



STATE OF NEW HAMPSHIRE  
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

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

Action Minutes

**JANUARY 15, 2016**

**Members Present:** Representatives McGuire, Schmidt, Kidder, Sad, and Gottling\*, and Sens. Reagan, Cataldo, Avard, Feltes, and Watters.\* (\*) Indicates alternate member.

(\*\*) Indicates where Part 1, Article 28-a of the N.H. Constitution was an issue in the Committee's discussions or decisions in this meeting. (See Item #10. However, that item was conditionally approved.)

1. The meeting was convened at 9:00 a.m. by Rep. McGuire as Chair.

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

2. The Committee discussed the minutes of the Committee meetings on December 3, 2015 and December 17, 2015. The minutes of the meeting on December 3 had not been validly approved on December 17, 2015 and therefore had to be considered again.

Sen. Reagan moved that the Committee approve the minutes of December 3, 2015 and December 17, 2015.

Sen. Cataldo seconded.

Adopted.

Rep. McGuire designated Rep. Gottling as an alternate for Rep. Ladd, who was absent.

3. The Committee discussed the following items on the Consent Agenda (Consent Agenda – Final Proposals):

FP 2015-177 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Aid to the Needy Blind

FP 2015-187 DEPARTMENT OF REVENUE ADMINISTRATION  
Diplomatic Exemptions on Meals and Rentals Tax

FP 2015-188 DEPARTMENT OF REVENUE ADMINISTRATION  
Example of a Transfer of Interest in Real Estate Holding Companies

FP 2015-189 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Mental Health and Developmental Services  
Medical Assistance Services Provided by Education Agencies, Purpose, Child Eligibility,  
and Waiver

FP 2015-190 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Expiring Rules Related to Verification Requirements for Employment Expense Disregards and  
Impairment Related to Work Expenses for Adult Cash and Medical Assistance Categories

Rep. Schmidt moved that the Committee approve the Consent Agenda.

Sen. Reagan seconded.

Adopted.

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

Sen. Reagan moved that the Committee postpone action on the following item to the regular Committee meeting on February 19, 2016, and request a waiver from the Director of the Office of Legislative Services for a waiver of the Committee's deadline:

**13. DEPARTMENT OF LABOR**

FP 2015-165    Workers Compensation Claims  
*(JLCAR Deadline January 25, 2016.)*

Rep. Schmidt seconded.

Adopted.

5. The Committee discussed Final Proposal 2015-154 from the Board of Mental Health Practice (Purpose and Scope and Composition of the Board). Jane Kilcoyne, Board Chair, testified for the Board.

Rep. Schmidt moved that the Committee recommend that the Committee contact the appropriate standing committees of the General Court with a request that those committees determine whether RSA 541-A:17, II requires clarification to indicate that, where there are statutory changes affecting an agency's organizational rules, only the rules specifically rendered inaccurate by the statutory change are subject to expiration.

Sen. Reagan seconded.

Adopted.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-154.

Sen. Reagan seconded.

Adopted.

6. The Committee discussed Final Proposal 2015-160 from the Fish and Game Department (Live Bait and the Importation, Possession, and Use of All Wildlife). Evan Mulholland and Lt. Heidi Murphy testified for the Department.

The Department had submitted a conditional approval request in a letter dated December 15, 2015 and amended rules dated December 14, 2015.

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

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2015-160 based on the conditional approval request, with a recommendation to Rep. Kidder that he pursue legislation to clarify

the Department's authority under RSA 207:14 to create more than one class of wildlife rehabilitation permit.

Rep. Schmidt seconded.

Adopted.

7. The Committee discussed Final Proposal 2015-108 from the Department of Transportation (Construction Aid and Relocation Services). Kathleen Mulcahy-Hampson and Nancy Mayville testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated December 16, 2015.

Rep. Kidder moved that the Committee conditionally approve Final Proposal 2015-108 based on the conditional approval request and with the understanding that the Department would seek legislative clarification relative to an exemption from RSA 541-A in RSA 541-A:21 for the "New Hampshire Department of Transportation Standard Specifications for Road and Bridge Construction" so that it can be incorporated by reference despite the prohibition in RSA 541-A:12, III.

Rep. Schmidt seconded.

Adopted.

8. 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 Dwyer and Edward McKay, Chairman of the Higher Education Commission, testified for the Commission.

The Commission had submitted a conditional approval request in a letter and amended rules dated January 8, 2016 and an amended conditional approval request in amended rules dated January 13, 2016.

