



STATE OF NEW HAMPSHIRE  
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

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

**Action Minutes**

**JANUARY 18, 2013**

**Members Present:** Senators Reagan, Rausch, Cataldo, and Lasky, and Reps. MacKay, McGuire, Schmidt, Sad, and Barry\*. (\*) 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 #12. However, that item was approved.)

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

Members present at this time, aside from Rep. Schmidt, were Sens. Reagan, Rausch, Cataldo, and Lasky, and Reps. McGuire, Sad, and Barry.

2. Rep. Schmidt called for nominations for Committee Chair.

Sen. Cataldo moved to nominate Sen. Reagan to be Committee Chair.

Rep. McGuire seconded the nomination.

There were no further nominations.

The motion was adopted.

3. As Committee Chair, Sen. Reagan now chaired the meeting and called for nominations for Vice-Chair.

Rep. Sad moved to nominate Rep. Schmidt to be the Committee Vice-Chair.

Sen. Rausch seconded.

There were no further nominations.

The motion was adopted.

4. The Committee discussed the minutes of the Committee meeting on November 15, 2012.

Sen. Reagan designated Rep. Barry as an alternate for Sen. Ladd, who was absent.

Rep. Schmidt moved that the minutes be approved.

Rep. McGuire seconded.

Adopted.

Rep. MacKay arrived in the meeting at this time.

5. The Committee discussed scheduling committee meetings in 2013.

Rep. Schmidt moved that the Committee approve the schedule for meetings prepared by Committee staff, with the specification that April 5 and June 7 be continued meetings instead of March 29 and May 31.

Rep. McGuire seconded.

Adopted.

6. The Committee discussed the following Final Proposals and Proposed Interim Rule from the agencies indicated (Consent Agenda – Final Proposals and Proposed Interim Rules):

- |              |  |
|--------------|--|
| FP 2012-122  | FISH AND GAME DEPARTMENT<br>Wildlife Management Area Rules   |
| FP 2012-147  | DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Former Division of Human Services<br>Expiring Rules Related to Cost-of-Living Adjustments for Supplemental Security Income  |
| FP 2012-151* | DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Former Division of Public Health Services<br>Case Management Agencies<br><i>*The only substantive issue with this final proposal is that the agency continued to operate under expired rules as noted in the fiscal impact statement.</i> |
| FP 2012-154  | DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Commissioner<br>Medicaid for Employed Adults with Disabilities - Premium Schedule   |
| FP 2012-156  | BANKING DEPARTMENT<br>Organizational Rules   |
| FP 2012-157  | DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Former Division of Human Services<br>Acceptable Verification of the Equity Value of Life Insurance for All Categories of Financial and Medical Assistance   |
| FP 2012-158  | FISH AND GAME DEPARTMENT<br>Miscellaneous Rules: Clarification to Scallop Dredge Ring Size, Shellfish Report, and Special Wildlife Permit  |
| INT 2012-12  | DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Former Division of Mental Health and Developmental Services<br>Eligibility Determination and Individual Service Planning  |

Rep. MacKay moved that the Committee approve the Final Proposals and Proposed Interim Rule.

Rep. McGuire seconded.

Adopted.

7. The Committee discussed the following Final Proposals which had originally been filed for the agenda of the December 20, 2012 Committee meeting but were automatically approved pursuant to RSA 541-A:13, II(e) after the Committee deadline date indicated:

- FP 2012-96 REAL ESTATE APPRAISER BOARD  
Real Estate Appraiser Board Organizational Rules  
*(JLCAR Deadline December 17, 2012.)*
- FP 2012-97 REAL ESTATE APPRAISER BOARD  
Real Estate Appraiser Board Rules Regarding Practice and Procedure  
*(JLCAR Deadline December 17, 2012.)*
- FP 2012-98 REAL ESTATE APPRAISER BOARD  
Real Estate Appraiser Board Rules Regarding Apprentice Classification  
Certificate and License Requirements, Continued Status, and Ethical Standards  
*(JLCAR Deadline December 24, 2012.)*
- FP 2012-112 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Adult Category Earned Income Disregard  
*(JLCAR Deadline December 31, 2012.)*
- FP 2012-140 FISH AND GAME DEPARTMENT  
Rule for American Shad in Freshwater and the Connecticut River  
*(JLCAR Deadline January 11, 2013.)*
- FP 2012-141 FISH AND GAME DEPARTMENT  
Marine Aquaculture Rules  
*(JLCAR Deadline January 11, 2013.)*

No further Committee action was taken.

