

SB 146-FN - AS INTRODUCED

2021 SESSION

21-0255

08/04

SENATE BILL ***146-FN***

AN ACT adopting omnibus legislation relative to the environment.

SPONSORS: Sen. Watters, Dist 4

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill adopts legislation relative to:

I. Establishing the coastal program administered by the department of environmental services.

II. Establishing a statewide solid waste disposal reduction goal.

III. Prohibiting incineration of PFAS in New Hampshire.

IV. The prevention of zoonotic disease transmission.

V. Tidal waters.

VI. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.

VII. The acquisition and preservation of agricultural land for food producing in the land and community heritage program.

VIII. Class 2 obligations under the electric renewable portfolio standards.

IX. Public use of coastal shorelands.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

In the Year of Our Lord Two Thousand Twenty One

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

31 PART I

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1 Establishing the coastal program administered by the department of environmental services.

2 1 New Chapter; Coastal Program and Fund. Amend RSA by inserting after chapter 485-H the
3 following new chapter:

4 CHAPTER 485-I

5 COASTAL PROGRAM AND FUND

6 485-I:1 Statement of Policy. The water and related land resources of New Hampshire's coastal
7 and estuarine environments have significant ecological, commercial, cultural, and recreational
8 values for the state and its citizens. Therefore, it is the policy of the state to ensure the continued
9 viability and improved resiliency of these environments and communities in which they are located
10 as valued ecologic, economic, public health and safety, and social assets for the benefit of current and
11 future generations.

12 485-I:2 Program Established. There is established within the department of environmental
13 services the New Hampshire coastal program to implement 16 U.S.C. section 1452, the Coastal Zone
14 Management Act. It is the intent of the state to encourage and assist state and federal agencies and
15 coastal zone municipalities in the sustainable use of the land and water resources of the coastal zone
16 giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for
17 compatible economic development. The coastal program should encourage and assist to support:

18 I. The protection of natural resources, including wetlands, floodplains, coastal and
19 estuarine waters, beaches, sand dunes, and fish and wildlife and their habitat within the coastal
20 zone.

21 II. The management of coastal development to minimize the loss of life and property caused
22 by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas
23 and in areas likely to be affected by or vulnerable to sea level rise, ground water rise, and saltwater
24 intrusion, and by the destruction of natural protective features such as beaches, sand dunes, and
25 wetlands.

26 III. The management of coastal development to improve, safeguard, and restore the quality
27 of coastal waters, and to protect natural resources and existing uses of those waters.

28 IV. Public access to the coasts for recreation purposes.

29 V. The redevelopment of deteriorating urban waterfronts and ports, and sensitive
30 preservation and restoration of historic, cultural, and esthetic coastal features.

31 VI. The coordination and simplification of procedures in order to ensure expedited
32 governmental decision making for the management of coastal resources.

33 VII. Continued consultation and coordination with, and the giving of adequate
34 consideration to the views of affected state and federal agencies.

35 VIII. The giving of timely and effective notification of, and opportunities for, public and
36 local government participation in coastal management decision making.

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IX. Comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between state and federal coastal zone management agencies and state and wildlife agencies.

X. The study and development of plans for addressing the adverse effects upon the coastal zone in accordance with the updating of storm surge, sea-level rise, precipitation and other relevant projections recommending in the coastal risks and hazards commission 2014 report "Sea-Level Rise, Storm Surges, and Extreme Precipitation in Coastal New Hampshire: Analysis of Past and Projected Trends" in RSA 483-B:22, I.

485-I:3 Federal Consistency. The coastal program established under this chapter shall be the entity charged with implementing 16 U.S.C section 1456 and 15 C.F.R. Part 930.

485-I:4 Coastal Fund.

I. There is hereby established in the state treasury the coastal fund which shall be kept distinct and separate from all other funds. All moneys in the fund shall be nonlapsing and continually appropriated to the department of environmental services for the purposes of this chapter.

II. The commissioner may apply for and accept, from any source, gifts; donations of money; grants; federal, local, private, and other matching funds and incentives; and interests in land for the purposes of this chapter. The moneys collected under this paragraph shall be deposited in the fund established under paragraph I.

III. The commissioner shall make rules relative to the distribution of money from the coastal fund for the New Hampshire coastal program established in RSA 485-I:2.

2 Effective Date. Part I of this act shall take effect July 1, 2021.

PART II

Establishing a statewide solid waste disposal reduction goal.

1 Solid Waste Disposal Reduction Goal. Amend RSA 149-M:2 to read as follows:

149-M:2 ***Solid*** Waste ***Disposal*** Reduction Goal.

I. The general court declares its concern that there are environmental and economic issues pertaining to the disposal of solid waste in landfills and incinerators. It is important to reserve landfill and incinerator capacity for solid wastes which cannot be reduced, reused, recycled or composted. ~~[The general court declares that the goal of the state, by the year 2000, is to achieve a 40 percent minimum weight diversion of solid waste landfilled or incinerated on a per capita basis. Diversion shall be measured with respect to changes in waste generated and subsequently landfilled or incinerated in New Hampshire. The goal of weight diversion may be achieved through source reduction, recycling, reuse, and composting, or any combination of such methods.]~~ The general court discourages the disposal of recyclable materials in landfills or processing of recyclable materials in incinerators.

