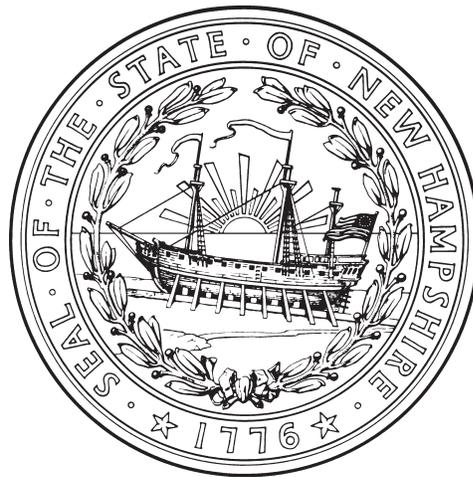


March 18, 2021
Nos. 7-8

STATE OF NEW HAMPSHIRE

Web Site Address: www.gencourt.state.nh.us



**First Year of the 167th Session of the
New Hampshire General Court**

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – MARCH 11, 2021 SESSION
COMMENCEMENT – MARCH 18, 2021 SESSION**

SENATE JOURNAL 7 *(continued)*

March 11, 2021

Out of Recess. Call the Senate to Order.

MOTION TO ADJOURN FROM LATE SESSION

Senator Bradley moved that the Senate adjourn from the Late Session.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

Adjournment from the Late Session.

SENATE JOURNAL 8

March 18, 2021

The Senate reconvened Remote Session in the House Chamber at 10:00 a.m., a quorum being present.

PRESIDENT MORSE: Welcome. I am Senate President Chuck Morse from District 22. Today, we will be holding a meeting of the Senate. Before we get started, I'll read through a checklist to ensure that the meeting that we are holding is in compliance with the Right-to-Know Law.

As President of the New Hampshire State Senate, I find that due to the state of emergency declared by the Governor as a result of the Covid-19 pandemic, and in accordance with the Governor's Emergency Order Number 12, pursuant to Executive Order 2020-04 and its extensions, this public body is authorized to meet electronically. Please note that there is no physical location to observe and listen contemporaneously to this meeting which was authorized pursuant to the Governor's Emergency Order.

In accordance with the Emergency Order, I am confirming that:

We are providing public access to the meeting with links provided on the General Court Website and in the Senate Calendar. We are utilizing Zoom for this electronic meeting. All members of the Senate have the ability to communicate contemporaneously in this meeting through this platform and the public has access to contemporaneously watch and or listen to the meeting with links provided on the General Court Website and in the Senate Calendar. Please note, that the only public access to session is through the livestream provided on the General Court Website and in the Senate Calendar. There is no access to the Zoom other than by way of the livestream, just as there would be no access to the Senate floor, other than by way of the Senate Gallery, or the livestream.

We have provided public notice of the necessary information for accessing the meeting in the Senate Calendar since Thursday, March 11, 2021.

We are providing a mechanism for the public to alert the public body during the meeting if there are problems with access. If anyone has a problem please email HelpDesk@leg.state.nh.us, or call 603-271-2180.

In the event that technical problems on our end make it impossible for Senators to participate or for members of the public to access the meeting, it will be adjourned and rescheduled.

Please note that all votes taken during this meeting shall be done by roll call vote and will be recorded in the Permanent Journal.

Finally, let's start the meeting by taking a roll call attendance. When each member states their presence please also state where they are and if anyone else is in the room with you during this meeting, and if any other such person is present, each member will identify such person, which is required under the Right-to-Know Law.

The Clerk will call the roll of the Senate for attendance.

The Honorable Tammy L. Wright, Clerk of the Senate, called the Roll of the Senate for attendance.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

There were 24 members present.

The Reverend Jon Hopkins, Chaplain to the Senate, offered the following prayer:

Let us pray.

Dear God. We are so grateful this morning that we have leaders in the New Hampshire State Senate that listen to the people they were elected to serve. Please be with the State Senate as they weigh the pros and cons of each constituent's request. Give them wisdom in how best to represent everyone. Give our leaders courage, so that even when it's hard they would continue to boldly represent a constituent's needs and those of the most vulnerable. We are so grateful for the staff of the New Hampshire State Senate. They have such an important job, keeping the office running as they should. Thank you for the ways you have gifted them to support so well. Wrap your arms around all those who are serving in the New Hampshire State Senate to show them love, grace, strength, and encouragement. Provide them with the knowledge needed to approach each situation in the best way possible. Help them to see the importance in the work they do. Give them stamina to approach each day that they find a balance between work and life so that they would be sustained. Amen.

Senator Ward led the Pledge of Allegiance.

SPECIAL ORDER

Senator Bradley moved that the following bill be special ordered to Thursday, March 25, 2021.

JUDICIARY

SB 95-FN, adopting omnibus legislation relative to remote meetings and penalties for violation of privacy.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: Carson.

Roll Call, Yeas: 23 - Nays: 1. Adopted.

2ND AMENDED FN REPORT FOR MARCH 18, 2021

Senator Daniels recommends the waiver of referral to the Finance Committee, Senate Rule 4-5, for the following bills with a fiscal note or an appropriation of funds:

CONSENT CALENDAR:

COMMERCE

SB 125-FN, relative to beverage manufacturer licenses.

EDUCATION

SB 148-FN, adopting omnibus legislation relative to vocational and career education, environmental education, and emergency plans for sports injuries.

ENERGY AND NATURAL RESOURCES

SB 146-FN, adopting omnibus legislation relative to the environment.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 143-FN, adopting omnibus legislation relative to certain agency requests.

JUDICIARY

SB 93-FN, relative to permanency planning under the child protection act.

SB 122-FN, adopting omnibus legislation relative to certain crimes and judicial processes and procedures.

SB 134-FN, adopting omnibus legislation relative to civil actions and criminal liability.

TRANSPORTATION

SB 131-FN, adopting omnibus legislation relative to vehicles, municipal water maintenance certificates, safety certificates, nondrivers' picture I.D.s, decals, and private roads.

WAYS AND MEANS

SB 139-FN, relative to bingo dates.

REGULAR CALENDAR:

COMMERCE

SB 65-FN, repealing the prohibition on the sale of over-the-counter rape test kits.

SB 126-FN, adopting omnibus legislation on landlord tenant proceedings.

EDUCATION

SB 147-FN, adopting omnibus legislation relative to student aid, the central registry, transportation of students, and special education costs.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 155-FN, codifying provisions included in select emergency orders issued by the governor in response to the COVID-19 pandemic.

JUDICIARY

SB 60-FN, prohibiting the transport of an open container of marijuana in a motor vehicle or OHRV.

SB 92-FN, relative to increasing the penalty for criminal mischief, the release of a defendant pending trial, and requiring law enforcement candidate background checks.

