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Joint Committee on Administrative Rules
Illinois General Assembly

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Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

New Rules

■ GRANT ACCOUNTABILITY

The GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET adopted a new Part titled Grant Accountability and Transparency Act (44 IAC 7000; 39 Ill Reg 5278), effective 7/24/15, implementing Public Act 98-706. The Act and this Part establish the Grant Accountability and Transparency Unit within GOMB. The Unit's responsibilities include compiling a comprehensive list of all State grant programs (the Catalog of State Financial Assistance), their purposes and their objectives; requiring grant applicants to be trained in, or demonstrate knowledge of, grant management, financial disclosure and conflict of interest rules; maintaining a list of individuals and entities that have been barred from receiving State grants; and insuring that all State

agencies that award grants adopt standardized rules for awarding and monitoring grant monies. Many provisions of the Part are based upon the federal Uniform Requirements in 2 CFR 200, which apply to federal "pass through" grants that are channeled through a State agency to a non-federal entity. State agencies may not impose additional or inconsistent requirements unless specifically authorized by State or federal law. The Part also defines numerous terms related to the grant process and defines different types of grants. This rule will be automatically repealed 7/16/19, coinciding with the sunset date of the Act. Since 1st Notice, the definition of "comprehensive annual financial report" has been modified to include examples of documents the report must contain. Those affected by this

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Proposed Rulemakings

■ CONCEALED CARRY

The DEPARTMENT OF STATE POLICE proposed amendments to the Part titled Firearm Concealed Carry Act Procedures (20 IAC 1231; 39 Ill Reg 10717) that require all Illinois concealed carry instructors to adopt a standardized DSP training curriculum effective 3/1/16, and remove provisions for DSP approval of existing instructor curricula. Also starting 3/1/16, instructors must submit to DSP the dates, times and locations of any training session 72 hours prior to training and must complete and submit all training records with 72 hours after completion. Applicants using military records or ID's as proof of prior training have 72 hours after completion of the training to submit that information electronically to DSP. The

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NEW RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.

PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.

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 not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.

RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

New Rules

(cont. from page 1)

rulemaking include non-profit organizations and local governments that receive or may apply for federally funded financial assistance.

Questions/requests for copies: Mary-Lisa Sullivan, GOMB, 100 W. Randolph St., Suite 15-100, Chicago IL 60601, 312/814-2494, Mary-Lisa.Sullivan@illinois.gov

■ DISEASE REPORTING

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Control of Communicable Diseases Code (77 IAC 690; 39 Ill Reg 4837) effective 7/24/15 that revise the definition of extensively drug-resistant organism (XDRO) and reporting requirements for carbapenem-resistant enterobacteriaceae (CRE) for consistency with the requirements of the federal Centers for Disease Control and Prevention (CDC). An XDRO is defined as a pathogen that is difficult to treat because it is non-susceptible to all or nearly all antibiotics. CRE (e.g., E. coli) must be reported to DPH if susceptibility testing results determine them to be non-susceptible or resistant to designated antibiotics. Medical laboratories and local health departments may be affected by this rulemaking.

Questions/requests for copies: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ HUNTING & TRAPPING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to General Hunting and Trapping on Department-Owned or –Managed Sites (17 IAC 510; 39 Ill Reg 4523) effective 7/27/15 that declare unlawful possession of illegal drugs, or being under the influence of alcohol, illegal drugs or intoxicating compounds, while in any hunting/trapping area for the purpose of hunting or trapping. The rulemaking also allows hunters to display windshield cards that they have ordered online from DNR and removes the requirement to keep a portion of the card in one's possession while hunting. DNR also adopted amendments to the following 4 Parts: White-Tailed Deer Hunting By Use of Bow and Arrow (17 IAC 670; 39 Ill Reg 4663); Special White-Tailed Deer Season For Disease Control (17 IAC 675; 39 Ill Reg 4687); Squirrel Hunting (17 IAC 690; 39 Ill Reg 4698); and Dove Hunting (17 IAC 730; 39 Ill Reg 4774), all effective 7/27/15. These rulemakings add or remove various State-owned or –managed sites and amend certain procedures (e.g., open hours or days for hunting) applicable to the types of hunting listed in each Part. Hunters, trappers and outfitters may be affected by these rulemakings.

