

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

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The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 47 Ill Reg 16165) implementing three Public Acts and other updates and clarifications. This rulemaking implements PA 102-339 by removing remaining temporary exceptions, valid through the 2021-22 school year, to a general prohibition on prone (face down) restraint; establishes separate standards for time out and isolated time out rooms; and makes exceptions to the time out room requirements for educational facilities that are part of a correctional or detention facility. It also clarifies who can conduct time out safety checks and what training they are required to receive and adds a mediation process to resolve disputes concerning use of time out or restraint. Other provisions implement PA 103-111, which extends short-term substitute teaching licenses to 5 years

and continues to make short-term substitute applications available through 6/30/28. A short-term substitute teacher may also work up to 15 (currently, 5) consecutive days per licensed teacher under contract. In accordance with PA 103-193, this rulemaking allows districts to continue employing a substitute teacher in the same vacant position for 90 calendar

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Due to the Thanksgiving holiday,
next week's Flinn Report will be
published Monday, Nov. 27

days or through the end of the semester, whichever is longer. Finally, this rulemaking clarifies requirements for career and technical educators who coordinate or provide work-based learning experiences.

EDUCATOR LICENSURE

SBE also proposed amendments to Educator Licensure (23 IAC 25; 47 Ill Reg 16206) that implement 7 Public Acts and other agency-initiated changes. It establishes educator license with stipulations (ELS) endorsements for alternative provisional educators; restricts ELS-Transitional Bilingual Educator license holders to teaching only in transitional bilingual education programs; reinstates, effective 9/1/25, provisions for licensure candidates that have successfully completed all requirements of an educator preparation program except a teacher performance assessment; and institutes a pilot program under which the Chicago Public Schools may, with SBE approval, institute their own professional development programs

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days.
PROPOSED RULEMAKINGS: Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
▪ - Designates rules of special interest to small businesses, small municipalities and/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.
QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.
RULE TEXT: First Notice proposed text, emergency rule and peremptory rule text is available at the Secretary of State website (<https://www.ilsos.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

Proposed Rulemakings

(cont. from page 1)

for up to 7 hard to staff endorsement areas through 6/30/28. Alternative educator licensure programs will require a minimum of one year (currently, two years) of full-time teaching residency under the guidance of a mentor. If the principal of the school and the coordinator of the alternative licensure program do not agree on the candidate's teaching effectiveness at the end of the first year, a second year of residency will be required, and a third year shall be added if there is still disagreement at the end of the second year. Foreign nationals recruited for employment as teachers on a J-1 visa will no longer be required to receive endorsements as Visiting International Educators. Other provisions allow a school counselor endorsement to be granted to a licensed educator with a master's degree or higher in school counseling "or a related field"; no longer require ISBE to discontinue an educator preparation program that does not enroll candidates for three consecutive years or a professional development provider that did not offer activities in the previous year; apply the process for voluntary removal of one or more endorsements to removal of one or more approvals; clarify the application review process for candidates who have certain criminal convictions or license sanctions; establish an application review process for persons who have had previous licenses, endorsements, or approvals revoked for sexual misconduct; update various Sections to better reflect current agency practice; and remove the one-year waiting period following completion of a criminal conviction sentence before a candidate may reapply for licensure. SBE also proposed an

amendment to Standards for Endorsements in Specific Teaching Fields (23 IAC 27; 47 Ill Reg 16304) that adds new standards for initial licensure programs in computer science.

TEACHER EVALUATION & DISMISSAL

SBE proposed amendments to Evaluation of Educator Licensed Employees Under Articles 24A and 34 of the School Code (23 IAC 50; 47 Ill Reg 16309) and Dismissal of Tenured Teachers Under Article 24 and Dismissal of Tenured Teachers and Principals Under Article 34 of the School Code (23 IAC 51; 47 Ill Reg 16318). The Part 50 amendment implements PA 103-85, which allows teachers who are scheduled to be evaluated in their last year before retirement to waive the results of that evaluation and keep their previous rating, unless the previous rating was "needs improvement" or "unsatisfactory". The Part 51 rulemaking implements PA 101-643, which allows notice of charges against a tenured teacher to be delivered electronically, and PA 103-354, which provides that in dismissal hearings, accommodations shall be made to protect a witness who is under 18 (or was under 18 at the time of the alleged offense) from being "intimidated, traumatized or re-traumatized" during their testimony. A hearing officer who fails to make such an accommodation or fails to produce a decision or finding within 30 days after closure of the hearing or hearing record must be removed from SBE's master list of hearing officers for no more than 2 years.

