

# MINUTES

## Rules Review Committee



Representative Jean Hunhoff, Chair  
Senator Lance Russell, Vice Chair

Three hundred ninety-second meeting  
Tuesday  
September 15, 2020

Room 414  
State Capitol  
Pierre, South Dakota

The three hundred ninety-second meeting of the Rules Review Committee was called to order by Representative Jean Hunhoff, Chair, at 9:00 a.m. (CT) on September 15, 2020, via electronic conference and in Room 414 at the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members present: Representatives Ryan Cwach, Jon Hansen, and Jean Hunhoff, Chair; and Senators Craig Kennedy, Lance Russell, Vice Chair, and Margaret Sutton. Staff members present were L. Anita Thomas, Principal Legislative Attorney, Kelly Thompson, Senior Legislative Secretary, and Hilary Carruthers, IT Support Specialist.

*All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For continuity, these minutes are not necessarily in chronological order.*

### Approval of Minutes

***Senator Sutton moved, seconded by Representative Hansen, that the August 18, 2020, meeting minutes be approved. Motion prevailed on a roll call vote with 6 ayes. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, Russell, and Sutton.***

### Rules Reviewed

**Board of Elections (Office of the Secretary of State):** Amend rules to:

- Update certain nominating petitions to provide consistency to address and date formats;
- Revise petition forms for statewide initiated measure, constitutional amendment, and referendum petitions to include a circulator identification number for paid circulators;
- Repeal rule and references to direct recording electronic voting machines;
- Revise requirements for voter registration affidavits;
- Clarify the allowable format for recapitulation sheets;
- Update the standards used for approval of automatic tabulating systems;
- Revise the process for acceptance of petitions for municipal elections; and
- Update the absentee ballot application form with a delayed implementation date of December 1, 2020.

**Mr. Jason Lutz and Ms. Kea Warne, Office of the Secretary of State,** reviewed the proposed rules.

Representative Hunhoff asked about the identity verification process for absentee voting. Mr. Lutz explained that absentee ballot applications must be notarized or include a photocopy or emailed image of an acceptable photo identification card. If notarized, the notary public should ask to see the applicant's

photo ID before notarizing the application. The name on the ID must match the name on the application. Mr. Lutz said if a person receives a ballot in the mail and the person did not apply for one, that should be a red flag that someone may have used the person's name and information to fraudulently obtain an absentee ballot.

Senator Russell asked if Mr. Lutz was aware of any voter fraud prosecutions in South Dakota in the last few years. Mr. Lutz responded he was not aware of any complaints or prosecutions.

***Representative Hunhoff moved, seconded by Senator Sutton, that the review of the rules proposed by the Board of Elections (Office of the Secretary of State) is complete. Motion prevailed on a roll call vote with 6 ayes. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, Russell, and Sutton.***

**Division of Labor and Management (Department of Labor and Regulation):** Amend rules to update references on relative values and allow a party to have a case dismissed for lack of prosecution without prejudice.

**Mr. Joe Thronson, Department of Labor and Regulation,** reviewed the proposed rules, one of which contains language prompted by a South Dakota Supreme Court decision regarding a workers' compensation claim.

Representative Cwach asked why "record of activity" was being confused with the "good cause" exception. He said his reading of the decision differs from that of the department. Mr. Thronson said, under the current rule, no activity in a one-year period means a petition cannot be dismissed for want of prosecution and "good cause" is not specified. He said the department considered the rule change as an opportunity to address how "record of activity" is defined and that the rules of civil procedure do not automatically apply to administrative hearings.

Senator Russell asked if a petition that had been dismissed could be refiled. Mr. Thronson said while courts have wide discretion regarding a dismissal with or without prejudice, the department does not have such discretion.

