

# REGISTER

*South Dakota Legislative Research Council*



*Volume 33*

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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 Revenue and Regulation:***

***Banking Commission:*** (April 11, 2007) has filed rules to repeal an accounting requirement related to the sale of real estate by a bank; reduce the examination fee schedule for state-chartered banks and to put in place a tiered fee structure for larger state-chartered banks for the semiannual examination fee; and establish for mortgage lenders, brokers, and loan originators: original and renewal license fees; the information to be included in an application; grounds for denial of an application; the process for applicants to complete a background investigation; the process for submitting a surety bond to the Division; the records that must be kept by licensees; the procedure for examinations of licensees; the types of documents necessary to provide proof of the required work experience; and to designate certain organizations authorized to provide certified instruction that will count toward continuing education requirements. The general authority for these rules, as cited by the commission, is SDCL 51A-2-13, 51A-2-36, 54-14-13, 54-14-16, 54-14-19, 54-14-22, 54-14-26, and 54-14-31.

A public hearing will be held at the Capital Lake Visitor Center, Pierre, South Dakota, on May 3, 2007, at 10:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to the Division of Banking, 217 ½ West Missouri Avenue, Pierre, South Dakota 57501, or by emailing Lynda.Fratzke@state.sd.us. Copies of the rules

are also available at the department's website: [www.state.sd.us/drr2/reg/bank/BANK-HOM.htm](http://www.state.sd.us/drr2/reg/bank/BANK-HOM.htm). Material sent by mail must reach the department by May 3, 2007, 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) 773-3421 at least 48 hours before the hearing.

***Secretary of State: Board of Elections:***

(April 12, 2007) has filed rules to amend the form for registering without a South Dakota driver license or Social Security Number; amend the provisional ballot envelope statement to include date of birth and South Dakota driver license number or Social Security Number; amend the format of the general election ballot into an optical scan ballot layout; clarify the instructions to voters that are placed on optical scan ballots; clarify the vote for number on judiciary ballots; repeal the supreme court retention ballot format since this is always printed on the general election optical scan ballot; add an additional recitation of the effect of a "yes" or "no" vote on a municipal questions election ballot; amend the requirements for counting signatures on petitions; add a new rule for validity of petition signatures when signer has signed more petitions than offices to be nominated; add a new rule outlining the methodology for conducting the random sample for statewide ballot question petitions; amend the partisan election petition, petition for independent candidates, declaration of candidacy of independent candidates; amend the statewide initiative, referendum and constitutional amendment petitions by adding a new verification of circulator section; amend the

certificate of nomination for independent presidential electors by removing the party affiliation requirement; amend the test of tabulating equipment by clarifying the process; amend the approval of automatic tabulating systems by removing an organization name that no longer approves the voting equipment on the federal level; amend the arrangements for and conduct of voting in precincts where automatic tabulating systems used to clarify the sealing of the ballot box; amend the tabulation procedures to indicate how the resolution board determines a mark on the ballot; amend the recount procedure by adding a new envelope for placement of excess ballots; direct the recount board to the rules for determining what constitutes a vote and allow the recount board to conduct additional tests of the tabulation equipment; amend the wording on the envelope for official returns; clarify what constitutes an optical scan vote; amend the application for absentee ballot to include the personal identification affidavit option for voting absentee in the office of the person in charge of the election; amend the official return envelope by removing an old effective date reference and increasing the amount of the fine for impersonating a registered voter; amend the envelopes used with voting service and overseas ballot to be in the proper format of the federal regulations and increase the fine amount for impersonating a registered voter; amend the language for write-in ballot determination; clarify what constitutes a hand counted paper ballot vote; clarify the sealing of the ballot box process; repeal the use of paper seals on ballot box and amend the form of the paper seal. The general authority for these rules, as cited by the office, is SDCL 2-1-16, 12-1-9, 12-4-5.4, 12-7-1, 12-17B-7, 12-17B-17, 12-18-40, 12-19-2, 12-19-2.5, and 12-20-52.

A public hearing will be held on May 8, 2007 at 12:00 p.m. in Room 464, State Capitol, 500 East Capitol Ave., Pierre, South Dakota 57501. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of State, Election Department,

500 East Capitol, Pierre, South Dakota 57501 or the proposed rules may be obtained at [www.sdsos.gov/electionsvoteregistration/boardofelections.shtm](http://www.sdsos.gov/electionsvoteregistration/boardofelections.shtm). Written comments must be received on or before May 4, 2007, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3537 at least 48 hours before the hearing.

***Department of Labor: Cosmetology***

***Commission:*** (April 13, 2007) has filed rules to amend the fee structure to reflect the law change; increase certain licensing fees; allow new documentation types for a license; clarify the documentation for a junior and senior license; repeal all references to manager license to comply with the law change; add a waiver of examination for reciprocity; update the school textbook information; amend student hours earned in a school; amend school record requirements; require a senior instructor to accompany student; and set educational requirements for the junior and senior instructor licenses. The general authority for these rules, as cited by the commission, is SDCL 36-15-2.3, 36-15-13, 36-15-20, 36-15-20.1, 36-15-26, 36-15-26.1, 36-15-26.2, 36-15-34,

A public hearing will be held at the Cosmetology Commission's office, 111 East Capitol, Pierre, South Dakota, on May 9, 2007, at 9:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Cosmetology Commission, 500 E. Capitol, Pierre, South Dakota 57501-1234. Material sent by mail must be received by May 8, 2007, 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) 773-6193 at least 48 hours before the hearing.

