



Action Minutes

JUNE 19, 2020

Members Present: Representatives Hatch, McGuire, Schmidt, Williams, Hoelzel, Schuett*, Bershtein*, and Karrick*, 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 9:04 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 were Reps. Hatch, McGuire, Schmidt, Williams, Hoelzel, Schuett, Bershtein, and Karrick, and Sens. Reagan, Dietsch, Kahn, Ward, Watters, and Gray.

Since all regular members were present, Rep. Hatch did not need to designate alternates for absent regular members.

3. The Committee discussed the minutes of the Committee meeting on June 5, 2020.

Rep. Williams moved that the minutes be approved.

Rep. Schmidt seconded.

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

	<u>Yes</u>	<u>No</u>
Rep. Hatch	X	
Rep. Hoelzel	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Williams	X	
Sen. Dietsch	X	
Sen. Kahn	X	
Sen. Reagan	X	
Sen. Ward	X	
Sen. Watters	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 Proposed Expedited Revisions to Forms:

- (a) EXRF 2020-6 DEPARTMENT OF SAFETY
Commissioner
Form DSSP 221 for Agent Fee Change on “Agency Application for Renewal of Private Investigative, Security Guard or Bail Recovery License”
- (b) EXRF 2020-7 DEPARTMENT OF SAFETY
Commissioner
Form DSSP 258 for Agent Fee Change on “Agency Application for Private Investigator, Security Guard, or Bail Recovery Agency License”
- (c) EXRF 2020-8 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
Expedited Revision to the New Hampshire APRN Licensure Survey and Mental Health Practitioner Licensure Survey
- (d) EXRF 2020-9 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
New Hampshire Alcohol & Drug Counselor Survey, Physician Licensure Survey, and Psychologist Licensure Survey

4. Committee Acceptance of Agency Responses to Objections:

- (a) OR 2019-153 LOTTERY COMMISSION
Bingo Rules

Rep. Schmidt moved that the Committee approve the Consent Agenda, that is, approve the Proposed Expedited Revisions to Agency Forms in Item #2 and accept the response and approve the rules in Item #4.

Rep. Williams seconded.

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

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

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Sen. Kahn moved that the Committee request a waiver from the Director of the Office of Legislative Services to waive the June 19, 2020 deadline for Committee action to July 16, 2020 on the following Final Proposals:

13. DEPARTMENT OF SAFETY

- (a) FP 2019-202 Commissioner
Road Toll Administration Rules
(JLCAR Deadline June 19, 2020. Some rules are interim rules that will expire June 29, 2020.)
(Formerly Item #14(b) on May 29, 2020 Agenda.)

17. LIQUOR COMMISSION

- FP 2019-152 Liquor Licensing
(JLCAR Deadline June 19, 2020.)
(Formerly Item #18 on May 29, 2020 Agenda.)

Sen. Ward seconded.

After further discussion, Sen. Kahn amended his motion to include postponement of the following items to the next regular meeting of the Committee on July 16, 2020:

13. DEPARTMENT OF SAFETY

- (a) FP 2019-202 Commissioner
Road Toll Administration Rules
(JLCAR Deadline June 19, 2020. Some rules are interim rules that will expire June 29, 2020.)
(Formerly Item #14(b) on May 29, 2020 Agenda.)
- (b) FP 2019-217 Commissioner
Fire and Life Safety Rules
(JLCAR Deadline July 16, 2020.)

17. LIQUOR COMMISSION

- FP 2019-152 Liquor Licensing
(JLCAR Deadline June 19, 2020.)
(Formerly Item #18 on May 29, 2020 Agenda.)

19. BOARD OF PSYCHOLOGISTS

- OR 2019-135 Informal Resolution, Post-Doctoral Supervision, Application Process, Temporary License Application, and Written Examinations
(JLCAR Deadline August 3, 2020.)
(Response not yet filed. Response due by June 12, 2020.)