- CAREER EDUCATION

Finally, SBE proposed a new Part titled College and Career Pathway Endorsement System (23 IAC 258; 47 Ill Reg 16343) implementing a School

Code requirement that districts (other than Chicago Public Schools) serving grades 9-12 either implement a College and Career Pathway Endorsement System for their students or opt out of implementation by 7/1/25. A district that opts to implement the endorsement must apply and send its endorsement plan to SBE via an online portal by Dec. 15 of the school year in which the district intends to award the endorsement. SBE will notify the district of its approval or disapproval status by Feb. 28 of the same school year. A district that opts out must send copies of its school board resolution to SBE and explain its reasons for opting out. For participating districts, up to 7 possible career pathways may be offered: agriculture, food and natural resources; arts and communications; finance and business services; health sciences and technology; human and public services; information technology; and manufacturing, engineering, technology, and trades. Students who enroll in a career pathway will develop and periodically update an individualized plan for postsecondary education or training, career goals, and financial aid. The plan must align with coursework offered in one or more postsecondary partner institutions in that region and the district must list those institutions, along with the credentials that can be earned through them (e.g., associate degree, bachelor's degree, apprenticeship, certificate). Participating districts must also develop their own instructional sequences that include at least 4 semesters (2 years) of courses aligned to a specific pathway, and each sequence must include an opportunity to earn at least 6 hours of early college credit. Courses may be offered at the high school, a community college or career center, or online. In order to

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Emergency Rules

▪ INCOME TAX CREDITS

The DEPARTMENT OF REVENUE adopted an emergency amendment to Income Tax (86 IAC 100; 47 Ill Reg 17214) effective 11/6/23 for a maximum of 150 days. An identical proposed rulemaking appears in this week's *Illinois Register* at 47 Ill Reg 16353. The emergency and proposed rules implement Public Act 103-9, which provides individual non-refundable income tax credits of \$500 to volunteer emergency workers for tax years beginning on or after 1/1/23 and ending on or before 12/31/27. To qualify for the credit, a taxpayer must have served as a volunteer emergency worker for at least 9 months of the taxable year and must not have received more than \$5,000 compensation for emergency work during the taxable year. The chief of each fire protection district, association or department is responsible for notifying the Office of the State Fire Marshal by Jan. 12 of the department members who qualified for the tax credit in the previous calendar year. OSFM, in turn, must submit the list of qualified tax credit recipients (including their names, addresses, OSFM identification numbers and fire department identification numbers) to DOR no later than Jan. 24. Eligible emergency workers may begin applying for the tax credit on Feb. 1 through the DOR website. DOR will verify each applicant's eligibility and issue a certificate to those who qualify; the credit cannot be claimed without this certificate. Credits will be awarded on a first-come, first-served basis and may not exceed a statewide total of \$5 million. Members of volunteer fire departments, rescue squads and ambulance services are affected by this emergency rule.

Questions/requests for copies/comments on the proposed rulemaking through 1/2/24: Brian Fliflet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@illinois.gov

IMMIGRANT HEALTHCARE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to Special Eligibility Groups (89 IAC 118; 47 Ill Reg 17206) effective 11/13/23 for a maximum of 150 days, renewing some provisions of previous emergency rules that expired on 11/12/23. These emergency rules impose limitations on the Health Benefits for Immigrant Adults (HBIA) and Health Benefits for Immigrant Seniors (HBIS) programs, which provide medical assistance to noncitizens ages 42-64 (HBIA) and 65 and older (HBIS) who meet income criteria and do not qualify for federally matched Medicaid assistance. The rulemakings provide that HFS may limit or suspend enrollment in either program with at least 14 days' notice posted on its website. HFS may also limit or suspend backdated coverage (for dates of service up to 3 months prior to the date of application) if necessary to keep the costs of these programs within the amount appropriated. The rulemakings also require any large public hospital that has received payments from these programs in excess of the rates paid to non-large public hospitals to reimburse the State for these excess payments in a method and amount determined by HFS. Healthcare providers who serve HBIA or HBIS recipients are affected by these rulemakings.