SB 95-FN, adopting omnibus legislation relative to remote meetings and penalties for violation of privacy.

WAYS AND MEANS

SB 3-FN, clarifying the tax treatment of federal Paycheck Protection Program loans.

Senator Daniels recommends the following bills be ordered to the Finance Committee upon being found Ought to Pass/Ought to Pass with Amendment:

CONSENT CALENDAR:

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 153-FN, relative to retirement benefits for a police officer or firefighter disabled as a result of a violent injury—if Re-refer to Committee recommendation is overturned.

SB 161-FN, relative to non-fraud overpayments for unemployment benefits—if Re-refer to Committee recommendation is overturned.

HEALTH AND HUMAN SERVICES

SB 149-FN, adopting omnibus legislation on health and human services.

TRANSPORTATION

SB 117-FN, relative to the tolls at exit 10 in the town of Merrimack.

REGULAR CALENDAR:

COMMERCE

SB 136-FN, relative to the state minimum hourly rate—if Inexpedient to Legislate recommendation is overturned.

EDUCATION

SB 130-FN, relative to education freedom accounts.

SB 145-FN-L, relative to a temporary change in the formula for school funding—if Re-refer to Committee recommendation is overturned.

SB 158-FN-L, relative to the formula for funding an adequate education—if Inexpedient to Legislate recommendation is overturned.

ENERGY AND NATURAL RESOURCES

SB 151-FN, relative to renewable energy procurement.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 133-FN, adopting omnibus legislation relative to occupational licensure.

HEALTH AND HUMAN SERVICES

SB 159-FN, establishing the department of children's services and juvenile justice.

SB 162-FN, relative to the department of health and human services, the New Hampshire granite advantage health care trust fund, and health facility licensure.

JUDICIARY

SB 96-FN-A, requiring implicit bias training for judges; establishing a body-worn and dashboard camera fund and making an appropriation therefor; relative to race and ethnicity data on driver's licenses, and relative to juvenile delinquency.

SB 141-FN, relative to the procedure for conducting firearm background checks.

Senator Daniels moved to adopt today's FN Report.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

CONSENT CALENDAR REPORTS REMOVED

TRANSPORTATION

SB 117-FN, by Senator D'Allesandro

CONSENT CALENDAR

Senator Bradley moved that the Consent Calendar, with the relevant amendments as printed in the day's Calendar be adopted and that all such bills found Ought to Pass be ordered as follows:

FN bills not waived under Senate Rule 4-5, to the Committee on Finance; non-FN bills approved for referral to Finance by the day's FN report, to the Committee on Finance; and all other bills, to Third Reading.

COMMERCE

SB 125-FN, relative to beverage manufacturer licenses.

Ought to Pass with Amendment, Vote 5-0. Senator Gannon for the committee.

As introduced, this bill sought to simplify the statutes governing the craft beer industry to enable New Hampshire to be more competitive with surrounding states. The Committee heard testimony that the original bill would have had an indeterminable effect on the Liquor Commission's three-tier system, which consists of manufacturers, wholesalers, and retailers. As amended, this bill would incorporate recommendations from the Liquor Commission, wholesalers, and craft brewers. Also, as amended, this bill wouldn't fundamentally alter the three-tier system. Instead, it would increase the amount of beverages allowed to be sold at beverage manufacturer facilities; permit nano brewers and brew pubs to contract brew; allow for the intrastate shipment of specialty beers; and permit beverage manufacturer licensees to have a retail outlet that can sell, sample, and produce, manufacture, or promote products that they manufacture themselves.

Commerce

March 9, 2021

2021-0745s

08/10

Amendment to SB 125-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Beverage Manufacturers License. Amend RSA 178:12, IV(a)(2) to read as follow:

(2) The general public for off-premises consumption [~~in quantities not to exceed a single 15.5 gallon keg or the equivalent of one case of 12 ounce containers per person per day~~]; or

2 New Paragraphs; Nano Brewer; Contract Brewing. Amend RSA 178:12-a by inserting after paragraph VIII the following new paragraphs:

IX. Each nano brewery shall have the right to transport the beverage it manufactures in barrels, kegs, bottles, or other closed containers within the state for sale to licensees and to the state border for transportation and sale outside the state. A nano brewer in a contract brewing arrangement may transport the beverage produced by the contract brewer in barrels, kegs, bottles, or other closed containers within the state for storage or to the state border for transportation and sale outside the state.

X. A nano brewer may enter into a contract brewing arrangement with a contract brewer brewing in the state of New Hampshire after the nano brewer has been in operation for one year. Beverages produced by a contract brewer intended for sale outside the state may be warehoused at the nano brewer's facility or at some other facility accessible only to the nano brewer. A contract brewer shall not deliver beverages to on-premises and off-premises licensees within the state. A nano brewer shall file all contract brewing arrangements with the commission. A nano brewer shall not enter into a contract brewing arrangement with a contract brewer if it does not brew at least 10 barrels annually.

XI. Nano brewers and contract brewers shall be allowed to store beverages manufactured in accordance with the provisions of this title in a storage facility licensed by the commission. Nano brewers and contract brewers storing beverages in a warehouse licensed under RSA 178:11, or other facility approved by the commissioner for the purpose of storing alcohol, shall keep records of the type, quality, and destination of beverages removed from storage. Such records shall be retained by the nano brewer or contract brewer using the facility and shall be made available to the commission upon request. A nano brewer shall not enter into a contract brewing arrangement with a contract brewer if it does not brew at least 10 barrels annually.

XII. Annual on-site production by a nano brewer shall not be less than their production for the calendar year prior to entering into an arrangement with a contract brewer. Total production, including tenant and contract brewers, shall be at least 10 barrels and shall not exceed 2,000 barrels annually.

XIII. The nano brewer shall submit to the liquor commission an annual report of all beverages by:

- (a) The nano brewer on-site.
- (b) Any tenant brewer.
- (c) Any contract brewer the nano brewer has contracted with under paragraph X.

XIV. All taxes due on product that is made by a contract brewer shall be paid by the nano brewer.

3 New Paragraphs; Brew Pub Contract Brewing. Amend RSA 178:13 by inserting after paragraph VIII the following new paragraphs:

IX. Each brew pub shall have the right to transport the beverage it manufactures in barrels, kegs, bottles, or other closed containers within the state for sale to licensees and to the state border for transportation and sale outside the state. A brew pub in a contract brewing arrangement may transport the beverage produced by the contract brewer in barrels, kegs, bottles, or other closed containers within the state for storage or to the state border for transportation and sale outside the state.