20. Discussion on Petition Responses:

- (a) Petition January 17, 2020 to the Board of Accountancy relative to amending Ac 301.04 and Ac 301.05 on initial certification and reciprocity to address JLCAR staff comments regarding the authority under RSA 309-B of the National Association of State Boards of Accountancy (NASBA).
(Response not yet filed. Response was due by March 23, 2020.)

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- (b) Petition May 29, 2020 to the Department of Safety relative to amending Saf-C 5503.02 to address the inconsistencies between the rule and the revised form DSSP 311 “Offender Registration Information” as outlined in Committee staff comments to the objection response.

(Response not yet filed.)

Sen. Ward amended her second.

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

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

The vote was 10 “yes” and zero “no”.

The motion as amended was adopted.

6. The Committee discussed Final Proposal 2020-19 from the Governing Board of Respiratory Care Practitioners (Processing of Applications, Eligibility Requirements, Administrative Obligations, and Temporary Licenses). Thomas Broderick from the Office of Professional Licensure and Certification testified for the Governing Board.

The Governing Board had submitted a conditional approval request in amended rules dated May 27, 2020.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2020-19 based on the request.

Rep. Hatch seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

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7. The Committee discussed Final Proposal 2020-28 from the Board of Medicine (Criteria for Setting Fines). Thomas Broderick from the Office of Professional Licensure and Certification testified for the Board.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2020-28 on the condition that Med 411.02(b) be amended to say: “Administrative fines imposed by the board shall not exceed \$3,000 per offense or, in the case of continuing violations, \$300 for each day that the violation continues to a maximum fine of \$100,000, whichever is greater.”

Rep. Schmidt seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

8. The Committee discussed Final Proposal 2020-41 from the Board of Chiropractic Examiners (Continuing Education Hours and Courses). Thomas Broderick from the Office of Professional Licensure and Certification testified for the Board.

Rep. Schmidt moved that the Committee approve Final Proposal 2020-41 but also petition the Board, pursuant to RSA 541-A:4, to enter rulemaking to amend Ch 200 and Ch 404.01 to address the issues as outlined in Committee staff comments to Final Proposal 2020-41.

Rep. McGuire seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

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9. The Committee discussed the following Final Proposals from the Board of Education:

FP 2019-199	Special Education Teacher and Early Childhood Special Education Teacher <i>(JLCAR Deadline June 19, 2020. Former interim rule expired April 8, 2020 and replaced by emergency rule effective April 9, 2020 and expires October 6, 2020.)</i>
FP 2019-204	Credential Standards for Educational Personnel <i>(JLCAR Deadline June 19, 2020.)</i>
FP 2019-205	How to Obtain a New Hampshire Educator License <i>(JLCAR Deadline June 19, 2020. Some former interim rules expired April 8, 2020 and replaced by emergency rule effective April 9, 2020 and expires October 6, 2020.)</i>
FP 2019-206	Requirements for Special Educator Endorsements <i>(JLCAR Deadline June 19, 2020.)</i>
FP 2019-207	Renewal and Denial of Credentials <i>(JLCAR Deadline June 19, 2020.)</i>

Amanda Phelps, Christopher Bond, and Stephen Appleby from the Department of Education testified for the Board.

The Board had submitted conditional approval requests with cover letters and amended rules dated May 28, 2020 for all Final Proposals.

Sen. Reagan proposed submitting a motion that would allow the Board to label teacher certifications as licenses but with a recommendation for the Board to follow up with legislation.

After further discussion, including on SB 534, a formal motion was not made.

Sen. Kahn moved that the Committee request the Director of the Office of Legislative Services to waive the June 19, 2020 deadline for Committee action to July 16, 2020 on Final Proposals 2019-199 and 2019-204, 205, 206, and 207 and that the Committee postpone action on those Final Proposals to the Committee's regular meeting on July 16, 2020.

Sen. Dietsch seconded.

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

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

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

The motion was adopted.

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10. The Committee discussed Final Proposal 2019-194 from the Fish and Game Department (Residency for Permits and Licenses and Off Highway Recreation Vehicles and Snowmobiles). Paul Sanderson testified for the Department.

