



# Legislative Research Council

## RULES REVIEW COMMITTEE AGENDA

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Senator Jean M. Hunhoff, Chair  
Representative R. Shawn Tornow, Vice Chair

Three hundred nineteenth meeting  
Tuesday  
December 20, 2011

Room 414  
State Capitol  
Pierre, South Dakota

**Other DDN Site Locations:**

Northern State University  
1200 S. Jay St., Room Lib 117  
Aberdeen, South Dakota

Department of Human Services  
2361 Dakota Ave. S  
Huron, South Dakota

Mitchell Technical Institute  
1800 E. Spruce, Room TC 155  
Mitchell, South Dakota

SD School of Mines & Technology  
501 E. St. Joseph St., Room CB 109  
Rapid City, South Dakota

University Center  
4801 N. Career Ave., Room FADM 145  
Sioux Falls, South Dakota

Department of Transportation  
1306 W. 31<sup>st</sup> St.  
Yankton, South Dakota

**Agencies are asked to have a representative present at the meeting  
to give background information on their rules.**

8:30 a.m.\* Call to order, roll call, approval of minutes, staff report

Review of proposed rules

**Senator Hunhoff**

Department of Health: Board of Medical and Osteopathic Examiners – Adopt rules to establish procedures for applicants and licensees and disciplinary proceedings.

Department of Health: Board of Pharmacy – Amend rules regarding Registered Pharmacy Technicians to establish requirements for mandatory education, training, and certification of pharmacy technicians.

Department of Health: Health Systems Development and Regulation – Modify, clarify, and update rules pertaining to licensed assisted living centers.

Department of Health: Office of Licensure and Certification – Amend rules to enable birth centers to become licensed as health care facilities and to allow for the provision of an appropriate level of care and services associated with normal, uncomplicated pregnancies.

Governor's Office of Economic Development – Adopt rules that will create an Ethanol Infrastructure Incentive Program to provide incentives to retail motor fuel stations and others to increase the amount of ethanol sold in South Dakota.

### **Senator Buhl**

Department of Labor and Regulation: Appraiser Certification Program – Amend rules to change the Department of Revenue and Regulation to Department of Labor and Regulation; change classroom to class; delete the Office of Thrift Supervision; change Examinations Council to Examination Council; revise scope of practice for state-certified residential and state-licensed appraisers; include property characteristics for determining assignment complexity; require a supervising appraiser to be licensed or certified; revise application certification of competency for supervising appraisers; limit the number of attempts a candidate may have to successfully pass the National Uniform Appraiser Examination; raise the hours of experience requirement for application for the state-licensed appraiser classification; include all appraisal practice assignments must comply with the uniform standards; adopt the 2012-2013 Edition of the Uniform Standards of Professional Appraisal Practice; revise examples of those entities establishing assignment conditions; require appraisers to include the Appraisal Management Company registration number in appraisals as applicable; add certain considerations that may be included for selection of appraisers; raise the upgrade fee; provide example of field trips; and specify that an Appraiser Qualifications Board uniform standards instructor must hold a state-certified residential or state-certified general appraiser classification.

Department of Labor and Regulation: Division of Insurance – Amend rules to repeal the provision allowing insurers to obtain approval of credit life and health provisions not otherwise permissible under rule; incorporate the provisions of Chapter 20:06:14 into Chapter 20:06:10; define facilitation for purposes of examinations; and repeal Chapter 20:06:14.

Department of Labor and Regulation: Division of Insurance – Amend a rule to require adjustments in Medicare supplement coverage dates when a person is enrolling or disenrolling in a Medicare Cost plan.

Department of Revenue: Commission on Gaming – Amend Gaming rules to define tournament prize pools; clarify which tournaments require prior approval of the executive secretary; allow for the play of a variation of blackjack known as Dealer Bust 21; allow for the play of a variation of poker known as Pai Gow poker; and allow for the configuration of slot machines from a secure server.

Department of Revenue: Division of Property and Special Taxes – Amend rules to update manuals to current version and ensure that the language of the rules is consistent.

Department of Revenue: South Dakota Lottery Commission – Amend a rule that would require lottery retailers to collect \$2.00 for the sale of each Powerball play instead of \$1.00.

Public Utilities Commission – Adopt and amend rules to correct statutory citations; revise how refunds and charges are calculated and assessed for gas or electric meters that are running either slow or fast; limit charges for residential customers for meters that do not register properly; revise how refunds and charges are calculated and assessed for other types of electric or gas meter errors; set timeframes for overcharge or undercharge payments; allow a utility to create a regulatory asset for amounts not otherwise recovered from a residential customer for meter errors; set forth the definitions for a new chapter of rules regarding renewable energy credits and renewable, recycled, and conserved energy; set forth how a retail provider of electricity shall determine the amount of conserved energy achieved through energy efficiency measures; describe how demand response measures are to be measured and verified; and set forth how a provider of electricity shall report renewable energy credits to the Public Utilities Commission.

Noon

**Lunch Break**

**Representative Gibson**

Department of Environment and Natural Resources: Board of Minerals and Environment – Amend rules to replace the existing oil and gas conservation Article 74:10 with Article 74:12 which will give a clearer, simpler format that includes allowing approval of aquifer exemptions under the notice of recommendation process and allowing administrative approval of commingling oil from separate pools, completing producing wells in multiple zones, dissolving abandoned oil and gas fields, and drilling wells without a blowout preventer; expediting regulatory approval under the notice of recommendation process by allowing an operator to set a hearing date for cases that may or may not require a contested case hearing, excluding a duplicative requirement for monthly reporting of water production, an unnecessary requirement for annual submission of pipeline maps, duplicative requirements pertaining to directional wells and pits that are hazardous to birds or other species, an outdated rule pertaining to production of carbon dioxide and steam, and an unnecessary requirement for annual inspections of all oil and gas wells.

