



Action Minutes

April 16, 2021

Members Present: Senators Reagan, Gray, Prentiss, Ward, and Whitley, and Representatives McGuire, Bershtein, Hatch, Lang, Schmidt, Roy,* Schuett*, and Tucker*. (*) 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 Sen. Reagan as Chair. Senior Committee Attorney Michael Morrell 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 Sen. Reagan, were Senators Gray, Prentiss, Ward, and Whitley, and Representatives McGuire, Bershtein, Hatch, Lang, Schmidt, Roy, Schuett, and Tucker.

With all regular member present, alternate members were not designated at this time.

3. The Committee discussed the minutes of the Committee meeting on March 19, 2021.

Rep. Hatch 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. Bershtein	X	
Rep. Hatch	X	
Rep. Lang	--	
Rep. McGuire	X	
Rep. Schmidt	X	
Sen. Gray	X	
Sen. Prentiss	--	
Sen. Ward	--	
Sen. Whitley	--	
Sen. Reagan	X	

Rep. Lang and Senators Prentiss, Ward, and Whitley abstained, so the final vote was 6 “yes” and zero “no”.

The motion was adopted.

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

CONSENT AGENDA

2. *9:05 a.m. Committee Approval of Final Proposals and Proposed Expedited Amendment to Incorporation by Reference:*

Action Minutes

April 16, 2021

Page 2

- (a) FP 2020-80 DEPARTMENT OF ENVIRONMENTAL SERVICES
Water Quality and Quantity Programs
Public Bathing Places
- (b) FP 2020-99 BOARD OF EDUCATION
School Lease Aid and Charter School Lease Aid
- (c) FP 2021-1 DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
PSD Program Requirements)
- (d) FP 2021-5 DEPARTMENT OF LABOR
New Hampshire Worker Adjustment and Retraining
Notification (WARN) Act
- (e) FP 2021-7 ELECTRICIANS' BOARD
Qualifications, Examination, and Continuing Education
- (f) FP 2021-14 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Issuance of Assistance Payments
- (g) EXIR 2021-1 DEPARTMENT OF SAFETY
Commissioner
Out-of-Service Criteria for Commercial Transportation of Hazardous
Materials Rules
- (h) EXIR 2021-2 DEPARTMENT OF SAFETY
Commissioner
Out-of-Service Criteria for Commercial Transportation of Hazardous
Materials and Waste
- (i) EXIR 2021-3 DEPARTMENT OF SAFETY
Commissioner
Out-of-Service Criteria for Commercial Transportation of School Vehicles

3. *Committee Conditional Approvals:*

- (a) FP 2021-10 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Method of Issuance

Rep. Hatch moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals and Proposed Expedited Amendments to Incorporation by Reference in Item #2, and conditionally approve Final Proposal 2021-10 in Item #3 based on the agency's conditional approval request.

Rep. Schmidt seconded.

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

	<u>Yes</u>	<u>No</u>
Rep. Bershtein	X	
Rep. Hatch	X	
Rep. Lang	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Sen. Gray	X	

Action Minutes

April 16, 2021

Page 3

Sen. Prentiss	X
Sen. Ward	X
Sen. Whitley	X
Sen. Reagan	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.

The Committee discussed whether to postpone Final Proposal 2020-53 from the N. H. Board of Pharmacy (Mail Order/Nonresident Pharmacies) or to make a preliminary objection based on annotations to the Final Proposal by Committee staff, as described in an e-mail submitted by Thomas Broderick of the Office of Professional Licensure and Certification on behalf of the Board.

Rep. Hatch moved that the Committee make a preliminary objection to Final Proposal 2020-53 based on the annotations to the Final Proposal by Committee staff.

Rep. McGuire seconded.

