

# MINUTES

## Rules Review Committee



Senator Alan Solano, Chair  
Representative Jean Hunhoff, Vice Chair

**Three hundred seventy-eighth meeting**  
**Thursday**  
**March 28, 2019**

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

The three hundred seventy-eighth meeting of the Rules Review Committee was called to order by Senator Alan Solano, (Chair), at 10:01 a.m. CDT, on March 28, 2019, in Room 414 at the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Craig Kennedy, Lance Russell, and Alan Solano (Chair), and Representatives Ryan Cwach, Jon Hansen, and Jean Hunhoff (Vice 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."*

### **Approval of Minutes**

***Representative Hunhoff moved, seconded by Senator Kennedy, that the March 12, 2019 meeting minutes be approved. Motion prevailed on a unanimous voice vote.***

### **Rules Reviewed**

**Department of Education: South Dakota Board of Education Standards:** Amend rules to remove the requirement for state approval of school-created course equivalency exams and allow local schools to determine how to transcribe credit earned by course equivalency exams.

**Ms. Holly Farris, Department of Education,** reviewed the proposed rules.

Representative Hunhoff asked how a letter grade versus a pass/fail designation would affect graduation. **Ms. Becky Nelson, Department of Education,** stated it depends on the course being taken. If the course is a state graduation requirement, the student would need to have a passing grade.

Senator Russell questioned whether the proposed rules related to the high school graduation requirement rules changes from 2018. Ms. Farris responded they did not but reflected changes that should have been made several years when the rules pertaining to the awarding of high school credits before grade 9 were updated.

Responding to Senator Kennedy, Ms. Nelson explained how credits would be displayed on school transcripts for both letter grades and pass/fail designations.

### **Public Testimony**

**Representative Nancy Rasmussen, Hurley, self**, commented that bills regarding the subject failed in the 2019 Legislative Session and such changes could wait another year before being considered.

***Senator Solano moved, seconded by Senator Kennedy, that the review of the rules proposed by the Department of Education: South Dakota Board of Education Standards is complete. Motion prevailed on a roll call vote with 6 ayes. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, Russell, and Solano.***

**Department of Education: South Dakota Board of Technical Education:** Amend rules to update the general education requirements that must be included in an associate of applied science degree program; update the yearly facility fund and National Guard tuition benefit fund set-asides from the total state appropriation; and update the yearly per student allocation appropriated by the South Dakota Legislature in the postsecondary technical institute funding formula.

**Mr. Scott DesLauriers, Deputy Executive Director, South Dakota Board of Technical Education**, reviewed the proposed rules.

Representative Cwach asked whether there is a risk of students taking multiple classes in one category to avoid taking classes they may not want to take in another category. Mr. DesLauriers said he did not feel it would be a concern as each institution approves the course of study and the proposed rules will allow more flexibility in determining general education requirements.

Senator Solano wondered if schools would have more latitude in the development of credits for a specific applied science degree to put more emphasis on a particular area of study relevant to that degree. Mr. DesLauriers confirmed they would.

***Senator Solano moved, seconded by Senator Kennedy, that the review of the rules proposed by the Department of Education: South Dakota Board of Technical Education is complete. Motion prevailed on a roll call vote with 6 ayes. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, Russell, and Solano.***

**Department of Agriculture: South Dakota Animal Industry Board:** Amend rules to update processes for interstate movement of horses that will stay in the destination state short term.

**Dr. Dustin Oedekoeven, Department of Agriculture**, reviewed the proposed rules.

Senator Kennedy and Representative Cwach inquired about the issuance of and exceptions to certificates of veterinary inspection. Dr. Oedekoeven explained the Animal Industry Board has the authority to propose alternatives to the certificate of veterinary inspection relating to the purpose for which the animal is coming into or moving through South Dakota. The proposed rules apply more to "pleasure" horses (those used for trail riding, horse shows, or rodeos) than animals being imported as livestock.

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

**Department of Game, Fish and Parks:** Amend or establish rules to restrict applicants for East River/Special Buck, West River/Special Buck, Black Hills, Muzzleloader, Refuge and Custer State Park deer hunting seasons to submitting no more than two license applications for the combined drawing for these seasons; alter the drawing structure that would limit the number of applications an individual could submit in East River, West River, Black Hills, Muzzleloader, Special Buck (East and West), CSP and Refuge; allow applicants a choice to use preference points for leftover licenses in the first three combined deer drawings; eliminate certain requirements that turkey parts have to remain attached to the bird during transportation while tagged; close archery turkey hunting in Lake County south of State Highway 34; and allow hunters more location options to tag big game.