■ YOUTH HUNTING

DNR adopted amendments to Youth Hunting Seasons (17 IAC 685; 39 Ill Reg 4691) effective 7/

27/15 that change the youth waterfowl hunting date at Horsehoe Lake and Union County State Fish and Wildlife Areas to 12/28 (formerly 12/27); change the name of Donnelley/De Pue State Wildlife Area to Donnelley State Wildlife Area; and clarify provisions for youth waterfowl hunting permits at Donnelley Wildlife Area.

■ TURKEY HUNTING

DNR adopted amendments to The Taking of Wild Turkeys-Spring Season (17 IAC 710; 39 Ill Reg 4710), The Taking of Wild Turkeys-Fall Gun Season (17 IAC 715; 39 Ill Reg 4742), and The Taking of Wild Turkeys-Fall Archery Season (17 IAC 720; 39 Ill Reg 4757), all effective 7/27/15, that add or remove various State-owned or –managed hunting sites and revise applicable procedures for these sites. All three rulemakings also set application deadlines for landowner/tenant turkey hunting permits: 2/27 for the spring season and 10/1 for the fall gun and archery seasons. Amendments to Parts 710 and 715 also institute an additional lottery drawing for all permits remaining after the first two (or three) Statewide lotteries for each season's permits have taken place. This final drawing replaces the current random daily drawing for the remaining permits. Turkey hunters and outfitters are affected by these rulemakings.

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Proposed Rulemakings

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application will not be considered complete until the instructor submits all the necessary training records, and the training certificate may be used for up to one year after the date of issuance. The rulemaking also defines or redefines several terms including “hit the target”, “substantially similar state”, and others. Instructors must review all DSP requirements that are posted on its website within 90 days or face disciplinary action. New provisions state that the instructor is subject to section 35 of the Act, which provides for the submission of a fee and conduct of background checks. The rulemaking also clarifies the process for appealing a denied instructor application. Instructor approval may be suspended for up to 90 days if DSP has a reasonable suspicion that the instructor is not in full compliance with the Act and/or the administrative rules, or if DSP opens an investigation. Other topics addressed include reinstatement or revocation of instructor approval process after an investigation and the suspension of an Instructor for failure to read instructional bulletins. The rulemaking requires greater efforts on the part of law enforcement agencies who object to the issuance of a concealed carry license to confirm the identity of the individual in question. It also describes procedures for non-resident applicants from

substantially similar states (those with concealed carry permit training and qualification requirements comparable to Illinois) to obtain Illinois concealed carry licenses; these procedures include submission of an annual statement from a licensed mental health professional. Additionally, the rulemaking proposes numerous other changes and clarifications. This rulemaking may affect not-for-profits and small businesses that provide concealed carry training and licensing.

Questions/requests for copies/comments through 9/21/15: Matthew R. Rentschler, Chief Legal Counsel, DSP, 801 S. 7th St, Suite 1000-S, Springfield IL 62703, 217/782-7658.

DISABLED PERSONS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Medical Assistance Programs (89 IAC 120; 39 Ill Reg 10667) that returns personal needs allowances (PNAs) for residents of Community Integrated Living Arrangements (CILAs) and Intermediate Care Facilities for Individuals with Developmental Disabilities (ICF/DDs) to their fiscal year 2014 levels. The PNA for both categories of residents had been \$60 per month for fiscal year 2015; this rulemaking returns the allowance to its previous level of \$50 per month for CILA residents and \$30 per month for ICF/DD residents.

Questions/requests for copies/comments through 9/21/15: Mollie Zito, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233, HFS.Rules@illinois.gov

DRINKING WATER TESTING

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Certification and Operation of Environmental Laboratories (77 IAC 465; 39 Ill Reg 10685) that adds proficiency drinking water testing providers for microbiology drinking water recognized by The NELAC Institute (TNI), in addition to drinking water testing laboratories accredited by the American Association for Laboratory Accreditation, to the list of acceptable drinking water testing vendors. Laboratories will not be required to use the vendors but may use the vendor it determines will best benefit the laboratory operation. Also, the rulemaking approves the TECTA EC/TC Automated Microbiology System as an alternate test procedure for detecting coliform and E. coli in water samples and changes references to the General Education Development (GED) test to high school equivalency certificate.