II. ~~[In exercising any and all powers conferred upon the department under this chapter, the department shall use and consider criteria relevant to the waste reduction goal and disposal hierarchy established in RSA 149-M:2 and 149-M:3. The department shall not take any action relative to the 40 percent weight reduction goal which causes the municipalities organized under RSA 53-A and 1986, 139 or RSA 53-B to violate or incur penalties under legal obligations existing on June 26, 1990.]~~ *The general court further declares a goal to reduce the quantity by weight of solid waste disposed in landfills and incinerators by 25 percent by the year 2030, and by 45 percent by the year 2050. For the purposes of this goal, disposal reduction targets shall apply, on a combined basis, to disposal of municipal solid waste and construction and demolition debris, and shall be measured against baseline quantities of these wastes disposed of in the year 2018. For the purposes of this goal only, municipal solid waste means solid waste generated at residences, commercial or industrial establishments, and institutions, but excludes automobile scrap and other motor vehicle waste, infectious waste, asbestos waste, contaminated soil and other absorbent media, sludge, industrial process waste, and ash other than ash from household stoves. Disposal reduction may be achieved through source reduction as well as diversion including but not limited to reuse, recycling, and composting.*

III. *In exercising any and all powers conferred upon the department under this chapter, the department shall use and consider criteria relevant to the disposal reduction goal and solid waste management hierarchy established in this section and RSA 149-M:3. The department shall not take any action relative to the reduction goal which causes the municipalities organized under RSA 53-A and 1986, 139 or RSA 53-B to violate or incur penalties under legal obligations existing on June 26, 1990.*

2 State Solid Waste Disposal Reduction Goal. Amend the introductory paragraph of RSA 149-M:29, II to read as follows:

II. ~~[At least every]~~ **Beginning** October 1, **2022** ~~[of every odd-numbered]~~ *and every even-numbered* year *thereafter*, the department shall prepare a report on the level of achievement in reaching the ~~[40 percent diversion]~~ goal established in RSA 149-M:2 and on proposed strategies for achieving the goal and any proposed changes to the goal. The report shall contain information regarding:

3 State Solid Waste Plan. Amend RSA 149-M:29, I to read as follows:

I. Beginning October 1, ~~[1998]~~ **2021**, and every ~~[6]~~ **10** years thereafter, the department shall update the state's solid waste plan, *which shall contain, at minimum, the following elements:*

(a) *Goals and strategies for solid waste management in New Hampshire that are consistent with the provisions of this chapter.*

(b) *Discussion of opportunities to reduce solid waste generation through source reduction and increase diversion through methods such as recycling and composting.*

(c) Discussion of actions necessary to maintain adequate capacity for management of solid waste generated in New Hampshire.

4 Effective Date. Part II of this act shall take effect 60 days after its passage.

PART III

Prohibiting incineration of PFAS in New Hampshire.

1 New Section; Prohibition on Incinerating Class B Firefighting Foam. Amend RSA 154 by inserting after section 8-c the following new section:

154:8-d Prohibition on Incinerating Class B Firefighting Foam.

I. In this section:

(a) "Incineration" includes but is not limited to burning, combustion, pyrolysis, gasification, thermal oxidation (including flameless and regenerative), acid recovery furnace/oxidizer, ore roaster, cement kiln, lightweight aggregate kiln, industrial furnace, boiler and process heater.

(b) "Class B firefighting foam" means foam designed for flammable liquid fires.

(c) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

II. No person, local government, or state agency shall incinerate Class B firefighting foam which contains PFAS chemicals until the department determines that no out-of-state facility will accept this waste and can ensure the air emissions and associated residuals and their disposal shall not pose a threat to public health or the environment and reports such finding to all local governments and state agencies.

III. Whenever PFAS-containing waste, leachate, or sludge is being incinerated in New Hampshire, the air emissions and associated residuals shall be evaluated by the department of environmental services to ensure disposal shall not pose a threat to public health or the environment.

2 New Chapters; Perfluorinated Chemicals; Plastics Advisory Council. Amend RSA by inserting after chapter 149-Q the following new chapters:

CHAPTER 149-R

PERFLUORINATED CHEMICALS; PLASTICS ADVISORY COUNCIL

149-R:1 Findings. Fluorinated chemicals are extremely persistent in the environment, leach into food, and can be taken up from soil into food. In 2016, the FDA rescinded its approval for use of three such fluorinated chemicals from food contact materials due to associated heightened risks of cancer, toxicity, and other health effects. Other PFAS chemicals have similar chemical structures, and may pose similar risks.

149-R:2 Definitions. In this chapter:

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1 I. "Fluorinated chemical," "perfluorinated chemical," or "PFAS" means a class of fluorinated
2 organic compounds containing at least one fully fluorinated carbon atom, also known as
3 perfluoroalkyl and polyfluoroalkyl substances, or PFAS chemicals.

4 II. "Food packaging" means a package that is designed for direct food contact, including a
5 food or beverage product that is contained in a food package or to which a food package is applied, a
6 packaging component of a food package, and plastic disposable gloves used in commercial or
7 institutional food service.

8 III. "Intentionally added" means the addition of a chemical in a product that serves an
9 intended function in the product component.

10 IV. "Package" means a container providing a means of marketing, protecting, or handling a
11 product and shall include a unit package, an intermediate package, and a shipping container.
12 "Package" also means unsealed receptacles, such as carrying cases, crates, cups, pails, rigid foil and
13 other trays, wrappers and wrapping films, bags, and tubs.

14 V. "Packaging component" means an individual assembled part of a package, such as any
15 interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings,
16 closures, inks, and labels.

17 149-R:3 Prohibition on Certain Packaging Containing PFAS.

18 I. Beginning January 1, 2023, producers or manufacturers of food packaging materials shall
19 report to the department of environmental services the presence of PFAS or other toxic chemicals
20 that are not Biodegradable Products Institute's (BPI) certified in such materials. The department of
21 environmental services shall maintain a list of reported packaging.

22 II. Beginning January 1, 2024, a person shall not manufacture, sell, offer for sale, distribute
23 for sale, or distribute for use in this state a food package to which PFAS have been intentionally
24 added in any amount.

25 III. Beginning January 1, 2024 producers and manufacturers of plastic, fiber, and paper food
26 packaging materials shall not import, use, or offer for sale any packaging materials labeled or
27 represented as compostable that are not certified by the BPI or packaging that contains PFAS or
28 other toxic materials demonstrated to be harmful for human consumption. No packaging shall claim
29 to be compostable if it contains PFAS chemicals.