X. A brew pub may enter into a contract brewing arrangement with a contract brewer brewing in the state of New Hampshire after the brew pub has been in operation for one year. Beverages produced by a contract brewer intended for sale outside the state may be warehoused at the brew pub's facility or at some other facility accessible only to the brew pub. A contract brewer shall not deliver beverages to on-premises and off-premises licensees within the state. A brew pub shall file all contract brewing arrangements with the commission. A brew pub shall not enter into a contract brewing arrangement with a contract brewer if it does not brew at least 10 barrels annually.

XI. Brew pubs and contract brewers shall be allowed to store beverages manufactured in accordance with the provisions of this title in a storage facility licensed by the commission. Brew pubs and contract brewers storing beverages in a warehouse licensed under RSA 178:11, or other facility approved by the commissioner for the purpose of storing alcohol, shall keep records of the type, quality and destination of beverages removed from storage. Such records shall be retained by the brew pub or contract brewer using the facility and shall be made available to the commission upon request.

XII. Annual on-site production by a brew pub shall not be less than their production for the calendar year prior to entering into an arrangement with a contract brewer. Total production including tenant and contract brewers, shall be at least 10 barrels and shall not exceed 2,500 barrels annually.

XIII. The brew pub shall submit to the liquor commission an annual report of all beverages by:

- (a) The brew pub on-site.
- (b) Any tenant brewer.
- (c) Any contract brewer the brew pub has contracted with under paragraph X.

XIV. All taxes due on product that is made by a contract brewer shall be paid by the brew pub.

4 Contract Brewers; Nano Brewers and Brew Pubs Added. Amend RSA 175:1, XXV-a - XXV-b to read as follows:

XXV-a. "Contract brewer" means a brewery hired by a beverage manufacturer, **nano brewery, or brew pub** to produce a beverage for the beverage manufacturer.

XXV-b. "Contract brewing arrangement" means a business relationship in which a beverage manufacturer, **nano brewery, or brew pub** pays another brewer to produce a beverage for the beverage manufacturer, **nano brewer, or brew pub** for sale.

5 New Section; Intrastate Shipment of Beverages; Specialty Beer. Amend RSA 178 by inserting after section 27-a the following new section:

178:27-b Intrastate Shipments of Alcohol by New Hampshire Manufacturers.

I. Notwithstanding any other provision of law to the contrary, any person currently licensed in the state of New Hampshire as a beverage manufacturer, nano brewery, brew pub, wine manufacturer, importer, wholesaler, or retailer shall apply for an intrastate direct shipper permit from the commission. There shall be no fee to obtain a shipping permit under this section.

II. An intrastate direct shipper may ship directly to New Hampshire consumers over 21 years of age or licensees in packages clearly marked "Alcoholic Beverages, adult signature (over 21 years of age) required." All shipments from intrastate direct shippers shall be made by a licensed carrier and such carriers are required to obtain an adult signature. Intrastate direct shippers or carriers shall not ship into areas of the state where alcohol beverages may not be lawfully sold. Shipments of any other products shall be considered unlicensed shipments under the provisions of RSA 178:1, I.

III.(a) Intrastate direct shippers shall file reports to the commission. Such reports shall be filed once per month for any month in which a shipment was made in a manner and form required by the commission and include the following information:

- (1) The total amount of alcoholic beverages shipped within the state for the preceding month.
- (2) The names and addresses of the purchasers to whom the alcoholic beverages were shipped.
- (3) The date of purchase, if appropriate, the name of the common carrier used to make each delivery, and the quantity and retail value of each shipment.

(b) The commission may assess a \$250 penalty for failure to report to the commission in a timely manner.

(c) Intrastate direct shippers shall maintain records for at least 3 years which will permit the commission to ascertain the truthfulness of the information filed and permit the commission to perform an audit of the beverage manufacturer, nano brewery, brew pub, or wholesale distributor.

IV. The liquor commission shall adopt rules, pursuant to RSA 541-A, relative to:

(a) The application procedures and form for the intrastate direct shipper permit authorized under paragraph I.

(b) The signature form or other identification procedures to be used by intrastate direct shipper to ensure that consumers to which liquor and beverage are being shipped are over 21 years of age.

(c) Filings of intrastate direct shipper under paragraph III.

V. Violations of this section shall be subject to the penalties contained in RSA 179:58.

6 New Paragraph; Beverage Manufacturer Licenses. Amend RSA 178:12 by inserting after paragraph II-a the following new paragraph:

II-b. Each beverage manufacturer shall have the right to manufacture beverages and specialty beer as defined by RSA 175:1 at the beverage manufacturer's New Hampshire licensed premises, to sell those beverages and specialty beers to New Hampshire wholesalers and, in quantities provided by statute, to the public at the beverage manufacturer's retail outlets, and transport said beverages and specialty beer to the state line. The beverage manufacturer shall pay an annual fee of \$336 to the commission for the beverage manufacturer retail outlet. The beverage manufacturer may transport beverages it manufactures to its beverage manufacturer retail outlet for sample or sale. Visitors of legal drinking age at the beverage manufacturer retail outlet may be provided with samples of beverages manufactured by the licensee in this state for tasting. A beverage manufacturer may either provide samples for free or for a fee which shall be limited to one 4-ounce sample per label or one 16-ounce glass per person. At such times as food is available, a beverage manufacturer may serve no more than one additional 16-ounce glasses per person in any areas approved by the commission. For the purpose of this section, food and non-alcoholic beverages may be provided by a properly-licensed third party food vendor, prepared on or off the premises.

7 New Paragraph; Definition; Beverage Manufacturer Retail Outlet. Amend RSA 175:1 by inserting after paragraph IX the following new paragraph:

IX-a. "Beverage manufacturer retail outlet" means an outlet for the sale, sampling, production or manufacturing and promotion of beverages and other products manufactured by a beverage manufacturer licensee.

8 Effective Date. This act shall take effect July 1, 2021.

2021-0745s

AMENDED ANALYSIS

This bill makes changes to the requirements for serving samples for beverage manufacturers and nano breweries; provides for contract brewing arrangements for nano breweries and brew pubs; and requires reports for intrastate direct shippers of alcohol.

SB 148-FN, adopting omnibus legislation relative to vocational and career education, environmental education, and emergency plans for sports injuries.

Ought to Pass with Amendment, Vote 5-0. Senator Kahn for the committee.

This omnibus bill, as amended, has five parts. Part one repeals provisions relating to vocational rehabilitation and authorizes the state board of education to adopt rules relative to the provision of vocational rehabilitation. Part two addresses the renovation and expansion of CTE centers and clarifies sending districts for private and homeschooled students to participate in CTE programs. Part three requires the implementation of emergency action plans for sports related injuries. Part four helps define postsecondary career schools for the purpose of licensure exemptions. Part five is relative to environmental and outdoor educational opportunities for NH students.