Questions/requests for copies/comments through 9/21/15: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Flr., Springfield IL, 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

New Rules

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■ COMMERCIAL FISHING

DNR also adopted amendments to Commercial Fishing and Musseling in Certain Waters of the State (17 IAC 830; 39 Ill Reg 4810), effective 7/27/15, that address commercial fishing in interstate waters, daily fee fishing areas, and commercial harvesting of carp and other species. The rulemaking adds various definitions, including for live fish (those held in a container with water or another solution intended to support fish life) and dead fish (those packed on ice or in dry containers, or that have been gutted). All commercial fishermen are required to hold both a commercial fishing and a sport fishing license, and a commercial roe harvest permit is also required for those harvesting roe-bearing species. The rulemaking also outlines commercial fishing reciprocity agreements with neighboring states that apply to the Mississippi, Ohio and Wabash rivers. Illinois-licensed fishermen working in these rivers may not attach devices or equipment to the opposite bank, nor can they fish in any Iowa, Missouri, Kentucky, or Indiana tributaries of the affected rivers. When fishing in another state's waters, they must abide by that state's regulations, unless Illinois regulations are more restrictive. New regulations for commercial harvesting of bighead, silver, grass and black carp and of viral

hemorrhagic septicemia (VHS)-susceptible species are also added that parallel recent proposed amendments to 17 IAC 870 and 875. Persons who operate daily fee fishing areas (privately owned waters maintained specifically for fishing, with anglers required to pay a daily fee) must apply to DNR for a license, list the species of fish to be stocked and their sources, allow the site to be inspected by DNR prior to issuance of the license, and pay a \$50 annual license fee. New provisions for special use permits targeting particular species allow previous special use permit holders who successfully harvested at least 1,000 pounds of fish the previous year to participate in the first computerized random drawing for new special use permits. Additional bodies of water are also opened to special use permits, including the Spoon and LaMoine rivers (up to 10 permits), Horseshoe Lake, Clinton Lake, Rice Lake, Powerton Lake, and Lake Decatur. Since 1st Notice, the American eel has been removed from the list of fish species that licensed commercial fishermen may catch, and a provision allowing DNR to issue additional special use permits for the listed bodies of water beyond those listed in rule has been removed. Those affected by this rulemaking include commercial fishermen, fish processors, and operators of daily fee fishing areas.

Questions/requests for copies of the 10 DNR rulemakings: Shelly Knuppel, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

SCHOOL ASSESSMENTS

The STATE BOARD OF EDUCATION adopted amendments to Evaluation of Educator Licensed Employees under Articles 24A and 34 of the School Code (23 IAC 50; 39 Ill Reg 4881) and Transitional Bilingual Education (23 IAC 228; 39 Ill Reg 4894), both effective 7/23/15, that implement Public Act 98-972 and its changes to the State assessment system. The Part 50 amendments clarify that student performance for low-performing schools outside of the City of Chicago will be determined based on each school's Illinois Standards Achievement Test and/or Prairie State Achievement Examination results for 2011, 2012 and 2013. (These tests are not currently used, but were used in the years cited.) Other cross-references to the School Code are updated. The rulemaking also provides that results of a "school climate survey" authorized by the School Code may be used to assist principals in improving a school's instructional environment, but may not be used as a single measure to determine a principal's performance evaluation rating. Amendments to Part 228 extend its provisions to charter schools and allow results

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New Rules

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of the current State assessments or their predecessors to be used in determining the English proficiency of students from non-English speaking backgrounds.

Questions/requests for copies: Part 50, Jason Helfer, SBE, 100 N. First St., Springfield IL 62777, 217/557-6763; Part 228, David Nieto, SBE, 100 W. Randolph St., Suite 14-300, Chicago IL 60602, 312/814-2220.

DISABLED STUDENTS

SBE also adopted a new Part titled Enrollment of and Payment for Nonresident Students at the Philip J. Rock Center and School (23 IAC 600; 39 Ill Reg 4901), effective 7/23/15, concerning enrollment of students from outside Illinois at PRC, which provides education, career and rehabilitation programs for persons who are both blind and deaf. The school serves children ages 3 to 21 while the center serves persons of all ages. The rulemaking allows the PRC school (which currently has only 11 students but can enroll up to 25) to accept out-of-State resident students if space is available. A non-resident student cannot be enrolled or retained to the exclusion of any qualified and eligible Illinois resident student. If a student's enrollment is terminated due to lack of space availability, the student and his or her parent or guardian must be notified at least 30 days in advance. The rulemaking

outlines the application and admission process for nonresident students and requires the school to coordinate enrollment plans with the prospective student's local or state educational agency. Division of expenses among the student's parents, the funding source (e.g., the student's home school district) and the PRC school is also outlined. A per diem rate based on allowable costs and other factors will be charged to the student's funding source.