30 IV. Beginning January 1, 2024, no materials containing PFAS shall be labeled compostable
31 or accepted for composting in New Hampshire. The department of environmental services shall use
32 the BPI standard for fluorinated chemicals effective January 1, 2020 to determine acceptable
33 compostable materials. Products shall not claim to be BPI certified, whether on the product itself, or
34 on a product's packaging or marketing materials, unless it meets all conditions of the rule, including
35 no intentionally added fluorinated chemicals and a test report showing less than 100 ppm total
36 fluorine, or a higher standard approved by the department. Items such as paper wrappings and

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1 other food packaging that contain PFAS chemicals not marketed as compostable and thus not
2 subject to BPI certification are prohibited.

3 V. The department of environmental services shall designate a material "fluorinated
4 chemical free" if an item contains no intentionally added fluorinated chemicals beyond a
5 department-determined acceptable threshold, as determined in rules adopted by the department
6 under RSA 541-A, and is certified by the BPI or other third party as recognized by the department,
7 or standards developed by the department of environmental services, or is made entirely of natural
8 fiber.

9 149-R:4 Rulemaking. The commissioner of the department of environmental services shall
10 make rules under RSA 541-A relative to:

11 I. All forms and reports necessary to administer the requirements of this chapter.

12 II. Standards for maximum contaminant levels of fluorinated chemicals in food packaging
13 and paper wrappings used for compost.

14 III. Processes for determining a material is fluorinated chemical free.

15 149-R:5 Penalties.

16 I. The commissioner may issue an order to any person in violation of this chapter, any rule
17 adopted under this chapter or any condition in any exemption granted under this chapter to comply
18 with the chapter, the rule or condition, and may require such remedial measures as may be
19 necessary.

20 II. The commissioner may request the attorney general to bring a civil action in superior
21 court for appropriate relief, including a temporary or permanent injunction, or both, to enforce any
22 provision of this chapter, any rule adopted under this chapter, any condition in any exemption
23 granted under this chapter, or any order issued pursuant to this chapter.

24 CHAPTER 149-S

25 PLASTICS ADVISORY COUNCIL

26 149-S:1 Findings and Purpose.

27 I. The general court finds and declares that, since 1950, global annual production of plastics
28 has increased from 2,000,000 tons to over 381,000,000 tons; that approximately one third of all
29 plastics produced are single-use plastics, which are plastics designed to be used only once and then
30 thrown away; and that an estimated 100 billion single-use plastic carryout bags and 25 billion
31 styrofoam plastic coffee cups are thrown away in the United States each year.

32 II. The general court further finds that, in 2017, only 8.4 percent of plastics in the United
33 States were recycled; that most single-use plastics are disposed of in landfills, are incinerated, or
34 become litter in waterways and oceans; that plastics released in the environment do not biodegrade,
35 but instead break down into smaller pieces, known as microplastics, which accumulate in the
36 natural environment and are eaten by fish and other marine life; and that microplastic pollution

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1 moves through natural food webs and accumulates in fish and shellfish tissues, which means
2 microplastics and associated pollutants can move into the food chain.

3 III. The general court further finds that approximately 8,000,000 tons of plastic end up in
4 the oceans annually; that, without action, scientists estimate that by 2050 the mass of plastic
5 pollution in the ocean will exceed the mass of fish; that currently; that one study found plastics in
6 the gut of every sea turtle examined and in 90 percent of seabirds examined; and that plastics have
7 been known to cause death or reproductive failure in sea turtles, birds, and other organisms that
8 ingest plastic.

9 IV. The general court further finds that, as plastics break down through photodegradation,
10 they release harmful chemicals such as bisphenol A (BPA) into the environment that have been
11 linked to health problems in humans; that these chemicals enter the food chain when consumed by
12 marine life; and that single-use plastic waste creates visual pollution, degrades water quality, and
13 impacts the tourism, fishing, and shipping industries, all of which are major contributors to the New
14 Hampshire economy.

15 149-S:2 Plastics Advisory Council Established. There is established in the department of
16 environmental services the plastics advisory council. The council shall consider emerging scientific
17 research on health and environmental effects of plastics, recycling practices, and ways to reduce or
18 eliminate single-use plastics and plastic waste in the state.

19 149-S:3 Plastics Advisory Council; Membership.

20 I. The council shall consist of members as follows:

- 21 (a) The commissioner of the department of environmental services, or designee.
- 22 (b) The commissioner of the department of health and human services, or designee.
- 23 (c) One member representing the environmental community, appointed by the governor.
- 24 (d) One member representing stores and food service businesses in the state, appointed
25 by the governor.
- 26 (e) One member representing the polystyrene foam industry, appointed by the governor.
- 27 (f) One member representing the recycling industry, appointed by the governor.
- 28 (g) One member representing local governments, appointed by the New Hampshire
29 Municipal Association.
- 30 (h) A toxicologist, epidemiologist, or environmental health professor from the University
31 of New Hampshire, appointed by the chancellor.

32 II. The term of office of each public member shall be 3 years. Each member shall serve until
33 a successor has been appointed and qualified, and vacancies shall be filled in the same manner as
34 the original appointments for the remainder of the unexpired term. A member may be reappointed
35 to the council. The members of the council shall serve without compensation.

36 III. The council shall organize as soon as practicable following the appointment of its
37 members and shall select a chairperson and a vice-chairperson from among its members, as well as a

secretary who need not be a member of the council. A majority of the membership of the council shall constitute a quorum for the transaction of council business. The council may meet and hold hearings at the place or places it designates.

149-S:4 Plastics Advisory Council; Duties.

I. The council shall report on December 1 of each calendar year on its activities and recommendations to the governor, the speaker of the house of representatives, the senate president, and chairpersons of the senate energy and natural resources committee and the house environment committee.