Senate Education
March 10, 2021
2021-0764s
06/10

Amendment to SB 148-FN

Amend PART II of the bill by replacing section 2 with the following:

2 Construction or Renovation of Career and Technical Education Centers. Amend RSA 188-E:3, I to read as follows:

I. The commissioner, department of education, shall make grants available to designated regional centers for construction of career and technical education facilities or renovation, **expansion, or replacement** of existing regional career and technical education centers. The state board shall adopt rules, pursuant to RSA 541-A and RSA 21-N:9, II, which the commissioner shall carry out, relative to requirements for approval of regional career and technical education centers to receive funds for construction [or], renovation, **expansion, or replacement** of such facilities. The rules shall include criteria which guarantee potential sending districts

an opportunity to enroll students in the regional career and technical education program, and basic criteria for planning such facilities through cooperative development of plans by the career and technical education staff of the state department of education and the local school district's staff. When such plans appear to be both educationally and financially acceptable, the department's career and technical education staff shall recommend to the commissioner that they be approved for funding.

Amend PART II of the bill by replacing section 5 with the following:

5 Career and Technical Education; Funding for Construction, Renovation, Expansion, and Replacement. Amend RSA 188-E:10, I to read as follows:

I. The department of education is responsible for maintaining a statewide system of regional ~~[vocational]~~ **career and technical** education centers to provide and allow for a variety of career and technical education programs funded within state budget appropriations. The treasurer of the state of New Hampshire is hereby authorized to make funds available to the department of education for the **construction**, renovation ~~[and]~~, expansion, **or replacement** of qualified regional career and technical education centers or regional career and technical education programs authorized in the capital budget, provided that:

(a) The commissioner of the department of education shall ensure that all requests submitted are both educationally and financially appropriate within the state capital project authorization process;

(b) The commissioner of the department of education submits on a biennial basis in a capital budget request a priority list of facilities and programs eligible for **construction**, renovation ~~[and]~~, expansion, **or replacement** provided that priority shall be given to programs that have been certified by an approved standard or that need additional funds to become certified by an approved standard;

(c) Each request for funding follows the capital budget procedure pursuant to RSA 9:3-a, provided that no qualified project funded in a state capital budget as required in this section shall have additional funds for the same project included in a subsequent proposal for capital appropriation under RSA 9:3-a unless directed by the priority list of the department of education;

(d) Each school district requesting funds from the department of education establishes and funds a **construction**, renovation ~~[and]~~, expansion, **and replacement** reserve fund, which shall be used by the school district to pay **construction**, renovation ~~[and]~~, expansion, **and replacement** costs not funded by the state, and which may include funding for the replacement of equipment; and

(e) The state shall fund not less than 50 percent nor more than 75 percent of the cost of a qualified project approved pursuant to this section.

(f) In this section, "qualified" means the project:

(1) Demonstrates need connected to the labor market.

(2) ~~[Accepts students from sending schools.]~~

(3) Demonstrates adequate numbers of students through enrollment figures based on 3-year averages.

(4) (3) Demonstrates alignment with program competencies and academic competencies required by the department of education.

(5) (4) Allows for matriculation into a postsecondary venue.

(6) (5) Meets all industry and building standards.

(7) (6) Meets the procedural requirements for requests under this section and any other requirements in rules of the department of education.

(8) (7) Is a regional career and technical education center within a public school, or a public academy as defined in RSA 194:23, II, in the state of New Hampshire.

(9) (8) Has the capacity to provide academic courses for students from the sending districts who are approved for full-time attendance at the center.

Amend Part II of the bill by deleting section 3 and renumbering the original sections 4-18 to read as 3-17, respectively.

Amend the bill by replacing Part III with the following:

PART III

Requiring emergency action plans for sports related injuries.

1 New Section; Health Services; Emergency Plans for Sports Related Injuries. Amend RSA 200 by inserting after section 40-b the following new section:

40-c Emergency Plans for Sports Related Injuries.

I. The local board of each school district or the governing body of each nonpublic school that includes any of the grades 4 through 12, shall establish an emergency action plan for responding to serious or potentially life-threatening sports related injuries. Each plan shall:

(a) Document the proper procedures to be followed when a student sustains a serious injury or illness while participating in school sponsored sports or other athletic activity.

(b) List the employees, team coaches, and licensed athletic trainers in each school who are trained in first aid or cardio-pulmonary resuscitation.

(c) Identify the employees, team coaches, or licensed athletic trainers responsible for carrying out the emergency action plan.

(d) Identify the activity location, address, or venue for the purpose of directing emergency personnel.

(e) Identify the equipment and supplies and location thereof needed to respond to the emergency;

(f) Identify the location of any automated external defibrillators and personnel trained in the use of the automated external defibrillator.

(g) Document policies related to cooling for an exertional heat stroke victim consistent with guidelines established by the American College of Sports Medicine and the National Athletic Trainers' Association.

II. The plan shall be posted within each school and disseminated to, and coordinated with emergency medical services, fire department, and law enforcement. In addition, each school district shall adopt procedures for obtaining a comprehensive history of information relative to any injury or illness related to or involving any head, face, or cervical spine, cardiac injury or diagnosis, Covid-19, exertional heat stroke, sickle cell trait, asthma, allergies, or diabetes for each student athlete prior to engaging in activities; policies related to hydration, heat acclimatization and wet bulb globe temperature guidelines as established by the American College of Sports Medicine and the National Athletic Trainers' Association; and procedures for students to return to play after a positive Covid-19 diagnosis, which shall be kept on file by each school district and made available to the department of education and public upon request. Each plan shall be added to the school's emergency response plan and adopted procedures shall be reviewed annually and updated as necessary.

III. The plans shall be implemented by the beginning of the first full school year after the effective date of this section.

2 Effective Date. Part III of this act shall take effect September 1, 2022.

Amend Part IV of the bill by replacing section 1 with the following:

1 New Subparagraphs; Private Postsecondary Career Schools; Definitions. Amend RSA 188-G:1, II by inserting after subparagraph (l) the following new subparagraphs:

(m) Entities that have annual gross tuition of \$100,000 or less.

(n) Entities offering instructional programs or courses for teaching fitness and recreational wellness; provided that any such entity with gross annual income of over \$100,000 directly attributable to instructional programs or courses for teaching fitness and recreational wellness shall provide a surety bond as required in RSA 188-G:3.

Amend the bill by replacing Part V with the following:

PART V

Relative to environmental and outdoor education.

1 Findings.

I. New Hampshire has throughout its history relied on its natural resources for economic, social, and cultural development, and it has acted to steward its environment. New Hampshire has promoted agriculture, protected its water resources and its fish and game, has established the Society for the Protection of New Hampshire Forests, and passed the Weeks Act. It is recognized as a public good, promoted by environmental

organizations and state and municipal governments, to sustain a healthy New Hampshire environment. It is essential that New Hampshire citizens have access to and opportunities for connection with the natural world and become informed and responsible stewards.