Questions/requests for copies: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, HFS.Rules@illinois.gov

Proposed Rulemakings

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earn an endorsement, a student must demonstrate readiness for postsecondary (non-remedial) reading and mathematics by high school graduation, and also complete: a

minimum of 2 career exploration activities (e.g., job shadowing, site tours, mentorships) or one intensive career exploration experience; 2 team-based challenges during which participants solve a problem or develop a product or service under the guidance of an adult mentor; and at least 60 hours of supervised career development experiences that include authentic work conditions and tasks

(including timekeeping, evaluations, and safety protocols). Career exploration activities in grades 6 through 8 may count toward the exploration requirement, provided at least one activity takes place in grades 9 through 12. A school district may also issue a multidisciplinary endorsement to students who change

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Proposed Rulemakings

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career pathways and still meet the basic requirements of the endorsement program. Schools that implement the endorsement system must file an annual report with SBE by July 31 naming all their students who have earned an endorsement and the pathway in which the endorsement was awarded. Those affected by this rulemaking include businesses, municipalities, and non-profit organizations that participate in or offer career pathway opportunities.

Questions/requests for copies/comments on the 6 SBE rulemakings through 1/2/24: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, 312-783-2757, rules@isbe.net

• DAY CARE HOMES

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to Licensing Standards for Group Day Care Homes (89 IAC 408; 47 Ill Reg 16140) that permit group day care homes with extended capacity licenses (allowing them to care for up to 16 children instead of the normal limit of 12) to care for two additional children 30 months of age or older, along with two additional school-age children (present only before or after school or when school is not in session), provided that the caregiver has 2 or more adult assistants present at all times when the additional children ages 30 months or older are being cared for. (Currently, the 4 additional children accommodated under an extended capacity license must all be school-age.) These provisions will be in effect through 7/1/25. If more than 12 children are being cared for, the

caregiver's own school-age children must be counted among the additional school-age children for this purpose. The total capacity of a home with an extended capacity license remains capped at 16 children. Group day care homes are affected by this rulemaking.

• MISSING CHILDREN

DCFS also proposed amendments to the Part titled Locating and Returning Missing, Runaway, and Abducted Children (89 IAC 329; 47 Ill Reg 16130) that expand the definition of "child or youth" (child under 18 who is under DCFS guardianship, or whose parents have placed them in foster care or for adoption) to include cases in which DCFS has a file on the family but the child has not been removed from the home; runaway foster children; and former foster children enrolled in transition to adulthood support services. Child welfare workers, in addition to notifying DCFS, must notify local law enforcement authorities and the National Center for Missing and Exploited Children (NCMEC) within 24 hours of being made aware of a missing, runaway, or abducted child or youth that is in DCFS custody or foster care. The report to NCMEC must include specific details regarding the child or youth, including a photograph; physical description of height, weight, hair color, eye color, etc.; and any factors that would place the child/youth in danger (e.g., prescription medications, suicidal tendencies, pregnancy). When the child or youth returns or is located, the child welfare worker must notify all the contacted agencies of the information pertaining to the recovery and the circumstances related to it. Child welfare agencies that contract with DCFS are affected by this rulemaking.

Questions/requests for copies/comments on the 2 DCFS

rulemakings through 1/2/24: Jeff Osowski, DCFS, 406 E. Monroe, Station #65, Springfield IL 62701-1498, 217-524-1983, fax 217-557-0692, DCFS.Policy@illinois.gov

COMMUNITY COLLEGES

The ILLINOIS COMMUNITY COLLEGE BOARD proposed amendments to Administration of the Illinois Public Community College Act (23 IAC 1501; 47 Ill Reg 16151) that require local community college boards to notify ICCB within 5 working days when a board vacancy occurs and to notify ICCB in writing when the vacancy is filled. If a vacancy is not filled within 60 days after it occurs, ICCB must fill that vacancy in accordance with statute. Other provisions give districts until Dec. 30 (currently, Nov. 15) to request an extension of time to submit their annual external audit reports; require funding for Pipeline for the Advancement of the Healthcare Workforce (PATH) grants to be based on the average number of completions by students enrolled in eligible healthcare programs in the most recent academic year for which data is available and the two prior academic years; and prioritize PATH grants based on statewide (rather than local) industry workforce demand. Districts that receive PATH grants must also administer an exit survey to students upon completion of their programs, asking them, at a minimum, to identify their post-graduation employment or education.