8. The Committee discussed the following Final Proposal for which the agency had requested a conditional approval (Consent Agenda – Conditional Approval):

- FP 2012-138 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Public Health Services  
Laboratory and Laboratory Services

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2012-138 based on the request.

Rep. Sad seconded.

Adopted.

9. The Committee discussed the status of agency responses to the following conditional approvals made by the Committee in prior meetings:

***Conditionally Approved October 18, 2012:***

FP 2012-62     BOARD OF EDUCATION  
Principal, Associate Principal, District Administrator, Educational Interpreter and  
Professional Development  
*(Response received 11-21-12 and confirmed 11-26-12.)*

***Conditionally Approved November 15, 2012:***

FP 2012-121    DEPARTMENT OF SAFETY  
Various Bureau of Electrical Safety and Licensing Rules  
*(Response received 11-27-12 and confirmed 11-27-12.)*

FP 2012-127    DEPARTMENT OF REVENUE ADMINISTRATION  
Education Tax Credit Program  
*(Response received 11-20-12 and confirmed 11-21-12.)*

FP 2012-128    INSURANCE DEPARTMENT  
Rules for Dispute Resolution in Medical Injury Early Offer Proceedings  
*(Response received 11-20-12 and confirmed 11-21-12.)*

FP 2012-131    DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Office of Alcohol and Drug Abuse Prevention  
Impaired Driver Programs  
*(Response received 11-26-12 and confirmed 11-26-12.)*

No further Committee action was taken.

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

Rep. McGuire moved that the Committee postpone action on the following item as requested by the Department of Revenue Administration in its letter of January 17, 2013:

***11. 10:15 a.m. DEPARTMENT OF REVENUE ADMINISTRATION***

FP 2012-172    Equalization Rules.  
*(JLCAR Deadline February 19, 2013.)*

Rep. Schmidt seconded.

Adopted.

11. The Committee discussed whether to postpone action on the following Proposed Interim Rule:

***12. LIQUOR COMMISSION***

INT 2012-11    LIQUOR COMMISSION  
Application De-Listing and Listing Procedures  
*(JLCAR Deadline March 27, 2013. Former rules expired on August 27, 2007 and December 31, 2012.)*

Rep. McGuire moved that the Committee approve Proposed Interim Rule INT 2012-11 and urge the Commission to begin regular rulemaking as soon as possible, and that it be communicated to the Commission that the Committee had a serious concern that many of the provisions of the rules had been expired for more than 5 years.

Rep. Schmidt seconded.

Adopted.

- \*\*12. The Committee discussed Final Proposal 2012-153 from the Department of Environmental Services (Air Related Programs, Federal Standards Annual Update). Gretchen Hamel testified for the Department.

Rep. McGuire moved that the Committee approve Final Proposal 2012-153.

Rep. Schmidt seconded.

Adopted.

Sen. Reagan noted for the record that Rep. Barry voted "no".

13. The Committee discussed Final Proposal 2012-123 from the Board of Education (Business Administrator, Career and Technical Education Director, English for Speakers of Other Languages (ESOL), and Library Media Coordinator (LMC) Supervisor. Dr. Judith Fillion and Mary Mayo of the Department of Education testified for the Board.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2012-123 on the condition that the rules be amended as follows:

(1) In Ed 506.03(e)(3)a. and Ed 614.12(c)(3)a., replace "proven principles" with the name of the relevant document, and note the publication date or edition of the document; and

(2) In Ed 507.01(a)(1) and Ed 507.20(a)(1), replace the 3 references to "5 years" with "3 years."

Rep. Schmidt seconded.

Adopted.

14. The Committee discussed cancelling the continued meeting of February 1, 2013 which was listed in the meeting schedule approved earlier in today's meeting.

It was the consensus of the Committee that the meeting on February 1, 2013 be cancelled, and therefore the next meeting of the Committee would be the regular meeting on February 15, 2013.

15. After a break, with Sens. Reagan, Rausch, Cataldo, and Lasky, and Reps. Schmidt, MacKay, Sad, and Barry present, the Committee discussed adjournment before an orientation session.

Rep. Schmidt moved that the Committee adjourn for purposes of taking further action in today's meeting.

Sen. Rausch seconded.

Adopted.

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This portion of the meeting adjourned at 10:30 a.m.

16. The Committee then held an orientation session for new members.

Sen. Lasky left during the discussion of this item.

The orientation ended at 12:10 p.m. The members then left, thereby ending the meeting due to the absence of a quorum.