



## Action Minutes

**October 15, 2020**

**Members Present:** Representatives Hatch, McGuire, Schmidt, Williams, Bershtein\*, Fontneau\*, and Schuett\*, and Senators Reagan, Dietsch, Kahn, Ward, Watters, 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 as a Zoom webinar at 9:00 a.m. by Rep. Hatch as Chair, who proceeded to read the script prepared by Committee staff regarding authorization for the Committee to meet remotely in accordance with the Governor’s Emergency Order #12 and pursuant to Executive Order 2020-4.
2. A roll call attendance was taken.

Members present remotely at this time, aside from Rep. Hatch, were Reps. McGuire, Schmidt, Williams, Bershtein, and Schuett, and Sens. Reagan, Dietsch, Kahn, Ward, Watters, and Gray.

Rep. Hatch designated Rep. Bershtein as an alternate for Rep. Hoelzel, who was absent.

3. The Committee discussed the minutes of the Committee meeting on September 17, 2020.

Rep. Schmidt moved that the minutes be approved, with amendments to replace the reference to the minutes of “September 17, 2020” with “August 20, 2020” in Item #3, replace the reference to “JLCAR Deadline July 16, 2020” with “JLCAR Deadline September 17, 2020” for Final Proposal 2019-202 in Item #5, and replace the reference to “Final Proposal 2019-65” with “Final Proposal 2020-65” in Item #11.

Rep. McGuire seconded.

Rep. Fontneau arrived in the meeting during the discussion of this item.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Sen. Reagan	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Reagan	X	
Sen. Ward	X	
Sen. Watters	X	
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	

The vote was 10 “yes” and zero “no”.

The motion was adopted.

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

**CONSENT AGENDA**

***2. Committee Approval of Final Proposals, Proposed Interim Rules, Proposed Expedited Repeals, and Proposed Expedited Revision to Agency Form:***

- (a) FP 2020-68           INSURANCE DEPARTMENT  
Uniform Reporting System for Health Care Claim Data Sets
- (b) FP 2020-69           DEPARTMENT OF REVENUE ADMINISTRATION  
Second Rollout of Revenue Information Management System (RIMS)
- (c) FP 2020-70           DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Public Health Services  
Communications
- (d) FP 2020-71           DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Developing Potential Sources of Income
- (e) FP 2020-74           INSURANCE DEPARTMENT  
Ancillary Health Minimum Standards
- (f) INT 2020-4           DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Interim Rules Related to Electronic Benefit Transfers
- (g) EXP 2020-1           DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Alternative Benefit Plan and Premium Assistance Program
- (h) EXRF 2020-10       DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Commissioner  
Expedited Revision to the New Hampshire Physician Assistant  
Licensure Survey

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

- (a) OR 2020-34           BOARD OF EDUCATION  
Robotics Education Fund

Rep. Schmidt moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals in Item #2, and accept the response and approve the rules in Objection Response 2020-34 in Item #4(a).

Rep. Williams seconded.

Rep. Hatch moved that Proposed Interim Rule INT 2020-4 be taken off the Consent Agenda.

Rep. Schmidt seconded.

A roll call vote was called on the motion as amended. The vote was as follows:

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	<u>Yes</u>	<u>No</u>
Sen. Reagan	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward	X	
Sen. Watters	X	
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	

The vote was 10 “yes” and zero “no”.

The motion was adopted.

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

Rep. Hatch as the Chair indicated that the following item would be postponed to the next regular Committee meeting on November 19, 2020, and that a waiver be requested from the Director of the Office of Legislative Services to waive the October 15, 2020 deadline for Committee action to November 19, 2020.

**8. DEPARTMENT OF SAFETY**

- (a) FP 2019-202      Commissioner  
Road Toll Administration Rules  
*(JLCAR Deadline October 15, 2020. Some rules are interim rules that expired June 29, 2020.)*  
*(Formerly Item #11(a) on July 16, 2020 Agenda, Item #9 on August 20, 2020 Agenda, and Item #8 on September 17, 2020 Agenda.)*

A roll call vote was called because of the waiver requested. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Sen. Reagan	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward	X	
Sen. Watters	X	
Rep. Hatch	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	

Rep. McGuire was not available for the roll call.

