford@state.sd.us](mailto:pam.crawford@state.sd.us). All materials must reach the State Fair by January 7, 2008, 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) 353-7341 at least 48 hours before the public hearing.

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

**DEPARTMENT OF GAME, FISH AND PARKS:** 41:03:03:06; 41:03:04:03; 41:03:05:03; 41:06:03:05; 41:07:01:02.01; 41:07:02:05; 41:07:03:02.02, 41:07:03:03;

41:07:05:02; 41:07:06:02, 41:07:06:03, 41:07:06:04; 41:07:08:03, 41:07:08:04, 41:07:08:06; 41:09:04:03; 41:09:06:28; 41:09:07:03.02; 41:09:08:01.01; 41:09:12:03.01, 41:09:12:05, 41:09:12:06, 41:09:12:07, 41:09:12:07.01; and 41:09:15:04.

History-Notice: 34 SDR 105, Oct. 15, 2007  
Hearing: November 1, 2007  
Filed: December 4, 2007  
Effective: December 24, 2007

**DEPARTMENT OF HEALTH:** 44:20:01:03, 44:20:01:04; and 44:20:03:01.

History-Notice: 34 SDR 100, October 9, 2007  
Hearing: November 5, 2007  
Filed: December 4, 2007  
Effective: December 24, 2007

**DEPARTMENT OF HUMAN SERVICES:** 46:30:08:01 to 46:30:08:07, inclusive; 46:30:08:13 and 46:30:08:14.

History-Notice: 34 SDR 105, Oct. 15, 2007  
Hearing: November 14, 2007  
Filed: December 4, 2007  
Effective: December 24, 2007

**DEPARTMENT OF REVENUE AND REGULATION: SOUTH DAKOTA LOTTERY COMMISSION:** 48:03:13:03.

History-Notice: 34 SDR 87, Sept. 24, 2007  
Hearing: October 19, 2007  
Filed: December 4, 2007  
Effective: December 24, 2007

**DEPARTMENT OF TRANSPORTATION:**  
70:01:02:06.

History-Notice: 34 SDR 100, October 9, 2007  
Hearing: October 25, 2007  
Filed: December 4, 2007  
Effective: December 24, 2007

**PUBLIC UTILITIES COMMISSION: ONE-CALL NOTIFICATION BOARD:**

20:25:01:01; 20:25:03:01, 20:25:03:03,  
20:25:03:04, 20:25:03:04.01, 20:25:03:04.02,  
20:25:03:05, 20:25:03:05.04, and 20:25:03:07.

History-Notice: 34 SDR 87, Sept. 24, 2007  
Hearing: October 23, 2007  
Filed: December 4, 2007  
Effective: December 24, 2007

**DEPARTMENT OF CORRECTIONS:**

17:50:01:18, 17:50:01:21; 17:50:02:01,  
17:50:02:05, 17:50:02:23; 17:50:10:07;  
17:50:13:04, 17:50:13:05, 17:50:13:08, and  
17:50:13:10.

History-Notice: 34 SDR 87, Sept. 24, 2007  
Hearing: October 10, 2007  
Filed: December 5, 2007  
Effective: December 26, 2007

**DEPARTMENT OF SOCIAL SERVICES:  
CHILD PROTECTION SERVICES:**

67:14:39:01 to 67:14:39:03, inclusive,  
67:14:39:05, 67:14:39:06, 67:14:39:07.01,  
67:14:39:08, 67:14:39:09, 67:14:39:10,  
67:14:39:11, and 67:14:39:12.

History-Notice: 34 SDR 81, Sept. 17, 2007  
Hearing: October 9, 2007  
Filed: December 6, 2007  
Effective: December 26, 2007

**DEPARTMENT OF SOCIAL SERVICES:  
ECONOMIC ASSISTANCE:** 67:13:01:02,  
67:13:01:05, and 67:13:01:06.

History-Notice: 34 SDR 99, October 9, 2007  
Hearing: October 23, 2007  
Filed: December 6, 2007  
Effective: December 26, 2007

**DEPARTMENT OF SOCIAL SERVICES:  
OFFICE OF THE SECRETARY:**  
67:14:31:22 and 67:14:31:22.01; and  
67:48:02:05.

History-Notice: 34 SDR 99, October 9, 2007  
Hearing: October 29, 2007  
Filed: December 6, 2007  
Effective: December 26, 2007

**DEPARTMENT OF SOCIAL SERVICES:**

**MEDICAL SERVICES:** 67:16:47:01,  
67:16:47:02, 67:16:47:03, 67:16:47:04,  
67:16:47:04.01, 67:16:47:04.02,  
67:16:47:04.03, 67:16:47:04.04,  
67:16:47:04.05, 67:16:47:04.06, 67:16:47:05,  
67:16:47:06, 67:16:47:07, 67:16:47:08,  
67:16:47:09, 67:16:47:09.01, 67:16:47:10,  
67:16:47:11, and 67:16:47:12.