II. The council shall also study the environmental and public health impacts of single-use plastics and micro-plastics; healthy and environmentally-friendly alternatives to single-use plastics; strategies and policies to increase the recyclability of plastics and reduce the amount of plastic entering the environment; the technological feasibility of increasing recycled content of consumer plastics and expanding the types of plastics that may be manufactured from recycled material; and ways to enhance the development and expansion of markets of post-consumer recycled plastic, including state and local purchasing and procurement practices.

III. The council shall recommend to the legislature and state departments ways to reduce the use of plastics and the amount of plastic entering the environment, and increase the rate of recycling of plastics, and shall identify threats to human and environmental health, including animal and aquatic species, due to plastics.

3 PFAS Standards. Amend RSA 149-M:32 to read as follows:

149-M:32 Statement of Purpose. The general court finds that the presence of heavy metals *and (perfluorinated substances) PFAS* in packaging is to be considered a matter of concern in connection with the overall solid waste stream because such metals *and PFAS* are likely to be present in leachate when packaging is landfilled or in emissions when packaging is incinerated. The general court further finds that lead, cadmium, mercury, ~~and~~ hexavalent chromium, *and PFAS* on the basis of available scientific and medical evidence, are of particular concern and that elimination of the addition of these heavy metals *and PFAS* to packaging is a desirable first step in reducing the toxicity of packaging waste. Further, the general court finds that such a reduction in the toxicity of packaging waste should be accomplished without impeding or discouraging the expanded use of recycled materials in the production of packaging and its components.

4 Compost; PFAS. Amend RSA 149-M:4, IV to read as follows:

IV. "Compost" means a stable, humus-like substance which is derived from a process involving the biological decomposition of any readily biodegradable material, such as animal manure, garbage, yard waste, septage, sludge, or other organic solid wastes, and which can be beneficially re-used for land application. *Compost shall not include packaging or other items containing PFAS. Materials may be certified compostable by the Biodegradable Product*

Institute or other third party recognized by the department, or is a napkin, stirrer, splash stick, cocktail stick, toothpick, or utensil made entirely of natural fiber.

5 New Paragraph; Per and Polyfluoroalkyl Substances. Amend RSA 149-M:33 by inserting after paragraph VIII the following new paragraph:

IX. "Per and polyfluoroalkyl substances (PFAS) a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

6 Exemptions. Amend RSA 149-M:35, I(b) and (c) to read as follows:

(b) Those packages or packaging components to which lead, cadmium, mercury, **PFAS in food packaging**, or hexavalent chromium have been added in the manufacturing, forming, printing, or distribution process in order to comply with health or safety requirements of federal law, provided that the manufacturer of a package or packaging component petitions the commissioner for an exemption from the provisions of this subdivision for a particular package or packaging component based upon compliance with health or safety requirements of federal law. The commissioner may grant an exemption for no more than 2 years and such an exemption may, upon reapplication for exemption and meeting the criterion for exemption under this paragraph, be renewed at 2-year intervals.

(c) A package or packaging component in which lead, cadmium, mercury, **PFAS in food packaging** or hexavalent chromium have been added in the manufacturing, forming, printing, or distribution process for which there is no feasible alternative, provided that the manufacturer of a package or packaging component shall petition the commissioner for an exemption from the provisions of this subdivision for a particular package or packaging component based upon this criterion and shall submit such documentation as is necessary to support the request for the exemption. The commissioner may grant an exemption for no more than 2 years if warranted by the circumstances, provided that such an exemption may, upon reapplication for exemption and meeting the criterion for exemption under this paragraph, be renewed at 2-year intervals. For purposes of this paragraph, a use for which there is no feasible alternative is one in which the petitioner conclusively demonstrates that the regulated substance is essential to the protection, safe handling, or function of the package's contents and that technical constraints preclude the substitution of other materials. "No feasible alternative" does not include use of any of the regulated metals for the purposes of marketing.

7 Exemptions. Amend RSA 149-M:35, I(h) to read as follows:

(h) A package or packaging component that is glass or ceramic which has a vitrified label that, when tested in accordance with Toxicity Characteristic Leaching Procedure, test Method 1311, published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, does not exceed one part per million for cadmium, 5 parts per million for lead, or 5 parts per million for total chromium. Mercury **and PFAS in food packaging**, shall not be exempted by this provision.

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8 Effective Date. Part III of this act shall take effect 60 days after its passage.

PART IV

Relative to the prevention of zoonotic disease transmission.

1 Findings. The general court finds:

I. Zoonotic disease can spread from animals to humans, with an estimated 3 out of 4 new or emerging diseases being zoonotic in nature. Evidence indicates that many of the worst epidemics and pandemics in recent decades have been zoonotic in origin, including COVID-19, ebola virus, avian influenza, swine influenza, Middle East respiratory syndrome, human immunodeficiency virus, and severe acute respiratory syndrome.

II. Wildlife trafficking and trade has been shown to contribute to the transmission and pervasiveness of zoonotic diseases. The COVID-19 pandemic has underscored the immense loss of human life and economic disruption that zoonotic disease can cause. The COVID-19 pandemic has spurred other states to introduce legislation to ban the importation of wildlife and live animal markets, which could shift those activities to New Hampshire.

III. New Hampshire's existing laws and rules do not adequately address the evolving risks and novel zoonotic pathogens that threaten public health, food security, biological diversity and economic security.

2 New Sections; Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. Amend RSA 207 by inserting after section 14-a the following new sections:

207:14-b Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission.

I. The fish and game commission shall make rules under RSA 541-A under which it shall compile a list of animals and fish that shall not be imported or transported into this state due to risk of zoonotic disease transmission by December 31, 2021. In creating the list, the commission shall consult with the department of health and human services, the state veterinarian, and scientific or educational institutions, making decisions that are informed by the best available science. The list shall include all identified species that scientific evidence suggests could readily transmit zoonotic diseases. An identified species may be excluded from the list if, pursuant to paragraph III, the commission finds that the importation restriction on a species is not necessary.

