REGISTER

South Dakota Legislative Research Council

Volume 35 ***Monday, 8:00 a.m., July 28, 2008***

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: Division of Insurance: (July 21, 2008) intends to amend rules to require insurance companies to set policy reserves and nonforfeiture values for preneed insurance contracts based on the "Ultimate 1980 CSO" tables. The general authority for these rules, as cited by the division, is SDCL 58-15-43.12, 58-26-49, and 58-26-83.

A public hearing will be held in the Main Floor Conference Room, Anderson Building, Pierre, South Dakota, on August 29, 2008, at 10:00 a.m. Paper copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Revenue and Regulation, Division of Insurance, Administrative Rules, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. Material sent by mail must reach the Division of Insurance by August 28, 2008, to be considered. The text of the proposed rules will be posted on the Department of Revenue and Regulation's website at http://www.state.sd.us/drr2/reg/insurance/Legal/hearing.htm. The rules may also be obtained as a Microsoft Word attachment by emailing Melissa.Kusser@state.sd.us. 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) 773-3563 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

David Atherton, Sioux Falls, was reappointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, effective July 15, 2008, and shall continue until June 30, 2009.

Michael Bartley, Brookings, was reappointed on July 18, 2008, to the **South Dakota Board of Hearing Aid Dispensers and Audiologists**, effective immediately and shall continue until June 30, 2011.

Steve Christensen, Platte, was reappointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, effective July 15, 2008, and shall continue until June 30, 2009.

Rebekah Cradduck, Sioux Falls, was reappointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, effective July 15, 2008, and shall continue until June 30, 2009.

Timothy Faiman, Rapid City, was appointed on July 18, 2008, to the **Board of Massage Therapy**, to replace Gail Dawn, effective July 17, 2008, and shall continue until June 30, 2011.

Louise French, Rapid City**,** was appointed on July 18, 2008, to the **South Dakota Board of Hearing Aid Dispensers and Audiologists**, to replace Marty Ann Apa, effective July 17, 2008, and shall continue until June 30, 2011.

Dennis Gorton, Rapid City, was reappointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, effective July 15, 2008, and shall continue until June 30, 2009.

Danny Hayes, Rapid City, was reappointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, effective July 15, 2008, and shall continue until June 30, 2009.

Jeff M. Johnson, Sioux Falls, was appointed on July 18, 2008, to the **South Dakota Recreational Trails Advisory Board**, to replace DeLoris M. Erickson**,** effective July 17, 2008.

Larry Jandreau, Lower Brule, was reappointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, effective July 15, 2008, and shall continue until June 30, 2009.

Patricia Kenner, Rapid City, was reappointed on July 18, 2008, to the **South Dakota Workforce Development Council**, effective immediately and shall continue until June 30, 2011.

Daren Ketcham, Pierre, was appointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, to replace David Driscoll, effective July 15, 2008.

Fred Lamphere, Belle Fourche, was reappointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, effective July 15, 2008, and shall continue until June 30, 2009.

Christopher Lewis, Herndon, Virginia**,** was reappointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, effective July 15, 2008, and shall continue until June 30, 2009.

Pat J. Lund, Sioux Falls, was reappointed on July 18, 2008, to the **South Dakota Workforce Development Council**, effective immediately and shall continue until June 30, 2011.

Dayton Myers, Mitchell, was reappointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, effective July 15, 2008, and shall continue until June 30, 2009.

Chris J. Olson, Madison, was appointed on July 18, 2008, to the **Board of Vocational Rehabilitation**, to replace Larry Tolzin, effective July 17, 2008, and shall continue until June 30, 2011.

Craig Price, Pierre, was appointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, to replace Bryan Gortmaker, effective July 15, 2008.

Roy Seaverson, Sioux Falls, was appointed on July 18, 2008, to the **State Board of Dentistry**, to replace Dr. James H. Nyberg**,** effective July 17, 2008, and shall continue until June 30, 2011.

Brad Steifvater, Salem, was reappointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, effective July 15, 2008, and shall continue until June 30, 2009.

