

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.

Emergency Rules

■ TIME OUT & RESTRAINT

The STATE BOARD OF EDUCATION adopted an emergency amendment to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 44 Ill Reg 4085), effective 2/25/20, amending previous emergency rules effective 11/20/19 (43 Ill Reg 14305) and 12/4/19 (43 Ill Reg 14941), for the remainder of their combined 150-day effective period. (The companion proposed rulemaking appeared in the 12/20/19 *Illinois Register* at 43 Ill Reg 14611.) The new emergency amendment makes a limited exception to the prohibition of isolated time out (involuntary confinement of a student alone in a room or other enclosure outside the classroom, without a supervising adult in the room/ enclosure) enacted in the previous emergency rules. Isolated time out is now permitted only when all other requirements for the use of

time out (which requires an adult to remain in the room with the student at all times) are met, but the adult in the time out room is in imminent danger of serious physical harm because the student is unable to cease actively engaging in extreme physical aggression. If isolated time out is used, a responsible adult must remain within 2 feet of the room/ enclosure and be able to see, hear and communicate with the student. The door to the enclosure must not be locked or held to block egress and the student must not be supervised with cameras, audio recording or another electronic device. A student in time out or isolated time out must have reasonable access to food, water, medication and toilet facilities, and shall not have his or her clothing removed (including shoes, shoelaces, boots, or belts) unless the items removed pose a risk of

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Proposed Rulemakings

■ CANNABIS CULTIVATION

The DEPARTMENT OF AGRICULTURE proposed a new Part titled Cannabis Regulation and Tax Act (8 IAC 1300; 44 Ill Reg 3586), implementing the Act by establishing licensing and regulatory standards for cultivators, infusers, and transporters of adult use cannabis and establishing a Community College Cannabis Vocational Pilot Program. A companion emergency rule was effective 1/1/20 at 44 Ill Reg 1466 for a maximum of 180 days.

Licenses

Newly established cultivation centers may apply for conditional adult use cultivation center licenses during a 14 day application window to be announced on the DOA website. Craft growers (cultivation facilities

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ADOPTED 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.

Adopted Rules

■ FISHING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Parts titled Sport Fishing Regulations for the Waters of Illinois (17 IAC 810; 43 Ill Reg 13935), Commercial Fishing and Musseling in Certain Waters of the State (17 IAC 830; 43 Ill Reg 14050), and Commercial Fishing in Lake Michigan (17 IAC 850; 43 Ill Reg 14060), all effective 2/26/20. Amendments to Part 810 update site-specific sport fishing regulations, expand the list of aquatic species that can be taken with a valid sport fishing license, and set June 19-22, 2020, as the annual Free Fishing Days. The Part 830 rulemaking opens Sweede Lake to a maximum of 2 special use commercial fishing

permits. The Part 850 amendments make the current quota of 5 commercial yellow perch fishing licenses optional instead of mandatory; prohibit commercial harvesting of yellow perch in Lake Michigan from May 1 through June 15 (currently, July 1-31); allow commercial gill net fishing in Illinois waters at least 1,000 yards from shore, piers or breakwaters during the months of July and August (currently, August only); and give priority for available licenses to continuing individual or corporate license holders over new applicants. The captain of any licensed commercial fishing crew, and anyone assisting a licensed commercial fisherman, must obtain a sport fishing license in addition to a commercial fishing license unless that person is exempt from the sport fishing

license requirement. DNR may, at times announced by the Director, accept new qualified candidates for Lake Michigan commercial fishing licenses and establish their ranking order for available licenses by random drawing. Those affected by these rulemaking include commercial fishermen.

■ DNR GRANTS

DNR also adopted a new Part titled Illinois Natural Areas Stewardship Grant Program (17 IAC 3051; 43 Ill Reg 8657), effective 2/26/20, implementing PA 100-420, which instituted a grant program for non-profit conservation land trusts to manage natural areas such as

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Emergency Rules

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self-injury or injury to others. When an instance of isolated time out is documented to SBE, it must include an explanation of why a less restrictive intervention was not or would not have been effective and why an adult could not be present in the time out enclosure (in addition to other information required to document instances of time out or physical restraint). Those affected by this emergency rule include school districts and special education providers.

