



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES
ROOM 219
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312

Action Minutes

DECEMBER 17, 2015

Members Present: Representatives McGuire, Schmidt, Kidder, Ladd, Sad, Gottling*, and Sytek*, and Senators Reagan, Cataldo, Avard, Feltes, Watters, and Daniels* (*) Indicates alternate member.

(**) Part 1, Article 28-a of the N.H. Constitution was not an issue in the Committee's discussions or decisions in this meeting.

1. The meeting was convened at 9:03 a.m. by Rep. McGuire as Chair.

Members present at this time, aside from Rep. McGuire, were Reps. Schmidt, Ladd, Kidder, Sad, Gottling, and Sytek, and Sens. Reagan, Cataldo, Avard, Feltes, Watters, and Daniels.

2. The Committee discussed the minutes of the Committee meeting on December 3, 2015.

Sen. Reagan moved that the minutes be approved.

Sen. Avard seconded.

Rep. Sytek moved that the minutes be amended to include the exact language of the motion by Sen. Reagan relative to the acceptance of Objection Responses 2015-11 and 2015-12 from the Site Evaluation Committee and to the petition for rulemaking.

Rep. Schmidt seconded.

The motion as amended was adopted.

3. The Committee discussed the following items on the Consent Agenda:

CONSENT AGENDA

2. Committee Approval of Final Proposals:

FP 2015-96	DEPARTMENT OF ENVIRONMENTAL SERVICES Wetlands Programs Definitions Related to Wetlands Mitigation Rules
FP 2015-140	BOARD OF MENTAL HEALTH PRACTICE Continuing Education Requirements
FP 2015-145	PESTICIDE CONTROL BOARD Pesticide Registration Certificate

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- FP 2015-164 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Special Supplemental Nutrition Program for Women, Infants and Children (WIC)
Participant Sanctions
- FP 2015-166 BANKING DEPARTMENT
Maximum Annual Assessment for Family Trust Companies
- FP 2015-173 COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION
Organizational Statements - Public Requests for Information
- FP 2015-178 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Licensing of Byproduct Material
- FP 2015-180 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Lead Poisoning Prevention and Control Rules

3. *Committee Conditional Approvals:*

- FP 2015-86 DEPARTMENT OF ENVIRONMENTAL SERVICES
Water Quality and Quantity Programs
Sludge Management
- FP 2015-139 BOARD OF MENTAL HEALTH PRACTICE
Pre-licensure Supervised Practice
- FP 2015-179 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Use of Byproduct Material in the Healing Arts
(Consent based on Amended Conditional Approval Request.)

Sen. Reagan moved that the Committee approve the Consent Agenda except for Final Proposal 2015-86, that is, approve the Final Proposals in Item #2 of the Consent Agenda except for Final Proposal 2015-86, and conditionally approve the Final Proposals in Item #3 based on the agencies' requests for conditional approval or, in the case of Final Proposal 2015-179, on the agency's amended conditional approval request dated December 14, 2015.

Rep. Schmidt seconded.

Adopted.

4. The Committee discussed whether to postpone items to another meeting.

Rep. Schmidt moved that the Committee postpone action on the following Final Proposal to the regular Committee meeting on March 18, 2016:

16. COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION

- (b) FP 2015-176 UNIQUE Endowment Allocation Scholarship Program
(JLCAR Deadline January 19, 2016.)

Sen. Reagan seconded.

Adopted.

Sen. Reagan then moved that the Committee request a waiver from the Director of Legislative Services of the Committee's deadline to act on the Final Proposal.

Rep. Ladd seconded.

Adopted.

5. The Committee discussed Final Proposal 2015-169 from the Department of Revenue Administration (Definition of Lease and Taxable Transfers of Leases). Shaun Thomas testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2015-169.

Rep. Schmidt seconded.

Adopted.

6. The Committee discussed Proposed Interim Rule INT 2015-13 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Designated Receiving Facilities for Developmental Services). Catherine Bernhard testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2015-13.

Rep. Schmidt seconded.

Adopted.