Larry Tolzin, Menno, was reappointed on July 18, 2008, to the **South Dakota Workforce Development Council**, effective immediately and shall continue until June 30, 2011.

Bob Wilcox, Pierre, was appointed on July 18, 2008, to the **South Dakota Public Safety Communications Council**, to replace Shirlee Leighton, effective July 15, 2008, and shall continue until June 30, 2009.

Laura Woitte, Sioux Falls, was reappointed on July 18, 2008, to the **Board of Massage Therapy**, effective immediately and shall

continue until June 30, 2011.

LaRayne Woster, Chamberlain, was appointed on July 18, 2008, to the **Hagen-Harvey Memorial Scholarship Board**, to replace Francis Whitebird, effective July 17, 2008, and shall continue until June 30, 2013.

Joan Adam, Pierre, was reappointed on July 21, 2008, to the **State Board of Dentistry**, effective immediately and shall continue until June 30, 2011.

Bernie Christenson, Pierre, was reappointed on July 21, 2008, to the **State Board of Medical and Osteopathic Examiners**, effective immediately and shall continue until June 30, 2011.

Darrell Davis, Ipswich, was reappointed on July 21, 2008, to the **Wheat Utilization Research and Marketing Development Commission**, effective immediately and shall continue until June 30, 2011.

Alex A. Falk, Aberdeen, was reappointed on July 21, 2008, to the **State Board of Medical and Osteopathic Examiners**, effective immediately and shall continue until June 30, 2011.

Geoffrey Johnson, Brookings, was reappointed on July 21, 2008, to the **State Board of Dentistry**, effective immediately and shall continue until June 30, 2011.

Laird Larson, Clark, was reappointed on July 21, 2008, to the **Wheat Utilization Research and Marketing Development Commission**, effective immediately and shall continue until June 30, 2011.

Brent Lindbloom, Pierre, was reappointed on July 21, 2008, to the **State Board of Medical and Osteopathic Examiners**, effective immediately and shall continue until June 30, 2011.

Milton G. Mutch, Jr., Sioux Falls, was reappointed on July 21, 2008, to the **State Board of Medical and Osteopathic Examiners**, effective immediately and shall continue until June 30, 2011.

Randy Sachau, Spearfish, was reappointed on July 21, 2008, to the **State Board of Dentistry**, effective immediately and shall continue until June 30, 2011.

Doug Barthel, Sioux Falls, was appointed on July 22, 2008, to the **South Dakota 911 Coordination Board**, effective July 16, 2008, and shall continue until June 30, 2010.

Jason Bechtold, Tyndall, was appointed on July 22, 2008, to the **South Dakota 911 Coordination Board**, effective July 16, 2008, and shall continue until June 30, 2010.

Jeff Carmon, Sioux Falls, was appointed on July 22, 2008, to the **South Dakota 911 Coordination Board**, effective July 16, 2008, and shall continue until June 30, 2010.

Dennis Falken, Brookings, was appointed on July 22, 2008, to the **South Dakota 911 Coordination Board**, effective July 21, 2008, and shall continue until June 30, 2011.

Bill Floyd, Pierre, was appointed on July 22, 2008, to the **South Dakota 911 Coordination Board**, effective July 21, 2008, and shall continue until June 30, 2009.

Marlene Haines, Mitchell, was appointed on July 22, 2008, to the **South Dakota 911 Coordination Board**, effective July 16, 2008, and shall continue until June 30, 2011.

Ted Rufledt, Jr., Rapid City, was appointed on July 22, 2008, to the **South Dakota 911 Coordination Board**, effective July 15, 2008, and shall continue until June 30, 2010.

Jody Sawvell, Wall, was appointed on July 22, 2008, to the **South Dakota 911 Coordination**

Board, effective July 16, 2008, and shall continue until June 30, 2009.

Lou Sebert, Mitchell, was appointed on July 22, 2008, to the **South Dakota 911 Coordination Board**, effective July 15, 2008, and shall continue until June 30, 2011.

Tracy Turbak, Watertown, was appointed on July 22, 2008, to the **South Dakota 911 Coordination Board**, effective July 21, 2008, and shall continue until June 30, 2009.