***Representative Hunhoff moved, seconded by Senator Sutton, that the review of the rules proposed by the Division of Labor and Management (Department of Labor and Regulation) is complete. Motion prevailed on a roll call vote with 5 ayes and 1 nay. Voting aye: Hansen, Hunhoff, Kennedy, Russell, and Sutton. Voting nay: Cwach.***

**South Dakota Board of Chiropractic Examiners (Department of Health):** Amend rules to:

- Clarify and update verbiage;
- Remove unnecessary and redundant regulations;
- Combine disciplinary action into one section for all chiropractic professions regulated;
- Update Code of Ethics;
- Clarify continuing education requirements;
- Update eligibility requirements for chiropractic assistants and chiropractic radiographers; and
- Reduce the renewal fee for active chiropractic licenses.

**Ms. Marcia Walter, South Dakota Board of Chiropractic Examiners,** reviewed the proposed rules.

***Senator Sutton moved, seconded by Representative Hansen, that the review of the rules proposed by the South Dakota Board of Chiropractic Examiners (Department of Health) is complete. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

**South Dakota Board of Examiners for Counselors and Marriage and Family Therapists (Department of Social Services):** Amend rules to:

- Change the timeline for renewal of licensees to a biennial renewal;
- Clarify the application process and qualifications for a professional counselor, professional counselor-mental health, and marriage and family therapist;
- Clarify the requirements for licensure by endorsement for professional counselors, professional counselors-mental health, and marriage and family therapists licensed in another state;
- Provide a temporary license option for professional counselors, professional counselors-mental health, and marriage and family therapists licensed in another state who do not immediately meet the examination requirements for licensure by endorsement;
- Provide an option to inactivate a license or reinstate an expired license under certain circumstances;
- Establish standards for the practice of counseling and marriage and family therapy by electronic means;
- Update and clarify the requirements for post-graduate supervision;
- Update and clarify the requirements for continuing education to renew a license;
- Set the necessary fees for biennial renewal and the license options provided for in Senate Bills 18 and 19; and
- Recognize the current chapters pertaining to professional counseling, professional counseling-mental health, and marriage and family therapy to be user friendly for licensees and prospective licensees and clearly articulate the requirements for licensure and the expectations of licensees.

**Ms. Jennifer Stalley, South Dakota Board of Examiners for Counselors and Marriage and Family Therapists,** reviewed the proposed rules.

### **Public Testimony**

**Mr. Terry Dosch, South Dakota Council of Community Behavioral Health,** expressed his organization's support for the rules and said the rules will help with the recruitment and hiring of counselors in the state.

Regarding proposed rules 20:68:07:26, 20:71:06:27, and 20:73:06:09 which allow for continuing education requirements to be waived if a licensee shows "good cause," Senator Kennedy said it may be helpful if there was criteria to define what constitutes "good cause." Ms. Stalley said the board did not want to limit itself with a list and requests for this type of a waiver are not often received.

Representative Hunhoff asked if a person who lives outside of the state has to be licensed in South Dakota before providing telemedicine services in South Dakota. Ms. Stalley said yes. She noted an Executive Order waiving that requirement is in place as part of the state's COVID-19 response efforts.

Senator Kennedy and Representative Cwach said the rules referenced previously by Senator Kennedy should be reverted to allow the board an opportunity to develop a list of criteria to define "good cause." Representative Hansen said that while he appreciated the motion, the rules should be passed as presented and the board should be encouraged to promulgate standards for these rules in the future.

***Senator Kennedy moved, seconded by Representative Cwach, that the review of the rules proposed by the South Dakota Board of Examiners for Counselors and Marriage and Family Therapists (Department of Social Services) is complete, except for proposed rules 20:68:07:26, 20:71:06:27, and 20:73:06:09, which should be reverted to a prior step according to SDCL 1-26-4.7. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

***Senator Kennedy moved, seconded by Representative Hansen, that the remaining rules be approved as presented. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

**South Dakota Board of Examiners of Psychologists (Department of Social Services):** Update certain rules to:

- Update the code of ethics to the most recent version; and
- Add a new chapter that sets a minimum continuing education requirement, defines a continuing education unit, provides guidance on courses eligible for continuing education credit and documentation needed for continuing education, and provides for an exception to the requirements where applicable.