II. The commission shall place an animal or fish on the list if it determines that prohibiting the importation or transportation of such animal or fish into the state is necessary to protect the public health and safety, native wildlife or fish, or agricultural interests of the state.

III. The commission shall remove an animal or fish from the list if it determines that prohibiting the importation or transportation of such animal or fish into the state is not necessary to protect public health and safety, native wildlife or fish, or agricultural interests of the state.

207:14-c Penalties.

I. A person shall not import into this state or transport within this state an animal or fish on the list established under RSA 207:14-b, I.

1 II. The commission shall suspend any existing licenses issued by the commission of a person
2 guilty of violating paragraph I.

3 III.(a) Notwithstanding paragraph I, an institution of higher education as defined in 20
4 U.S.C. section 1001, a zoo, or wildlife rehabilitation center operated under a valid permit issued by
5 the commission may apply to the commission for an exemption from paragraph I, for the purposes of
6 scientific research, education or rehabilitation, in order to import an animal or fish on the list
7 established under RSA 207:14-b. The commission shall review such applications and may grant
8 such exemptions upon review as determined by rules on a case-by-case basis. For any animal or fish
9 on the list made under RSA 207:14-b, I the commission shall require the applicant to demonstrate
10 biosafety equipment and protocols necessary to safely handle such animal or fish. Decisions of the
11 commission are subject to appeal.

12 (b) The commission:

13 (1) Shall develop and make available on a commission website an application form.

14 (2) May require an applicant to submit additional information the commission deems
15 necessary.

16 (3) May establish fees for acceptance and processing of the applications.

17 3 New Chapter; Live Animal Markets. Amend RSA by inserting after chapter 428 the following
18 new chapter:

19 CHAPTER 428-A

20 LIVE ANIMAL MARKETS

21 428-A:1 Definitions. In this chapter:

22 I. "Animal" means a domestic animal, a household pet, or a wild animal in captivity.

23 II. "Live animal market" means a retail food market where, in the regular course of
24 business, animals are stored alive and sold to consumers for the purpose of human consumption.

25 III. "Live wildlife market" means a market at which non-native wildlife is stored alive and
26 sold for the purpose of human consumption, including but not limited to wholesalers, restaurants,
27 online platforms, and other contexts where individuals offer to buy and sell non-native wildlife.

28 IV. "Taxon" means a taxonomic group, such as a species, family, or class.
29 regulations.

30 428-A:2 Operation of Live Animal Markets.

31 I. During the operation of a live animal market:

32 (a) No animal shall be dismembered, flayed, cut open, or have its skin, scales, feathers,
33 or shell removed while such animal is still alive.

34 (b) No live animal shall be confined, held, or displayed in a manner that results, or is
35 likely to result, in injury, starvation, dehydration, or suffocation of such animal.

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(c) No animal shall be offered for sale at a live animal market that is an invasive species or of a taxon known or likely to be responsible for zoonotic transmission of a disease, as determined by the fish and game commission under RSA 207:14-b.

(d) Wildlife species shall not be caged, handled, or transported with livestock or domestic animals, and shall not be sold in spaces near livestock or domestic animals.

(e) Wildlife species showing signs of illness shall not be permitted to be sold in live animal markets.

(f) No bat, rodent or primate species shall be sold in live animal markets.

II. The fish and game commission may inspect the records of sellers at live animal markets to ensure compliance with the fish and game commission's own rules.

428-A:3 Regulation of Live Animal Markets. The department of agriculture, markets, and food shall adopt rules under RSA 541-A governing the storing and sale of animals for live animal markets.

428-A:4 Exceptions.

I. This chapter shall not prohibit livestock markets or the sale or offer for sale of livestock that are currently allowed under New Hampshire law.

II. This chapter shall not prohibit seafood or shellfish markets or the sale or offer for sale of seafood or shellfish that are currently allowed under New Hampshire law.

428-A:5 Penalties.

I. Any person who violates this chapter:

(a) Shall be issued a written warning in a language that is understood by the person receiving such warning for a first violation.

(b) For any subsequent violation, shall be guilty of a class A misdemeanor, punishable by a fine of at least \$250, but not exceeding \$1,000.

4 Effective Date. Part IV of this act shall take effect January 1, 2022.

PART V

Establishing the coastal program administered by the department of environmental services.

1 Tidal Waters. Amend RSA 485-A:8, V to read as follows:

V. Tidal waters utilized for swimming purposes shall contain not more than either a geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring. ***The operation and sampling of facilities subject to permits under the National Pollutant Discharge and Elimination System are not subject to the provisions of the National Shellfish Sanitation Program except as may be required by the department.***

V-a. In accordance with RSA 487:34, [These] those tidal waters used for growing or taking of shellfish for human consumption shall, in addition to the foregoing requirements, be in

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1 accordance with the criteria recommended under the National Shellfish Program Manual of
2 Operation, United States Department of Food and Drug Administration.

3 2 Effective Date. Part V of this act shall take effect 60 days after its passage.

4 **PART VI**

5 Establishing the coastal program administered by the department of environmental services.

6 1 New Subparagraph; Application of Receipts; Derelict Fishing Gear, Coastal Cleanup, and
7 Fishing For Energy Fund Established. Amend RSA 6:12, I(b) by inserting after subparagraph (364)
8 the following new subparagraph:

9 (365) Moneys deposited into the derelict fishing gear, coastal cleanup, and fishing for
10 energy fund established in RSA 211:77.

11 2 New Paragraph; Litter Control Law; Penalties. Amend RSA 163-B:4 by inserting after
12 paragraph I the following new paragraph:

13 I-a. Any fines collected under this section for littering in coastal waters or beaches and for
14 abandoning fishing gear shall be credited to the derelict fishing gear, coastal cleanup, and fishing for
15 energy fund established in RSA 211:77.