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

	<u>Yes</u>	<u>No</u>
Rep. Bershtein	--	
Rep. Hatch	X	
Rep. Lang	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Sen. Gray	X	
Sen. Prentiss	X	
Sen. Ward	X	
Sen. Whitley	X	
Sen. Reagan	X	

Rep. Bershtein was absent for the vote. Therefore the final vote was 9 “yes” and zero “no”.

The motion was adopted.

6. The Committee discussed Final Proposal 2021-4 from the Governing Board of Occupational Therapists (Active in the Profession and Application Process). Thomas Broderick of the Office of Professional Licensure and Certification testified for the Board.

Thomas Broderick made an oral request for a conditional approval on condition that Final Proposal 2021-4 be amended as follows:

- On page 6, by amending the introductory language at Occ 302.02 to read as follows:
“In addition to the information required by the application for initial licensure or certification described in Ahp 601.01 the applicant for occupational therapist or occupational therapy assistant licensure shall answer the following question on form “Supplemental Application for Initial Licensure” April 2021:”;
- On page 8, by amending Occ 303.01(a)(2)b. so that the correct citation is “Occ 302.03(b)”;
- On page 8, by amending Occ 303.01(a)(2)c. so that the correct citation is “Occ 302.03(d)”;

Action Minutes

April 16, 2021

Page 4

- On page 10, by amending the introductory language at Occ 304.01(b) to read as follows:

“Applicants licensed in another state but not active in the profession for a period up to and including 6 years preceding the date of application for initial licensure shall have maintained continuing competence by meeting one of the following:”

Rep. Hatch moved that the Committee pursuant to Committee Rule 301.03(b) accept the conditional approval request.

Rep. Schmidt seconded.

Since Rep. Bershtein was still absent, and Rep. Roy was unavailable, Senator Reagan designated Rep. Schuett as an alternate for Rep. Bershtein.

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

	<u>Yes</u>	<u>No</u>
Rep. Hatch	X	
Rep. Lang	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Schuett	X	
Sen. Gray	X	
Sen. Prentiss	X	
Sen. Ward	X	
Sen. Whitley	X	
Sen. Reagan	X	

The vote was 10 “yes” and zero “no”.

The motion was adopted.

7. The Committee discussed Proposed Expedited Revisions to Form EXRF 2021-4 from the Department of Environmental Services (Solid Waste Programs, Personal Disclosure Form for Solid Waste Facility Permit Applicants) and Proposed Expedited Revisions to Form EXRF 2021-5 from the Department of Environmental Services (Solid Waste Programs, Business Disclosure Form for Solid Waste Facility Permit Applicants). Pamela Monroe testified for the Department. Debra Sonderegger also represented the Department.

Rep. McGuire moved that the Committee approve Proposed Expedited Revisions to Form EXRF 2021-4 and EXRF 2021-5 with the recommendation that the Department enter into rulemaking to update the Env-Sw 316 rule to include the forms’ release authorizations and, in the case of EXRF 2021-5, to require certification and signature of the Business Disclosure Form by the corporate officers required to do so on the form.

Rep. Schmidt seconded.

Rep. Bershtein returned to the meeting at this time. Rep. Schuett was therefore no longer a voting member.

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

	<u>Yes</u>	<u>No</u>
Rep. Bershtein	--	
Rep. Hatch	X	
Rep. Lang	X	
Rep. McGuire	X	
Rep. Schmidt	X	

Action Minutes

April 16, 2021

Page 5

Sen. Gray	X
Sen. Prentiss	X
Sen. Ward	X
Sen. Whitley	X
Sen. Reagan	X

Rep. Bershtein abstained from voting because he was not present for the discussion. Therefore the final vote was 9 “yes” and zero “no”.

The motion was adopted.

8. The Committee resumed discussion of Final Proposal 2021-4 from the Governing Board of Occupational Therapists (Active in the Profession and Application Process) because the Committee had not yet voted to conditionally approve the Final Proposal.

Rep. Hatch moved that the Committee conditionally approve Final Proposal 2021-4 as requested earlier by Thomas Broderick on behalf of the Board.

