



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

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## Action Minutes

**June 19, 2015**

**Members Present:** Representatives McGuire, Schmidt, Kidder, Sad, Gottling\*, Hatch\*, and Sytek\*, and Sens. Reagan, Cataldo, Feltes, and Avard. (\*) 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. McGuire as Chair.

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

Rep. McGuire designated Rep. Gottling and Rep. Sytek as alternates, respectively, for Rep. Ladd and Sen. Watters, who were absent.

2. The Committee discussed the minutes of the Committee meeting on June 5, 2015.

Sen. Reagan moved that the minutes be approved.

Sen. Cataldo seconded.

Adopted.

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

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

FP 2015-33 FISH AND GAME DEPARTMENT  
Moose Season Lottery - 2015

FP 2015-43 DEPARTMENT OF SAFETY  
Commissioner  
Expiration of Unit and Provider Initial and Renewal Licenses Rules

FP 2015-50 FISH AND GAME DEPARTMENT  
Intra-Scholastic Fishing Tournaments

FP 2015-51 FISH AND GAME DEPARTMENT  
Exceptions to Restrictions for Fishing Tournaments - Rock Bass

FP 2015-53 INSURANCE DEPARTMENT  
Individual Supplemental Unemployment Insurance

FP 2015-59 ELECTRICIANS' BOARD  
Electricians' Board Rules Regarding Format and Subject Matter

- FP 2015-62 DEPARTMENT OF REVENUE ADMINISTRATION  
Definition of Contraband and Procedure for Seizure
- FP 2015-64 DEPARTMENT OF REVENUE ADMINISTRATION  
Documentation of Tobacco Tax Paid for Other Tobacco Products and Roll-Your-Own
- FP 2015-66 DEPARTMENT OF REVENUE ADMINISTRATION  
Power of Attorney Form and Signature
- FP 2015-68 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Emergency Assistance Eligibility and Verification Requirements
- FP 2015-69 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Expiring Rules Related to the Deprivation of Parental Support or Care in the Financial Assistance to Needy Families (FANF) Program

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

- FP 2015-56 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Public Health Services  
Registration of Radiation, Magnetic Resonance Imaging and Service Providers

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

- OR 2015-1 BOARD OF MEDICINE  
New Requirements for Physician License Renewal

Sen. Reagan moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals in Item #2, accept the conditional approval request in Item #3 and conditionally approve the Final Proposal based on the request, and accept the response and approve the rules in Item #4.

Rep. Sad seconded.

Adopted.

4. 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:

**11. *PUBLIC UTILITIES COMMISSION***

- (a) FP 2015-14 Affiliate Transactions  
*(JLCAR Deadline July 13, 2015.)*
- (b) FP 2015-46 NH Code for Energy Conservation in New Building Construction  
*(JLCAR Deadline July 10, 2015.)*

**13. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

- (b) FP 2015-67 Former Division of Human Services  
Medicaid Managed Care  
(JLCAR Deadline July 20, 2015.)

Rep. Schmidt seconded.

Adopted.

Rep. Schmidt moved that the Committee request from the Director of Legislative Services a waiver of its deadline on Final Proposals 2015-14 and Final Proposal 2015-46.

Rep. Sad seconded.

Adopted.

5. The Committee discussed Final Proposal 2014-182 from the Department of Safety (Commissioner, Readoption of Administrative License Suspension Rules). Marta Modigliani testified for the Department.

The Department submitted a conditional approval request in a letter and amended rule dated June 18, 2015.

Sen. Avard arrived during the discussion of this item.

Sen. Cataldo moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2014-182 based on the request.

Sen. Reagan seconded.

Adopted.

6. The Committee discussed Final Proposal 2014-183 from the Department of Safety (Commissioner, Readoption of Railroad Police Rules). Marta Modigliani testified for the Department.

Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2014-183 on the ground that the Final Proposal be amended by deleting the words "photographed or" from Saf-C 705.01(b)(3).

Sen. Reagan seconded.

Adopted.

7. The Committee discussed Final Proposal 2015-75 from the Department of Safety (Road Toll Administration Rules). David Hiltz and Scott Bryer testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-75.

Sen. Reagan seconded.

Adopted.