Questions/requests for copies: David Andel, SBE, 100 N. First St., N-253, Springfield IL 62777-0001, 217/782-5589.

■ HOSPITAL FINANCIAL ASST.

The OFFICE OF THE ATTORNEY GENERAL adopted amendments to Hospital Financial Assistance under the Fair Patient Billing Act (77 IAC 4500; 39 Ill Reg 5536) effective 7/27/15 that implement updated Federal Poverty Level guidelines for 2015. The income eligibility thresholds for persons applying for assistance to pay hospital bills is being increased by approximately \$100 for each member of a family/household seeking assistance. Hospitals and hospital patients seeking financial assistance are affected by this rulemaking.

Questions/requests for copies: David Buysse, Office of the Attorney General, 100 W. Randolph St., 12th

Fl., Chicago IL 60601, 312/814-7236.

HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to Hospital Services (89 IAC 148; 38 Ill Reg 23861) effective 7/27/15, instituting, for dates of service from 7/1/13 through 6/30/15, a \$60 per treatment day add-on payment to hospitals and freestanding dialysis centers for outpatient or home dialysis treatments of Medicaid patients. (HFS instituted this add-on payment in 2013 but inadvertently repealed it in a subsequent rulemaking.) The add-on does not apply to Medicare/Medicaid crossover patients or to persons served by the State Chronic Renal Disease Program. The amendments also define a Health and Human Services Approved Accreditation Organization (HHS-AAO) as any accrediting organization recognized by the federal Department of Health and Human Services as having standards equal to or exceeding corresponding Medicare certification requirements for a provider or service. General requirements for hospitals and hospital-based clinics to participate in Medical Assistance include certification by The Joint Commission (formerly Joint Commission on Accreditation of Healthcare Organizations) or any

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New Rules

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other HHS-AAO. Since 1st Notice, the sunset date for the dialysis add-on payment has been added. Hospitals are affected by this rulemaking.

Questions/requests for copies: Mollie Zito, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

■ WORKERS' COMPENSATION

The DEPARTMENT OF INSURANCE adopted a new Part titled Workers' Compensation Electronic and Standardized Paper Billing (50 IAC 2908; 38 Ill Reg 16557) effective 7/24/15, that implements the workers' compensation electronic claims provisions of Section 8.2a of the Illinois Workers' Compensation Act. It includes definitions of various terms specialized for electronic claims processing. Numerous technical methods of electronic medical bill processing are incorporated by reference. Billing codes shall be in accordance with the Workers' Compensation Commission Medical Fee Schedule. Before accepting an electronically submitted medical bill, the payer shall ensure that a medical provider or clearinghouse has software capable of exchanging, submitting and receive medical bill information. Minimum elements for a payer to accept a medical bill as complete include being submitted and transmitted in accordance with the rule and including in legible text all supporting documentation and

identify key information (the injured employee, employer, insurance carrier, health care provider, and medical service or product). Various types of required acknowledgements for receipt of information are specified in the rule, as well as minimum standards for secure documentation of electronic claims and records. Protocols for an Electronic Remittance Advice (ERA) (an explanation of benefits or explanation of review regarding payment or denial of a medical bill) of payments and electronic funds transfer (ETF) are prescribed, as are procedures for payer review of medical bills and contact with medical providers for more documentation. Requests for medical reports shall be accompanied by releases from the patient. Since 1st Notice, the title of the Part has been changed from "Workers' Compensation Electronic Claims" and various definitions, clarifications and cross-references have been added.

Questions/requests for copies: Joseph Clennon, DOI, 320 W. Washington St., Springfield IL 62767-0001, 217/557-1396, Fax: 217/524-9033.