Sen. Gray seconded.

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

	<u>Yes</u>	<u>No</u>
Rep. Bershtein	--	
Rep. Hatch	X	
Rep. Lang	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Sen. Gray	X	
Sen. Prentiss	X	
Sen. Ward	X	
Sen. Whitley	X	
Sen. Reagan	X	

Rep. Bershtein abstained from voting because he was not present for the discussion about the conditional approval request. Therefore the final vote was 9 “yes” and zero “no”.

The motion was adopted.

9. The Committee discussed Final Proposal 2020-100 from the Board of Education (Chartered Public Schools). Amanda Phelps of the Department of Education testified for the Board.

The Board had submitted a conditional approval request in amended rules dated April 13, 2021.

Rep. Hatch moved that the Committee conditionally approve Final Proposal 2020-100 based on the request and with the further amendment to the first line of Ed 318.05(a) by replacing the phrase “including but not limited to” with the word “meaning.”

Rep. Bershtein seconded.

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

	<u>Yes</u>	<u>No</u>
Rep. Bershtein	X	
Rep. Hatch	X	
Rep. Lang	X	
Rep. McGuire	X	

Action Minutes

April 16, 2021

Page 6

Rep. Schmidt	X
Sen. Gray	X
Sen. Prentiss	X
Sen. Ward	X
Sen. Whitley	X
Sen. Reagan	X

The vote was 10 “yes” and zero “no”.

The motion was adopted.

10. The Committee discussed Final Proposal 2020-108 from the Department of Health and Human Services (Former Division of Public Health Services, Psychiatric Residential Treatment Program). Allyson Zinno and Doreen Shockley testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated April 9, 2021.

Rep. Hatch moved that the Committee conditionally approve Final Proposal 2020-108 based on the request.

Rep. Bershtein seconded.

After further discussion, Rep. McGuire restated the motion that the Committee conditionally approve Final Proposal 2020-108 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. Bershtein	X	
Rep. Hatch	X	
Rep. Lang	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Sen. Gray	X	
Sen. Prentiss	X	
Sen. Ward	X	
Sen. Whitley	X	
Sen. Reagan	X	

The vote was 10 “yes” and zero “no”.

The motion was adopted.

11. The Committee discussed the Department of Safety plan, as outlined in a Department letter dated April 12, 2021 and in policy RT Admin 21-6.0 issued on April 8, 2021, for updating Department forms so they are not changed except pursuant to RSA 541-A.

No further action was taken.

12. The Committee discussed Final Proposal 2020-105 from the Fish and Game Department (Snowshoe Live Capture). Paul Sanderson testified for the Department.

The Committee had previously received written testimony from Voices of Wildlife of N. H., including a rulemaking petition from Robert Kessling to the Department dated June 1, 2020 to repeal Fis 806.05; testimony on Initial Proposal 2021-108 from Robert Kessling to the N. H. Fish and Game Commission dated February 5, 2021; and testimony from Linda Dionne to the Committee dated April 15, 2021.

Action Minutes

April 16, 2021

Page 7

Linda Dionne, representing Voices of Wildlife in N. H., also testified in the meeting.

Rep. Hatch moved that the Committee approve Final Proposal 2020-105. He also indicated his support to work on legislative changes.

Rep. Lang seconded.

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

	<u>Yes</u>	<u>No</u>
Rep. Bershtein	X	
Rep. Hatch	X	
Rep. Lang	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Sen. Gray	X	
Sen. Prentiss	X	
Sen. Ward	X	
Sen. Whitley	X	
Sen. Reagan	X	

The vote was 10 “yes” and zero “no”.

The motion was adopted.

13. The Committee discussed the continued meeting scheduled for May 7, 2021.

It was the consensus of the Committee to cancel the continued meeting.

14. The Committee discussed adjournment.

The Committee adjourned at the call of the Chair.

The Committee adjourned at 10:06 a.m.