



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

Action Minutes

MAY 17, 2019

Members Present: Representatives Hatch, Schmidt, Williams, and Hoelzel, and Senators Reagan, Feltes, Dietsch, and Gray*. (*) 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. Schmidt and Williams, and Sens. Reagan, Dietsch, and Gray.

Rep. Hatch designated Sen. Gray as an alternate for Sen. Ward, who was absent.

2. The Committee discussed the minutes of the Committee meeting on May 3, 2019.

Rep. Schmidt moved that the minutes be approved.

Sen. Reagan seconded.

Adopted.

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

CONSENT AGENDA

2. Committee Approval of Final Proposals and Proposed Interim Rules:

FP 2018-206	DEPARTMENT OF CORRECTIONS Request Slips in State Correctional Facilities
FP 2019-34	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Mental Health and Developmental Services Family Support Services
FP 2019-38	DEPARTMENT OF SAFETY Commissioner DNA Database Records Rules
FP 2019-41	FISH AND GAME DEPARTMENT Moose Season Lottery
FP 2019-45	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Human Services Electronic Benefit Transfer Account Holder Access

INT 2019-12

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Division of Elderly and Adult Services
Alzheimer's Respite Care Services

Rep. Schmidt moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals and Proposed Interim Rule in Item #2.

Rep. Williams seconded.

Adopted.

Rep. Hoelzel arrived in the meeting at this time.

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

Sen. Feltes arrived in the meeting during the discussion of this item.

No action to postpone was taken at this time.

5. The Committee discussed Final Proposal 2018-186 from the Department of Environmental Services, Wetlands Programs (Wetlands: Permits and Other Authorizations, Conditions Applicable to All Work in Jurisdictional Areas). Gretchen Hamel testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated April 30, 2019, an amended conditional approval request in a letter and amended rules dated May 14, 2019, and a revised, amended conditional approval request in amended rules received on May 16, 2019.

Kevin Nyan, representing the N.H. Department of Transportation (DOT), also testified.

Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2018-186 based on the revised, amended conditional approval request with the recommendation that the Department confer with the appropriate legislative policy committees regarding possible legislation to address staff comments to Env-Wt 305.02(f) on DOT projects.

Sen. Reagan seconded.

Adopted.

6. The Committee discussed Final Proposal 2019-55 from the Department of Environmental Services (Water Quality and Quantity Programs, Amendments to Operating Standards for Youth Recreational Camps). Gretchen Hamel testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2019-55 with the recommendation that the Department and the Department of Health and Human Services work together to amend the rules in Env-Wt 900 to make the rules on youth recreational camps and youth skill camps consistent with each other relative to requirements for owners and staff and contact with campers.

Rep. Schmidt seconded.

Adopted.

7. The Committee discussed Final Proposal 2018-209 from the Department of Corrections (Standards for Health, Medical, and Behavioral Health Care in Corrections Facilities). Chris Kench and Dennis Fitton testified for the Department.

The Department had submitted a conditional approval request in a letter dated May 1, 2019 and amended rules dated May 2, 2019.

Chris Dornin, representing Citizens for Criminal Justice Reform, also testified.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2018-209 based on the request, with the understanding that the Department will go forward and develop rules regarding therapy booths.

Sen. Feltes seconded.

Adopted.

Rep. Hatch noted for the record that there was 1 “no” vote.

8. The Committee discussed Final Proposal 2018-207 from the Department of Corrections (Formal Complaints and Grievances by Probationers, Parolees, and Residents of Correctional Facilities). Chris Kench and Dennis Fitton represented the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated May 14, 2019.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2018-207 based on the request.

Sen. Feltes seconded.

Adopted.

9. The Committee discussed Final Proposal 2019-13 from the Department of Agriculture, Markets, and Food (Commercial Feeds). Jennifer Gornert testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2019-13.

Sen. Feltes seconded.

Adopted.

10. The Committee discussed Final Proposal 2018-197 from the Board of Education (Code of Conduct Requirement). Amanda Phelps from the Department of Education testified for the Board.

Sen. Reagan moved that the Committee approve Final Proposal 2018-197.

Sen. Feltes seconded.

Adopted.

11. The Committee discussed Final Proposal 2018-210 from the Fish and Game Department (Licensing and Permits). Paul Sanderson testified for the Department.