8. The Committee discussed the following Final Proposals and Objection Responses from the Governing Boards under the Office of Licensed Allied Health Professionals. Tina Kelley testified for the Governing Boards:

- FP 2015-30 GOVERNING BOARD OF RECREATIONAL THERAPISTS  
Definitions and Notarized Signature
- FP 2015-47 GOVERNING BOARD OF SPEECH LANGUAGE PATHOLOGISTS  
Requirements for Initial Licensure
- FP 2015-48 GOVERNING BOARD OF SPEECH LANGUAGE PATHOLOGISTS  
Requirements for Reinstatement of Licensure
- FP 2015-49 GOVERNING BOARD OF SPEECH LANGUAGE PATHOLOGISTS  
Initial Certification and Reinstatement of Certification for Speech-Language Assistants
- OR 2015-18 GOVERNING BOARD OF PHYSICAL THERAPISTS  
Requirements for Initial Licensure
- OR 2015-21 GOVERNING BOARD OF ATHLETIC TRAINERS  
Continued Status  
*(JLCAR Deadline August 18, 2015.)*
- OR 2015-24 GOVERNING BOARD OF OCCUPATIONAL THERAPISTS  
Requirements for Licensure
- OR 2015-25 GOVERNING BOARD OF OCCUPATIONAL THERAPISTS  
Requirements for Reinstatement

Rep. Hatch arrived during the discussion of this item, but as an alternate he was not yet a voting member.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-30 with the understanding that the Governing Board would undertake rulemaking to add language on the Board's position on RSA 332-G:7, I and relevant military experience.

Sen. Reagan seconded.

Adopted.

It was the consensus of the Committee to postpone action on the remaining Final Proposals and Objection Responses to the next Committee meeting.

9. The Committee discussed Final Proposal 2015-83 from the Real Estate Appraiser Board (Rule Regarding Responsibility of Supervising Appraisers). Louise Lavertu from the Joint Board of Licensure and Certification testified for the Real Estate Appraiser Board.

Sen. Feltes moved that the Committee approve Final Proposal 2015-83.

Sen. Avard seconded.

Adopted.

10. The Committee discussed Final Proposal 2015-23 from the Insurance Department (Uniform Reporting System for Health Care Claims Data Sets). Jennifer Patterson and Tyler Brannen testified for the Department.

Heidi Kroll, from Gallagher, Callahan, and Gartrell, representing America's Health Insurance Plans (AHIP), also testified. AHIP had submitted written testimony prior to the meeting.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2015-23 based on the annotations to the Final Proposal by Committee staff and on the written testimony from AHIP.

Sen. Reagan seconded.

Adopted.

Sen. Avard left the meeting at this time.

11. The Committee discussed Final Proposal 2015-36 from the Insurance Department (Procedures and Adjusters). Barbara Richardson testified for the Department.

Rep. McGuire designated Rep. Hatch as an alternate for Sen. Avard.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-36 with the recommendation that the Department seek statutory clarification of RSA 402-J to address the comments by Committee staff.

Sen. Reagan seconded.

Adopted.

12. The Committee discussed Final Proposal 2015-52 from the Insurance Department (Permitting the Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities). Deborah O'Loughlin testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated June 11, 2015 and an amended conditional approval request in a letter and amended rule dated June 17, 2015.

Sen. Reagan moved that the Committee accept the amended conditional approval request and conditionally approve Final Proposal 2015-52 based on the amended request.

Sen. Cataldo seconded.

Adopted.

13. The Committee discussed Final Proposal 2015-57 from the Insurance Department (Requirements for Accident and Health Insurance Rate Submissions). Jennifer Patterson testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated June 11, 2015 and received in hard copy on June 17, 2015.

Sen. Reagan moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2015-57 based on the request.

Sen. Cataldo seconded.

Adopted.

14. The Committee discussed Final Proposal 2015-60 from the Insurance Department (Confidentiality of HIV Tests). Heather Silverstein and Jennifer Patterson testified for the Department.

Sen. Feltes moved that the Committee approve Final Proposal 2015-60.

Sen. Cataldo seconded.

Adopted.

15. The Committee discussed Final Proposal 2014-188 from the Board of Education (Curriculum Administrator). Erin McIntire and Virginia Clifford of the Department of Education testified for the Board.

The Board had submitted a conditional approval request in a letter dated June 17, 2015 and amended rules dated May 20, 2015 [sic].

