Sen. Daniels, Dist 11 Sen. Perkins Kwoka, Dist 21 March 24, 2021 2021-1016s 06/08

32

Floor Amendment to SB 95-FN

1	Amend the title of the bill by replacing it with the following:
2	
3 4 5	AN ACT adopting omnibus legislation relative to access to remote meetings, penalties for violation of privacy, and establishing a committee to study remote meetings.
6	Amend the bill by replacing all after the enacting clause with the following:
7	
8	1 Sponsorship. This act consists of the following proposed legislation:
9	Part I. LSR 21-0911, relative to remote access to meetings under RSA 91-A, sponsored by
10	Sen. Perkins Kwoka, Prime/Dist. 21; Sen. Rosenwald, Dist. 13; Sen. Cavanaugh, Dist. 16; Sen.
11	D'Allesandro, Dist. 20; Sen. Prentiss, Dist. 5; Sen. Sherman, Dist. 24; Sen. Whitley, Dist. 15; Rep.
12	Porter, Hills. 1; Rep. Maggiore, Rock. 22; Rep. Espitia, Hills. 31; Rep. Gourgue, Straf. 25; Rep.
13	Wilhelm, Hills. 42.
14	Part II. LSR 21-0167, relative to penalties for violation of privacy, sponsored by Sen. Gray,
15	Prime/Dist. 6.
16	Part III. Establishing a committee to review authorizing governing bodies of municipalities
17	to hold virtual meetings and to study remote access to meetings under RSA 91-A, sponsored by Sen
18	Daniels, Prime/Dist. 11, Sen. Perkins Kwoka, Dist. 21.
19	2 Legislation Enacted. The general court hereby enacts the following legislation:
20	PART I
21	Relative to remote access to meetings under RSA 91-A.
22	1 Access to Governmental Records and Meetings; Meetings Open to the Public. Amend RSA 91-
23	A:2, III to read as follows:
24	III. A public body may, but is not required to, allow one or more members of the body to
25	participate in a meeting by electronic or other means of communication for the benefit of the public
26	and the governing body, subject to the provisions of this paragraph.
27	[(a) A member of the public body may participate in a meeting other than by attendance
28	in person at the location of the meeting only when such attendance is not reasonably practical. Any
29	reason that such attendance is not reasonably practical shall be stated in the minutes of the
30	meeting.
31	(b) Except in an emergency, a quorum of the public body shall be physically present at

the location specified in the meeting notice as the location of the meeting. For purposes of this

subparagraph, an "emergency" means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

- (e) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting.]
- (a) A physical location is not required for any meeting, provided the meeting complies with the provisions of this paragraph.
- (b) If a meeting has no physical location, public access shall be provided to the public by telephone, and additional access may be provided by video or other electronic means.
- (c) If a meeting has no physical location, public notice of the meeting, with all information necessary to access the meeting telephonically and by other means, shall be given as provided in this chapter. The notice shall provide a mechanism for the public to alert the public body during the meeting if there are problems with access. The meeting shall be adjourned if the public is unable to access the meeting because of any technical communication problems experienced by the provider of the communication media.
- (d) Each member participating electronically or otherwise [must] in a meeting required to be open to the public shall be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location, if the meeting has a physical location. Any member participating in such fashion shall identify the location from which the person is participating and the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.
- [(d)] (e) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.
- [(e)] (f) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.
- 2 Access to Governmental Records and Meetings; Meetings Open to the Public. RSA 91-A:2, III is repealed and reenacted to read as follows:

Floor Amendment to SB 95-FN - Page 3 -

- III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.
- (a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.
- (b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an "emergency" means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.
- (c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.
- (d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.
- (e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.
 - 3 Effective Date.

 2

- I. Section 2 of Part I of this act shall take effect July 1, 2022.
- 32 II. The remainder of Part I of this act shall take effect upon its passage.

33 PART II

Relative to penalties for violation of privacy.

1 New Paragraph; Breaches of the Peace; Violation of Privacy. Amend RSA 644:9 by inserting after paragraph IV the following new paragraph:

Floor Amendment to SB 95-FN - Page 4 -

1	IV-a. Any person convicted of a class A misdemeanor under paragraphs I-IV who commits a
2	second or subsequent offense under paragraphs I-IV may be charged with a class B felony for the
3	second or subsequent offense.
4	2 Effective Date. Part II of this act shall take effect January 1, 2022.
5	PART III
6	Establishing a committee to review authorizing governing bodies of municipalities to
7	hold virtual meetings and to study remote access to meetings under RSA 91-A.
8	1 Committee Established. There is established a committee to review authorizing governing
9	bodies of municipalities to hold virtual meetings and to study remote access to meetings under RSA
10	91-A.
11	2 Membership and Compensation.
12	I. The members of the committee shall be as follows:
13	(a) Two members of the senate, appointed by the president of the senate.
14	(b) Three members of the house of representatives, appointed by the speaker of the
15	house of representatives.
16	II. Members of the committee shall receive mileage at the legislative rate when attending to
17	the duties of the committee.
18	3 Duties. The committee shall review authorizing governing bodies of municipalities to hold
19	virtual meetings and to study remote access to meetings under RSA 91-A.
20	4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
21	among the members. The first meeting of the committee shall be called by the first-named senate
22	member. The first meeting of the committee shall be held within 45 days of the effective date of this
23	section. Three members of the committee shall constitute a quorum.
24	5 Report. The committee shall report its findings and any recommendations for proposed
25	legislation to the president of the senate, the speaker of the house of representatives, the senate
26	clerk, the house clerk, the governor, and the state library on or before November 1, 2021.
27	6 Effective Date. Part III of this act shall take effect 60 days after its passage.