Questions/requests for copies: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

■ SPORTS WAGERING

The ILLINOIS GAMING BOARD adopted emergency amendments to Sports Wagering (11 IAC 1900; 44 Ill Reg 4062), effective 2/26/20, amending an earlier emergency rule, effective 11/7/19 at 43 Ill Reg 13464, for the remainder of its 150-day effective period. (Companion proposed rulemakings appear in the 1/3/20 *Register* at 44 Ill Reg 84 and in the 2/14/20 *Register* at 44 Ill Reg 2618.) The new emergency amendments clarify various aspects of the Part by adding definitions; adding prohibited actions or omissions by agents, employees, or any other contracted third party of a license

holder or key person to the list of grounds for disciplinary action against the license holder; clarifying the master sports wagering license application; and requiring occupational licensees to submit annual license fees at least 30 days (rather than 90 days) prior to the first day of the month that the original license was issued. Sports wagering licensees are affected by this emergency rule.

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

Proposed Rulemakings

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with less than 5,000 square feet devoted to cultivation), infuser organizations, and transporters may submit license applications from 2/14 through 3/16/20. Information to be included on all license applications includes a detailed description of the facility and its inventory, processing and packaging plans; its proposed operation and management practices; required financial disclosures; and the details of any administrative or judicial proceeding that resulted in any principal officers or board members of the facility being convicted of or pleading guilty to a criminal offense, or having a registration or license suspended or revoked. The applicant must also provide a plan of action for recruiting and hiring minorities, women, veterans and persons with disabilities and, if applicable, evidence of status as a social equity applicant. Employees, agents, principal officers and board members must complete fingerprint background checks and receive identification cards (application fee is \$100). The rule also includes numerous specifications for facility production and operations; equipment and facilities; recordkeeping and inventory; product testing, packaging and labeling; security (including 24-hour video surveillance); and disposal/destruction of cannabis waste. Approved pesticides, herbicides, insecticides/repellents and fungicides for use on cannabis plants are listed in the rule.

Fees

Cultivation centers that receive a conditional license become eligible to receive an adult use cultivation center license after undergoing a DOA inspection and paying a licensing fee of \$100,000. These licenses must be renewed annually with a renewal fee of \$100,000. Substantial modifications or alterations to a cultivation or infuser facility must be approved by DOA with fees of \$1,000 to \$5,000 based on the extent of the modifications. Each product offered for sale by any cannabis business must also be registered by name with DOA for a \$100 fee.

Selection Criteria

All license applicants will be evaluated on a point system with points awarded for facility suitability, employee training and security plans, cultivation plans, product safety and labeling, business plans and services offered, social equity applicant status, labor and employment practices, environmental plans, majority ownership by Illinois residents, and a diversity plan. Bonus points will be awarded for inclusion of an incubator program, substance abuse prevention plan, and education plan for children and teens concerning the potential harms of cannabis use. In the event two or more applicants receive tied scores, remaining available licenses shall be distributed via a random drawing.

Craft Growers

Craft grower licensees will be charged a prorated licensing fee

of \$40,000 upon initial licensing and upon each annual license renewal. DOA may permit craft growing facilities to expand in 3,000-square-foot increments up to a maximum of 14,000 square feet of growing space. Craft growers may share premises with an infuser or a dispensing organization provided each licensee stores all its cannabis products and currency separately from the other licensees and does not allow the other licensees access to those items. Craft growers must be located at least 1,500 feet away from another craft grower or cultivation center.

Early Approval

Medical cannabis cultivation centers already licensed under the Compassionate Use of Medical Cannabis Pilot Program Act may obtain early approval licenses. An application fee of \$100,000 and a business development fee of \$250,000 to \$750,000 are required with the application. Applicants must also agree to complete a social equity inclusion plan (i.e., a direct monetary contribution to cannabis business development or job training, or participation/financial investment in a cannabis business incubator program) before the early approval license expires. All early approval licenses expire 3/31/21 and may be renewed (with an additional renewal fee of \$100,000) until 3/31/22. After that date, early approval license holders must apply for regular adult use cultivation center licenses.

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Adopted Rules

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nature preserves, land and water reserves, or dedicated buffer areas. Annual funding for the grant program will not exceed the lesser of \$2 million or 10% of the fiscal year capital appropriations to the Natural Areas Acquisition Fund. The maximum grant award to a single project is \$100,000, and the grant can reimburse up to 100% of approved project costs. Grant terms are normally 2 years, but DNR can grant extensions for reasons beyond the grantee's control. The new Part outlines the application, evaluation, selection, award and accounting process and cross references applicable Grant Accountability and Transparency Act (GATA) rules. Since 1st Notice, DNR has added a requirement that the grant applicant match the lesser of 5% of the grant award or \$1,000, whichever is less, and included availability of non-financial resources such as personnel, volunteers, equipment and supplies to the list of criteria to be considered by DNR in evaluating grant applicants. Conservation land trusts and small businesses they hire to assist with maintenance or management of natural areas are affected by this rulemaking.