**Mr. Thomas Stanage and Ms. Trisha Miller, South Dakota Board of Examiners of Psychologists,** reviewed the proposed rules.

***Representative Hansen moved, seconded by Senator Sutton, that the review of the rules proposed by the South Dakota Board of Examiners of Psychologists (Department of Social Services) is complete. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

**South Dakota Board of Pharmacy (Department of Health):** Amend rules to update and clean up rules regulating pharmacists, interns, technicians, and pharmacies.

**Ms. Kari Shanard-Koesters, South Dakota Board of Pharmacy,** reviewed the proposed rules.

### **Public Testimony**

**Mr. Bill Van Camp, Baxter Healthcare,** told committee members the company had worked with the board on several issues and supported the proposed rule regarding the distribution of dialysate and dialysis devices.

Representative Hunhoff asked if a new section pertaining to the need for a valid photo ID to pick up prescribed medication applied to clinical settings. Ms. Shanard-Koesters said the proposed rule applies to medication pickups made at pharmacies.

Senator Kennedy noted the board had not made a considerable number of style and form edits suggested by LRC and asked if the board was appealing or ignoring the recommendations. Ms. Shanard-Koesters said she believed the majority of those changes had been addressed and that many of LRC's questions involved terminology.

Senator Kennedy asked LRC staff if all of the LRC recommendations had been incorporated into the proposed rules presented by the Board of Pharmacy. **Ms. Anita Thomas, Principal Legislative Attorney**, said issues regarding changes in language between what is in statute and what is in administrative rule have not been addressed. Ms. Shanard-Koesters stated the board worked to make language consistent throughout the rules and legislation is planned for the 2021 Legislative Session to address terminology in statute.

Representative Hunhoff asked why the statutory cleanup did not occur before the rules promulgation process began. Ms. Shanard-Koesters said the statutory cleanup is being proposed by an industry association and not by the board.

Representative Hansen asked for an explanation of the difference between a registered pharmacist and a licensed pharmacist. Ms. Shanard-Koesters said registration is a one-time designation that occurs initially when a person becomes a pharmacist while a pharmacist must renew his or her license on an annual basis.

Representatives Hansen and Hunhoff agreed that confusion in terminology exists between the statutes and the rules.

Representative Hunhoff asked whether patients might be negatively impacted in getting needed services if the Interim Rules Review Committee reverted the proposed rules. Ms. Shanard-Koesters responded that rules regarding the distribution of dialysate, the number of interns allowed in a pharmacy, and immunizations needed to move forward.

***Representative Hansen moved, seconded by Senator Kennedy, that the review of the rules proposed by the South Dakota Board of Pharmacy (Department of Health) is complete, and that proposed rules 20:51:02:11.01, 20:51:05:23, and 20:51:28 be approved as presented. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

***Representative Hansen moved, seconded by Senator Sutton, that the remainder of the proposed rules be reverted to a prior step according to SDCL 1-26-4.7. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

**Law Enforcement Officers Standards and Training Commission (Office of the Attorney General):** Amend rules to:

- Amend the requirements for certification or employment as a law enforcement officer;
- Require certain training requirements for reciprocity applicants seeking a waiver of the training program and require a written examination to determine the applicant's state of competence;
- Establish the time period in which an individual may request reinstatement as a law enforcement officer;
- Establish the time period in which a canine team may apply for reinstatement;

- Establish when a school sentinel's certification becomes inactive and when it expires;
- Amend the requirements for certification or employment as a 911 telecommunicator; and
- Provide that an individual failing to successfully complete the training program may be reinstated in a future basic training program.

**Mr. Paul Bachand and Mr. Chad Mosteller, Law Enforcement Officers Standards and Training Commission**, reviewed the proposed rules. Mr. Bachand noted the initial public hearing for the rules was scheduled in April but cancelled due to the COVID-19 pandemic. The public hearing was subsequently held in August.

Representative Hunhoff asked how someone who is ousted from the training program is re-evaluated should the person want to return. Mr. Bachand said the person's application must be supported by an employing agency, the individual must meet all of the requirements, and the application must be approved by the commission.