16 3 New Paragraph; Lobsters and Crabs; Surcharge Added. Amend RSA 211:18 by inserting after
17 paragraph III-b the following new paragraph:

18 III-c. The executive director shall establish a surcharge on each class of license issued under
19 paragraph III-a of not more than \$25 nor less than \$10 to be deposited in the derelict fishing gear,
20 coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and shall adopt rules
21 for implementing and collecting the surcharge. Any person who satisfactorily demonstrates to the
22 executive director that he or she is participating in a coastal cleanup program shall not be required
23 to pay the surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine
24 satisfactory participation in a coastal cleanup program and to account for licensees who are exempt
25 from the surcharge each year.

26 4 Nonresident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-a, II to
27 read as follows:

28 II. The fee for an annual license shall be set by the executive director pursuant to RSA
29 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
30 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
31 by diving. ***The executive director shall establish a surcharge on each license issued under***
32 ***this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing***
33 ***gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and***
34 ***shall adopt rules for implementing and collecting the surcharge. Any person who***
35 ***satisfactorily demonstrates to the executive director that he or she is participating in a***
36 ***coastal cleanup program shall not be required to pay the surcharge. The executive***
37 ***director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in***

1 *a coastal cleanup program and to account for licensees who are exempt from the surcharge*
2 *each year.*

3 5 Resident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-b, II to read
4 as follows:

5 II. The fee for such annual license shall be set by the executive director pursuant to RSA
6 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
7 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
8 by diving. *The executive director shall establish a surcharge on each license issued under*
9 *this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing*
10 *gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and*
11 *shall adopt rules for implementing and collecting the surcharge. Any person who*
12 *satisfactorily demonstrates to the executive director that he or she is participating in a*
13 *coastal cleanup program shall not be required to pay the surcharge. The executive*
14 *director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in*
15 *a coastal cleanup program and to account for licensees who are exempt from the surcharge*
16 *each year.*

17 6 Commercial Shrimp License; Surcharge Added. Amend RSA 211:49-e, II to read as follows:

18 II. The fees for the northern shrimp resident and nonresident licenses shall be set by the
19 executive director pursuant to RSA 206:10, I. *The executive director shall establish a*
20 *surcharge on each license issued under this section of not more than \$25 nor less than \$10*
21 *to be deposited in the derelict fishing gear, coastal gear cleanup, and fishing for energy*
22 *fund established in RSA 211:77, and shall adopt rules for implementing and collecting the*
23 *surcharge. Any person who satisfactorily demonstrates to the executive director that he or*
24 *she is participating in a coastal cleanup program shall not be required to pay the*
25 *surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine*
26 *satisfactory participation in a coastal cleanup program and to account for licensees who*
27 *are exempt from the surcharge each year.*

28 7 Aquaculture; Surcharge Added. Amend RSA 211:62-e, II-b to read as follows:

29 II-b. The executive director shall adopt rules, pursuant to RSA 541-A, for the issuance of 5-
30 year licenses under this section to oyster aquaculture operations in the Great Bay estuary, and the
31 fees, terms, and conditions therefor as authorized under paragraph II-a. *The executive director*
32 *shall establish a surcharge on each license issued under this section of not more than \$25*
33 *nor less than \$10 to be deposited in the derelict fishing gear, coastal gear cleanup, and*
34 *fishing for energy fund established in RSA 211:77, and shall adopt rules for implementing*
35 *and collecting the surcharge. Any person who satisfactorily demonstrates to the executive*
36 *director that he or she is participating in a coastal cleanup program shall not be required*
37 *to pay the surcharge. The executive director shall adopt rules pursuant to RSA 541-A to*

determine satisfactory participation in a coastal cleanup program and to account for licensees who are exempt from the surcharge each year.

8 New Subdivision; Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund.
Amend RSA 211 by inserting after section 76 the following new subdivision:

Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund

211:77 Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund Established.
There is hereby established in the state treasury a separate fund to be known as the derelict fishing gear, coastal gear cleanup, and fishing for energy fund. The fund shall be administered by the executive director and shall be nonlapsing and continually appropriated to the executive director for the purposes of this section. The executive director shall credit to this fund all federal moneys, state funds appropriated, fines or settlements for derelict fishing gear or other items, and fines for littering in coastal waters or beaches collected under RSA 163-B:4. The executive director may accept and expend all funds, including any gifts, grants, or donations made to the fund. The moneys in the fund shall be used establish and support new and existing programs to retrieve and dispose of derelict fishing gear, to conduct periodic coastal cleanup programs for the removal of derelict fishing gear and marine trash, and to support recycling efforts for fishing gear and other marine trash. In this section, "derelict fishing gear" means lost, discarded, or abandoned fishing gear.

9 Effective Date.

I. Sections 3-7 of part VI of this act shall take effect January 1, 2022.

II. The remainder of part VI of this act shall take effect upon its passage.

PART VII

Establishing the coastal program administered by the department of environmental services.

1 Land and Community Investment Program Established. Amend RSA 227-M:3 to read as follows:

227-M:3 Land and Community Heritage Investment Program Established. There is hereby established the New Hampshire land and community heritage investment program. The program shall acquire resource assets, through voluntary negotiations with property owners and utilization of all available federal, state, local, private, and other matching funds and incentives. The program shall also provide funding for restoration and rehabilitation of cultural and historical resources and for certain costs associated with the acquisition of resource assets. All deeds or other documents evidencing purchase of any fee interest or other easement interest in resources under this chapter shall be drawn and held in the name of the municipality, other political subdivision, or qualified publicly-supported nonprofit corporation purchasing the interest through the use of program funds. All easement interests and legal obligations that are attached in perpetuity to any property shall be recorded in the deed. The state of New Hampshire shall hold an executory interest in all easement interests acquired by the program and held by municipalities, other political subdivisions, or qualifying nonprofit corporations. There shall be no power by the state of New Hampshire to take

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any resource by eminent domain, nor shall any funds made available by this program be used to take by eminent domain except in cases involving the voluntary quieting of title. All acquisition projects shall involve a willing seller and willing buyer, or a willing donor of resource assets. ***Acquisition and preservation of agricultural land for food production shall be a priority for this program.***

2 Effective Date. Part VII of this act shall take effect 60 days after its passage.

PART VIII

Relative to class 2 obligations under the electric renewable portfolio standards.

