



STATE OF NEW HAMPSHIRE  
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

ROOM 219  
25 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6312

**Action Minutes**

**AUGUST 16, 2018**

**Members Present:** Senators Reagan, Feltes, Avard, Kahn, and Ward\*, and Representatives Schmidt, Lang, Wolf, and Sytek\*. (\*) 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 9:01 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Sen. Reagan, were Sens. Avard and Ward and Reps. Schmidt, Wolf, and Sytek.

Sen. Feltes arrived in the meeting shortly after the meeting was convened.

Sen. Reagan designated Rep. Sytek and Sen. Ward as alternates, respectively, for Rep. McGuire and Sen. French, who were absent.

2. The Committee discussed the minutes of the Committee meeting on July 19, 2018.

Rep. Schmidt moved that the Committee approve the minutes.

Sen. Feltes seconded.

Adopted.

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

**CONSENT AGENDA**

***2. Committee Approval of Final Proposals:***

FP 2018-20	BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS Explanation After Adoption
FP 2018-26	DEPARTMENT OF ENVIRONMENTAL SERVICES Solid Waste Programs Inactive Asbestos Disposal Sites
FP 2018-66	DEPARTMENT OF EMPLOYMENT SECURITY Claimant Requirements
FP 2018-71	DEPARTMENT OF SAFETY Commissioner Various Commercial Vehicle Licensing Rules

FP 2018-96	DEPARTMENT OF HEALTH AND HUMAN SERVICES Commissioner Certification for Payment Standards for Residential Treatment Programs
FP 2018-98	DEPARTMENT OF HEALTH AND HUMAN SERVICES Division of Elderly and Adult Services Choices for Independence Waiver Program
FP 2018-100	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Human Services Appeals of Division of Child Support Services, Actions, and Decisions
FP 2018-103	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Human Services Child Support Annual Fee for Services
FP 2018-110	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Human Services Fluctuating Income

**3. *Committee Conditional Approvals:***

FP 2018-70	DEPARTMENT OF SAFETY Commissioner Various Driver Licensing Rules
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Rep. Schmidt moved that the Committee approve the Consent Agenda, that is, (1) approve the Final Proposals in Item #2 and (2) conditionally approve the Final Proposal in Item #3 based on the agency's conditional approval request.

Sen. Feltes seconded.

Sen. Kahn arrived in the meeting at this time.

The motion was adopted.

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

No action to postpone was taken.

5. The Committee discussed Final Proposal 2018-35 from the Board of Education (Certification Standards for Educators on Code of Professional Conduct, Investigations and Disciplinary Proceedings, and Denial of Certification).

The Board had requested a preliminary objection to address the comments by Committee staff.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2018-35 on the grounds as outlined in the annotations by Committee staff to the Final Proposal.

Sen. Feltes seconded.

Adopted.

6. The Committee discussed Final Proposal 2018-21 from the Board of Examiners of Nursing Home Administrators (Application Procedures; Continued Status; Ethical Standards). Robert Lamberti from the Office of Professional Licensure and Certification testified for the Board.

The Board had submitted a conditional approval request in a letter and amended rules dated August 14, 2018.

Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2018-21 with the understanding that the Board will look into the past use of the aggravating and mitigating circumstances to set fine amounts in disciplinary hearings, keep track of the use of aggravating and mitigating circumstances in future proceedings, and provide clearer guidance on how the aggravating and mitigating circumstances are used by the Board when sanctioning or fining an individual.

Sen. Feltes seconded.

Adopted.

7. The Committee discussed Final Proposal 2018-93 from the Office of Professional Licensure and Certification (Massage Therapy). Robert Lamberti and Kathryn Wantuck testified for the Office.

The Office had submitted a conditional approval request in a letter and amended rules dated August 14, 2018.

Rep. Lang arrived in the meeting during the discussion of this item.

Sen. Kahn moved that the Committee conditionally approve Final Proposal 2018-93 based on the request.

Rep. Schmidt seconded.

Adopted.

8. The Committee discussed Final Proposal 2018-94 from the Office of Professional Licensure and Certification (Body Art Rules). Robert Lamberti and Kathryn Wantuck testified for the Office.

The Office had submitted a conditional approval request in a letter and amended rules dated August 14, 2018.

Rep. Schmidt moved that the Committee conditionally approved Final Proposal 2018-94 based on the request.

Sen. Feltes seconded.

Adopted.

9. The Committee discussed Final Proposal 2018-64 from the Executive Branch Ethics Committee (Organizational Rules; Practice and Procedure). Nancy Smith from the Department of Justice testified for the Executive Branch Ethics Committee.

Sen. Feltes moved that the Joint Legislative Committee approve Final Proposal 2018-64.

Sen. Avard seconded.

Adopted.

10. The Committee discussed Final Proposal 2018-41 from the Department of Safety (Commissioner, Various Carnival Amusement Rules). Marta Modigliani testified for the Department.

The Department had submitted a conditional approval request in amended rules dated August 14, 2018 and had also submitted an amended conditional approval request in an amended rule dated August 14, 2018 and received August 15, 2018.

Sen. Avard moved that the Committee conditionally approve Final Proposal 2018-41 based on the conditional approval request and the amended conditional approval request.

Rep. Schmidt seconded.

Adopted.

11. The Committee discussed Final Proposal 2018-125 from the Department of Safety (Commissioner, Contracted School Transportation Providers - Record Check). Marta Modigliani testified for the Department.

Rep. Sytek moved that the Committee approve Final Proposal 2018-125.

Sen. Feltes seconded.

Adopted.

12. The Committee discussed Final Proposal 2018-72 from the Department of Safety (Commissioner, Guidelines for Establishing Maximum Rates for Hazardous Materials Incident Response). Keith Lohmann and Marta Modigliani testified for the Department.

William Warnock, Deputy Chief of the Hampstead Fire Department, also testified.

The Department had submitted a conditional approval request in a letter and amended rules dated August 13, 2018.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2018-72 based on the request, with a further amendment relative to prehearing submissions, to read as follows:

“Saf-C 5205.02 Prehearing Submissions.

(a) All hearings shall be conducted pursuant to Saf-C 201 through Saf-C 203.

(b) Notwithstanding Saf-C 200, 5 working days before the scheduled hearing, the charging party shall provide the appellant a copy of the bill and an itemized list as supporting documentation.”

Rep. Lang seconded.

Adopted.

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13. The Committee discussed the continued meeting scheduled for September 6, 2018.

It was the consensus of the Committee to cancel the continued meeting.

14. The Committee adjourned by consensus at 10:00 a.m.