Senator Sutton asked what percentage of applicants are discharged from the academy for ethical reasons versus family or medical issues. Mr. Mosteller said, generally, a couple of applicants are lost due to academic failure, one or two may be dismissed for disciplinary reasons, and on occasion, one may leave because of sickness or a family issue.

Representative Cwach asked how the certification process worked if an allegation of misconduct is made, an officer consents to decertification, and then decides he wants to come back. Mr. Mosteller replied that the decertified officer may reapply and will need to appear before the commission to make the request. He said commissioners are provided with the details of the investigation and related circumstances before making a decision.

***Representative Hunhoff moved, seconded by Senator Sutton, that the review of the rules proposed by the Law Enforcement Officers Standards and Training Commission (Office of the Attorney General) is complete. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

**South Dakota Board of Technical Education (Department of Education):** Amend rules to update and clarify language related to the South Dakota Board of Technical Education's set-aside funds, formula for funding, and "technical institute" to "technical college" name change.

**Mr. Nick Wendell, South Dakota Board of Technical Education**, reviewed the proposed rules.

***Senator Sutton moved, seconded by Representative Hunhoff, that the review of the rules proposed by the South Dakota Board of Technical Education (Department of Education) is complete. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

**Department of Social Services:** Amend rules to:

- Update to the most recent version of coding manuals;

- Update to reflect a change in federal regulations that allows other licensed practitioners to order home health services and medical equipment;
- Clarify coverage for medically necessary services with no transportation provided by a ground ambulance;
- Clarify third-party liability and align with the federal Bipartisan Budget Act of 2018;
- Update primary care provider program requirements; and
- Clarify language throughout.

**Mr. Jeremy Lippert** and **Mr. William Snyder, Department of Social Services**, reviewed the proposed rules. Mr. Lippert announced the department's intention to appeal the LRC style and form edits to 67:16:29:04.

### Public Testimony

**Ms. Abby Gramlick-Mueller, Nurse Practitioners Association of South Dakota**, supported the addition of nurse practitioners and midwives to rules governing primary care providers. She suggested that "other licensed practitioners" be added to rules regarding home healthcare practitioners to align them with federal regulations.

Representative Hunhoff asked if the Medicaid program adopted Medicare provisions as their guidelines. Mr. Snyder replied yes, to reflect the changes at the federal level that are tied to the Medicaid programs.

In response to Representative Hunhoff's assertion that some rules language regarding home health agencies is restrictive for services in rural areas, Mr. Snyder said while no changes are proposed for the section being referenced, the department would support access to such services by additional providers.

Representative Hansen asked Ms. Thomas to explain the LRC edits being appealed. Ms. Thomas said LRC did not consider the section to be legally unsound. She said the edit was an attempt to clarify a lengthy sentence.

Mr. Lippert said both sides may have misunderstood the other's intentions regarding the language and with the explanation given concerning the edit, he would withdraw the appeal.

***Representative Hunhoff moved, seconded by Senator Sutton, that the review of the rules proposed by the Department of Social Services is complete. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

**South Dakota Real Estate Commission (Department of Labor and Regulation):** Amend rules to:

- Repeal the replacement of license and the displaying of license;
- Repeal qualifications for an auctioneer's license; and
- Update the definitions regarding campground space.

**Ms. Melissa Miller, South Dakota Real Estate Commission**, reviewed the proposed rules and announced the commission's intention to appeal the LRC style and form edits to 20:69:12:01.

Senator Kennedy asked Ms. Miller to explain the basis for the appeal. Ms. Miller said it is necessary to retain several terms LRC suggested could be removed and the commission was offering revised language for that purpose. Ms. Thomas said the language was flagged as being unnecessarily duplicative.

***Representative Hunhoff moved, seconded by Senator Sutton, that the appeal of the LRC style and form edits to 20:69:12:01 be denied.***

Representative Hansen and Senator Kennedy agreed with the language offered by the Real Estate Commission and said it provided clarity to the rule. Representative Hunhoff withdrew her motion to deny the appeal.