II. New Hampshire's recreational future depends on how the state of New Hampshire, educational institutions, environmental organizations, and the outdoor recreation industry rise up and steward our natural resources.

III. New Hampshire's outdoor recreation sector in 2020 is 3.2 percent of the state's economy, the ninth highest of any state. New Hampshire's consumer outdoor recreation spending is \$8,700,000,000 providing 79,000 jobs, \$2,600,000,000 in wages, and \$528,000,000 in state and local taxes.

IV. In 2019, New Hampshire became the sixteenth state in the United States to approve of an office of outdoor recreation industry development to be housed within the New Hampshire department of business and economic affairs. The office is intended to advance the outdoor industry toward a sustainable and responsible future by focusing on land conservation, economic development, education, and health and wellness. In furtherance of these goals, New Hampshire supports the Granite Outdoor Alliance in its work to unite the ecosystem of outdoor enthusiasts across New Hampshire to protect yet grow an experience-driven lifestyle.

V. Therefore, it is in the public interest to provide environmental and outdoor recreation education for New Hampshire students.

VI. Environmental literacy requires having an understanding of the natural world and the capacity to interpret environmental systems.

VII. Environmental literacy is achieved, in part, through environmental education and outdoor recreational education. Environmental education integrates hands-on, project-based classroom, community experiences with outdoor, place-based, in-the-field and outdoor recreation experiences, including fishing and hunting, in order to achieve an understanding of the environment as a whole. Outdoor recreation education includes instruction in outdoor recreational activities and preparation for participation in the outdoor recreation industry.

2 State Board of Education; Department of Education; Environmental and Outdoor Recreation Education. By July 1, 2022, for implementation by July 1, 2023, the state board of education and the department of education shall review the model curriculum in environmental education and outdoor recreation education contained in the New Hampshire environmental literacy plan (2016) developed by the New Hampshire Environmental Educators and the New Hampshire Children in Nature Coalition, and shall revise state standards and frameworks as necessary, so that New Hampshire students shall have opportunities, as feasible and practical, in fulfilling the requirements for an adequate education, and selecting elective courses, and other formal and informal opportunities and instruction, to complete the curriculum at the elementary, middle, and high school levels.

3 Criteria for an Adequate Education. Amend RSA 193-E:2, III to read as follows:

III. Knowledge of the biological, physical, and earth sciences, ***including climate and environmental sciences***, to enable them to understand and appreciate the world around them.

4 Criteria for an Adequate Education; Science. Amend RSA 193-E:2, VI-VII to read as follows:

VI. Sound wellness and environmental practices, ***including outdoor recreation***, to enable them to enhance their own well-being, as well as that of others.

VII. Skills for lifelong learning, including interpersonal, ***environmental education skills***, and technological skills, to enable them to learn, work, and participate effectively in a changing society.

5 New Paragraph; Regional Career and Technical Education; Program. Amend RSA 188-E:5 by inserting after paragraph XI the following new paragraph:

XII. The director of career and technical education shall report to the advisory council on career and technical education by June 1, 2022 on the availability of programs in outdoor recreation and the potential for new programs to provide workforce training and appropriate credentialing in careers related to the outdoor recreation industry.

6 Department of Natural and Cultural Resources; Department of Business and Economic Development. The department of natural and cultural resources and the department of business and economic development shall investigate joining the Outdoor Recreation Industry Confluence Accords and report to the legislature its findings by June 1, 2022.

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

2021-0764s

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Vocational rehabilitation.
- II. Career and technical education.
- III. Emergency plans for sports related injuries.
- IV. Private postsecondary career schools.
- V. Environmental and outdoor education.

ELECTION LAW AND MUNICIPAL AFFAIRS

SB 88, adopting omnibus legislation relative to broadband.

Ought to Pass with Amendment, Vote 5-0. Senator Ward for the committee.

This Omnibus bill as amended will adopt legislation, in three separate parts, relative to the deployment of Broadband in New Hampshire. Part I will allow the creation of Communication District Planning Committees between two or more municipalities. Part II provides for the implementation of provisions for One Touch Make Ready, as adopted by the Federal Communications Commission. Finally, Part III improves upon the process that municipalities must adhere to in order to issue bonds for the purpose of financing the development of Broadband infrastructure. Additionally, it instructs the Office of Strategic Initiatives to maintain a list of all providers, by town, interested in receiving requests for information.

Election Law and Municipal Affairs

March 9, 2021

2021-0742s

05/10

Amendment to SB 88

Amend section 1 of Part II of the bill by replacing RSA 374:34-a, III with the following:

III. The commission shall adopt rules under RSA 541-A to carry out the provisions of this section, including appropriate formula or formulae for apportioning costs, **and shall adopt rules under RSA 541-A implementing the provisions of One Touch Make Ready (OTMR) as adopted by the Federal Communications Commission in 47 CFR 1.1411(j).**

Amend the bill by replacing Part III with the following:

PART III

Relative to the issuance of bonds for financing broadband infrastructure.

1 Broadband Infrastructure Bonds. Amend RSA 33:3-g, III and IV to read as follows:

III. A municipality, **county, or communications district** shall not issue bonds for the purpose of financing the development, construction, reconstruction, renovation, improvement, and acquisition of broadband infrastructure in any location within a municipality, **county, or communications district** unserved by broadband as defined in RSA 38:38, I(c) unless a request for information has been issued, at a minimum, to all providers serving the issuing community **in accordance with RSA 33:3-g, IV** and such providers have been given [~~2 months~~] **30 days** to respond to the request. The request for information [~~may~~] **shall** include, but is not limited to, information identifying [~~locations~~] **addresses** within a municipality, **county, or communications district**, served by broadband as defined in RSA 38:38, I(c). **A response shall meet the requirements of this paragraph if it includes, in either map or spreadsheet form, street level information identifying the first and last serviceable address.** After completing, issuing, and receiving responses to such request for information, a municipality, **county, or communications district** may issue a request for proposals for the purpose of engaging in a public-private partnership pursuant to RSA 33:3 or RSA 33-B for the deployment of broadband infrastructure, as defined in RSA 38:38, I(e), and the provision of broadband service as defined in RSA 38:38, I(f). A municipality, **county, or communications district** may select a proposal based on criteria including, but not limited to, provider ability to deploy, manage, and maintain a broadband network. **Requests for proposals shall include, in either map or spreadsheet form, street level information identifying the first and last serviceable address.** A municipality, **county, or**

communications district may determine that no provider has met the criteria included in the request for proposals and may issue bonds for purposes pursuant to RSA 33:3 and RSA 33-B, including but not limited to, open networks. If a broadband provider does not respond to a request for information pursuant to this paragraph, the locations served by that broadband provider shall be considered unserved, unless those locations are served by a broadband provider who responded to that municipality's request for information.

