



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

Action Minutes

DECEMBER 19, 2019

Members Present: Representatives Hatch, McGuire, Schmidt, Williams, Hoelzel, Karrick*, and Lang*, and Senators Reagan, Dietsch, Kahn, Ward, Watters, and Chandley*. (*) 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 9:00 a.m. by Rep. Hatch as Chair.

Members present at this time, aside from Rep. Hatch, were Reps. McGuire, Schmidt, Williams, Hoelzel, and Karrick, and Sens. Reagan, Ward, and Watters.

Rep. Hatch designated Rep. Karrick as an alternate for Sen. Kahn, who was absent.

2. The Committee discussed the minutes of the Committee meeting on November 21, 2019.

Sen. Reagan moved that the minutes be approved.

Rep. McGuire seconded.

Adopted.

3. The Committee discussed a proposed schedule of meetings for 2020.

Sen. Dietsch arrived during the discussion of this item.

Sen. Reagan moved that the Committee approve the schedule.

Rep. McGuire seconded.

Adopted.

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

CONSENT AGENDA

2. Committee Approval of Final Proposals, Proposed Expedited Repeal, and Proposed Expedited Revision to Agency Form:

(a) FP 2019-144 POLICE STANDARDS AND TRAINING COUNCIL
Quorum of the Council

(b) FP 2019-156 DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
Natural Heritage Inventory Rule

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- (c) FP 2019-166 DEPARTMENT OF ENVIRONMENTAL SERVICES
Wetlands Programs
Amendments to Adopted Wetlands Rules: Definitions, Content of Waiver Requests
- (d) FP 2019-169 DEPARTMENT OF SAFETY
Commissioner
Breath Testing Additional Test
- (e) FP 2019-175 DEPARTMENT OF ENVIRONMENTAL SERVICES
Water Quality and Quantity Programs
Amendments to Waiver Requirements for Septic Systems
- (f) FP 2019-176 INSURANCE DEPARTMENT
Producers and Adjusters
- (g) FP 2019-180 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
Therapeutic Cannabis Program—Medical Oversight Board
- (h) FP 2019-187 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Mental Health and Developmental Services
Eligibility and the Process of Providing Services—Allocation of Funds
- (i) EXP 2019-1 DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Carbon Dioxide (CO₂) Offset Projects—REPEAL
- (j) EXRF 2019-6 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
NH Health Professions Survey Opt-Out Form

3. *Committee Conditional Approvals:*

- (a) FP 2019-164 DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Permit Application Forms
- (b) FP 2019-183 DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Carbon Dioxide (CO₂) Budget Trading Program

4. *Committee Acceptance of Agency Responses to Objections:*

- OR 2019-100 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Rules for Residential Treatment and Rehabilitation Facilities

Sen. Reagan moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals, Proposed Expedited Repeal, and Proposed Expedited Revision to Agency Form in Item #2, conditionally approve the Final Proposals in Item #3 based on the conditional approval requests by the Department of Environmental Services, and accept the Objection Response and approve the rules in Item #4.

Rep. Schmidt seconded.

Adopted.

5. The Committee discussed whether to postpone action on certain items to another meeting.

Sen. Reagan moved that the Committee postpone action on the following items to the next Committee meeting:

15. PHARMACY BOARD

OR 2019-74 Inspections
(JLCAR Deadline February 11, 2020.)
(Response not yet filed. Response due by December 23, 2019.)

16. BOARD OF ACCOUNTANCY

OR 2019-107 Application for Initial Certification, Reciprocity, and Return to Active Practice
(JLCAR Deadline February 11, 2020.)
(Response not yet filed. Response due by December 23, 2019.)

Rep. Hatch seconded.

Adopted.

6. The Committee discussed Final Proposal 2019-168 from the Department of Safety (Commissioner, Incident Command System). Marta Modigliani and Nick Mercuri testified for the Department.

The Department had submitted a conditional approval request in amended rules dated December 17, 2019.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2019-168 based on the request.

Rep. Williams seconded.

Adopted.

7. The Committee discussed Proposed Interim Rule INT 2019-33 from the Department of Safety. (Commissioner, Interim Various Road Toll Administration Rules). Marta Modigliani and Scott Bryer testified for the Department.

Sen. Chandley and Sen. Kahn arrived during the discussion of this item. Sen. Chandley was not a voting member at this time, and Rep. Karrick was no longer a voting member after Sen. Kahn's arrival.