***Representative Hansen moved, seconded by Senator Sutton, that the appeal of the LRC style and form edits to 20:69:12:01 be granted. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

***Representative Hansen moved, seconded by Senator Sutton, that the review of the rules proposed by the South Dakota Real Estate Commission (Department of Labor and Regulation) is complete. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

**Department of Game, Fish and Parks:** Amend rules to:

- Create a new subcategory of bag limit known as the "three splash rule";
- Lower the special nonresident hunting license fee and remove the inclusion of the migratory board certification permit;
- Increase resident one-tag "male turkey" licenses in the Prairie Unit;
- Add Clark County to Unit PST-32A;
- Remove Douglas County from Unit PST-17A;
- Create a Unit and add Aurora and Douglas Counties;
- Add Buffalo County to Unit PST-13A;
- Add Beadle and Hand Counties to Unit PST-40A;
- Increase the number of permits available for spring turkey hunting on Adams Homestead and Nature Preserve;
- Create a number of permits for mentored turkey access on Adams Homestead and Nature Preserve;
- Move the starting time for the first week of the pheasant hunting season (resident only and statewide) from 12:00 p.m. to 10:00 a.m. and extend the hunting season to January 31;
- Allow for an unrestricted take of pheasants on a private shooting preserve if the correct license is obtained;
- Move the drawing of the raffle elk license from 120 days prior to the Custer State Park rifle elk season to no later than July 15;
- Create a unified bobcat trapping and hunting season across the state from December 15 through February 15 and expand it to include all counties in the state;
- Expand the location on the Missouri River where gamefish may be speared to include from the Nebraska - South Dakota border up to Fort Randall Dam, May 1 through March 31;



- Require safety signage in association with the operation of aeration systems during periods of ice cover with open public access;
- Implement the statutory changes approved by the passage of House Bill 1033 by the 2020 Legislature;
- Repeal the rule that establishes boat registries for AIS;
- Remove the exception for decontamination for boats that are part of a local boat registry;
- Make any water body that has been found to contain zebra mussel an infested water and require decontamination requirements;
- Create an exemption for the possession of AIS for owners of a conveyance if they are transporting it for purpose of decontamination;
- Create an "electric motors only zone" on Bismarck and Canyon Lakes;
- Change the daily possession limit for trout on the South Dakota - Nebraska boundary waters from seven to five; and
- Allow youth who possess a mentored archery spring turkey permit for Adams Homestead and Nature Preserve to have an uncased bow.

**Mr. Jon Kotilnek and Mr. Tom Kirschenmann, Department of Game, Fish and Parks,** reviewed the proposed rules.

### **Public Testimony**

**Mr. Curtis Korzan, South Dakota Upland Outfitters Association,** said his organization supports a proposed rule allowing for the unrestricted taking of pheasants on a private shooting preserve with the correct licenses. He said approval of the rules would allow some outfitters to expand the services they offer to their clients, as well as recoup some of the financial losses caused by the COVID-19 pandemic.

**Mr. Sal Roseland, R&R Pheasant Hunting,** testified in support of the private shooting preserve rule. He said his operation lost over 100 hunters in the past few weeks because of the pandemic and out-of-state hunters are limiting their travel. He said passage of the rule will help him keep employees on his payroll and work through these tough economic times.

**Ms. Nancy Hilding, Prairie Hills Audubon Society,** spoke in opposition to proposed rules regarding the creation of a unified bobcat trapping and hunting season, and expansion of the location on the Missouri River where gamefish may be speared. She said bobcat population estimates from the Department of Game, Fish and Parks are inaccurate and the state's trap checking limits are ineffective. Her opposition to the spearfishing rules included the risk that the expansion poses to the nesting habitats for piping plovers and least terns, both of which are endangered species.