Kristi Turman, Pierre, was appointed on July 22, 2008, to the **South Dakota 911 Coordination Board**, effective July 15, 2008.

Robert Clark, Pierre, was reappointed on July 23, 2008, to the **South Dakota Risk Pool Advisory Board**, effective immediately and shall continue until June 30, 2011.

Tom Huber, Pierre, was appointed on July 23, 2008, to the **South Dakota Risk Pool Advisory Board**, to replace Tom Krafka, effective July 21, 2008, and shall continue until June 30, 2011.

Curt Jones, Britton, was reappointed on July 23, 2008, to the **Housing Development Authority**, effective immediately and shall continue until June 30, 2013.

Cindy Morrison, Sioux Falls, was appointed on July 23, 2008, to the **South Dakota Risk Pool Advisory Board**, to replace David Link, effective July 22, 2008, and shall continue until June 30, 2011.

Mike E. North, Sioux Falls, was appointed on July 23, 2008, to the **South Dakota Risk Pool Advisory Board**, to replace Dr. Thomas Dean, effective July 23, 2008, and shall continue until June 30, 2011.

Bruce Rampelberg, Rapid City, was appointed on July 23, 2008, to the **Housing Development Authority**, to replace Zack Word, effective August 1, 2008, and shall continue until June 30, 2013.

Michael Shaw, Pierre, was reappointed on July 23, 2008, to the **South Dakota Risk Pool Advisory Board**, effective immediately and shall continue until June 30, 2011.

Cheryl Stone, Pierre, was reappointed on July 23, 2008, to the **South Dakota Risk Pool Advisory Board**, effective immediately and shall continue until June 30, 2011.

Rick Stracqualursi, Rapid City, was reappointed on July 23, 2008, to the **South Dakota Risk Pool Advisory Board**, effective immediately and shall continue until June 30, 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

7-29-2008	Public Safety: Office of Weights and Measures	Amend rules to adopt the 2005 editions of the National Institute of Standards and Technology (NIST) handbooks 44, 133 and 130; to modify the fee structure for conducting heavy scales inspections, retail device inspections, and calibrations in the State metrology laboratory;

		and to adopt the 2005 Annual Book of the American Society for Testing and Materials Standards for petroleum quality; 34 SDR 316.
7-29-2008	Health: Board of Chiropractic Examiners	Amend or adopt rules to clarify requirements for declaratory rulings; approve accreditation from the Council of Chiropractic Education International; update application and reciprocity requirements; update renewal application requirements; update actions which may warrant sanctions; clarify procedures for formal hearings and sanctions; clarify chiropractic radiography application process and procedures for formal hearing; update addresses to obtain peer review reference guides; and establish rules for chiropractic assistants; 35 SDR 9.
7-30-2008	Social Services: Economic Assistance	Amend Low Income Energy Assistance Program (LIEAP) rules to reduce the amount payable under LIEAP when a household's rent includes the cost of heat; allow the Department to make adjustments to a household's LIEAP benefit amount until the benefit is paid; and extend the time during which a utility company can use meter readings for energy supplied to households eligible for LIEAP assistance; amend an Emergency Crisis Intervention Program (ECIP) rule to extend the deadline for applying for funds under ECIP; 34 SDR 343.
7-30-2008	Social Services: Medical Services	Delete from rules and move to the Department's website the lists of covered services, procedure codes, and rates of payment for the following: DRG-exempt hospital psychiatric units, outpatient laboratory services, outpatient surgical procedures provided by a hospital, surgical procedures provided by an ambulatory surgical center, medical equipment, mental health services provided by an independent practitioner, nutritional therapy, nutritional supplements, enteral nutritional therapy, parenteral nutritional therapy, and diabetes education services and to move into rule the procedures currently being used by the Department which allows a provider to request a review of an established rate for possible adjustment or to request the inclusion or exclusion of a particular procedure code; 35 SDR 10.