Sen. Reagan moved that the Committee conditionally approve Proposed Interim Rule INT 2019-33 on the condition that the Department make the following changes to the rules:

- Amend Saf-C 305.10(c) to read as follows:

“(c) Within 10 days of receipt of the request for rehearing, the commissioner shall either grant or deny the request.”

- Amend Saf-C 306.11(a)(2) to read as follows:

“(2) There is evidence of a material change in circumstances; and

(3) State road toll revenue will be unreasonably jeopardized without imposition of the bond.”

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Rep. McGuire seconded.

Adopted.

8. The Committee discussed Proposed Interim Rule INT 2019-36 from the Department of Safety (Commissioner, Various Driving Licensing Rules). Marta Modigliani testified for the Department.

Sen. Watters moved that the Committee approve Proposed Interim Rule INT 2019-36.

Sen. Reagan seconded.

Adopted.

9. The Committee discussed Final Proposal 2019-167 from the Department of Environmental Services (Wetlands Programs, Amendments to Adopted Wetlands Rules). Gretchen Hamel testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated December 18, 2019.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2019-167 based on the request, with further amendments to add the words "As of December 24, 2019" at the beginning of Env-Wt 309.07(f) and in other rules as indicated by Department staff in consultation with Committee staff.

Sen. Reagan seconded.

Adopted.

10. The Committee discussed Final Proposal 2019-157 from the Lottery Commission (Sports Wagering). Valerie King testified for the Commission.

Rich Parsons, representing Draft Kings, also testified.

Rep. Lang arrived during the discussion of this item but was not a voting member at this time.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2019-157 on the condition that Lot 3003.02(g) be amended to read "Once a wager is accepted by both parties, the betting ticket shall not be altered or voided" and that the Committee recommend that the Commission explain its plans for rulemaking pursuant to the authority in RSA 287-I:17, especially how oversight of sports books will be implemented.

Sen. Reagan seconded.

Adopted.

11. The Committee discussed Final Proposal 2019-182 from the Department of Health and Human Services (Former Office of Alcohol and Drug Abuse Prevention, Voluntary Registry for Recovery Houses). Kim Reeve testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated December 12, 2019.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2019-182 based on the request.

Sen. Watters seconded.

Adopted.

12. The Committee discussed Proposed Interim Rule INT 2019-34 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Respite Services). Kim Reeve and Melissa Nemeth testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2019-34.

Sen. Ward seconded.

Adopted.

Rep. McGuire had left the meeting by this time.

13. The Committee discussed Proposed Interim Rule INT 2019-38 from the Department of Health and Human Services (Former Division of Public Health Services, Acute Psychiatric Residential Treatment Program). Allyson Zinno and Doreen Shockley testified for the Department.

Rep. Schmidt moved that the Committee approve Proposed Interim Rule INT 2019-38.

Rep. Williams seconded.

Adopted.

14. The Committee discussed Final Proposal 2019-155 from the Department of Natural and Cultural Resources (Natural Heritage Program Rules). Brad Simpkins and Sabrina Stanwood testified for the Department.

Sen. Reagan moved that the Committee make a preliminary objection to Final Proposal 2019-155 based on the annotated comments by Committee staff to the Final Proposal.

Sen. Watters seconded.

Adopted.

15. The Committee discussed Proposed Interim Rule INT 2019-35 from the Board of Education (Vocational Rehabilitation Program). Amanda Phelps of the Department of Education testified for the Board.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2019-35.

Sen. Dietsch seconded.

Rep. McGuire returned to the meeting at this time.

The motion was adopted.

16. The Committee discussed the response by the Board of Education to the Committee's rulemaking petition on October 17, 2019 relative to Ed 1307 (Robotics Education Fund.) Amanda Phelps of the Department of Education represented the Board.

It was the consensus of the Committee to take no further action.

17. The Committee discussed Proposed Interim Rule INT 2019-37 from the Department of Employment Security (Job Training Programs). Marie-Hélène Bailinson and Deputy Commissioner Richard Lavers testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2019-37.

Rep. Schmidt seconded.

Adopted.

17. The Committee discussed the response by the Board of Medicine to the Committee's preliminary objection to Final Proposal 2019-46 (Licensure Requirements, Renewal Requirements, Ethical Standards, and Physician Assistant Rules). Thomas Broderick of the Office of Professional Licensure and Certification testified for the Board.

Sen. Reagan moved that the Committee accept the response and approve the rules.

Sen. Dietsch seconded.

Adopted.

18. Rep. McGuire moved that the Committee adjourn.

Sen. Ward seconded.

Adopted.

The Committee adjourned at 10:29 a.m..