Questions/requests for copies of the 4 DNR rulemakings: Parts 810, 830 and 850, John Heidinger (217/557-6379); Part 3051, Robert G. Mool (217/524-6111); DNR, One Natural Resources Way, Springfield IL 62702, 217/557-6379.

■ PROCUREMENT

The CHIEF PROCUREMENT OFFICER FOR HIGHER EDUCATION adopted an amendment to the Part titled Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement (44 IAC 4; 43 Ill Reg 13841), effective 3/13/20, clarifying the procedure for adjusting the small purchase threshold (below which competitive bidding is not required) for inflation so that it remains at \$100,000. The CPO-HE must review the small purchase thresholds every 5 years (beginning on 7/1/19) to determine if a modification is needed, and must consult with the Procurement Policy Board if he/she determines that a modification is necessary. The rulemaking also clarifies procedures for conducting small purchases and determining whether a contract is under the small purchase limit, and eliminates a requirement that universities annually submit their small purchase procurement procedures to the CPO-HE for approval. Small businesses seeking procurement contracts with Illinois public higher education institutions may be affected by this rulemaking.

Questions/requests for copies: Ben Bagby, CPO-HE, 401 S. Spring St., 520 Stratton Bldg., Springfield IL 62706, 217/720-1555, ben.bagby@illinois.gov

INSURANCE

The DEPARTMENT OF INSURANCE adopted an amendment to the Part titled Pre-Licensing and Continuing Education (50 IAC 3119; 43 Ill Reg 11067), effective 3/2/20, establishing an upper limit of 12 credit hours for certified continuing education courses. Courses that are less than 1 hour or more than 12 hours in length will not be considered for CE. Licensed insurance agents and providers may be affected.

DOI also adopted amendments to Variable Contracts (50 IAC 1551; 43 Ill Reg 12054) and repealed the Part titled Licensing and Suitability Requirements for the Solicitation of Variable Contracts (50 IAC 3117; 43 Ill Reg 12070), both effective 3/2/20. The Part 1551 rulemaking updates references to the former National Association of Security Dealers, now known as the Financial Industry Regulatory Authority (FINRA); updates a reference to the Annuity 2000 Mortality Table; and adopts rules that were formerly in 50 IAC 3117.

Questions/requests for copies of the 3 DOI rulemakings: David Murphy, DOI, 320 W. Washington, 4th Fl., Springfield IL 62767-0001, 217/782-5415.

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Infusers

DOA will also license infuser organizations that directly incorporate cannabis or cannabis concentrate into other products (e.g., baked goods, oils). Infuser organizations and cultivation centers that produce edible products must comply with Department of Public Health rules for food handling and sanitation. Infuser license applications must be accompanied by a \$5,000 application fee and must contain the same information regarding operations, disclosures, social equity status, etc., as applications for cultivation licenses. The initial licensing fee and the annual renewal fee is \$20,000.

Vocational Program

Illinois community colleges may apply to participate in the Cannabis Vocational Pilot Program until 7/1/20. Applications will be evaluated with points awarded for faculty experience and credentials; security plan; curriculum plan; career advising and job placement plan; and the percentage of low-income students enrolled at the college. Program licenses are valid for 1 year and may be renewed for a \$50 fee. Community colleges that receive Vocational Pilot Program licensure may begin awarding Career in Cannabis Certificates to qualifying students in the 2021-2022 academic year. The certificate program must include courses that allow students to study, work with, and grow live cannabis plants and that instruct

students in best business practices, professional responsibility, and legal compliance. Vocational program licensees may not keep more than 50 flowering cannabis plants at one time and their employees and agents must complete fingerprint background checks.

Social Equity Applicants

License applicants with majority ownership by one or more persons who meet any of the following criteria are considered Social Equity Applicants:

- was arrested for or convicted of a cannabis-related offense that is now eligible for expungement;
 - was the spouse, parent or dependent child of a person arrested/convicted of a cannabis-related offense now eligible for expungement; or
 - is a resident of a disproportionately impacted area with a high rate of arrests or convictions for cannabis-related offenses under previous laws.
- A license applicant with 10 or more employees also qualifies for social equity status if at least 51% of its employees were arrested/convicted of cannabis offenses eligible for expungement or live in a disproportionately impacted area. (Social equity applicants are eligible for low-interest loans and other forms of assistance to start and grow their cannabis businesses.)