7-31-2008	Revenue and Regulation: Business Tax	Amend rules to add the phrase "products transferred electronically;" update laws regulation is based on; update filing requirements; repeal a definition that is now in statute; repeal outdated regulations; comply with the Streamlined Sales Tax Agreement; and repeal outdated and unnecessary regulations; 35 SDR 9.
7-31-2008	Revenue and Regulation: Division of Motor Vehicles	Repeal rules that are no longer necessary because South Dakota joined a national program called the Unified Carrier Registration (UCR); repeal rules to address law changes; repeal a rule no longer needed and add new rules concerning the initial and renewal of staggered licensing of boat dealer and dealers; amend requirements in conducting of business for dealers within the state; repeal rules no longer needed concerning dealer permit and create a new rule to address all the permits; repeal unecssary rules; and repeal outdated and unnecessary regulations; 35 SDR 9.
8-7-2008	Game, Fish and Parks	Amend Wildlife Preservation Facility rules to establish a "wildlife preservation facility" defined to include persons/entities that hold a South Dakota sales tax license to operate a business that receives, possesses or has custody of any wild animal belonging to another person for the purpose of picking, skinning, cleaning, freezing, processing or storage; establish requirements for a "wildlife preservation facility" pertaining to record keeping, record retention and issuance of receipts for all wild animals leaving such facilities; and establish authority for department personnel to inspect wildlife preservation facilities, wild animals and records required to be maintained and held on the premises; amend Transportation of Game rules to establish a new rule section setting forth requirements for gifting of game and defining what is meant by "gift;" revise game bird transportation and packaging requirements to allow removal of plumage on game birds (except wild turkeys) after they leave a "wildlife preservation facility" with the required receipt or a possessor's license, clarify that game birds may not be transported by

		unlicensed individuals, and create an allowance and tagging requirements for game birds, except wild turkey, to be transported by another licensed individual to a "wildlife preservation facility;" except gifts of game from the requirement for a game transportation permit; and revise the identification requirements pertaining to transportation of big game to create an allowance and requirements for big game parts to be transported from a person's domicile to another location; amend Waterfowl Hunting Seasons (Duck Hunting Season) rules to establish season dates, daily bag and possession limits for duck, coot and merganser, which include increasing the daily bag limit for Wood Duck from 2 to 3; amend Waterfowl Hunting Seasons (Goose Hunting Season) rules to establish season dates, daily bag and possession limits for Canada geese, light geese and white-fronted geese; remove Perkins County from Unit 1 and include with Unit 2; change the opening date for the Canada goose hunting season in Unit 2 from the fourth Saturday of October to the Saturday closest to November 1 (November 1, 2008); amend Waterfowl Hunting Season (Roadways Closed to Hunting) rules to open road rights-of-way around Sand Lake National Wildlife Refuge to hunting that once were closed in the "spaced Blind Areas," except for the five mile stretch along Brown County Highway 16 near the refuge headquarters; and amend General Provisions (Fish) rules to establish a new rule section setting forth requirements for gifting of fish and defining what is meant by "gift;" revise requirements pertaining to transportation and storage of fish to reflect the new emphasis on "domicile" in the revised statutory definition of "resident," and incorporate statutory tagging requirements; and except gifts of fish from the requirement for a fish transportation permit; 35 SDR 15.
8-29-2008	Revenue and Regulation: Division of Insurance	Amend rules to require insurance companies to set policy reserves and nonforfeiture values for preneed insurance contracts based on the "Ultimate 1980 CSO" tables; 35 SDR 23.
9-18-2008	Environment and Natural Resources: Board of Minerals and Environment	Update the state's existing hazardous waste rules by incorporating updated federal

		regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2006 through June 30, 2007. Changes include establishing a standardized permit for hazardous waste storage facilities; and a variety of corrections that encompass printing omissions, typographical errors, misspellings and erroneous or missing citations and references throughout the rules; 34 SDR 278.
9-18-2008	Environment and Natural Resources: Board of Minerals and Environment	Amend asbestos training and certification requirements and state approval rules to allow a longer timeframe for certified asbestos workers to renew required certification; to clarify notification and documentation requirements for asbestos training providers that seek accreditation for the training services; and to require annual training to take place in South Dakota and an annual approval for accredited asbestos training providers; 35 SDR 16.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, August 19, 2008, in LCR 1 and 2, Third Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2008 interim: September 23, December 2, and January 12, 2009.

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***.

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 35 are $25. 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.aspx).