History-Notice: 34 SDR 115, Oct. 22, 2007  
Hearing: November 8, 2007  
Filed: December 6, 2007  
Effective: December 26, 2007

**Executive Appointments:**

**Darin Bergquist**, Pierre, was appointed on December 5, 2007, to the position of **Secretary of the Department of Transportation**, effective October 11, 2007, and shall continue at the pleasure of the Governor.

**Mary Dunn**, Eden, was appointed on December 6, 2007, to the **Governor's Commission on Fort Sisseton**, to replace Harley Deutsch, effective immediately and shall continue until November 24, 2011.

**Judy Gulleason**, Britton, was appointed on December 6, 2007, to the **Governor's Commission on Fort Sisseton**, to replace Edwin Hagen, effective immediately and shall continue until November 24, 2011.

**Glen Johnson**, Sisseton, was appointed on December 6, 2007, to the **Governor's Commission on Fort Sisseton**, to replace Tim J. Hanson, effective immediately and shall continue until November 24, 2011.

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**

<p>12-11-2007</p>	<p>Human Services: Division of Developmental Disabilities</p>	<p>Amend Family Support Services rules to add definitions, change the term of consumer to participant throughout the chapter, clarify the differences between the local family support program and the statewide family support program in the areas of: supports and services, eligibility, prior authorization of supports and services, and non-covered services. New rules are added regarding funding availability and the organized health care delivery system (OHCDS). Repeal rules on the local family support program review and the appeal of revocation of provider status. Expand the approval time of the local family support plan from 30 to 45 days. Reduce the number of days for determining eligibility for the local family support program from 60 to 45 days. Add to the list of non-covered expenses those services, items or supplies eligible for payment under another payment source. Clarify the language regarding statement of deficiencies and plan of correction updating the language and adding the OHCDS as the responsible party. Clarify the discontinuation of services adding eligibility criteria and expanding the notice to include any reason for discontinuation. Language is added that the department will not pay for any legal fees for representing the provider, participant or their representative in an appeal and adds a 10 day requirement to request a continuance of the hearing on appeal. Amend Family Support Waiver Services rules to provide definition of terms used in the chapter, define the scope and</p>
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		<p>authority, provide the criteria for designation as an OHCDS, list the responsibilities of an OHCDS, provide requirements for subcontracts, provide the criteria for designation as an independent contractor providing service coordination, list the qualifications and responsibilities of an independent contractor, provide requirements for the submission of incident reports to the division and when the report shall be submitted, provide that a participant has the right to choose who delivers services to the participant, define an agency with choice model, clarify that eligibility for this program is set forth under the Department of Social Services administrative rules, describe the notification of services, provide for a waiting list and describe the priority status, provide a description of services, include requirements for the individualized service plan (ISP), the annual ISP meeting and any review or modifications, describe budget update requirements, provide requirements regarding the participant records including confidentiality, transfer, and retention of the records, provide requirements for the review of an OHCDS or independent contractor, statement of deficiencies, plan of correction and revocation of the provider agreement, outline the rights of the participants or their representative, require policies for any highly restrictive procedures, provide for a Human Rights Committee, describe the composition of the committee and human rights procedures, and provide requirements for any rights restriction, right of appeal or hearing; 34 SDR 145.</p>
<p>12-11-2007</p>	<p>Revenue and Regulation Gaming Commission</p>	<p>Amend Racing rules to include as a Class A violation for which there may be a summary suspension of racing license the failure to pay a winning pari-mutuel ticket or failure to allow customers of a multi-jurisdictional totalizator hub to withdraw funds from their accounts within appropriate time frames; define the terms "independent real time monitoring system" and "pari-mutuel ticket" under the multi-jurisdictional hub account wagering rules; set forth the requirements to be</p>