Sen. Feltes moved that the Committee approve Final Proposal 2018-210.

Sen. Reagan seconded.

Adopted.

12. The Committee discussed Final Proposal 2019-44 from the Insurance Department (Short Term Limited Duration Health Insurance). Marty Mobley and Jenny Patterson testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated May 14, 2019.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2019-44 based on the request.

Sen. Reagan seconded.

Adopted.

13. The Committee discussed Final Proposal 2019-49 from the Insurance Department (Requirements for Accident and Health Insurance Rate Submissions). Marty Mobley and Jenny Patterson testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated May 14, 2019.

Rep. Williams moved that the Committee conditionally approve Final Proposal 2019-49 based on the request.

Sen. Reagan seconded.

Adopted.

14. The Committee discussed Final Proposal 2019-17 from the Department of Health and Human Services (Former Division of Human Services, N.H. Granite Advantage Health Care Program). Kim Reeve and Henry Lipman testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2019-17.

Sen. Gray seconded.

Dawn McKinney, representing N.H. Legal Assistance, then testified. She had earlier provided written testimony.

The motion was adopted on a show of hands, by a vote of 5 “yes” and 3 “no”. Rep. Hatch noted for the record that Sen. Dietsch, Rep. Schmidt, and Rep. Williams voted “no”.

15. The Committee discussed Final Proposal 2019-28 from the Department of Health and Human Services (Former Division of Human Services, Certified Midwife Services). Kim Reeve and Byry Kennedy testified for the Department.

Sen. Feltes and Sen. Dietsch left during the discussion of this item.

Sen. Reagan moved that the Committee approve Final Proposal 2019-28.

Rep. Hatch seconded.

Adopted.

16. The Committee discussed Final Proposal 2019-50 from the Department of Health and Human Services (Former Division of Public Health Services, Non-Emergency Walk-In Care Centers). Allyson Zinno and Doreen Shackley testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated May 16, 2019.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2019-50 based on the request and on the need to address the Committee staff comment on page 50 by replacing the text of He-P 806.26(a)(1)-(3) with the following:

(1) Operated by a NEWCC that is located in a building or other permanent structure and has a valid NH facility license issued by the department in accordance with He-P 806; or

(2) Operated by another NH licensed facility that is located in a building or other permanent structure.”

Sen. Gray seconded.

Adopted.

Sen. Dietsch returned to the meeting at this time.

17. The Committee discussed Proposed Interim Rule INT 2019-13 from the Department of Health and Human Services (Former Division of Human Services, Dental Services). Kim Reeve testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2019-13 with the understanding that the Department would amend the rules during regular rulemaking to address the annotations by the Committee staff to the Proposed Interim Rule.

Rep. Schmidt seconded.

Adopted.

18. The Committee discussed the response by the Department of Safety to the Committee's preliminary objection to Final Proposal 2018-156 (Commissioner, Emergency Medical Services Rules). Marta Modigliani and Jeffrey Phillips testified for the Department.

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

Rep. Hatch seconded.

Adopted.

19. The Committee discussed Final Proposal 2019-39 from the Real Estate Appraiser Board (Appraisal Management Company Fees). Thomas Broderick from the Office of Professional Licensure and Certification testified for the Board.

Sen. Reagan moved that the Committee make a preliminary objection to Final Proposal 2019-39 on the ground that the fees were contrary to legislative intent by violating the limitation of 125% of costs in RSA 310-B:20, and recommend that the Board in its objection response provide an explanation on why the fees exceed that limitation.

Sen. Dietsch seconded.

Adopted.

20. The Committee discussed Proposed Interim Rule INT 2019-14 from the Board of Podiatry (Licensure and Renewal Rules). Thomas Broderick from the Office of Professional Licensure and Certification testified for the Board.

Sen. Reagan moved that the Committee conditionally approve Proposed Interim Rule INT 2019-14 on the condition that the fee of \$200 in Table 3.4.1 in Pod 304.01 be changed to \$300 to conform with RSA 315:8, I.

Rep. Schmidt seconded.

Adopted.

21. The Committee discussed the continued meeting scheduled for June 7, 2019.

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

22. Rep. Hatch moved that the Committee adjourn.

Sen. Dietsch seconded.

Adopted.

The Committee adjourned at 11:10 a.m.