7. The Committee discussed Proposed Interim Rule INT 2015-16 from the Department of Health and Human Services (Former Division of Human Services, Alternative Benefit Plan and Premium Assistance Program). Michael Holt and Deborah Fournier testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated December 15, 2015.

Sen. Avard moved that the Committee conditionally approve Proposed Interim Rule INT 2015-16 based on the request, but with the understanding that the Department would wait to receive approval from the Joint Fiscal Committee regarding the increased co-payment requirements in the rule before the Department adopted and filed the rule.

Sen. Reagan seconded.

Adopted.

8. The Committee discussed Proposed Interim Rule INT 2015-14 from the Department of Safety (Interim Certification for Additional Truck Weights Rules). David Hilts and State Police Sergeant Nathan Boothby testified for the Department.

The Department submitted in the meeting a conditional approval request as an amended rule dated December 16, 2015.

The following persons also testified:

Gary Abbott, representing Associated General Contractors.

Bruce Crawford.

Rick Belanger.

After a break, with all Committee members still present, the Committee continued discussion of this item. Sen. Avarad left the meeting during this discussion.

Sen. Reagan moved that the Committee postpone action on Proposed Interim Rule INT 2015-14 so that the Department could take the conditional approval request back and amend it after discussion with those regulated, with the understanding that Sen. Feltes would also be submitting legislation on additional truck weights.

Sen. Ladd seconded.

Adopted.

Rep. McGuire noted that Sen. Daniels had been designated and voted as an alternate for Sen. Avarad, who was now absent.

9. The Committee discussed Proposed Interim Rule INT 2016-15 from the Department of Safety (Interim Prepaid Commercial Mobile Radio Service Surcharge Rules). David Hilts and State Police Sergeant Michael McQuade testified for the Department.

The Department submitted in the meeting a conditional approval request in an amended rule dated December 16, 2015.

Rep. Kidder left the meeting during the discussion of this item.

Sen. Reagan moved that the Committee conditionally approve proposed Interim Rule INT 2015-15 based on the request.

Sen. Watters seconded.

Adopted.

10. The Committee discussed Final Proposal 2015-147 from the Department of Safety (Dealer Registration Rules). David Hilts, Chris Ialuna, and State Police Sergeant Michael McQuade testified for the Department.

The Department submitted in the meeting a conditional approval request in an amended rule dated December 16, 2015.

Sen. Daniels left the meeting during the discussion of this item.

The following persons also testified:

Dan Bennett, representing the N.H. Auto Dealers Association.
Bruce Crawford, representing the Auto Recyclers Association.
Rick Belanger.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2015-117 based on the request.

Sen. Reagan seconded.

Adopted.

It was noted for the record that Rep. McGuire voted "no".

11. The Committee discussed Final Proposal 2015-148 from the Department of Safety (Motor Vehicle Inspection Requirements). David Hilts, Chris Ialuna, and State Police Sergeant Michael McQuade testified for the Department.

Rep. McGuire designated Rep. Gottling as an alternate for Sen. Avard, who was absent, but also indicated that Rep. Sytek had been designated for Rep. Kidder after he had left the meeting.

Rick Gauthier, representing Banks Autos, and Dan Bennett, representing the N.H. Auto Dealers Association, registered their support for the rules but did not speak at this time.

Sen. Reagan moved that the Committee approve Final Proposal 2015-148.

Sen. Feltes seconded.

Adopted.

It was noted for the record that Sen. Cataldo voted "no".

12. The Committee discussed Final Proposal 2015-155 from the Insurance Department (Reporting of Statistical Data by Property and Casualty Insurance Companies). Deborah O'Loughlin testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2015-155.

Sen. Cataldo seconded.

Adopted.

13. The Committee discussed again Final Proposal 2015-148 from the Department of Safety (Motor Vehicle Inspection Requirements).

Sen. Feltes moved that the Committee petition the Department pursuant to RSA 541-A:4 to adopt an emergency rule on the issues in the conditional approval request that the Department had submitted in the meeting.

Sen. Watters seconded.

Adopted.

