FORM 5, BFM 50.10

ADMINISTRATIVE PROCEDURES ACT
FISCAL NOTE
Prepared by Submitting Agency

	CODE	NAME
DEPARTMENT	25	SDRS
DIVISION	01	
PROGRAM		

PROPOSED RULES: Administrative Rules of South Dakota §§ 62:01:03:04, 62:01:07:11, 62:01:07:12, 62:01:05:13, 62:01:08:01, and 62:03:01:01.

Hearing Date: September 6, 2018

FISCAL IMPACT STATEMENT:
Pursuant to 1-26-4.2, these rules have no impact to participating state agencies, local governments, or small businesses. No additional staffing or resources are needed.

FISCAL NOTE SUMMARY:
SDRS and its membership will be affected by these proposed changes.

COST INCREASES (DECREASES)

State Agencies:	First-Year Impact	Continuous-Yearly Impact
SDRS	$0	$0
Participating state agencies	$0	$0
TOTAL	$0	$0
Local Subdivisions:		
Participating local governments	$0	$0
TOTAL	$0	$0
Small Business Increases (Decreases)		
TOTAL	$0	$0

REVENUE INCREASES (DECREASES)

Revenue Increases (Decreases) State, Local & Small Business:		
TOTAL	$0	$0

APPROVED [signature] *August 1, 2018 DATE*
Signature Department Secretary or Board or Commission Chairman

***ATTACH**: Copy of proposed rules; separate sections for: 1) explanation of rules effect, i.e. what procedures, schedules, activities, etc. will change with its adoption 2) statistics used, and their source, 3) assumptions that were made to arrive at fiscal impact, 4) computations that were made, and 5) small business impact statement*

Revised June 2004

PROPOSED RULE CHANGES

South Dakota Retirement System Board of Trustees' proposed rules §§ 62:01:03:04, 62:01:07:11, 62:01:07:12, 62:01:05:13, 62:01:08:01, and 62:03:01:01.

EXPLANATION OF RULE CHANGES EFFECT

The effect of the rules will be to clarify the independent status of the surviving spouse benefit for generational members as it relates to qualified domestic relations orders, to remove an elected official's ability to discontinue participation in SDRS while holding a fulltime elected position, to clarify repayment options for members and others receiving an overpayment, to prohibit the disclosure of election results for the Board of Trustees before the results have been certified by the board, to remove an outdated amount relating to maximum benefits, and to clarify procedures for the new auto enrollment feature for members not currently contributing to the deferred compensation plan.

The establishment of the generational benefit structure requires that certain rules be amended to be applicable to the generational benefits as well as the foundation benefits. This is the case for the rule relating to qualified domestic relations orders.

With regard to elected officials, federal regulations provide that an election to participate or not participate in a retirement plan such as SDRS must be irrevocable. The current rule is contrary to federal law and must be repealed.

While overpayments do not occur often, when an overpayment does occur, it is imperative to have clear rules in place to provide for the repayment. Overpayments may occur as a result of misinformation, a calculation error or, more likely, not receiving notification of death.

After an election is held for a position on the Board of Trustees, the results are provided to the candidates and the board members within three days. However, the results are not official until certified by the board and should not be publicly disclosed until that time.

Federal law provides for a maximum amount payable in benefits. This amount is indexed each year pursuant to the federal Internal Revenue Code. The maximum provided in the rule is outdated and is replaced with an IRC citation so that further updates are not required.

Such rule changes have no fiscal impact whatsoever on agency operations.

The rule relating to the deferred compensation plan, also known as the supplemental retirement plan (SRP), is necessary to recognize the new automatic enrollment feature relating to the automatic enrollment of persons not currently contributing to the SRP. When automatic enrollment was established in 2009 it only picked up new employees after that date. This new law being implemented is an effort to encourage those employed before that date and those that may have stopped contributing to contribute in the SRP. As always, a member may opt out altogether or stop participating at any time. This change applies only to state employees, but any participating employer may also adopt this feature.

Because the feature is strictly voluntary for SDRS employers other than the state, it forces no additional expense on them. For those employers who choose to participate, initially a slight administrative effort may be required but in the long run the effort is no greater in regard to these automatic enrollees than for any other SRP participant. The same holds true for the SRP's third-party administrator, who will handle the accounts of automatic enrollees in the same manner as other SRP participants under the terms of a contract already in place with SDRS.

There will be no significant change in agency procedures, schedules, or activities.

In arriving at the determination of zero fiscal impact on the agency, no statistics were used, no assumptions were made, and no computations were made because none were necessary.