



Action Minutes

January 15, 2021

Members Present: Senators Reagan, Gray, Prentiss, Ward, Whitley, Avard*, and Kwoka*, and Representatives McGuire, Bershtein, Hatch, Lang, Schmidt, Roy*, and Schuett*. (*) 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. Administrative Rules Director Scott Eaton 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 Sens. Gray, Prentiss, Ward, Whitley, Avard, and Kwoka, and Reps McGuire, Bershtein, Schmidt, Hatch, Roy, and Schuett.

Sen. Reagan designated Rep. Roy as an alternate for Rep. Lang, who was absent.

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

Rep. Hatch moved that the minutes be approved.

Sen. Whitley seconded.

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

	<u>Yes</u>	<u>No</u>
Sen. Gray	X	
Sen. Prentiss	X	
Sen. Ward	X	
Sen. Whitley	X	
Sen. Reagan	X	
Rep. Bershtein	X	
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Roy	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 Revision to Agency Form:*

- (a) EXRF 2020-11 DEPARTMENT OF HEALTH AND HUMAN SERVICES
 Commissioner
 Expedited Revision to the Annual Medicaid Uncompensated Care Cost
 Data Request Form

4. *Acceptance of Agency Responses to Objections:*

- (a) OR 2020-90 DEPARTMENT OF SAFETY
 Commissioner
 Firefighter Medical Examination Requirement

Rep. Hatch moved that the Committee approve the Consent Agenda, that is, approve the Proposed Expedited Revision to Agency Form EXRF 2020-11 in Item #2, and accept the response and approve the rules in Objection Response 2020-90 in Item #4.

Rep. Schmidt seconded.

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

	<u>Yes</u>	<u>No</u>
Sen. Gray	X	
Sen. Prentiss	X	
Sen. Ward	X	
Sen. Whitley	X	
Sen. Reagan	X	
Rep. Bershtein	X	
Rep. Hatch	X	
Rep. McGuire	X	
Rep. Schmidt	X	
Rep. Roy	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. Schmidt moved that the Committee postpone the following item to the next regular meeting on February 19, 2021:

7. *DEPARTMENT OF SAFETY*

- (c) OR 2019-202 Commissioner
 Road Toll Administration Rules
 (JLCAR Deadline February 23, 2021. Some rules were interim rules that expired June 29, 2020.)

Rep. Hatch seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

6. The Committee discussed Final Proposal 2020-91 from the Department of Safety (Commissioner, Exceptional Disaster Relief Loan Program). Heidi Barba testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated January 13, 2021.

Rep. Lang arrived in the meeting at this time. However, Rep. Lang indicated that his attendance would be temporary and, at his request, Sen. Reagan indicated that Rep. Roy would continue as a voting member.

Rep. Hatch moved that the Committee conditionally approve Final Proposal 2020-91 based on the request.

Sen. Ward seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

7. The Committee discussed Proposed Expedited Amendment to Incorporation by Reference EXIR 2020-4 from the Department of Safety (EMS Vehicle Equipment and US DOT Emergency Response Guidebook Update). Heidi Barba testified for the Department.

The Department had submitted a conditional approval request with amended rules dated January 13, 2021.

Rep. Hatch moved that the Committee conditionally approve Proposed Expedited Amendment to Incorporation by Reference EXIR 2020-4 based on the request.

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Sen. Whitley seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

8. The Committee discussed Final Proposal 2020-89 from the Department of Environmental Services (Drinking Water Programs, Per and Polyfluoroalkyl Substances (PFAS)). Pam Monroe testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated January 14, 2021. Since the request was filed within the 7-day deadline pursuant to RSA 541-A:13, II(b) without a waiver, the Committee discussed whether to accept the request under Committee rule 301.03.

Rep. Schmidt moved that the Committee accept the request.

Rep. Hatch seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion to accept the request was adopted.

After further discussion, Rep. Schmidt moved that the Committee conditionally approve Final proposal 2020-89 based on the request but include the following amendments:

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- Amending Env-Dw 1404.08(d)(5) to read: “Signing and certifying the certification as provided in Env-Dw 1404.09.”
- Amending Env-Dw 1404.08(e)(3) to read: “Signing and certifying the certification as provided in Env-Dw 1404.09.”
- Amending Env-Dw 1404.04(a) by inserting a subparagraph (5) to read: “Signing and certifying the certification as provided in Env-Dw 1404.09.” and
- Amending Env-Dw 1404.04(b) by inserting a subparagraph (6) to read: “Signing and certifying the certification as provided in Env-Dw 1404.09.”