IV. ~~[Any request for information issued pursuant to this section after December 31, 2020 shall conform with a model request for information issued by the New Hampshire department of business and economic affairs.]~~ **The office of strategic initiatives shall maintain a list by town of all providers interested in receiving requests for information. The list shall include physical and electronic address information for interested providers and shall be updated as needed, but at least annually. For purposes of issuing requests for information pursuant to paragraph III, a municipality, county, or communications district shall reference the interested provider list maintained by the office of strategic initiatives and shall issue requests for information to all interested providers in that municipality, county, or communications district, both electronically and by United States mail.**

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

ENERGY AND NATURAL RESOURCES

SB 51, relative to the sale of lobster meat.

Ought to Pass with Amendment, Vote 5-0. Senator Giuda for the committee.

During the midst of the COVID-19 pandemic, many restaurants discovered that they needed a license from the NH Fish and Game Department to sell lobster that had been processed and packaged. This bill, as amended, revises RSA 211:38 to exclude restaurants from this licensure requirement if that restaurant purchases and sells processed and packaged lobster meat from a licensed wholesaler or processor. This change will bring NH into line with Maine and Massachusetts and ensure New Hampshire remains in compliance with the Atlantic States Marine Fisheries Commission, a compact of Atlantic coastal states and federal agencies that regulate various fisheries along the Atlantic coast.

Energy and Natural Resources

March 9, 2021

2021-0715s

04/10

Amendment to SB 51

Amend the bill by replacing section 1 with the following:

1 Lobsters and Crabs; Lobster Meat. Amend RSA 211:38 to read as follows:

211:38 Lobster Meat. No person shall sell lobster meat which has not been processed and sealed within containers which do not require refrigeration without first procuring a license to do so. ***Such license shall not be required for food service establishments licensed under RSA 143-A which purchase and sell processed and packaged lobster meat from a licensed wholesaler or processor.*** The executive director shall issue such license for a period of one calendar year pursuant to the provisions of RSA 211:39, RSA 211:49-aa, and RSA 211:49-c. The license shall expire on December 31 of each year.

2021-0715s

AMENDED ANALYSIS

This bill adds an exception to the licensing requirement for selling lobster meat.

SB 91, adopting omnibus legislation on renewable energy, utilities, and net metering.

Ought to Pass with Amendment, Vote 5-0. Senator Watters for the committee.

This bill, as amended, makes several changes to state statute. Part I provides regulatory guidance on the deployment and development of energy storage. Energy storage can help reduce peak demand, offer grid reliability, and benefit small and large energy users. Part II clarifies that small-scale hydroelectric facilities are eligible to participate in net metering as customer-generators based on their individual total peak generating capacity and should not be prohibited from participating simply because they share a single interconnection point. This will address a unique circumstance for three separately FERC licensed hydroelectric dams at Monadnock Paper Mills. Part III clarifies portions of Senate Bill 165 (2019). That bill provided group hosts of low-moderate income community solar projects with a payment for their ex-

cess generation with an additional adder. Part III fixes the adder amount at the time a solar project is qualified by the PUC for group host net metering. That adder is grandfathered for a defined term, offering predictability to those building and financing solar projects. Part IV creates a market-based approach to expand net metering for limited producers with capacities between 1 and 5 MWs that do not participate in interstate wholesale markets. These changes would allow these producers to sell their power through intrastate wholesale markets rather than participating in the ISO-New England wholesale markets. Part V makes comprehensive changes to NH's municipal aggregation statute. These changes mirror the work done on House Bill 315 and were the result of extensive discussions amongst members of the House Science, Technology, and Energy Committee, utilities, and municipal interests.

Energy and Natural Resources

March 9, 2021

2021-0724s

10/06

Amendment to SB 91

Amend the title of the bill by replacing it with the following:

AN ACT adopting omnibus legislation on renewable energy and utilities.

Amend the bill by replacing all after the enacting clause with the following:

1 Sponsorship. This act consists of the following proposed legislation:

Part I: LSR 21-0945, relative to the installation, interconnection, and use of energy storage systems by customers of utilities, sponsored by Sen. Watters, Prime/Dist 4; Sen. Perkins Kwoka, Dist 21; Sen. Rosenwald, Dist 13; Sen. Kahn, Dist 10; Sen. Sherman, Dist 24; Sen. D'Allesandro, Dist 20; Sen. Whitley, Dist 15; Rep. Oxenham, Sull. 1.

Part II: LSR 21-0881, relative to hydroelectric generators that share equipment for purposes of interconnection to the electric grid, sponsored by Sen. Bradley, Prime/Dist 3; Sen. Watters, Dist 4; Sen. Avard, Dist 12.

Part III: LSR 21-0988, relative to group host credits for net energy metering, sponsored by Sen. Perkins Kwoka, Prime/Dist 21; Sen. Watters, Dist 4; Sen. Sherman, Dist 24; Sen. Whitley, Dist 15; Rep. McWilliams, Merr. 27; Rep. Gourgue, Straf. 25.

Part IV: LSR 21-0991, relative to the purchase of output of limited electrical energy producers in intrastate commerce and including qualifying storage system, sponsored by Sen. Bradley, Prime/Dist 3; Sen. Watters, Dist 4; Sen. Avard, Dist 12; Sen. Giuda, Dist 2.

Part V: LSR 21-1007, relative to the aggregation of electric customers, sponsored by Sen. Avard, Prime/Dist 12; Sen. D'Allesandro, Dist 20; Rep. Lang, Belk. 4

2 Legislation Enacted. The general court hereby enacts the following legislation:

PART I

Relative to the installation, interconnection, and use of energy storage systems by customers of utilities.

1 Customer Energy Storage. RSA 374-H is repealed and reenacted to read as follows:

CHAPTER 374-H

CUSTOMER ENERGY STORAGE

374-H:1 Definitions. In this chapter:

I. "Commission" means the public utilities commission.

II. "Bring your own device" means a program for encouraging non-utility owned, and especially retail-customer owned, behind-the-meter energy storage to provide value to the electricity system, particularly in terms of peak reduction and avoided transmission and distribution costs. Such a program shall compensate participating behind-the-meter energy storage for a fair share, as determined by the commission, of the value it provides to the electricity system.

III. "Energy storage" means batteries, flywheels, compressed air energy systems, sensible heat storage or any other technology, system, or device capable of taking electricity and storing it as some form of energy

the technology, system, or device can either convert back into electricity or use to displace an electrical load at a later time. Such term shall include standalone technologies, systems, and devices, as well as those co-located with or incorporated into a renewable energy source.

IV. “Front-of-meter storage” means any energy storage that is not behind-the-meter storage and may include energy storage constructed, owned, and/or operated by utilities subject to the same use restrictions in RSA 374-G:4, I.

