CONSENT CALENDAR

March 13, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Health, Human Services and Elderly Affairs to which was referred HB 136,

AN ACT relative to the department of health and human services collaborating and holding a roll call vote on final proposal of rules with the advisory council prior to departmental rulemaking. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Erica Layon

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Health, Human Services and Elderly Affairs**
Bill Number:	**HB 136**
Title:	**relative to the department of health and human services collaborating and holding a roll call vote on final proposal of rules with the advisory council prior to departmental rulemaking.**
Date:	**March 13, 2023**
Consent Calendar:	**CONSENT**
Recommendation:	**OUGHT TO PASS WITH AMENDMENT 2023-0949h**

STATEMENT OF INTENT

The committee believes that the advisory council for the controlled drug prescription health and safety program established under RSA 126-A:96 should have the opportunity for a roll call vote on the final rules proposed by the Department of Health and Human Services (DHHS) and to work collaboratively with the department in the development of these rules. This bill as amended achieves this goal and has the support of DHHS.

Vote 20-0.

Rep. Erica Layon
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Health, Human Services and Elderly Affairs

HB 136, relative to the department of health and human services collaborating and holding a roll call vote on final proposal of rules with the advisory council prior to departmental rulemaking. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Erica Layon for Health, Human Services and Elderly Affairs. The committee believes that the advisory council for the controlled drug prescription health and safety program established under RSA 126-A:96 should have the opportunity for a roll call vote on the final rules proposed by the Department of Health and Human Services (DHHS) and to work collaboratively with the department in the development of these rules. This bill as amended achieves this goal and has the support of DHHS. **Vote 20-0.**

Original: House Clerk
Cc: Committee Bill File

Rep. Layon, Rock. 13
Rep. Merchant, Sull. 6
March 13, 2023
2023-0949h
06/08

Amendment to HB 136

Amend the bill by replacing section 1 with the following:

1 Rulemaking. Amend the introductory paragraph RSA 126-A:95 to read as follows:

The department shall ***work in collaboration with the advisory council established under RSA 126-A:96 to adopt rules pursuant to RSA 541-A, and prior to the department adopting any proposed rule, the department shall provide the council an opportunity to hold a roll call vote in support or opposition to any final proposed rule adopted*** [~~adopt rules~~] pursuant to RSA 541-A, necessary to implement and maintain the program including:

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 136

BILL TITLE: relative to the department of health and human services collaborating and holding a roll call vote on final proposal of rules with the advisory council prior to departmental rulemaking.

DATE: March 13, 2023

LOB ROOM: 206-208

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Layon	Seconded by Rep. Weber	AM Vote: 20-0

Amendment # 2023-0949h

Moved by Rep. Layon	Seconded by Rep. Weber	Vote: 20-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Bill King, Clerk

HOUSE COMMITTEE ON ~~HEALTH~~, HUMAN SERVICES & ELDERLY SERVICES

EXECUTIVE SESSION on Bill # 136

BILL TITLE: ...

DATE: 3/13/23

LOB ROOM: 206-208

MOTION: (Please check one box)

☐ OTP ☐ ITL ☐ Retain (1st year) ☑ Adoption of Amendment # 2023 0949h (*if offered*)

☐ Interim Study (2nd year)

Moved by Rep. LAWON Seconded by Rep. WEBER Vote: 20-0

MOTION: (Please check one box)

☐ OTP ☑ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ (*if offered*)

☐ Interim Study (2nd year)

Moved by Rep. LAWON Seconded by Rep. WEBER Vote: 20-0

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ (*if offered*)

☐ Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ (*if offered*)

☐ Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

☐ **WITHOUT RECOMMENDATION**

CONSENT CALENDAR: ✓ **YES** ____ **NO**

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: _____

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/6/2023 12:36:33 PM
Roll Call Committee Registers Report

2023 SESSION

Health, Human Services and Elderly Affairs

Bill #: 136 Motion: OTP AM #: 2023 0949h Exec Session Date: 3/13/23

Members	YEAS	Nays	NV
MacDonald, Wayne D. Chairman	20		
Layon, Erica J. Vice Chairman	1		
Cushman, Leah P.	2		
King, Bill C. Clerk	3		
Kofalt, Jim	4		
McLean, Mark	5		
King, Seth	6		
Mazur, Lisa R	7		
~~Nagel, David J~~ REID, KAREN	8		
Polozov, Yury	9		
Weber, Lucy M.	10		
MacKay, James R.	11		
Freitas, Mary C.	12		
Cannon, Gerri D.	13		
Nutter-Upham, Frances E.	14		
Schapiro, Joe	15		
~~Merchant, Gary~~ PREECE, DAVID	16		
Murphy, James Michael	17		
Palmer, William S	18		
~~Tellez, Trinidad~~ HOWARD, MOLLY	19		
TOTAL VOTE:	20	0	

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/6/2023 12:36:33 PM
Roll Call Committee Registers Report

2023 SESSION

Health, Human Services and Elderly Affairs

Bill #: 136 **Motion:** OTP/A **AM #:** 2023 0944h **Exec Session Date:** 3/13/23