Transportation

Craft growers and infusers who do not also have a transport organization license may only transport their products to other

cannabis businesses within a specified radius (2,000 feet in Cook County, 2 miles in DuPage and Lake counties, 15 miles in all other counties). Beginning 7/1/20, cultivation centers must also obtain transporter licenses in order to transport cannabis to other cannabis businesses. License applications will be accepted from 2/14 through 3/16/20, and every year thereafter from 2/15 through 3/15. Application fee is \$5,000 and the annual licensing fee is \$10,000. Transporters may not use commercial motor vehicles weighing more than 10,000 pounds and only persons registered with DOA as transporter agents are permitted in vehicles transporting cannabis or cannabis products. Vehicles cannot contain any identifying markings or logos that bear the business name or that indicate the vehicle contains cannabis.

Disciplinary Action

DOA may suspend or revoke licenses and agent identification cards for failure to comply with any provision of the Act or this Part; failure to comply with special conditions of the license/ID card; failure to file tax returns or pay taxes/penalties due; or failure to properly keep books and records. Fines of up to \$10,000 for transporters and infusers, \$15,000 for craft growers, and \$50,000 for cultivation centers may be imposed for each violation. However, the fine will be reduced to no more than \$2,000 if the

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licensee notifies DOA of the violation, initiates an investigation and cooperates fully with DOA during the investigation. Licenses or ID cards may be suspended immediately without a hearing if DOA determines that this action is necessary to protect the public interest, safety or welfare, but a hearing must be held within 30 days after this suspension.

Questions/requests for copies/comments through 4/27/20: Albert A. Coll, DOA, State Fairgrounds, PO Box 19281, Springfield IL 62794-9281, 217/782-5051, fax 217/785-4505.

■ NONPUBLIC SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to Voluntary Registration and Recognition of Nonpublic Schools (23 IAC 425; 44 Ill Reg 3844) implementing Public Act 101-17 and aligning the Part with current practice. The rulemaking allows initial registration of a school via an application process specified by the State Superintendent (currently, by submission of paper forms); and allows the school to document that it has an academic term which satisfies minimum statutory instructional requirements applicable to public schools (currently, at least 176 days of student attendance with at least 5 clock hours of instruction daily, or 880 clock hours of instruction per year). Schools seeking recognition must comply with other relevant statutes, case laws and

administrative rules in addition to complying with applicable provisions of the School Code. Registered nonpublic schools recognized by an SBE-approved accrediting organization must be visited by the accrediting organization in order to attain or maintain recognition, and the State Superintendent must periodically review accrediting organizations to insure they maintain alignment with the requirements of this Part. Schools seeking recognition must also document compliance with School Code requirements for administration or self-administration of medications; verify that students participating in interscholastic sports have had annual physicals and that the school complies with School Code concussion policy; and comply with SBE rules regarding transfer of student records (23 IAC 375.75). Schools that deliver instruction entirely via correspondence, online, or by other means in which students do not gather in a physical location must register with SBE before they can be recognized, although some requirements of the Part (e.g., building codes) will not apply to them. The State Superintendent may allow a nonpublic school applying for recognition directly from SBE to select 2 members of the 3-person SBE review team that will visit the school. A school that fails to renew its registration in years when it is due for an on-site review or its recognition in years between on-site reviews forfeits its recognition status and must reapply for initial registration and recognition. Recognition cannot be immediately removed by SBE

administrative action without first placing the school on probation, except in emergency situations. Finally, the rulemaking implements PA 101-17 by removing the requirement that SBE approve textbooks selected for the textbook block grant program through which nonpublic schools may purchase secular textbooks. Nonpublic schools and their accrediting bodies are affected by this rulemaking.

Questions/requests for copies/comments through 4/27/20: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

TANF BENEFITS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Temporary Assistance for Needy Families (89 IAC 112; 44 Ill Reg 3807) implementing Public Act 101-103. The rulemaking revises provisions concerning sanctions for non-cooperation with TANF work, training or education requirements. TANF participants who are not exempt from these requirements and are sanctioned for non-cooperation may have the portion of their monthly grant that is designated for adult members of the household reduced by 30%. (The PA provides that 75% of the total monthly grant is designated for the children in a household and cannot be denied or reduced for non-cooperation. Formerly, the entire cash assistance payment

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could be reduced by 50% or, in the event of multiple instances of non-cooperation, terminated.) If a sanctioned participant reestablishes compliance or shows good cause for an alleged instance of non-cooperation, the participant's benefits will be restored as of the date compliance was reestablished, and the full grant amount will resume on the first day of the following month. The list of situations considered good cause for non-cooperation is expanded to include homelessness (defined as lack of a fixed, regular and adequate nighttime residence); departure or discharge from a publicly funded institution (e.g. mental health facility, correctional institution, foster care/youth facility) without a fixed nighttime residence to move to; receipt of an eviction notice; or discontinuance of utilities.