1 Electric Renewable Portfolio Standard; Minimum Standards. Amend the footnote to RSA 362-F:3 to read as follows:

*Class I increases an additional 0.9 percent per year from 2015 through 2025. A set percentage of the class I totals shall be satisfied annually by the acquisition of renewable energy certificates from qualifying renewable energy technologies producing useful thermal energy as defined in RSA 362-F:2, XV-a. The set percentage shall be 0.4 percent in 2014, 0.6 percent in 2015, 0.8 percent in 2016, and increased annually by 0.2 percent per year from 2017 through 2023, after which it shall remain unchanged. Class II shall increase to 0.5 percent beginning in 2018, 0.6 percent beginning in 2019, ~~and~~ 0.7 percent beginning in 2020, ***2.2 percent beginning in 2021, 3.0 percent beginning in 2022, 3.8 percent beginning in 2023, 4.6 percent beginning in 2024, and 5.4 percent beginning in 2025***~~[otherwise]~~. Classes ~~III-IV~~ ***III-IV*** shall remain at the same percentages from 2015 through 2025 except as provided in RSA 362-F:4, ~~[V-VI]~~ ***VI. The requirements for classes I-II are subject to the provisions of RSA 362-F:4, V.***

2 New Section; Minimum Electric Renewable Portfolio Standards; Exemption Period for Certain Electrical Supply Contracts. Amend RSA 362-F by inserting after section 3 the following new section:

362-F:3-a Exemption Period for Certain Electrical Supply Contracts.

I. The increases in the annual purchase percentages under RSA 362-F:3 applicable to class II for 2021 and thereafter as compared to the class II annual purchase percentages in effect as of January 1, 2021, shall not apply to the megawatt-hours delivered during the contract term under any electrical power supply contract entered into before the effective date of this section, provided that the contract term in effect before such effective date has not been extended or otherwise increased after that date.

II. Providers shall inform the commission by July 1 of each year, through July 1, 2022, of all such exempted contracts, including but not limited to, the execution date and expiration date of the contract, the basis for exemption under this section, and if applicable, the annual megawatt-hours supplied and exempted, or the annual amount of exempted methane gas certificates and the basis for exemption. All such information filed with the commission shall be exempt from the provisions of RSA 91-A:5, IV.

3 Effective Date. Part VIII of this act shall take effect 60 days after its passage.

PART IX

Relative to public use of coastal shorelands.

1 Public Trust Shorelands; Mean High Tide Line. Amend RSA 483-C:1, V to read as follows:

V. The high water mark which bounds the shoreward extent of the public trust shorelands in New Hampshire, excluding abnormal storm events, means ~~[the furthest landward limit reached by the highest tidal flow, commonly referred to as the highest spring or highest "syzygy" tide occurring during the 19-year Metonic cycle]~~ ***the average height of all the high waters over a complete tidal cycle commonly referred to as the mean high tide line.*** The landward trace of the high water mark in New Hampshire is established by the tidal station data within the contemporary 19-year "National Tidal Datum Epoch" for Portland, Maine, Casco Bay (NOS MAINE 841 8150) as that data is transposed to New Hampshire tidal stations by the "differences" tidal constant established by the National Ocean Service (NOS) of the National Oceanic and Atmospheric Administration (NOAA) for New Hampshire tidal stations and published in the annual "Tide Tables High and Low Water Predictions, East Coast of North and South America, Including Greenland". The contemporary 19-year National Tidal Datum Epoch is the national tidal database maintained by NOS of NOAA.

2 Effective Date. Part IX of this act shall take effect upon its passage.

SB 146-FN- FISCAL NOTE
AS INTRODUCED

AN ACT adopting omnibus legislation relative to the environment.

PART I Establishing the coastal program administered by the department of environmental services.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Coastal Fund			

METHODOLOGY:

The Department of Environmental Service states the part of the bill establishes a coastal program to be administered by the Department and establishes a nonlapsing, continually appropriated coastal fund. The coastal fund would consist of funds from any source including gifts; donations of money; grants; federal, local, private, and other matching funds and incentives and interests in land for the purposes of the proposed chapter. The Department indicates the coastal program currently administered by the Department is federally funded. Additional state expenditures would only occur if additional funding is identified and deposited into the new fund. County and local entities could be the recipients of grants if the state receives money for the fund, however, this is not required by the bill. The Department states, because there is no specific funding source proposed in the bill, revenue and expenditures in the proposed coastal fund cannot be determined. County and local expenditures are not required for this legislation.

AGENCIES CONTACTED:

Department of Environmental Services

PART II Establishing a statewide solid waste disposal reduction goal.

This part of the bill has no fiscal impact.

PART III Prohibiting incineration of PFAS in New Hampshire.

FISCAL IMPACT: ☒ State ☒ County ☒ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General [] Education [X] Highway [X] Other - Various Government Funds			

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

The Department of Environmental Services indicates this bill could result in an indeterminable increase in State, county and local expenditures, depending on the interpretation of the definition of “Incineration” and the undefined term “PFAS containing waste, leachate, or sludge”. Proposed RSA 154:8-d, II could increase costs to local and state entities for disposal of Class B firefighting foam. The bill may also increase costs to certain municipal wastewater treatment facilities for handling of sludge and/or leachate determined to contain PFAS (For example, the City of Manchester operates a sludge incinerator). The Department indicates municipal waste streams often contain items that have been coated to enhance water or grease repellency such as clothing, furniture, carpet and food containers. If under this bill, municipal waste were interpreted to be “PFAS containing”, the cost of disposal to local, county and state entities may increase depending on the results of determinations made by the Department as required.

