



Legislative Research Council

RULES REVIEW COMMITTEE MINUTES

**Two Hundred Fifty-fifth Meeting
Monday
January 10, 2005**

**Room 413
State Capitol Building
Pierre, South Dakota**

The two hundred fifty-fifth meeting of the Rules Review Committee was called to order by Chair Senator Royal "Mac" McCracken at 1:06 p.m., January 10, 2005, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Eric Bogue, H. Paul Dennert, and Royal "Mac" McCracken (Chair); and Representatives Richard Engels, Jean Hunhoff (Vice-Chair), and Orville Smidt.

Staff members present included Doug Decker, Code Counsel, and Kris Schneider, Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For the purpose of continuity, these minutes are not necessarily in chronological order.

Approval of Minutes

Representative Smidt moved, seconded by Representative Engels, that the minutes of the December 7, 2004, meeting be approved. Motion prevailed on a voice vote.

Staff Report

Mr. Decker distributed a letter dated December 27, 2004, and a revised fiscal note from Mr. Thomas Harmon on behalf of the Board of Examiners in Optometry (**Document 1**). The revised fiscal note was requested by the committee at the last meeting.

Mr. Decker distributed and briefly explained the proposed draft legislation entitled "*An Act to revised the administrative rules promulgation process*" (**Document 2**). Chair McCracken deferred action on the draft legislation until later in the meeting.

Rules Reviewed

Department of Social Services: Medical Services - Amend rules that will increase the cost outlier amount for inpatient hospital claims, amend the date used as the basis for establishing the rate of reimbursement for outpatient services provided by out-of-state hospitals, and decrease

the rate of reimbursement for inpatient services provided by an out-of-state hospital if the hospital's home state refuses to price the claim using that state's Medicaid payment methodology. **Ms. Jill Wellhouse** and **Mr. Larry Iversen** reviewed the proposed rules. Ms. Wellhouse stated that the department was working with the South Dakota Association of Healthcare Organizations (SDAHO) on changing the formula used in determining the weights and is delaying the implementation until October 1, 2005. Mr. Iversen explained how the weighting system was developed and is currently used.

Representative Engels moved, seconded by Senator McCracken, to approve the rules proposed by the Department of Social Services: Medical Services. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.

Department of Social Services: Food Stamps - Amend rules that will increase the standard utility allowance, the limited utility allowance, the one-utility allowance, and the telephone allowance and adopt the thrifty food plan as established by the United States Department of Agriculture, Food and Nutrition Services.

Ms. Jill Wellhouse reviewed the proposed rules.

Representative Smidt moved, seconded by Representative Hunhoff, to approve the rules proposed by the Department of Social Services: Food Stamps. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.

Department of Social Services: Medical Services - Amend rules relating to Medicaid eligibility that will update current rules, delete provisions that no longer apply, increase certain allowances to reflect the increased cost of living, change the method of calculating a period of ineligibility when an asset is disposed of for purposes of establishing Medicaid eligibility, require a trustee to submit an annual accounting to the department, and institute a penalty when income placed into the trust exceeds the amount paid out of the trust for medical services.

Ms. Jill Wellhouse reviewed the proposed rules.

Representative Engels moved, seconded by Representative Hunhoff, to approve the rules proposed by the Department of Social Services: Medical Services. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.

Department of Social Services: Food Stamps - Adopt rules to establish operating guidelines for the Sales Tax on Food Refund Program.

Ms. Jill Wellhouse reviewed the proposed rules. In response to Representative Hunhoff's inquiry as to why no emergency rules were filed, Ms. Wellhouse stated that the statutes contained the eligibility criteria which allowed the department to operate the program.

Following a brief discussion on the delegation of legislative authority, Senator Bogue stated the wording in the statute should be changed. The statute may include an inadequate delegation of legislative authority for proper rule-making authority.

Representative Smidt moved, seconded by Representative Engels, to approve the rules proposed by the Department of Social Services: Food Stamps. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.

Bureau of Personnel: Career Service Commission - Amend a rule to allow for the granting of administrative leave for career service employees who serve as reserve police force and emergency rescue squad members and clarify that such administrative leave will be granted when the employee is called out on an emergency basis during work hours.

Mr. Jeff Bloomberg reviewed the proposed rule.

Senator McCracken moved, seconded by Senator Dennert, to approve the rule proposed by the Bureau of Personnel: Career Service Commission. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.

Bureau of Personnel - Amend a rule to insure that any employee having contact with inmates within the secure perimeter of a corrections department facility be drug free.

Mr. Jeff Bloomberg reviewed the proposed rule.

Senator Dennert moved, seconded by Representative Hunhoff, to approve the rule proposed by the Bureau of Personnel. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.

Department of Environment and Natural Resources: Board of Minerals and Environment - Amend rules that will require a person to obtain a solid waste permit whenever a waste tire bale, waste tire, or parts thereof are buried or partially buried.

Mr. Jim Wendte and **Ms. Vonni Kallemeyn** reviewed the proposed rules. Ms. Kallemeyn stated that before the department could issue a solid waste permit, the county would first have to approve it.

Senator Bogue questioned whether the exemption for farmers and ranchers should also be extended to all landowners. He stated that some landowners use waste tires for septic drain fields. Ms. Kallemeyn stated that the department had not considered the use of waste tires for septic systems.

Representative Smidt moved, seconded by Representative Hunhoff, to approve the rules proposed by the Department of Environment and Natural Resources: Board of Minerals and Environment.

Senator Bogue moved a substitute motion, seconded by Senator McCracken, to send back the rules proposed by the Department of Environment and Natural Resources: Board of Minerals and Environment for further clarification regarding the proposed language regarding landowners and so that the proposed rules do not create problems with beneficial uses. Substitute motion failed

on a roll call vote with 3 ayes and 3 nays. Members voting aye: Bogue, Engels, and McCracken. Members voting nay: Dennert, Hunhoff, and Smidt. Original motion prevailed on a roll call vote with 5 ayes, 1 nay. Members voting aye: Dennert, Engels, Hunhoff, McCracken, and Smidt. Member voting nay: Bogue.

Draft Legislation

In response to Ms. Wellhouse's request for clarification on the definition of a "fee" on page 5, line 13, it was the consensus of the committee that a fee did not include "co-pay." Ms. Wellhouse asked for clarification on page 5, line 13, on whom the agency is to provide the information. The committee directed staff to amend page 5, line 13, following "information" insert "to the interim Rules Review Committee". For further clarification, Mr. Decker suggested that page 3, line 7, after "note" that "the information required in section 3 of this Act." be inserted and on page 5, line 5, following "note." that "the information required in section 3 of this Act, also be inserted.

Representative Engels moved, seconded by Senator Dennert, to approve the draft legislation as amended. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.

Committee Comments

Chair McCracken expressed his appreciation to the committee and staff for their due diligence over the past two years. Other members also expressed their thanks and appreciation to other members of the committee and staff.

Next Meeting Date

The next Rules Review Committee meeting will be following the Eightieth Legislative Session.

Adjournment

Representative Engels moved, seconded by Representative Smidt, that the meeting adjourn. Motion prevailed unanimously on a voice vote.

Chair McCracken adjourned the meeting at 2:44 p.m.



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