AABD BENEFITS

DHS also proposed amendments to Aid to the Aged, Blind or Disabled (89 IAC 113; 44 Ill REG 3825) adjusting sheltered, personal, and nursing care monthly rates and the monthly grant adjustment allowance to reflect the January 2020 increase in Supplemental Security Income payments. The grant adjustment allowance is raised from \$592.90 to \$604.90 and all care rates are raised by \$12 per month.

EARLY INTERVENTION

Finally, DHS proposed an amendment to Early Intervention

Program (89 IAC 500; 44 Ill Reg 3836) implementing PA 101-10 by adding lead poisoning, as defined by the Department of Public Health in 77 IAC 845.20, to its list of medical and developmental conditions that automatically qualify children from the preschool Early Intervention Program.

Questions/requests for copies/ comments on the 3 DHS rulemakings through 4/27/20: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

STATE RETIREMENT

The STATE EMPLOYEES' RETIREMENT SYSTEM proposed amendments to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 44 Ill Reg 3869) that clarify various aspects of SERS benefits. If a SERS member requests to have service credits from the Teachers' Retirement System or the State Universities Retirement System included in calculations of non-occupational or temporary disability benefits, SERS will not include any credits that have been forfeited by acceptance of a refund or applied toward a retirement annuity and not restored. Reports by licensed healthcare professionals concerning a SERS member's disability are defined as reports of independent medical examinations. The date of disability, for purposes of calculating the amount of a disability benefit, is defined as the date the member is removed from

payroll and placed on disability leave. Compensation for back wages will be applied to the pay period in which it was earned rather than the pay period in which received, and debt attributable to overpaid benefit payments may be referred to the Attorney General, Debt Collection Board, the Comptroller's Offset System, or a private collection agency.

Questions/requests for copies/ comments through 4/27/20: Jeff Houch, SERS, 2101 S. Veterans Pkwy., P.O. Box 19255, Springfield IL 62794-9255, 217/524-8105, fax 217/557-3943, jeff.houch@srs.illinois.gov

HIGHER ED GRANTS

The BOARD OF HIGHER EDUCATION proposed amendments to General Grant Programs (23 IAC 1001; 44 Ill Reg 3799) aligning BHE's grant rules with the requirements of the Grant Accountability and Transparency Act (GATA). The rulemaking adds definitions; references GATA rules regarding recipient qualification, use of uniform grant agreements, interest earned, audit requirements, and post-award requirements; and removes provisions that are now included in the uniform grant agreements prescribed by GATA.

Questions/requests for copies/ comments through 4/27/20: Karen Helland, BHE, 1 N. Old State Capitol Plaza, Suite 333, Springfield IL 62701-1377, 217/557-7358, fax 217/782-8548, helland@ibhe.org

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The DES, DFPR and HFS rulemakings will be considered at the March 18, 2020 JCAR meeting; the DCFS and SBE rulemakings will be considered at the April 21, 2020 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 EMPLOYMENT SECURITY

Payment of Unemployment Contribution, Interest and Penalties (56 IAC 2765; 44 Ill Reg 38) proposed 1/3/20

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Corporate Fiduciary Applications and Notices (38 IAC 396; 44 Ill Reg 50) proposed 1/3/20

DEPT OF HEALTHCARE AND FAMILY SERVICES

Child Support Services (89 IAC 160; 43 Ill Reg 12811) proposed 11/1/19

DEPT OF CHILDREN AND FAMILY SERVICES

Employee Conflict of Interest (89 IAC 437; 43 Ill Reg 13853) proposed 12/6/19

STATE BOARD OF EDUCATION

Requirements for Accounting, Budgeting, Financial Reporting, and Auditing (23 IAC 100; 43 Ill. Reg. 13700) proposed 12/2/19

Joint Committee on Administrative Rules

Senator Bill Cunningham, <i>co-chair</i>	Representative Tom Demmer
Senator Kimberly Lightford	Representative Michael Halpin
Senator Tony Muñoz	Representative Frances Ann Hurley
Senator Sue Rezin	Representative Steven Reick
Senator Paul Schimpf	Representative André Thapedi
Senator Chuck Weaver	Representative Keith Wheeler, <i>co-chair</i>

**Vicki Thomas
Executive Director**