

# MINUTES

## Rules Review Committee



Representative Jean Hunhoff, Chair  
Senator Alan Solano, Vice Chair

**Three hundred sixty-seventh meeting**  
**Tuesday**  
**August 22, 2017**

**Room 414**  
**State Capitol**  
**Pierre, South Dakota**

The three hundred sixty-seventh meeting of the Rules Review Committee was called to order by Representative Jean Hunhoff, (Chair) at 10:01 a.m., CDT, on August 22, 2017, in Room 414 at the State Capitol, Pierre, South Dakota and via the Digital Dakota Network (DDN) at the following location: University Center, 4801 N. Career Ave., Room FADM 145, Sioux Falls, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Craig Kennedy, Lance Russell, and Alan Solano (Vice Chair) and Representatives Julie Bartling, Steven Haugaard, and Jean Hunhoff (Chair). Staff members present were Doug Decker, Code Counsel, and Kelly Thompson, Senior Legislative Secretary.

*All material distributed at the meeting is attached to the original minutes on file at the Legislative Research Council (LRC). For continuity, these minutes are not necessarily in chronological order. This meeting was recorded by South Dakota Public Broadcasting. The archived recording is available at the LRC website at <http://sdlegislature.gov> under "Interim."*

### **Amendment/Approval of Minutes**

Senator Kennedy requested the minutes of the July 17, 2017 meeting be amended as follows: on page 5, paragraph 2, line 2, the words "as codified" be inserted following "legislative session".

*Senator Kennedy moved, seconded by Representative Bartling, that the minutes of the July 17, 2017 meeting be amended. Motion carried on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

*Senator Solano moved, seconded by Representative Bartling, that the minutes of the July 17, 2017 meeting be approved as amended. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

### **Rules Reviewed**

**Department of Social Services: Board of Social Work Examiners** – Amend rules to update the Code of Ethics, repeal temporary license fees, repeal the rules related to social work by equivalency, and establish rules for licensing Behavior Analysts.

**Mr. Todd Herrboldt**, Sioux Falls, South Dakota Board of Social Work Examiners, reviewed the proposed rules.

### Public Testimony

**Ms. Caroline Srstka**, Sioux Falls, Legal Counsel, South Dakota Board of Social Work Examiners, advised that though the board believes statutory authority exists to allow for the collection of duplicate license fees and late fees for the renewal of a suspended license by a behavior analyst, the board submitted two packets of rules, one containing the fees and one (labeled as Packet A) with those fees removed.

**Ms. Lisa Stanley**, Pierre, South Dakota Board of Social Work Examiners, spoke in support of the rules in either version deemed acceptable by the committee.

Senators Solano and Kennedy expressed concern that state law did not specifically authorize the duplicate license and late fees. **Mr. Doug Decker**, Code Counsel, stated if the committee believed specific statutory authority for the fees did not exist, they could ask the agency to withdraw that section of the rules or find the specific statutory authority to allow the fees.

*Representative Bartling moved, seconded by Senator Kennedy, that the review of the rules proposed by the Department of Social Services: Board of Social Work Examiners is complete and that 20:85:01:04 (3) and 20:85:01:04 (4) be rejected by the committee because there was no statutory authority for the fees. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

**Department of Social Services: Division of Child Care Services** – Amend rules to update the definition of a full-time student, align language with current practice and federal requirements, correct a citation, and move the co-payment rates for child care assistance to the department's website and modify the sliding fee scale.

**Ms. Teresa Schulte** reviewed the proposed rules.

Senators Kennedy and Russell, and Representative Haugaard questioned whether the inclusion of language in 67:47:01:09.01 regarding what constitutes fraud as it pertains to eligibility for child care assistance services was a correct use of the term. Ms. Schulte responded that the department staff believed the terminology was the best way to meet the requirements of the federal block grant program regarding the definition of fraud under the program.

*Senator Solano moved, seconded by Senator Kennedy, that the review of the rules proposed by the Department of Social Services: Division of Child Care Services is complete with the exception of 67:47:01:09.01 which is to be reverted to a prior step per SDCL § 1-26-4.7 (2) – the rule needs to be significantly rewritten to accomplish the intent of the agency and SDCL § 1-26-4.7 (3) – the rule needs to be rewritten to address the recommendations or objections of the committee. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

**Department of Agriculture: Animal Industry Board** – Amend rules to include composting as a carcass disposal option for livestock producers, change and update the current language of reference material, allow for individuals in South Dakota to possess non-domestic swine (family Suidae) under permit from

the board, eliminate the grandfather type of captive non-domestic possession permit, and repeal rules that are no longer applicable.