Department of Social Services: Division of Adult Services and Aging – Amend rules to repeal obsolete rules, update definitions, update and clarify eligibility requirements and covered services related to the home and community-based services waiver, update references, remove obsolete and unnecessary provisions, and remove obsolete and unnecessary references.

Department of Social Services: Division of Child Support – Adopt a rule to add the date of hire to the information that employers within the state must furnish to the state directory of new hires.

## **Representative Hunt**

Department of Labor and Regulation: Board of Technical Professions – Amend rules to clarify definitions; add education requirements for Land Surveyors by removing experience only licensure; correct mistakes; add NCARB's 12 hours of Health Safety and Welfare (HSW) per calendar year as an alternate method for continuing education for architects; increase the fee for retired status; increase the cost of the L.A.R.E. graphics portion of the exam; increase the late renewal penalties for individuals and business entities; create a comity licensure section for licensees seeking licensure through comity; create a Fire Protection Systems section; remove minimum requirements for shop drawings for sprinkler and fire alarm systems; remove informal hearings from the board's options for informal dispositions of complaints; and remove the 60 day maximum limit for a hearing to be had upon request of an aggrieved party.

Secretary of State – Adopt rules to establish fees for lobbyists that were previously in statute and to provide for a fee for replacing a lost lobbyist badge.

Secretary of State: Board of Elections – Amend rules to create a form for the adult children of overseas residents to register to vote in the state of South Dakota; update and clarify electronic pollbook security; and change the way in which some election related forms are prescribed.

## **Senator Vehle**

Department of Agriculture: Division of Ag Development – Amend South Dakota Certified Beef Program rules by changing the definition of verifiable address, updating beef quality assurance (BQA) references, and changing enrollment criteria.

Department of Game, Fish and Parks – Amend General Provisions rules that would (a) add definitions for "legal spear," "line," and modify the definition of "liberalized fishing" to remove the reference to methods of take; (b) replace all references to "spear" in the rule chapter with the term "legal spear"; (c) add a new rule which creates a permit allowing fish legally possessed by licensed anglers to be gifted to charitable/nonprofit organizations under certain conditions; (d) remove Allen Dam and Little Moreau No. 2 from the prohibition on baitfish use; (e) remove Lake Poinsett Rearing Pond, Platte Creek Rearing Pond, and American Creek Fish Spawning Station from the list of "no fishing zones"; (f) add "hook and line" to the list of authorized methods of take in liberalized fishing waters; (g) modify the rule prohibiting introduction of nonnative fish into state waters and prohibiting possession and transportation of snakehead fish; and (h) modify the rule prohibiting high grading of fish to remove the prohibition of high grading of bluegills on Enemy Swim/Campbell Slough; amend a Fishing Seasons rule pertaining to waters open to the taking of bait that would no longer allow legal anglers to transfer bait collected from that portion of the Missouri River below Gavins Point Dam for use during the same day in the Missouri River below Gavins Point dam; amend Snagging of Paddlefish rules that would (a) allow applicants for paddlefish snagging permits to apply for a preference point only with no opportunity for issuance of a permit

as is allowed with most big game licenses and (b) add a limited paddlefish snagging season on Lake Francis Case which would run from May 1 through May 31; amend Fish Limits rules that would (a) remove the current length restrictions placed on black bass (smallmouth and largemouth bass) on Lake Sharpe and (b) change the word "catch" to "harvest" in the rule which establishes daily and possession limits for nonresident family fishing licenses; amend Spearing rules that would (a) replace all references to "spears" with the term "legal spear"; (b) add Mud Lake and Cottonwood Lake in Roberts County to the list of waters where game fish spearing is allowed; and (c) allow applicants for archery paddlefish permits to apply for a preference point only with no opportunity for issuance of a permit as is allowed with most big game licenses; amend Bait rules that would (a) raise fees for all bait dealer licenses; (b) change "flathead shiners" to "flathead chub" under species that may be taken as bait for noncommercial use; and (c) close the James, Big Sioux, and Vermillion Rivers as well as the Missouri River below Gavins Point Dam to both the commercial and noncommercial taking of bait year round; amend Private Fish Hatcheries rules that would (a) increase private hatchery license fees and (b) modify the rule pertaining to license approval criteria to allow for bullheads and green sunfish to be present when approving private hatchery ponds; adopt a new chapter to Article 41:10 - Special Management Categories, which deals with regulation of aquatic nuisance species.

Department of Game, Fish and Parks – Amend a Spring Wild Turkey Hunting Season rule to establish the number of licenses/tags available for the Prairie Units and amend a Waterfowl Hunting Season rule to change the daily bag limit for the Spring Light Goose Conservation Order from 20 light geese to unlimited.

4:00 p.m. Adjourn

\* Breaks will be at the call of the chair.

**NOTE: A copy of the proposed rules being reviewed at the meeting may be obtained without charge by contacting the department, board, or commission.**

**Members:** Senators Angie Buhl, Jean M. Hunhoff, and Mike Vehle; and Representatives Roger W. Hunt, Peggy Gibson, and R. Shawn Tornow.

**NOTE: Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the Legislative Research Council (605/773-3251) in advance of the meeting to make any necessary arrangements.**



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