Sen. Watters returned to the meeting during the discussion of this item.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2015-174 based on the amended conditional approval request.

Rep. Schmidt seconded.

Adopted.

Sen. Feltes left the meeting after the vote.

9. The Committee discussed Final Proposal 2015-115 from the Department of Employment Security (Employment and Independent Contract Reports to the Department of Employment Security). Marie-Helene Bailinson and Gary Wright testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2015-115.

Sen. Watters seconded.

Adopted.

- \*\*10. The Committee discussed Final Proposal 2015-125 from the Department of Environmental Services (Water Quality and Quantity Programs, Groundwater Discharge Permits and Registrations). Peter Demas and Stephen Roy testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated January 12, 2016 and an amended conditional approval request in a letter and amended rules dated January 14, 2016.

Sen. Watters moved that the Committee conditionally approve Final Proposal 2015-125 based on the amended conditional approval request.

Sen. Avard seconded.

Adopted.

11. The Committee discussed Final Proposal 2015-184 from the Board of Barbering, Cosmetology, and Esthetics (Apprentice Applications & Instructors, School Instructor License, School Equipment, Licensee, Individuals Licensed in Another State, Renewals, Violation Points). Kathryn Wantuck, Administrator for the Board, and Louise Lavertu, Executive Director of the Office of Professional Licensure and Certification, testified for the Board.

The Board had filed a conditional approval request dated January 13, 2016 and an amended conditional approval request dated January 14, 2016, and submitted a further amendment in the meeting.

Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2015-184 based on the amended conditional approval request and its further amendment.

Sen. Reagan seconded.

Adopted.

12. The Committee discussed Proposed Interim Rule INT 2016-1 from the Real Estate Commission (Filing Requirements, Dishonored Checks, Drafts, or Money Orders, Accreditations and Re-Accreditations, Trust Accounts, and Cooperating Agreements). Louise Lavertu, Executive Director of the Office of Professional Licensure and Certification, testified for the Commission.

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

Sen. Avard moved that the Committee approve Proposed Interim Rule INT 2016-1.

Rep. Schmidt seconded.

Adopted.

13. The Committee discussed Final Proposal 2015-191 from the Department of Revenue Administration (Business Enterprise Tax). Caroline Delaney and Kathleen Sher testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated January 13, 2016.

Sen. Waters returned to the meeting during the discussion of this item.

Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2015-191 based on the conditional approval request.

Sen. Reagan seconded.

Adopted.

14. After a break, with Reps. McGuire, Schmidt, Kidder, Sad, and Gottling, and Sens. Reagan and Avard present, the Committee discussed the response by the Board of Nursing to the Committee's preliminary objection to Final Proposal 2015-120 (Nursing Education Program Approval). Executive Director Denise Nies testified for the Board.

Sen. Cataldo and Sen. Watters returned to the meeting during the discussion of this item.

Rep. Gottling moved that the Committee accept the response and approve the rules.

Sen. Avard seconded.

Adopted.

15. The Committee discussed an emergency rule filed by the Board of Nursing (Ethical Conduct Standards and General Ethical Standards, Document #10995, effective December 18, 2015). Denise Nies testified for the Board.

No further action was taken.

16. The Committee discussed an emergency rule filed by the Board of Dental Examiners (Emergency Rules for Opioid Prescribing, Document #11013, effective January 5, 2016). Executive Director Connie Stratton testified for the Board.

No further action was taken.

17. 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 Captain William Haynes testified for the Department.

The following persons also testified:

Brian Forst.

Bruce Crawford.

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

18. The Committee discussed an emergency rule filed by the Department of Safety (Motor Vehicle Inspection Requirements Emergency Rule, Document #11018, effective January 7, 2016).

No further action was taken.

19. The Committee discussed the response by the Site Evaluation Committee (SEC) to the Committee's petition on December 3, 2015 for rules in Site 300 relative to suspension and revocation of certificates.

No further action was taken.

20. The Committee held a public hearing on proposed amendments to the Drafting and Procedure Manual for Administrative Rules.

Michael Holt and Catherine Bernhard testified for the Department of Health and Human Services (Department).

Rep. Schmidt and Sen. Watters left during the discussion of this item.

It was the consensus of the Committee that Committee staff would meet with Department Staff and the Office of the Legislative Budget Assistant to develop further amendments to the Manual for the next Committee meeting, while keeping the Chair informed of the changes.

21. The Committee adjourned by consensus at 12:20 p.m., indicating that it also was the consensus of the Committee that the continued meeting scheduled for February 5, 2016 be cancelled.