**Mr. Dustin Oedekoven** reviewed the proposed rules.

*Representative Bartling moved, seconded by Representative Hunhoff, that the review of the rules proposed by the Department of Agriculture: Animal Industry Board is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

**Department of Game, Fish and Parks** – Amend Custer State Park Restrictions rule to amend the 200 yard hunting restriction near roads and buildings within Custer State Park presently applicable to big game species to include coyotes, amend a Sage Grouse Hunting Season rule to close the season, amend an Antelope Hunting Season rule to adjust the number of hunting licenses, amend a Custer State Park Antelope Hunting Season rule to close the season, amend Custer State Park Coyote Hunting Season rules to reopen the coyote hunting season, adjust the season dates from the second Monday in December to December 31, inclusive, to December 26 to March 31, inclusive, allow any resident possessing a valid resident predator/varmint license, resident furbearer license, or any resident hunting license to hunt coyotes in the Custer State Park hunting unit (Unit CUC-CU1), and require a hunter to obtain and possess a free access permit issued by the department in order to hunt coyotes in Custer State Park.

**Mr. Tony Leif** reviewed the proposed rules.

*Senator Russell moved, seconded by Senator Kennedy, that the review of the rules proposed by the Department of Game, Fish and Parks is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

**Department of Transportation** – Amend Highway and Bridge Improvement Plan Requirements rules to state that the format of the annual plan updates must substantially conform to the department's guidelines, the annual plan updates may be submitted electronically or by hard copy, the annual plan updates must contain up-to-date information about the five-year project list from the previous year's plan or update, eliminate the deadline of December 16, 2015, which applied to county bridge improvement grant applications considered in 2016, clarify that county grant applicants must submit highway and bridge improvement plans, or plan updates by October 15 of the calendar year preceding the grant application deadline, clarify that bridge improvement grant recipients must submit highway and bridge improvement plan updates by October 15 of each year, allow counties to make amendments to highway and bridge improvement plans at any time, repeal a rule regarding emergency changes to bridge improvement plans, amend Local Bridge Improvement Grant Requirements rules to replace the reference to an "approved" county highway and bridge improvement plan with an "accepted" county highway and bridge improvement plan, change the deadline to October 30 for the Transportation Commission to consider preliminary engineering grant applications submitted by August 1 of that year, and eliminate the requirement regarding extensions.

**Ms. Karla Engle** and **Ms. Laurie Schultz** reviewed the proposed rules.

*Senator Russell moved, seconded by Representative Bartling, that the review of the rules proposed by the Department of Transportation is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

**Department of Environment and Natural Resources: Board of Minerals and Environment** – Update the state's existing hazardous waste rules by incorporating updated, codified federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2012 through June 30, 2016. Changes include establishing procedures for identifying and managing certain hazardous secondary materials destined for recycling, management standards for solvent-contaminated wipes, establishing a framework for the use of electronic manifests, revisions to requirements involving imports and exports of hazardous wastes, and incorporating technical and typographical corrections to the federal rules.

**Ms. Carrie Jacobson** reviewed the proposed rules.

*Representative Hunhoff moved, seconded by Senator Solano, that the review of the rules proposed by the Department of Environment and Natural Resources: Board of Minerals and Environment is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

**Department of Environment and Natural Resources: Board of Minerals and Environment** – Amend air quality rules by incorporating updated, codified regulations by reference and clarifying when air quality modeling is required. The proposed amendments primarily reflect changes made to the federal air quality regulations as of June 30, 2016.

**Mr. Kyrik Rombough** reviewed the proposed rules.

*Senator Kennedy moved, seconded by Representative Hunhoff, that the review of the rules proposed by the Department of Environment and Natural Resources: Board of Minerals and Environment is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

**Department of Education: Board of Education** – Amend Principal Performance Standards & Evaluations rules to create local flexibility in decisions regarding implementation of principal evaluation systems.

**Ms. Holly Farris** reviewed the proposed rules.

*Representative Hunhoff moved, seconded by Senator Solano, that the review of the rules proposed by the Department of Education: Board of Education is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

**Department of Education: State Historical Society** – Amend rules to update reference materials, set standard fees for services provided, revise the museum rental fees, eliminate the fee for purchasing a USGS map, and correct a SDCL reference.

**Mr. Jay D. Vogt** reviewed the proposed rules.

*Senator Solano moved, seconded by Representative Bartling, that the review of the rules proposed by the Department of Education: State Historical Society is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

**Department of Public Safety** – Amend rules to adopt the 2015 edition of the National School Transportation Specifications and Procedures, adopt the 2017 Commercial Vehicle Safety Alliance's "North American Standard Out-of-Service Criteria", revise the requirements for motorcycle safety education courses, remove the requirement of providing a social security number when transferring a compliant out of state driver's license to South Dakota, and update the federal adoption to match statute.

**Ms. Jenna Howell** reviewed the proposed rules and advised that 61:18:08:02 pertaining to driver licensing was being withdrawn pending legislative action.

*Senator Kennedy moved, seconded by Senator Solano, that the review of the rules proposed by the Department of Public Safety is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.*

#### **Next Meeting Date**

The next meeting of the Interim Rules Review Committee will be held on Monday, September 25, 2017.

#### **Adjournment**

*Representative Bartling moved, seconded by Senator Solano, that the meeting be adjourned. Motion prevailed on a voice vote.*

Chair Hunhoff adjourned the meeting at 12:39 p.m.