V. “ISO-New England” means the Independent System Operator New England or any successor entity.

VI. “Local network service” means the term as defined in ISO-New England’s transmission, markets, and services tariff, section II.

VII. “Non-utility” means any entity that is not a utility that develops, builds, owns, operates, or assists in the operation of one or more energy storage projects, including retail customers that buy behind-the-meter storage installed on their property.

VIII. “Regional network service” means the term as defined in ISO-New England’s transmission, markets, and services tariff, section II.

IX. “Renewable energy source” means a Class I, Class II, or Class IV renewable energy source as defined in RSA 362-F:4.

X. “Utility” and “utilities” mean public utilities as defined in RSA 362:2.

XI. “Wholesale electricity markets” means any energy, capacity, or ancillary service market that ISO-New England operates.

374-H:2 Customer Energy Storage Systems.

I. The commission shall adopt rules clarifying policy for the installation, interconnection, and use of energy storage systems by customers of utilities, and shall incorporate the following principles into the rules:

(a) It is in the public interest to limit barriers to the installation, interconnection, and use of customer-sited, behind-the-meter energy storage systems in New Hampshire.

(b) New Hampshire’s consumers of electricity have a right to install, interconnect, and use energy storage systems on their property, subject to appropriate size and safety requirements established by the commission, without the burden of unnecessary restrictions or regulations and without unduly discriminatory rates or fees.

(c) Utility approval processes and any required interconnection reviews of energy storage systems shall be simple, streamlined, and affordable for customers.

(d) The commission may approve mechanisms for a utility to compensate a non-utility for a fair share, as determined by the commission, of the value of any transmission or distribution costs actually avoided because of a non-utility energy storage project, to the extent practicable, based on determinable cost components.

(e) For behind-the-meter storage, the rules or orders shall allow for a bring-your-own-device peak reduction program. The commission may approve mechanisms for utilities to compensate such projects for a fair share, as determined by the commission, of their peak reduction value, as well as any transmission or distribution costs actually avoided because of the non-utility energy storage project, to the extent practicable based on determinable cost components.

II. Nothing in this section alters or supersedes either:

(a) The principles of net energy metering under RSA 362-A:9; or

(b) Any existing electrical permit requirements or any licensing or certification requirements for installers, manufacturers, or equipment.

374-H:3 Commission Investigation of Energy Storage.

I. The commission shall investigate ways to enable energy storage projects to receive compensation for avoided transmission and distribution costs, including but not limited to avoided regional and local network service charges, while also participating in wholesale energy markets. The commission shall investigate how this might be done for both utility-owned and non-utility-owned energy storage projects, as well as for both behind-the-meter storage and front-of-the-meter storage.

II. The commission's investigative proceeding shall specifically consider the following:

(a) How public policy can best help establish accurate and efficient price signals for energy storage projects that value their ability to avoid transmission and distribution costs while simultaneously reducing wholesale electricity market prices.

(b) How to compensate energy storage projects that participate in wholesale electricity markets for avoided transmission and distribution costs in a manner that provides net savings to consumers.

(c) How best to encourage both utility and non-utility investments in energy storage projects.

(d) The costs and benefits of a potential bring your own device program; how such a program might be implemented; any statutory or regulatory changes that might be needed to create, facilitate, and implement such a program; and whether such a program should include all distributed energy resources or be limited to distributed energy storage projects.

(e) Any statutory changes the general court should implement, including but not limited to changes to or exceptions from RSA 374-F or RSA 374-G, to enable energy storage projects to receive appropriate compensation for avoided transmission and distribution costs while also participating in wholesale energy markets.

(f) Any other topic the commission reasonably believes it should consider in order to diligently conduct the proceeding.

III. The commission shall report its findings and recommendations to the standing committees of the house of representatives and senate with jurisdiction over energy and utility matters no later than 2 years after initiating the proceeding. The report shall identify ways any recommended statutory changes can minimize any potential conflict with the restructuring policy principles of RSA 374-F.

2 Distributed Energy Resources; Definitions; Exclusions. Amend RSA 374-G:2 to read as follows:

374-G:2 Definitions; Exclusions.

I. The following definitions shall apply in this chapter except as otherwise provided:

(a) "Commission" means the public utilities commission.

(b) "Distributed energy resources" means **energy storage**, electric generation equipment[;] including clean and renewable generation, [~~energy storage~~], energy efficiency, demand response, load reduction or control programs, [~~and~~] **or** technologies or devices located on or interconnected to the local electric distribution system for purposes including but not limited to reducing line losses, supporting voltage regulation, or peak load shaving, as part of a strategy for minimizing transmission and distribution costs as provided in RSA 374-F:3, III.

(c) "**Electric generation equipment**" means **devices that produce electric power from sources of primary energy**.

(d) "**Primary energy**" means **an energy form found in nature that has not been subject to any human engineered conversion process including wind energy, solar energy, biomass, biofuels, geothermal energy, oil, natural gas, nuclear, hydro, and coal**.

II.(a) "Distributed energy resources" in this chapter shall exclude electric generation equipment interconnected with the local electric distribution system at a single point or through a customer's own electrical wiring that is in excess of 5 megawatts.

(b) "**Electric generation equipment**" in this chapter shall exclude energy storage equipment.

3 Electric Generation Equipment Funded by Public Utility; Distributed Energy Resources. Amend RSA 374-G:3, I to read as follows:

I. The energy produced by electric generation equipment owned by the public utility shall be used **to benefit low-income customers, with such benefit as determined by the commission**, as an offset to distribution system losses or the public utility company's own use, **or any other use as approved by the commission**;

4 Electric Utility Investment in Distributed Energy Resources. Amend RSA 374-G:4, II to read as follows:

II. Distributed electric generation owned by or receiving investments from an electric utility under this section shall be limited to a cumulative maximum in megawatts of 6 percent of the utility's total distribution peak load in megawatts. **This limitation shall not apply to front-of-meter energy storage, the energy storage pilot approved by commission order number 26,209, or demand response.**

5 Effective Date. Part I of this act shall take effect 60 days after its passage.

PART II

Relative to hydroelectric generators that share equipment for purposes of interconnection to the electric grid.

1 New Paragraph; Limited Electrical Energy Producers Act; Net Energy Metering. Amend RSA 362-A:9 by inserting after paragraph XIX the following new paragraph:

XX. A hydroelectric generator with a total peak generating capacity that is at or below the capacity eligibility requirements set forth in RSA 362-A:1-a, II-b and that first became operational before July 1, 2021 and that shares equipment or facilities with other generators or electric utility customers for interconnection to the electric grid, shall be eligible to participate in net energy metering as a customer-generator even if the aggregate capacity of the generators sharing equipment or facilities for interconnection to the electric grid exceeds the capacity eligibility requirements set forth in RSA 362-A:1-a, II-b. Such a hydroelectric generator shall be eligible to participate in net energy metering as a customer-generator based on its individual total peak generating capacity.