The vote was 9 “yes” and zero “no”.

The motion was adopted.

6. The Committee discussed the Final Proposal 2020-35 from the Board of Education (Vocational Rehabilitation Programs). Amanda Phelps of the Department of Education testified for the Board. Christopher Bond of the Department of Education also represented the Board.

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Sen. Reagan moved that the Committee make a preliminary objection to Final Proposal 2020-35 based on the grounds as outlined in the annotations by Committee staff to the Final Proposal.

Rep. Hatch seconded.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Sen. Reagan	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward	X	
Sen. Watters	X	
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	

The vote was 10 “yes” and zero “no”.

The motion was adopted.

7. The Committee discussed Final Proposal 2020-73 from the Department of Safety (Commissioner, EMS Vehicle Equipment and Supplies). Heidi Barba testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2020-73.

Sen. Dietsch seconded.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Sen. Reagan	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward	X	
Sen. Watters	X	
Rep. Hatch	X	
Rep. McGuire		X
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	

The vote was 9 “yes” and one “no”.

The motion was adopted.

8. The Committee discussed Final Proposal 2020-47 from the Department of Environmental Services (Wetlands Programs, Spring 2020 Amendments to Wetlands Rules). Pamela Monroe testified for the Department. Gretchen Hamel also represented the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated October 6, 2020.

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Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2020-47 based on the request, with the recommendation that the Department confer with the policy committees about language to clarify the Department's authority relative to divers as indicated in the Committee staff comment to Env-Wt 309.02(1) in the conditional approval request.

Sen. Watters seconded.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Sen. Reagan		X
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward	X	
Sen. Watters	X	
Rep. Hatch		X
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams		X
Rep. Bershtein	X	

The vote was 7 "yes" and 3 "no".

The motion was adopted.

9. The Committee discussed Final Proposal 2020-54 from the Department of Environmental Services (Drinking Water Programs, Drinking Water State Revolving Loan Fund Program). Pamela Monroe testified for the Department. Gretchen Hamel also represented the Department.

Sen. Reagan moved that the Committee make a preliminary objection to Final Proposal 2020-54 based on the annotations by Committee staff to the Final Proposal.

Rep. Hatch seconded.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Sen. Reagan	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward	X	
Sen. Watters	X	
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	

The vote was 10 "yes" and zero "no".

The motion was adopted.

10. The Committee discussed Final Proposal 2020-57 from the Department of Health and Human Services (Former Division of Elderly and Adult Services, Nursing Facility Services). Allyson Zinno, Wendi Aultman, and Douglas Osterhoudt testified for the Department.

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The Department had submitted a conditional approval request in amended rules dated September 14, 2020, an amended conditional approval request in amended rules dated October 2, 2020, and a revised, amended conditional approval request in amended rules dated October 9, 2020.

Michelle Winchester, Health Policy Analyst, also testified.

Sen. Kahn moved that the Committee conditionally approve Final Proposal 2020-57 based on the conditional approval request, as amended by the revised, amended conditional approval request.

Sen. Reagan seconded.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Sen. Reagan	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward		X
Sen. Watters	X	
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	

The vote was 9 “yes” and one “no”.

The motion was adopted.

11. The Committee discussed Proposed Interim Rule INT 2020-4 from the Department of Health and Human Services (Former Division of Human Services, Alternative Benefit Plan and Premium Assistance Programs). Allyson Zinno and Karyl Provost testified for the Department.

Rep. Hatch moved that the Committee approve Proposed Interim Rule INT 2020-4.

Sen. Kahn seconded.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Sen. Reagan	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward	X	
Sen. Watters	X	
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	

The vote was 10 “yes” and zero “no”.

The motion was adopted.

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12. The Committee discussed Final Proposal 2020-62 from the Department of Corrections (Visitation, Request Slips, Grievances, Resident Mail, E-Mail, & Package Service). Dennis Fitton testified for the Department.

The Department had submitted a conditional approval request with amended rules dated October 9, 2020.