14. The Committee discussed Final Proposal 2015-156 from the Insurance Department (Minimum Standards for Medicare Supplement Policies Issued Prior to Adoption of Insurance Regulation 1905). Heather Silverstein testified for the Department.

The Department had submitted a conditional approval request in an amended rule dated December 14, 2015 and received December 17, 2015.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2015-156 based on the request.

Sen. Watters seconded.

Adopted.

15. The Committee discussed Final Proposal 2015-157 from the Insurance Department (Standards for Safeguarding Customer Information). Chiaro Dolcino and Dick McCaffrey testified for the Department.

The Department had submitted a conditional approval request received on December 17, 2015.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2015-157 based on the request, with the further amendment to remove the word "knowing" from the beginning of Ins 3702.07, so that Ins 3702.07 matches the language of Ins 3701.10, reading: "Violations of any of the provisions of this part shall be subject to the penalties of RSA 400-A:15,III."

Sen. Feltes seconded.

Adopted.

16. The Committee discussed Final Proposal 2015-86 from the Department of Environmental Services (Water Quality and Quantity Programs, Sludge Management). Gretchen Hamel testified for the Department. Mike Rainey also represented the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated December 3, 2015 and an amended conditional approval request in a letter and amended rule dated December 17, 2015.

The following persons also testified:

John C. Adic, representing the City of Nashua.

Shelagh Connelly, representing Resource Management Inc.

Ned Beecher, representing North East Biosolids and Residuals Association, registered his support for the rules but did not speak.

Rep. Sytek left the meeting during the discussion of this item.

Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2015-86 based on the amended conditional approval request.

Rep. Sad seconded.

Adopted.

17. The Committee discussed Final Proposal 2015-97 from the Department of Environmental Services, (Wetlands Programs, Wetlands Mitigation Rules). Gretchen Hamel and Lori Summer testified for the Department.

Rep. Ladd left the meeting during the discussion of this item.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-97.

Sen. Cataldo seconded.

Adopted.

18. The Committee discussed Final Proposal 2015-141 from the Department of Environmental Services (Air Related Programs, NOx Budget Trading Program). Gretchen Hamel testified for the Department.

Reps. Gottling and Sad left as the discussion of this item began.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-141.

Sen. Cataldo seconded.

Adopted.

19. The Committee discussed Final Proposal 2015-174 from the College Tuition Savings Plan Advisory Commission (Establishment, Operation and Administration of the College Tuition Savings Plan). State Treasurer William F. Dwyer and Deputy State Treasurer Monica Mezzapelle testified for the Commission.

It was the consensus of the Committee to postpone action on this item to the next Committee meeting.

20. The Committee discussed Final Proposal 2015-120 from the Board of Nursing (Nursing Education Program Approval).

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2015-120 on the grounds as outlined in the annotations to the Final Proposal by the Committee Attorney.

Sen. Cataldo seconded.

Adopted.

21. The Committee discussed Final Proposal 2015-151 from the Fish and Game Department (Organizational Rules).

Sen. Watters moved that the Committee approve Final Proposal 2015-151.

Rep. Schmidt seconded.

Adopted.

22. The Committee by consensus postponed action on the following additional items to the next Committee meeting:

12. FISH AND GAME DEPARTMENT

- (b) FP 2015-160 Live Bait and the Importation, Possession, and Use of All Wildlife
(JLCAR Deadline January 4, 2016.)

14. DEPARTMENT OF TRANSPORTATION

- FP 2015-108 Construction Aid and Relocation Services
(JLCAR Deadline January 11, 2016. Portion of the rules expired February 17, 2015.)

15. BOARD OF MENTAL HEALTH PRACTICE

- FP 2015-154 Purpose and Scope and Composition of the Board
(JLCAR Deadline January 11, 2016. Former rules expired July 1, 2014.)

23. Rep. Schmidt moved that the Committee request a waiver from the Director of Legislative Services of the Committee's deadline to act on Final Proposals 2015-160, 2015-108, and 2015-154.

Sen. Feltes seconded.

Adopted.

24. By consensus the Committee cancelled the continued meeting scheduled for January 8, 2016 and adjourned the meeting.

The Committee adjourned at 12:40 p.m.