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2014-188 based on the request but (1) with an amendment that the insertion of the incorporation by reference of an ethics code in Ed 506.03(d)(1)e. and Ed 614.13(b)(1)f. be removed, (2) note the Committee's concern that the fiscal impact statement seemed inadequate regarding the expansion of experience requirements as described in the comment by Committee staff, and encourage the Board to more accurately assess fiscal impact in future requests for fiscal impact statements, and (3) petition the Board to incorporate the ethics code by reference through another rulemaking proceeding.

Sen. Avard seconded.

Adopted.

16. After a break, with Reps. McGuire, Schmidt, Kidder, Sad, Gottling, Hatch, and Sytek, and Sens. Reagan, Cataldo, and Avard present, the Committee discussed Final Proposal 2015-58 from the Department of Health and Human Services (Former Division of Public Health Services, Fees for Certificates of Registration, Radioactive Material Licenses, and Other Regulatory Services). Catherine Bernhard testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated June 11, 2015.

Sen. Feltes returned to the meeting during the discussion of this item. Rep. Hatch was still not a voting member.

Sen. Reagan moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2015-58 based on the request.

Sen. Cataldo seconded.

Adopted.

17. The Committee discussed Final Proposal 2015-71 from the Department of Health and Human Services (former Division of Public Health Services, Homestead Food Operations and Rabbit and Poultry Exempt Producers). Catherine Bernhard and Colleen Smith testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated June 15, 2015.

Sen. Reagan moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2015-71 based on the request, and petition the Commissioner of the Department of Agriculture, Markets and Food to adopt rules pursuant to RSA 541-A to implement the registration requirements in RSA 143-A:16, II for poultry and rabbit producers.

Rep. Schmidt seconded.

Adopted.

18. The Committee discussed Final Proposal 2015-63 from the Department of Revenue Administration (Real Estate Tax Examples). Carolynn Ward and Caroline Delaney testified for the Department.

Rep. Sad moved that the Committee approve Final Proposal 2015-63.

Rep. Kidder seconded.

Adopted.

19. The Committee discussed Final Proposal 2015-65 from the Department of Revenue Administration (Nursing Facility Return Payment). Carolynn Ward and Caroline Delaney testified for the Department.

Sen. Feltes moved that the Committee approve Final Proposal 2015-65 and recommend that the Department of Revenue Administration seek statutory clarification of RSA 84-C:5 and RSA 84-C:5-a on electronic submittal requirements in order to address the comments by JLCAR staff to Rev 2702.04(a) and (b).

Rep. Schmidt seconded.

Adopted.

20. The Committee discussed the response by the Executive Branch Ethics Committee (EBEC) to the Committee's preliminary objection to Final Proposal 2014-132 (Organizational Rules, Practice and Procedure Rules).

The EBEC had withdrawn the rules in response to the objection, as noted in a letter dated June 5, 2015. No further action by the Committee was necessary.

It was the consensus of the Committee to recommend to Rep. Hatch that he work with the EBEC on statutory clarification of the ethics statutes.

21. The Committee discussed an emergency rule filed by the Fish and Game Department (Greater Atlantic Fisheries State-Specific Program). Evan Mulholland testified for the Department.

Sen. Reagan moved that the Committee approve the emergency rule.

Sen. Avard seconded.

Adopted.

22. The Committee discussed Proposed Interim Rule INT 2015-2 from the Fish and Game Department (Importation, Possession, and Use of All Wildlife). Evan Mulholland testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2015-2.

Rep. Kidder seconded.

Adopted.

23. The Committee discussed Final Proposal 2015-31 from the Fish and Game Department (Banning Chocolate for Bear Bait). Executive Director Glenn Normandeau and Evan Mulholland testified for the Department. Andrew Timmins also represented the Department.

The following persons also testified:

Rep. Laurie Sanborn

Rep. Jason Parent

Ben Kilham

Karen Courschene

Rick Reynolds

Mario Maimone

William Carney

Mitchel Filson

Daniel Dockham, Jr., representing N.H. Bear Hunters Association

David Nickerson

The following persons registered their opposition to the rules but did not speak:

Thomas Hopkinson

Matthew Italia

The following persons registered their support of the rules but did not speak:

Brenda Stowe, DVM

Sen. Reagan moved that the Committee approve Final Proposal 2015-31.

Rep. Kidder seconded.

Adopted.

It was noted for the record that Rep. McGuire voted "no" due to the issue of an inadequate fiscal impact statement, and that Sen. Avard also voted "no".

24. The Committee recessed by consensus at 12:36 p.m.