Questions/requests for copies/comments through 1/2/24: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217-785-7411, fax 217-524-4981, Matt.Berry@illinois.gov

Adopted Rules

• VIDEO GAMING

The ILLINOIS GAMING BOARD adopted amendments to Video Gaming (General) (11 IAC 1800; 47 Ill Reg 7816) effective 11/1/23 that align requirements for posting responsible gaming signage in licensed video gaming locations with the requirements currently applicable to casinos and sports wagering facilities. The rulemaking requires terminal operators to provide responsible gaming signage to licensed video gaming locations in which they operate video gaming terminals (VGTs), and requires licensed locations to conspicuously post and maintain these signs so they are visible by patrons at the entrance to every video gaming area and from each ATM in the licensed location. The signs must inform patrons of how to obtain help for problem gambling and access responsible gaming resources, including the Board's Self-Exclusion Program. Signage text must be materially consistent with that required by the Department of Human Services for compulsive gambling resource notices. Since 1st Notice, IGB has changed the requirements for responsible gaming signage content and placement and required the content of signage to be approved by the IGB Administrator. Video gaming terminal operators and licensed video gaming locations are affected.

Questions/requests for copies: Daniel Gerber, IGB, 160 N. LaSalle St., Chicago IL 60601, IGB.RuleComments@illinois.gov

MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to Medical Assistance Programs (89 IAC 120; 47 Ill Reg 11529) effective 11/3/23

implementing PA 102-43, which raised the medical assistance income eligibility threshold for children under 19 years of age to 313% of the Federal Poverty Level. HFS also repealed the Parts titled Covering All Kids Health Insurance Program (89 IAC 123; 47 Ill Reg 11545) and Children's Health Insurance Program (89 IAC 125; 47 Ill Reg 11562) effective 11/3/23 since children formerly served under All Kids and CHIP now qualify for regular medical assistance.

MEDICAL PAYMENT

HFS also adopted amendments to Medical Payment (89 IAC 140; 47 Ill Reg 5872) effective 11/3/23 that set forth HFS policy concerning Medical Assistance payment for services rendered by substitute physicians. Payment to a provider for the services of a substitute physician is authorized when the regular attending physician is on vacation, ill, or otherwise unavailable due to an emergency; the substitute physician is validly licensed; the substitute has not been barred or suspended from participation in the Medical Assistance program and did not withdraw from Medical Assistance participation as part of a settlement agreement; and the substitution does not exceed 14 days per incident or 90 days per year for a particular attending physician. If the substitution exceeds 90 days in a year, the substitute physician must enroll in the Medical Assistance program in order to continue receiving payment. The rulemaking also clarifies the definition and extent of supplemental payments to Medicaid or Children's Health Insurance Program-enrolled practitioners employed by Illinois public universities and updates the schedule of covered dental procedures to include school-based preventive dental services for children under age 19. Since 1st Notice, HFS has

modified the preventive dental procedure schedule to allow payment for one sealant per tooth every 2 years (originally, every 5 years).

HOSPITALS

Finally, HFS adopted amendments to Hospital Services (89 IAC 148; 47 Ill Reg 2556) effective 11/3/23 implementing several Public Acts, State Medicaid Plan Amendments, and other policy changes. This rulemaking establishes a minimum inpatient psychiatric per diem rate of \$630 for a general acute care hospital with more than 9,500 inpatient psychiatric Medicaid days in any calendar year; establishes an outpatient add-on payment of no less than \$113 for a general acute care hospital with more than 500 outpatient psychiatric Medicaid services to persons under age 19 in any calendar year; excludes U.S. Navy recruits/trainees who are covered by TRICARE military health insurance from Medicaid Inpatient Utilization Rate (MIUR) calculations (this provision primarily applies to Lake Behavioral Hospital in Waukegan, which serves recruits at Naval Station Great Lakes); provides that if a closed hospital that qualified for MIUR-based payments at the time of its closure is reopened within 4 calendar years, the reopened/new hospital will qualify for the same payments until new MIUR data is available; and changes the beginning and ending dates for Medicaid percentage determination years. The Medicaid percentage determination year that began on 10/1/22 will continue through 12/31/23, after which Medicaid percentage determination years will begin on 1/1 and end on 12/31.

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Adopted Rules

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Questions/requests for copies of the 5 HFS rulemakings: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, HFS.Rules@illinois.gov

▪ DRINKING WATER

The POLLUTION CONTROL BOARD adopted amendments to Primary Drinking Water Standards (35 IAC 611; 47 Ill Reg 9557) effective 11/2/23, implementing drinking water regulations adopted by the United States Environmental Protection Agency (USEPA) in the second half of 2020 and first half of 2021. These amendments include new federal regulations requiring drinking water fixtures to be certified as lead-free and prohibiting any use of lead pipe, fittings or solder in plumbing designed to carry water for human consumption. Other federal requirements implemented in this rulemaking include revisions of the lead and copper rules and approval of additional alternative test procedures for analyzing contaminants in drinking water. The rulemaking also includes changes to the Board's current Radionuclides Rule and removes rules for unfiltered system suppliers using surface water sources and groundwater under the direct influence of surface water. Changes since 1st Notice clarify or update various provisions and incorporated documents. Municipalities and businesses that supply or receive drinking water are affected.