**Mr. Tony Leif, Department of Game, Fish and Parks, Wildlife Division,** reviewed the proposed rules and reiterated the steps taken by the department to address concerns and frustrations from hunters regarding the drawing process for deer licenses. Mr. Leif commented that the committee's reversion of the rules in November allowed the department to build a bridge of collaboration with hunters to come up with a better solution.

### **Public Testimony**

**Mr. Wayne Lloyd, Wentworth, self,** noted he had been an opponent to the initial rules proposed last year but had since had the opportunity to meet with the Department of Game, Fish and Parks to discuss the proposal and review statistics on the process. He organized a group of about 250 hunters to share their concerns and input and believes as people gained a better understanding of how the changes would benefit hunters as a whole, including youth hunters, opposition has decreased. Mr. Lloyd thanked the department for their willingness to listen to hunters.

At Representative Hunhoff's request, Mr. Leif explained how the drawings will work for non-resident hunters.

Senator Russell thanked the Department of Game, Fish and Parks for their efforts in bringing all sides together on the issue but noted that confusion on the proposal may still exist and there may not be the grassroots support needed for the proposed changes.

Senator Solano remarked that the original recommendations were too restrictive given the diversity of hunting in South Dakota and he appreciated the department going back to the drawing board, gaining more productive input, and coming up with a better, more balanced, idea. He and Representative Hunhoff noted that follow-up on how the licensing process actually performs will be critical in determining its success.

***Representative Hunhoff 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 5 ayes and 1 nay. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Solano. Voting nay: Russell.***

**Department of Transportation:** Amend rules to reduce from 55 to 45 miles per hour the limited speed zone on Highway 12 in and around Summit, and lower from 65 to 55 miles per hour the speed limit on U.S. Highway 83 beginning at the South Dakota/Nebraska border, then north for 1.46 miles.

**Ms. Karla Engle, Department of Transportation,** reviewed the proposed rules.

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

**Department of Transportation:** Amend rules to establish procedures for the application and approval of loans to local government highway jurisdictions for the marking, constructing, reconstructing, repairing, and maintenance of highways and bridges of the state.

**Ms. Karla Engle, Department of Transportation,** reviewed the proposed rules.

Senator Kennedy asked if the definition of a local government highway jurisdiction included townships. Ms. Engle confirmed for the purposes of the loan program, local government is defined as a municipality or county while the definition of highway includes roads that are under the jurisdiction of municipalities, counties, or townships. It is anticipated that loan applications from townships would be submitted via joint powers agreements that partner a township with a municipality or more likely, a county.

Senator Russell inquired if the loan program would cover reconstruction projects for streets and sidewalks. Ms. Engle said she did not believe it would.

Responding to Representative Cwach on the department's experience with economic development, Ms. Engle noted the Department of Transportation administers several programs that deal with industrial parks and capitol improvement projects and will rely on local governments to provide the necessary information on their proposed projects.

Ms. Engle clarified for Senator Solano that interest rates will be set at the time of consideration of the loan award and the same loan default remedies would apply as for any breach of contract.

Senators Kennedy and Russell expressed concern that the narrow scope of the rules in excluding townships from applying for loans on their own is unduly restrictive and inconsistent with the statutory authority provided in SDCL § 31-5-8. Senator Solano agreed their point was valid and may warrant further discussion or action by the Legislature but worried if the rules were not acted on now, this year's construction season could be lost to address an existing need in cities and counties.

Senator Kennedy asked if the committee could amend a proposed rule and change the definition of local government to include townships. **Mr. Doug Decker, Code Counsel,** advised the statute provides the

rule-making authority to the Transportation Commission not the Rules Review Committee. Ms. Engle noted if the rules were reverted, the department will take the committee's feedback and work on an amendment to the rule; an amendment would also be considered if the rules passed.

Representative Hunhoff asked where the limiting factor that a township must have a partnership with another entity came from if it was not in the rules. Ms. Engle stated the provision is in Chapter 1-24 and that the majority of the department's projects involve joint powers agreements. Responding to Representative Hunhoff's question regarding whether townships could apply for loans yet this year in response to flooding issues, Ms. Engle said federal funding is available for emergency relief.

The department has already received a loan application from a county which could not be awarded without the implementation of the proposed rules.

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

#### **Closing Comments**

The next meeting of the Rules Review Committee is May 6, 2019 with seven rules packets already scheduled for hearing. Senator Solano asked members to notify LRC staff as soon as possible if they will be in attendance at the May meeting.

#### **Adjournment**

***Representative Hansen moved, seconded by Representative Hunhoff, that the meeting be adjourned. Motion prevailed on a unanimous voice vote.***

Chair Solano adjourned the meeting at 12:46 p.m.