SOS PROCURMENT

The SECRETARY OF STATE adopted amendments to Secretary of State Standard Procurement (44 IAC 2000; 39 Ill Reg 5565), effective 7/24/15, to expressly add policies on procurement communications reporting, implementing Section

50-39 of the Illinois Procurement Code. Various statutory terms and requirements are included, such as the definitions of "material information" and "active procurement matter", along with examples of communications that are exempt from the Procurement Code, such as statements made by a person in a public forum, statements pertaining to procedural matters, communications the administration of an existing contract (except for change orders or contract renewals or extensions), in-house or privileged communications, etc. An SOS employee must report any communication that the employee reasonably believes was made for an improper purpose, that requests or imparts material information, or that makes a material argument regarding a potential procurement action if that communication attempts to influence a procurement process through duress, coercion or an offer of anything of value to any person.

Questions/requests for copies: Amy Williams, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, awilliams3@ilsos.net

■ WAGE REPORTING

The DEPARTMENT OF EMPLOYMENT SECURITY adopted amendments to Notices, Records, Reports (56 IAC 2760; 39 Ill Reg 2464)

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New Rules

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effective 7/27/15 updating electronic reporting requirements for employers who have 250 more employees. Quarterly reports were required to be filed electronically starting in 2013. DES will allow a penalty waiver for employers who have been found eligible to waive the federal electronic reporting requirements in effect on 1/1/12. A new Section is added to phase in electronic reporting requirements on a fiscal year basis based on the number of employees an employer had during a calendar year starting with the 2013 calendar year. If an employer can show the IRS has or would have waived the electronic filing requirement, the Director will waive the electronic filing requirement. DES also adopted amendments to Payment of Unemployment Contributions, Interest and Penalties (56 IAC 2765; 39 Ill Reg 2477) effective 7/27/15 waiving the electronic filing penalty for not reporting electronically for the first 2 months of a quarter of the

employer does file electronically in the third month. DES clarifies that months where the penalty has been waived is not considered a month a where an employer filed a late report. Employers subject to reporting may be interested in these rulemakings.

Questions/requests for copies: Gregory Ramel, IDES, 33 S. State St.-Room 937, Chicago IL 60603, 312/793-2223.

■ SALES TAX

The DEPARTMENT OF REVENUE adopted amendments to Use Tax (86 IAC 150; 39 Ill Reg 273), effective 7/21/15, implementing Public Acts 96-1035 and 98-422. The rulemaking clarifies that sales of motor vehicles in Illinois to non-Illinois residents are not subject to sales or use tax if the purchaser certifies that the vehicle will not be used in Illinois for more than 30 days per calendar year. It also extends until 6/30/16 a use tax exemption for taxpayers

engaged in centralized purchasing who temporarily store purchased items in Illinois. Motor vehicle sellers, local governments and other businesses are affected.

Questions/requests for copies: Debra Boggess, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

IHDA REPEALERS

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY repealed the Parts titled Single Family Mortgage Purchase Program (47 IAC 220; 39 Ill Reg 205) and Single Family Mortgage Purchase Program II (47 IAC 250; 39 Ill Reg 225) both effective 7/24/15. The programs regulated under these rules, which were adopted in 1981 and 1983, are no longer active.

Questions/requests for copies: Kristi S. Poskus, Esq., IHDA, 401 N. Michigan Ave., Suite 700, Chicago IL 60611, 312/836-7416.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the Committee's August 11, 2015 meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF HUMAN SERVICES

Temporary Assistance for Needy Families (89 IAC 112; 39 Ill Reg 5955) proposed 5/1/15

Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 39 Ill Reg 5980)
proposed 5/1/15

IL STATE TOLL HIGHWAY AUTHORITY

State Toll Highway Rules (92 IAC 2520; 39 Ill Reg 7598) proposed 5/29/15

POLLUTION CONTROL BOARD

General Rules (35 IAC 101; 39 Ill Reg 7842) proposed 6/5/15

Enforcement (35 IAC 103; 39 Ill Reg 7842) proposed 6/5/15

Regulatory Relief Mechanisms (35 IAC 104; 39 Ill Reg 7849) proposed 6/5/15

Proceedings Pursuant to Specific Rules or Statutory Provisions (35 IAC 106; 39 Ill Reg 7857)
proposed 6/5/15

Administrative Citations (35 IAC 108; 39 Ill Reg 7864) proposed 6/5/15

Joint Committee on Administrative Rules

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Senator Bill Brady
Senator Karen McConnaughay
Senator Don Harmon
Senator Tony Muñoz
Senator Ira Silverstein

Representative Greg Harris
Representative Lou Lang
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