### **Rebuttal**

Mr. Kirschenmann said while he understood Ms. Hilding's concerns, the department does monitor specific biological data regarding bobcats and will make adjustments to the season's structure if needed, depending on population numbers. Regarding the spearfishing rule, he stated his agency works with federal agencies on issues involving endangered species and he does not believe expanding the spearfishing area will adversely affect the bird populations.

Representative Hunhoff asked what percentage of pheasant broods or birds are homegrown versus wild. Mr. Korzan said it varies from preserve to preserve depending on the amount of habitat, trapping, and food plots. He said, in his operation, 62 - 70 percent of birds are wild. Mr. Kirschenmann said, statewide, the most recent data shows 7 - 8 percent of birds harvested were wild.

Mr. Kirschenmann reported on the department's efforts regarding zebra mussel infestations in South Dakota. He said much of the effort involves educational outreach, including asking the public to be part of the prevention measures by draining water and pulling boat plugs. The department is working to reprioritize its focus for the rest of the year. He said, because the reservoirs in the western part of the state are the most isolated, efforts are being considered to prevent the spread of zebra mussels in that area.

Regarding the proposed rule to extend the pheasant hunting season, Representative Hunhoff referenced public comments submitted to the Game, Fish and Parks Commission that said birds tend to huddle together in the winter, making them a larger target for hunters, and negating the need for a longer season. Mr. Kirschenmann responded that hunters are able to distinguish between roosters and hens and harvesting roosters will not impact pheasant populations for coming seasons. He said the department is mindful of the pheasant hunting opportunities that exist in other states and the competition that such opportunities can create for South Dakota.

***Representative Hunhoff moved, seconded by Representative Hansen, 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 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

**Department of Transportation:** Amend rules to:

- Eliminate outdated references;
- Clarify language; and
- Repeal rules regarding aerial applicators, structures affecting aviation, registration of aircraft, and pilot and airport employee identification.

**Ms. Karla Engle, Department of Transportation,** reviewed 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 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

**Department of Transportation:** Amend rules governing:

- The qualification of prospective bidders on highway construction contracts;
- The rejection of bid proposals;
- The award of contracts; and
- The process for disqualifying bidders.

**Ms. Karla Engle, Department of Transportation,** reviewed the proposed rules and announced the department's intention to appeal the LRC style and form edits to 70:07:04:12.

In explaining the basis for the appeal, Ms. Engle said the department regarded the LRC edit as meaning a three-year debarment could be issued in addition to an initial debarment. The intention for the original language in the rule was to allow only a three-year debarment. She stated the department had reached out to LRC with compromise language. Ms. Thomas acknowledged that LRC was satisfied with that language.

***Representative Hansen moved, seconded by Senator Kennedy, that the appeal of the LRC style and form edits to 70:07:04:12 be granted. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

Senator Sutton asked what percentage of projects let for bid have projected costs of less than \$250,000. Ms. Engle said they represent a small fraction of what the department lets in a given year and that most contracts exceed that amount.

Senator Sutton requested an explanation of the process regarding bidders who are rejected. Ms. Engle said bidders make their initial request to the prequalification committee, which determines their bidding capacity and eligibility. She said, if the bidder is denied, the bidder may appeal to the department secretary. The secretary could suspend the company's bidding capacity and the Transportation Commission could also debar them for up to 3 years. Ms. Engle stated that bidders are rarely debarred. She said, in her 16 years with the department, she can recall only one suspension and debarment.

***Representative Hansen moved, seconded by Senator Kennedy, that the review of the rules proposed by the Department of Transportation is complete. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

### Closing Comments

Representative Hunhoff thanked the members, staff, and testifiers for their patience and diligence in working through the long agenda. The Interim Rules Review Committee does not meet in October. There are currently 7 packets of proposed rules on the agenda for the November 10, 2020, meeting.

### Adjournment

***Senator Sutton moved, seconded by Senator Kennedy, that the meeting be adjourned. Motion prevailed on a roll call vote with 5 ayes and 1 excused. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Excused: Russell.***

Chair Hunhoff adjourned the meeting at 2:32 p.m.