Members	YEAS	Nays	NV
MacDonald, Wayne D. Chairman	20		
Layon, Erica J. Vice Chairman	1		
Cushman, Leah P.	2		
King, Bill C. Clerk	3		
Kofalt, Jim	4		
McLean, Mark	5		
King, Seth	6		
Mazur, Lisa R	7		
~~Nagel, David J~~ REID, KAREN	8		
Polozov, Yury	9		
Weber, Lucy M.	10		
MacKay, James R.	11		
Freitas, Mary C.	12		
Cannon, Gerri D.	13		
Nutter-Upham, Frances E.	14		
Schapiro, Joe	15		
~~Merchant, Gary~~ PREECE, XXXXX DAVID	16		
Murphy, James Michael	17		
Palmer, William S	18		
~~Tellez, Trinidad~~ HOWARD, MOLLY	19		
TOTAL VOTE:	20	0	

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 136

BILL TITLE: **relative to the department of health and human services collaborating and holding a roll call vote on final proposal of rules with the advisory council prior to departmental rulemaking.**

DATE: **March 1, 2023**

LOB ROOM: **210-211** **Time Public Hearing Called to Order:** **9:31 AM**

Time Adjourned: **9:40 AM**

Committee Members: Reps. W. MacDonald, Layon, B. King, Cushman, Kofalt, McLean, S. King, Mazur, Polozov, MacKay, Freitas, Cannon, Nutter-Upham and J. Murphy

Bill Sponsors:
Rep. Merchant

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Rep. Layon for Rep. Merchant(prime sponsor)**
Presented bill

Rep. Mark Pearson - Rockingham #34 - Supports

John Williams and Michael Holt - DHHS - Information

- Good way to
- Dept. can operate on this legislation

Q: Rep. McClean - Clarify the bill
A: This happens at the final rule making - adds a new step to have a roll call
Q: Rep. Cushman - Will this be for interim?
A: No

Respectfully submitted,

Rep. Bill King, Clerk

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill #: HB136 Date: 3/1/23

Committee: HHS & EA

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con

House Remote Testify

Health, Human Services and Elderly Affairs Committee Testify List for Bill HB136 on 2023-03-01

Support: 3 Oppose: 1 Neutral: 1 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	Signed Up
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/12/2023 12:47 PM
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Support	No	No	2/26/2023 2:52 PM
dion, trisha	milford, NH mrsdion@gmail.com	A Member of the Public	Myself	Support	No	No	2/26/2023 10:55 PM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Neutral	No	No	2/27/2023 11:32 AM
Termini, Marcella	Manchester, NH marcellatermini@gmail.com	A Member of the Public	Myself	Support	No	No	2/27/2023 12:05 PM

(1)

State of New Hampshire

REPRESENTATIVE GARY MERCHANT
SULLIVAN, DISTRICT 6

Written Testimony – House Health, Human Services and Elderly Affairs Committee
March 1, 2023

HB 136– relative to the department of health and human services collaborating and holding a roll call vote on final proposal of rules with the advisory council prior to departmental rulemaking.

Before serving in the New Hampshire House of Representatives, I served on the New Hampshire Board of Pharmacy for 10 years, the last two years as president of the board. The Prescription Drug Monitoring Program was created during my tenure on the board and when the board was responsible for program oversight.

RSA 126-A:95 created a multi-disciplinary advisory council composed of physicians, nurse practitioners, dentists, pharmacists, veterinarians, law enforcement, state agencies including the Attorney General, and legislators to provide advice to the Department of Health and Human Services agency on program operations and to make recommendations and provide feedback on use of the program. Rulemaking authority resides with the state agency and not with the council.

Openness and transparency are essential components for fully functioning democracies and governments. During rulemaking, the state agency solicits advise from the council. However, during at least one meeting the agency stated it does not need to follow council advise. This bill simply requires that when the agency promulgates a rule, that the council votes on the final proposed rule via a roll call, and that the outcome of the vote be presented to the Joint Legislative Committee on Administrative Rules (JLCAR) when the agency presents the final rule to JLCAR.

Language in the bill was developed in collaboration with the Department of Health and Human Services.

Respectfully submitted,

Gary Merchant

272 Pleasant Street
Claremont, NH 03743
603-558-1389
gary.merchant@leg.state.nh.us

Daniel Richardson

Why should advisory council get to vote?

HB 136 - AS INTRODUCED

2023 SESSION

23-0020
06/08

HOUSE BILL ***136***

AN ACT relative to the department of health and human services collaborating and holding a roll call vote on final proposal of rules with the advisory council prior to departmental rulemaking.

SPONSORS: Rep. Merchant, Sull. 6

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill requires the department of health and human services seek authorization from the advisory council for the department of health and human services prior to adopting departmental rules.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 136 - AS INTRODUCED

23-0020
06/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the department of health and human services collaborating and holding a roll call vote on final proposal of rules with the advisory council prior to departmental rulemaking.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Rulemaking. Amend the introductory paragraph RSA 126-A:95 to read as follows:

The department shall***, in collaboration with the advisory council established under RSA 126-A:96 and after a roll call vote in support or opposition to the final proposal of the proposed rules,*** adopt rules pursuant to RSA 541-A, necessary to implement and maintain the program including:

2 Effective Date. This act shall take effect 60 days after its passage.