



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

January 20, 2017

Dear Governor Sununu,

In the view of the members of the Joint Legislative Committee on Administrative Rules, New Hampshire has a process in place that accomplishes many of the goals of your letter seeking a reduction in governmental rules and regulations.

The Committee oversees that process. Further, the majority of rulemaking is mandated by statute, and agencies cannot choose not to adopt rules when a statute says that they shall. Your concern for government and business efficiency through effective and meaningful rules is one that we share, but there are consequences to failing to carry out rulemaking. We want to make our position on those consequences clear.

In order to ensure regular review of the rules, our Administrative Procedure Act causes most rules to expire every ten years. This expiration period forces agencies to review their rules and make sure they are still necessary and authorized by statute. It also provides for consequences when agencies allow their rules to expire; consequences that have become more explicit since Representative McGuire's bill changed RSA 541-A:22, I to forbid agencies from enforcing expired rules.

In light of the penalties associated with such expirations, agencies ought to continue with any efforts to readopt and to prevent the expiration of all rules which are about to expire. There are rules dictating the payment of revenue items contributing to the State General Fund. We don't imagine there is a moratorium intended for revenue receipts.

While we do not approve of it, we know that many agencies continue to operate under expired rules. We request that all agencies act to prevent this practice, which exposes the state to potential lawsuits and no statutory authority to enforce the rules we all live by, through working to readopt and prevent expirations from occurring.

As for new rulemaking initiatives, we ask that all agencies take your request into consideration when proposing new rules or changes to existing rules. If an agency feels that the change is essential to its programs, it will be processed as would any proposal, according to the provisions of the Administrative Procedure Act.

We encourage agencies to review existing programs and determine if any are obsolete or can be run more efficiently. We believe this was the primary concern you expressed in your letter, and the reason for your requested report. If any agency identifies a statutory obstacle to its efficiency, the Committee's practice is to propose legislation to remove such obstacles.

This letter was endorsed by a motion of the full Joint Legislative Committee on Administrative Rules, and passed without opposition.

For the Joint Committee on Administrative Rules,

A handwritten signature in dark ink, appearing to read "John Reagan", written in a cursive style.

Senator John Reagan, Chair