AGENCIES CONTACTED:

Department of Environmental Services

PART IV Relative to the prevention of zoonotic disease transmission.

FISCAL IMPACT: [X] State [X] County [] Local [] None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0

Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	[X] General [] Education [] Highway [] Other			

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This part of the bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Class A Misdemeanor	\$78	\$78
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department

would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

AGENCIES CONTACTED:

Judicial Branch, Department of Justice, Judicial Council, and New Hampshire Association of Counties

PART V Relative to tidal waters.

This part of the bill has no fiscal impact.

PART VI Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source	<input type="checkbox"/> General Fund <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund			

METHODOLOGY:

This part of the bill establishes a non-lapsing, continually appropriated dedicated fund called the derelict fishing gear, coastal cleanup, and fishing for energy fund, which will be used for new and existing programs relative to certain coastal cleanup efforts. In addition to any future available federal funds, state appropriations, or other grants, gifts, or donations, under this bill revenue from fines for littering in coastal waters or beaches, or abandoning fishing gear, as well as a new surcharge on certain fishing licenses (lobster and crab, commercial salt water, commercial shrimp, and aquaculture) would be credited to the fund. While, it is not known how much littering fine revenue may be diverted from the general fund to the new dedicated fund, as the number of qualifying littering offenses cannot be estimated, the Fish and Game Department estimates the potential revenue from the surcharge on certain licenses would range from \$8,600 to \$21,500. This range is based on 860 current licenses and a surcharge of \$10 to \$25 (surcharge will be set by the rulemaking process, as well as a method for individuals to avoid the surcharge by demonstrating participation in a coastal cleanup program). Expenditures in FY 2022 and beyond are indeterminable and would be limited to available funds.

AGENCIES CONTACTED:

Fish and Game Department

PART VII Relative to the acquisition and preservation of agricultural land for food producing in the land and community heritage program.

This part of the bill has no fiscal impact.

PART VIII Relative to class 2 obligations under the electric portfolio standards.**FISCAL IMPACT:** ☒ State ☒ County ☒ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	Indeterminable	Indeterminable	Indeterminable
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input checked="" type="checkbox"/> Highway <input checked="" type="checkbox"/> Other-Renewable Energy Fund, Various Government Funds			

COUNTY:

Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

LOCAL:

Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

The Public Utilities Commission (PUC) indicates this part of the bill modifies the annual Renewable Portfolio Standard (RPS) compliance target for Class II (new solar). The revised requirements begin for compliance (calendar) year 2021 and are as follows:

- 2.2 percent beginning in 2021,
- 3.0 percent beginning in 2022,
- 3.8 percent beginning in 2023,
- 4.6 percent beginning in 2024, and
- 5.4 percent beginning in 2025.

This part of the bill further states that Classes III and IV shall remain at the same percentages from 2015 through 2025 except as provided in RSA 362-F:4, VI, and the requirements for classes

I-II are subject to the provisions of RSA 362-F:4, V. RSA 362-F:4, V and VI provide the Commission the authority to accelerate, delay, or modify Class requirements after notice and hearing. The part also provides an exemption from the Class II increases in the annual purchase percentages for certain electrical supply contracts.

The Commission indicates New Hampshire's competitive electricity providers and electric distribution utilities include Eversource, Liberty Utilities, Unitil Energy Systems, Inc. and the New Hampshire Electric Cooperative. These providers must obtain renewable energy certificates (RECs) for each of the four classes as a set percentage of their retail electric load. One REC represents one megawatt-hour of electricity or the equivalent amount of thermal energy (3,412,000 Btu), generated from a renewable source. The RPS is a market-based policy and RECs are bought and sold in a regional market administered by NEPOOL (New England Power Pool). If electricity providers cannot, or choose not to, purchase or obtain sufficient RECs to comply with the RPS law, they must make alternative compliance payments (ACPs) to the Renewable Energy Fund (REF). The REF supports grant and rebates programs which incentivize the development of renewable energy projects.

The ACP rate serves as a ceiling price in the market for RECs. Generally, REC prices trading at or near the ACP rate indicate an under supply of RECs in the market, whereas RECs trading well below the ACP rate indicate an ample supply of RECs in the market. The supply of RECs is dependent upon the state and regional development, interconnection (electric only) and certification of renewable energy facilities. ACP rates are defined by RPS Class and are adjusted annually. Pursuant to RSA 362-F:6, II-a and Puc 2503.04(d), the Commission annually computes the percentage credit for Class I and Class II based on the capacity of the customer-sited sources that are net metered and are not certified to create Class I or II RECs (Class II Credit).

The Commission states several factors must be considered when estimating this part of the bill's revenue and expenditure impacts to state, county and local governments. These factors include supply of RECs, market prices for RECs, the ACP rates, regional RPS policies, and the Class I & II Credit. Assuming no change in the state, local or county governments' electricity usage, with the passage of this bill, expenditures for electricity may increase. If there is an insufficient supply of RECs for providers to meet their RPS requirements, ACPs would be made into the Renewable Energy Fund thereby increasing the revenue to state, county and local governments (i.e., REF). The REF supports grant and rebates programs which state, county and local governments could utilize to develop of renewable energy projects. Nonetheless, the amount of revenue and expenditures to state, county, and local governmental entities as a result of this bill over each of the next 4 fiscal years is indeterminable.

AGENCIES CONTACTED:

Public Utilities Commission

PART IX Relative to public use of coastal shorelines.

This part of the bill has no fiscal impact.