## FILINGS IN THE SECRETARY OF STATES OFFICE: (None)

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

4-17-2007	Secretary of State: Board of Finance	Amend rules to increase the reimbursement rate allowed for use of a privately-owned motor vehicle while on official business when a motor pool vehicle is not available, to increase the reimbursement rate allowed for use of a privately-owned motor vehicle equipped or modified for the transportation of an individual with special needs, to amend the private airplane use rates based on engine type and number of seats, and to amend the discretionary additional allowance for out-of-state and out-of-country per diem rates for lodging because of increased costs in certain destinations; 33 SDR 159.
4-19-2007	Environment and Natural Resources: Board of Minerals and Environment	Amend air pollution control program rules to comply with revision to the federal regulations; 33 SDR 151.
4-25-2007	Revenue and Regulation: Division of Insurance	Adopt and amend rules to provide additional options for completing the required replacement notice in Life Insurance policies; to provide for standards for the issuance of long term care partnership policies, to provide for additional options for long term care insureds and to clarify certain long term care requirements; to provide for requirements for electronic form filings and to repeal rules that are no longer applicable; and correct an erroneous cross reference that was due to a legislative change during the 2006 legislative session; 33 SDR 159.
4-26-2007	Labor: Division of Labor and Management	Amend rules to update the Workers' Compensation Fee Schedule; 33 SDR 159.
4-26-2007	Transportation	Amend a speed zone in Day County on U.S. Highway 12 along the City of Bristol to increase the allowable speed limit for traffic; 33 SDR 165.

4-30-2007	Labor: Board of Barber Examiners	Amend rules to increase fees for barber certificate of registration, operate a barber shop, barber chair, restoration of an expired barber certificate of registration, and expired license fee; 33 SDR 159.
5-3-2007	Revenue and Regulation: Banking Commission	Amend rules to repeal an accounting requirement related to the sale of real estate by a bank; reduce the examination fee schedule for state-chartered banks and to put in place a tiered fee structure for larger state-chartered banks for the semiannual examination fee; and establish for mortgage lenders, brokers, and loan originators: original and renewal license fees; the information to be included in an application; grounds for denial of an application; the process for applicants to complete a background investigation; the process for submitting a surety bond to the Division; the records that must be kept by licensees; the procedure for examinations of licensees; the types of documents necessary to provide proof of the required work experience; and to designate certain organizations authorized to provide certified instruction that will count toward continuing education requirements; 33 SDR 171.
5-8-2007	Administration	Amend rules to increase the maximum fees chargeable for legal publications required by state law; 33 SDR 159.
5-8-2007	Secretary of State: Board of Elections	Amend rules to amend the form for registering without a South Dakota driver license or Social Security Number; amend the provisional ballot envelope statement to include date of birth and South Dakota driver license number or Social Security Number; amend the format of the general election ballot into an optical scan ballot layout; clarify the instructions to voters that are placed on optical scan ballots; clarify the vote for number on judiciary ballots; repeal the supreme court retention ballot format since this is always printed on the general election optical scan ballot; add an additional recitation of the effect of a “yes” or “no” vote on a municipal questions election ballot; amend the requirements for counting signatures on petitions; add a new rule for validity of petition signatures when signer has signed more petitions than offices to be nominated; add a

		<p>new rule outlining the methodology for conducting the random sample for statewide ballot question petitions; amend the partisan election petition, petition for independent candidates, declaration of candidacy of independent candidates; amend the statewide initiative, referendum and constitutional amendment petitions by adding a new verification of circulator section; amend the certificate of nomination for independent presidential electors by removing the party affiliation requirement; amend the test of tabulating equipment by clarifying the process; amend the approval of automatic tabulating systems by removing an organization name that no longer approves the voting equipment on the federal level; amend the arrangements for and conduct of voting in precincts where automatic tabulating systems used to clarify the sealing of the ballot box; amend the tabulation procedures to indicate how the resolution board determines a mark on the ballot; amend the recount procedure by adding a new envelope for placement of excess ballots; direct the recount board to the rules for determining what constitutes a vote and allow the recount board to conduct additional tests of the tabulation equipment; amend the wording on the envelope for official returns; clarify what constitutes an optical scan vote; amend the application for absentee ballot to include the personal identification affidavit option for voting absentee in the office of the person in charge of the election; amend the official return envelope by removing an old effective date reference and increasing the amount of the fine for impersonating a registered voter; amend the envelopes used with voting service and overseas ballot to be in the proper format of the federal regulations and increase the fine amount for impersonating a registered voter; amend the language for write-in ballot determination; clarify what constitutes a hand counted paper ballot vote; clarify the sealing of the ballot box process; repeal the use of paper seals on ballot box and amend the form of the paper seal; 33 SDR 172.</p>
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5-9-2007	Labor: Cosmetology Commission	Amend rules to amend the fee structure to reflect the law change; increase certain licensing fees; allow new documentation types for a license; clarify the documentation for a junior and senior license; repeal all references to manager license to comply with the law change; add a waiver of examination for reciprocity; update the school textbook information; amend student hours earned in a school; amend school record requirements; require a senior instructor to accompany student; and set educational requirements for the junior and senior instructor licenses; 33 SDR 172.
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### RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, April 17, 2007, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2007 interim: May 15, June 5, August 21, September 27, December 4, and January 7, 2008.

**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.