Rep. Williams moved that the Committee postpone action on Final Proposal 2019-194 to the Committee's regular meeting on July 16, 2020 and request the Director of the Office of Legislative Services to waive the June 19, 2020 deadline for Committee action on Final Proposal 2019-194 to July 16, 2020.

Sen. Dietsch seconded.

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

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

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

The motion was adopted.

11. The Committee discussed Final Proposal 2019-212 from the Department of Corrections (Client Records Management). Christopher Kench and Dennis Fitton testified for the Department.

The Department had submitted a conditional request in amended rules dated June 10, 2020.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2019-212 based on the request.

Rep. Schmidt seconded.

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

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

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

The motion was adopted.

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12. The Committee discussed Final Proposal 2019-162 from the Public Utilities Commission (Net Metering for Customer-Owned Renewable Energy Generation Resources of 1,000 Kilowatts or Less). David Wiesner testified for the Commission.

The Commission had submitted a conditional approval request in amended rules dated June 16, 2020.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2019-162 based on the request.

Sen. Watters seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

13. The Committee discussed Final Proposal 2020-31 from the Insurance Department (Practices and Procedures). Marty Mobley and Michelle Heaton testified for the Department.

Sen. Reagan moved that the Committee make a preliminary objection to Final Proposal 2020-31 on the grounds as outlined in the annotations by Committee staff to Final Proposal 2020-31.

Rep. Hatch seconded.

After further discussion Sen. Reagan withdrew his motion and Rep. Hatch withdrew his second.

Sen. Reagan then moved that the Committee postpone action to the regular meeting on July 16, 2020 on the following Final Proposals filed by the Department:

FP 2020-31	Practices and Procedures <i>(JLCAR Deadline July 16, 2020.)</i>
FP 2020-38	Third Party Administrators—Application Forms <i>(JLCAR Deadline July 16, 2020.)</i>
FP 2020-40	Electronic Filing Standards <i>(JLCAR Deadline July 16, 2020.)</i>

Rep. Hatch seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

After the vote, Marty Mobley testified again. Sen. Watters raised the issue of possible reconsideration for Final Proposals 2020-38 and Final Proposal 2020-40, but the Committee took no further action.

14. The Committee discussed Final Proposal 2020-42 from the Department of Employment Security (Job Training Program).

The Department had submitted a conditional approval request in amended rules dated June 18, 2020, but had indicated to Committee staff that further changes may be requested.

Sen. Reagan moved that the Committee postpone action on Final Proposal 2020-42 because the Committee deadline for action was not until July 20, 2020.

After further discussion, Sen. Reagan withdrew his motion.

Marie-Hélène Bailinson and Karen A. Levchuk testified for the Department.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2020-42 based on the request but with the further amendment by inserting a new Emp 404.16(f) and renumbering the remainder of the section so that the new (f) reads as follows: *“An application shall receive a minimum score of 15 points to be approved.”*

Rep. Schmidt seconded.

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

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

The vote was 10 “yes” and zero “no”.

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The motion was adopted.

15. The Committee discussed the response by the Lottery Commission to the Committee's preliminary objection to Final Proposal 2019-154 (Lucky 7 Rules). Valerie King testified for the Commission.

Sen. Reagan moved that the Committee approve the rules.

Rep. Hoelzel seconded.

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

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

The vote was 5 "yes" and 5 "no".

The motion was not adopted.

After further discussion, and since it was a tie vote, Sen. Watters moved that the Committee reconsider and thereby approve the rules.

Sen. Reagan seconded.

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

The vote was 5 "yes" and 4 "no". Sen. Kahn had left the meeting prior to the vote.

The motion was adopted.

16. The Committee discussed again Final Proposal 2020-28 from the Board of Medicine and Final Proposal 2020-38 and Final Proposal 2020-40 from the Insurance Department.

No further action was taken.

17. The Committee discussed adjournment.

Rep. Schmidt moved that the Committee adjourn.

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Rep. Hoelzel seconded.

Instead of taking a vote, the Committee adjourned at the call of the Chair and thereby effectively cancelled the continued meeting scheduled for June 26, 2020.”

The Committee adjourned at 12:00 p.m.