		<p>maintained within all totalizator rooms in multi-jurisdictional totalizator hub operations; require that computer systems at hubs be supported by an uninterruptible power supply to allow for system shutdown if power failures occur; require that the totalizator system utilized by the hub be capable of transmitting data in real time to an independent real time monitoring system; require that the mutual manager determine causes of errors in totalizator operation or independent monitoring systems and make necessary repairs and to notify the Executive Secretary within 24 hours after each occurrence of such errors; set forth the requirement of certain end-of-day reports, including balance report for wagering devices, wagering summary report for every pool and for each race, system balance report comparing pool and paid out totals, money room balance report showing cash added and subtracted from beginning day's balance, and IRS report showing winner's social security number, ticket number amount won and taxes withheld; require hubs to produce any reports requested by the Commission within 72 hours after the receipt of such request (reports may include, but are not limited to, odds progression report, ticket and transaction history report, terminal history report, outstanding ticket report, outstanding tickets cashed report, manually cashed tickets report, canceled tickets report, network balance report, teller inquiry report, wagering report, account history report, inter-track wager report, ticket history report and terminal history report, pool transmission report, and special reports); require hubs to produce daily logs to the Commission which include at a minimum: a teller/machine history log, ticket history log, user terminal log, system error log, system journal log, and account history log; and require hub personnel to maintain off-line logs which include at a minimum: system incident log, totalizator room access log and totalizator maintenance log; amend Gaming rules to clarify tournament buy-in definitions and to add to the definitions the term "tournament entry fee;" allow licensees the</p>
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		discretion to conduct game tournaments on dates of their choosing for tournaments with buy-ins or entry fees of \$50 or less per player; exclude mandatory gratuities paid to licensed dealers from the adjusted gross proceeds of tournaments; and clarify that five cent or one cent stand alone progressive slot machines need not have close circuit surveillance until the prize has reached five thousand dollars; 34 SDR 155.
12-13-2007	Revenue and Regulation: Division of Insurance	Amend rules to revise the standards for long-term care coverage associated with assisted living benefits and to clarify a cross-reference related to long-term care partnership agent training; 34 SDR 141.
12-17-2007	Revenue and Regulation: Appraiser Certification Program	Amend rules to adopt the most recent edition of the uniform standards and add grounds for disciplinary action for failure to comply with a Final Order issued by the secretary; 34 SDR 139.
12-18-2007	Secretary of State: Board of Finance	Amend rules to increase the per diem rate for in-state lodging allowed while a state employee is on official business and to increase the annual salary required for persons recruited and hired to fill positions to be eligible to receive a moving allowance; 34 SDR 156.
12-27-2007	Agriculture: State Fair	Amend rules to update the admission fees for the South Dakota State Fair, to maximize profitability and to take into account the recent change in State Fair length from a 7-day fair to a 5-day fair, as well as to update and clarify additional rules governing State Fair operations; 34 SDR 179.
1-10-2008	Game, Fish and Parks	Amend a List of Endangered Birds rule to change Peregrine falcon ( <i>Falco peregrinus anatum</i> ) to Peregrine falcon ( <i>Falco peregrinus</i> ) and Interior least tern ( <i>Sterna albifrons athalassos</i> ) to Interior least tern ( <i>Sterna antillarum athalassos</i> ); amend a List of Threatened Birds rule to change American dipper ( <i>Cinclus mexicanus</i> ) to American dipper ( <i>Cinclus mexicanus</i> ) and Bald eagle (southern) ( <i>Haliaeetus leucocephalus</i> ) to Bald eagle ( <i>Haliaeetus leucocephalus</i> ); amend a List of Threatened Mammals rule to change Northern swift fox ( <i>Vulpes velox hebes</i> ) to Swift fox ( <i>Vulpes velox</i> ), River otter ( <i>Lutra Canadensis</i>

		<p><i>interior</i>) to River otter (<i>Lontra Canadensis</i>), and delist Black Bear (<i>Ursus americanus</i>); amend a List of Endangered Fish rule to change Finscale dace (<i>Phoxinus neogaeus</i>) to Finescale dace (<i>Phoxinus neogaeus</i>); amend a List of Endangered Reptiles rule to change The lined snake (<i>Tropidoclonion lineatum</i>) to Lined snake (<i>Tropidoclonion lineatum</i>); and amend a List of Threatened Reptiles rule to change Eastern hognose snake (<i>Heterodon platyrhinos</i>) to Eastern hognose snake (<i>Heterodon platirhinos</i>); 34 SDR 142.</p>
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### RULES REVIEW COMMITTEE MEETINGS

The last regular meeting of the Interim Rules Review Committee will be held Monday, January 7, 2008, in Room 413 of the State Capitol.

**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.

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