Rep. Bershtein amended his second.

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

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

The vote was 10 “yes” and zero “no”.

The motion as amended was adopted.

9. The Committee discussed the response by the Department of Environmental Services to the Committee’s revised objection to Final Proposal 2020-54 (Drinking Water Programs, Drinking Water State Revolving Loan Fund Program). Pam Monroe testified for the Department.

Rep. Hatch moved that the Committee accept the response and approve the rules with a recommendation that the language at Env-Dw 1104.04(b)(1) be inserted into the Department’s form “DWSRF Pre-Application Form”.

Rep. McGuire seconded.

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

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

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The vote was 10 “yes” and zero “no”.

The motion was adopted.

10. The Committee discussed Final Proposal 2019-209 from the Department of Health and Human Services (Former Division of Public Health Services, Rules for Hospitals). Allyson Zinno, Melissa St. Cyr, and Dr. Jonathan Ballard testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated January 4, 2021 and an amended conditional approval request in a letter and amended rules dated January 13, 2021.

The following persons also testified:

Paula Minnehan, representing the N. H. Hospital Association.
Alex Walker, representing Catholic Medical Center (CMC).
Dr. Gerald Sardella, representing Catholic Medical Center (CMC).
Steve Norton, representing SolutionHealth.
Dr. Carl Fier, representing SolutionHealth.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2019-209 based on the conditional approval request and the amended conditional approval request.

There was no immediate second.

Matthew S. Houde then testified, representing Dartmouth-Hitchcock.

Sen. Ward subsequently seconded Rep. McGuire’s motion.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

11. The Committee discussed Final Proposal 2020-58 from the Board of Education (Basic Instructional Standards and School Year, although the Final Proposal now addresses Remote Instruction: Distance Education and School Year.) Christopher Bond and Amanda Phelps of the Department of Education testified for the Board.

Sen. Ward moved that the Committee approve Final Proposal 2020-58.

Rep. Hatch seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

12. The Committee discussed Proposed Interim Rule INT 2020-7 from the Board of Education (Criminal History Record Check Credential). Christopher Bond, Amanda Phelps, and Stephen Appleby of the Department of Education testified for the Board.

Rep. Hatch moved that the Committee conditionally approve Proposed Interim Rule INT 2020-7 based on amending INT 2020-7 so that the Table 505-1 shows only the insertion of the criminal history record check clearance and its associated fee.

Rep. Schmidt seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

13. The Committee discussed Final Proposal 2020-92 from the Insurance Department (Automobile Insurance). Marty Mobley testified for the Department.

Rep. Hatch moved that the Committee conditionally approve Final Proposal 2020-92 based on the editorial comments by Committee staff.

Rep. Schmidt seconded.

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Rep. Hatch amended his motion to approve Final Proposal 2020-92.

Rep. Schmidt amended his second.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

14. The Committee discussed Final Proposal 2020-93 from the Insurance Department (Ancillary Health Minimum Standards for Benefits for Specified Disease Coverage). Marty Mobley testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2020-93.

Rep. Schmidt seconded.

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

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

The vote was 10 “yes” and zero “no”.

The motion was adopted.

15. After a break, the Committee discussed the following emergency rule filed by the Department of Health and Human Services:

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ER Doc. #13156 Former Division of Human Services
Emergency Rule Amendment Related to MEAD Disability Determination
(Effective January 7, 2021. Was scheduled to expire July 6, 2021, but was repealed effective January 15, 2021.)

Allyson Zinno and Frank Nachman testified for the Department.

No further action was taken.

16. The Committee discussed the following emergency rule filed by the Board of Education:

ER Doc. #13157 Vocational Rehabilitation Programs
(Effective January 11, 2021. Scheduled to expire July 10, 2021.)

No further action was taken.

17. The Committee discussed the following emergency rule filed by the Office of Professional Licensure and Certification:

ER Doc. #13153 Method for Applying for a Licensed Nurse Assistant (LNA) Emergency License
(Effective December 31, 2020. Scheduled to expire June 29, 2021.)

No further action was taken.

18. The Committee discussed orientation for new members, tentatively scheduled by Committee staff as a Zoom webinar for Friday, January 22, 2021.

Sen. Reagan as the Chair provided guidance about integrating members' questions into a final training video.

19. The Committee discussed the continued meeting scheduled for February 5, 2021.

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

20. The Committee discussed adjournment.

The Committee adjourned at the call of the Chair.

The Committee adjourned at 11:40 a.m.