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2020-62 based on the grounds as outlined in the Committee staff's annotations to the Final Proposal.

Rep. Williams seconded.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Sen. Reagan	X	
Sen. Dietsch		X
Sen. Kahn		X
Sen. Ward	X	
Sen. Watters		X
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	

The vote was 7 “yes” and zero “no”.

The motion was adopted.

13. The Committee discussed Final Proposal 2020-63 from the Department of Agriculture, Markets, and Food (Produce Safety Farm Inspections). Vicki Smith testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2020-63.

Rep. Hatch seconded.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Sen. Reagan	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward	X	
Sen. Watters	X	
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	

The vote was 10 “yes” and zero “no”.

The motion was adopted.

14. The Committee discussed Final Proposal 2020-66 from the College Tuition Savings Plan Advisory Commission (Governor's Scholarship Program). Monica Mezzapelle, State Treasurer, testified for the Commission.

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Sen. Kahn moved that the Committee approve Final Proposal 2020-66 with the recommendation that the Commission undertake a new rulemaking proceeding to adopt rules governing public comment hearings for rulemaking as required by RSA 541-A:16, I(b)(3).

Rep. McGuire seconded.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward	X	
Sen. Watters	X	

Sen. Reagan's vote could not be heard because his voice was muted on Zoom.

The vote was 9 "yes" and zero "no".

The motion was adopted.

15. The Committee discussed Final Proposal 2020-50 from the Naturopathic Board of Examiners (Licensing Requirements, Continued Status, Scope of Practice, and Formulary Council). Thomas Broderick from the Office of Professional Licensure and Certification testified for the Board.

Rep. Hatch moved that the Committee conditionally approve Final Proposal 2020-50 on the condition that Final Proposal 2020-50 be amended as follows:

- In the second sentences of Nat 409.01 and Nat 409.02, replace "may" with "shall";
- In Nat 601.01(f), insert "the use of" between "means" and "therapeutic"; and
- In Nat 601.03(a), replace all the text after "therapeutic devices" with: "*that are parenteral or non-parenteral to administer natural medicines list in Nat 406 in accordance with manufacturer instructions.*";

Rep. Schmidt seconded.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward	X	
Sen. Watters	X	

Sen. Reagan's vote could not be heard because his voice was muted on Zoom.

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The vote was 9 “yes” and zero “no”.

The motion was adopted.

16. The Committee discussed Final Proposal 2020-49 from the Naturopathic Board of Examiners (Changes to Organizational and Procedural Rules). Thomas Broderick from the Office of Professional Licensure and Certification testified for the Board.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2020-49 on the condition that Final Proposal 2020-49 be amended as follows:

- In Nat 203.01(e), deleting the phrase “*for which the board may undertake disciplinary proceedings under RSA 328-E:14-a*”; and
- In Nat 218.01(g)(1) and (2), substitute “licensee” for “petitioner” and “petition”.

Rep. Schmidt seconded.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Rep. Bershtein	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Ward	X	
Sen. Watters	X	

Sen. Reagan’s vote could not be heard because his voice was muted on Zoom.

The vote was 9 “yes” and zero “no”.

The motion was adopted.

17. The Committee discussed proposed amendments to the Committee rules, as prepared by Committee staff, due to remote operation of the Office of Legislative Services, remote meetings of the Committee, and the amendments to RSA 541-A by HB 1425 and prior legislation.

It was the consensus of the Committee to postpone action at this time but consider the proposed amendments with further revisions at the next Committee meeting on November 19, 2020.

18. The Committee discussed SB 576 from the 2020 session which had failed to pass and a proposed motion from Sen. Kahn.

Rep. Williams and Rep. McGuire left the meeting during the discussion of this item.

It was the consensus of the Committee to postpone action at this time but consider the proposed motion at the next Committee meeting on November 19, 2020.

19. The Committee discussed adjournment.

It was the consensus of the Committee that the continued meeting scheduled for November 5, 2020 be cancelled.

Sen. Watters moved that the Committee adjourn.

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Sen. Dietsch seconded.

Instead of taking a roll call vote, the Committee adjourned at the call of the Chair.

The Committee adjourned at 11:58 a.m.