Questions/requests for copies: Don A. Brown, PCB, 60 E. Van Buren St., Ste. 630, Chicago IL 60605, 312-814-3161, don.brown@illinois.gov. Please reference Docket R21-10/R22-2. Copies of the Board's opinion and

order may be downloaded at pcb.illinois.gov.

COMMUNITY LIVING

The DEPARTMENT OF PUBLIC HEALTH adopted an amendment to Community Living Facilities Code (77 IAC 370; 47 Ill Reg 9148) effective 11/1/23 implementing Public Act 101-1116, which requires closed captioning on television sets in hospitals, long term care facilities, and other healthcare facilities. Closed captioning should, as much as reasonably possible, be left on for any TV set located in a common area or in a resident's room and turned on when a resident or visitor requests it. Residents or visitors may turn off closed captioning or ask a staff member to do so. Staff members must not turn off closed captioning without asking permission. If a facility does not currently have a TV with closed captioning, any TV sets subsequently obtained by the facility must have this feature. These rules do not apply to sets privately owned by a resident or third party.

Questions/requests for copies: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217/782-1159, dph.rules@illinois.gov

INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to Minimum Standards for Individual and Group Medicare Supplement Insurance (50 IAC 2008; 47 Ill Reg 5923) effective 11/1/23 that address an issue arising from the end of the federal and State COVID-19 public health emergency. The rulemaking provides that Medicare-eligible individuals who lose their Medicaid coverage after the end of the public health emergency (5/11/23) must be able to apply for and receive Medicare supplement policies for at least 63 days after they

are terminated from Medicaid or receive notice of Medicaid termination, whichever is later. The rulemaking also clarifies that existing rules regarding Medicare late enrollment penalties do not exclude individuals who apply for Medicare supplement policies while under a Medicare penalty.

DOI also adopted amendments to the Part now titled Disposal and Destruction of Records (50 IAC 3502; 47 Ill Reg 2977) effective 11/1/23 that change the name of the Part (formerly Destruction of Records) and align its procedures for companies under the Farm Mutual Insurance Act of 1986 with the provisions for all other insurance companies in 50 IAC 901. Farm mutual insurance companies may be affected.

Questions/requests for copies: Part 2008, Ryan Gillespie (217-558-2746); Part 3502, Marcy Savage (217-524-0016); DOI, 320 W. Washington St., 4th Floor, Springfield IL 62767.

▪ CONSERVATION GRANTS

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Parts titled Land and Water Conservation Fund (LWCF) Grant Program (17 IAC 3030; 47 Ill Reg 1286) and Boat Access Area Development Program (17 IAC 3035; 47 Ill Reg 1291), both effective 11/2/23, removing non-statutory requirements that grant award recommendations for these programs be reviewed by DNR's Natural Resources Advisory Board before being submitted to the DNR Director for final approval. Entities that apply for these grants, including non-profits and small municipalities, will be affected.

Questions/requests for copies of the 2 DNR rulemakings: John Fischer, DNR, One Natural Resources Way, Springfield, IL 62702, 217/782-1809.

Second Notice

The following rulemaking was moved to Second Notice this week by the agency listed below, commencing the JCAR review period. This rulemaking will be considered at the December 12, 2023 meeting in Chicago. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning this rulemaking should be addressed to JCAR at jcar@ilga.gov.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Procedures for Issuing Loans from the Public Water Supply Loan Program to Provide Funding for Lead Service Line Replacement
(35 IAC 663; 47 Ill Reg 11879) proposed 8/11/23

Next JCAR Meeting: Tuesday, Dec. 12, 11 a.m.

Room C600, Bilandic Bldg., 160 N. La Salle St., Chicago

Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

Senator Bill Cunningham, Co-Chair

Senator Cristina Castro

Senator Donald DeWitte

Senator Dale Fowler

Senator Kimberly Lightford

Senator Sue Rezin

Representative Ryan Spain, Co-Chair

Representative Eva-Dina Delgado

Representative Jackie Haas

Representative Steven Reick

Representative Curtis Tarver, II

Representative Dave Vella

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