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

PART III

1 Net Metering; Group Host; Low -Moderate Income Community Solar Projects. Amend RSA 362-A:9, XIV(c) to read as follows:

(c)(1) Notwithstanding paragraph V, a group host shall be paid for its surplus generation at the end of each billing cycle at rates consistent with the credit the group host receives relative to its own net metering under either subparagraph IV(a) or (b) or alternative tariffs that may be applicable pursuant to paragraph XVI. Alternatively, a group host may elect to receive credits on the customer electric bill for each member and the host, with the utility being allowed the most cost-effective method of doing so according to an amount or percentage specified for each member on PUC form 909.09 (Application to Register or Re-register as a Host), along with a 3 cent per kwh addition from July 1, 2019 through July 1, 2021 and a 2.5 cent per kwh addition thereafter for low-moderate income community solar projects, as defined in RSA 362-F:2, X-a. ***The cent per kwh addition to the credit provided to any particular low-moderate income community solar project shall be in the amount in effect on the date that the commission issues a group host registration number for that project. The amount of the cent per kwh addition shall be grandfathered in accordance with the grandfathering provisions of the net metering tariff for customer-generators applicable to the project as in effect on the date the commission issues the project a group host registration number.***

(2) On or before July 1, 2022, the commission shall report on the costs and benefits of such an addition and the development of the market for low-moderate income community solar projects, and provide a recommendation on whether the addition shall be increased or decreased. The commission shall report on the costs and benefits of low-moderate income community solar projects, as defined in RSA 362-F:2, X-a on or before June 1, 2020. The commission shall authorize at least 2 new low-moderate income community solar projects, as defined in RSA 362-F:2, X-a, each year in each utility's service territory beginning January 1, 2020. On an annual basis, for all group host systems except for residential systems with an interconnected capacity under 15 kilowatts, the electric distribution utility shall calculate a payment adjustment if the host's surplus generation for which it was paid is greater than the group's total electricity usage during the same time period. The adjustment shall be such that the resulting compensation to the host for the amount that exceeded the group's total usage shall be at the utility's avoided cost or its default service rate in accordance with subparagraph V(b) or paragraph VI or alternative tariffs that may be applicable pursuant to paragraph XVI. The utility shall pay or bill the host accordingly.

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

PART IV

Relative to the purchase of output of limited electrical energy producers in intrastate commerce and including qualifying storage system

1 Definition; Limited Electrical Energy Producers; Limited Producer. Amend RSA 362-A:1-a, III to read as follows:

III. "Limited producer" or "limited electrical energy producer" means a qualifying small power producer, ***a qualifying storage system***, or a qualifying cogenerator, with a [total] ***maximum rated generating or discharge***

capacity of [not more] *less* than 5 megawatts, *that does not participate in net energy metering, that is not registered as a generator, asset, or network resource with ISO New England, and does not otherwise participate in any FERC jurisdictional wholesale electricity markets. Such non-participation in FERC jurisdictional intrastate wholesale markets may be achieved by retirement from such markets.*

2 New Paragraph; Definition; Qualifying Storage System. Amend RSA 362-A:1-a by inserting after paragraph IX the following new paragraph:

IX-a. “Qualifying storage system” means an electric energy storage system as defined in RSA 72:84.

3 Limited Electrical Energy Producers Act; Purchase of Output in Intrastate Commerce. RSA 362-A:2-a is repealed and reenacted to read as follows:

362-A:2-a Purchase of Output of Limited Producers in Intrastate Commerce.

I. A limited producer of electrical energy may sell its produced electrical energy to one or more purchasers other than the franchise electric utility. Such purchasers may be any retail electricity customers located within the same New Hampshire electric distribution utility franchise area as where the limited producer is located or any electricity suppliers serving retail load within such area.

II. Intrastate sales of electricity across the distribution grid shall be facilitated and accounted for by competitive electricity suppliers registered with the commission under RSA 374-F:7 or by municipal or county aggregations under RSA 53-E that are load-serving entities.

III. To participate in such intrastate sales of electricity over the distribution grid a limited producer must be equipped with a revenue grade interval meter that can accurately measure hourly exports to the distribution grid and report such meter data for daily load settlement purposes.

IV. The commission shall establish procedures to enable limited producers to sell electricity at wholesale within intrastate commerce and at retail, either directly or indirectly through electricity suppliers. The commission may establish such requirements and conditions concerning intrastate sales of electricity pursuant to this section that it deems necessary to avoid substantial risk or uncompensated costs to the electric utility in whose franchise area the sales takes place.

V. The limited producer, or the purchasers of their output, as determined by the commission, shall receive credit for actual avoided transmission charges if the intrastate wholesale or retail sale of such electricity reduces the retail load measured at the wholesale meter point between the distribution system under state jurisdiction and transmission facilities under federal jurisdiction such that transmission charges allocated to the distribution utility are reduced from what they otherwise would be absent the electricity exported to the distribution grid by the limited producer during hours of coincident peak on which transmission costs are allocated. Such credit shall be based on measurement of exports to the distribution grid at the retail meter point without additional credit for avoided line and transformation losses between the wholesale and retail meter points to provide some sharing of the benefit of reduced transmission charges with other ratepayers who do not participate in such intrastate electricity sales by limited producers.

VI. Purchasers of power from limited producers shall pay for the delivery of such power through tariffs, charges, and rates that are generally applicable to the customer’s rate class, except for default energy service charges if not applicable and transmission charges as they may be adjusted pursuant to paragraph V.

4 New Section; Electric Renewable Portfolio Standard; Exclusion to Amount of Electricity Supplied. Amend RSA 362-F by inserting after section 3 the following new section:

362-F:3-a Exclusions to the Amount of Electricity Supplied. If a provider of electricity has revenue grade meter data on the quantity of exports to the grid from a qualifying storage system as defined in RSA 362-A:1-a to the extent that it is charged from the grid, such amounts may be deducted from the calculation of electricity supplied by the provider to its end-use customers for the applicable year for purposes of compliance with RSA 362-F:3 as determined and provided for by the commission.

5 Utility Property Tax; Exclusion From Definition of Utility Property. Amend RSA 83-F:1, V(d) to read as follows:

(d) The electrical generation, production, *storage*, and supply equipment of an “eligible customer-generator” as defined in RSA 362-A:1-a, II-b, *and of a “limited producer” as defined in RSA 362-A:1-a, III if selling under RSA 362-A:2-a, for facilities with a rated electricity production capacity of up to and including one megawatt;*

6 Effective Date. Part IV of this act shall take effect 60 days after its passage.

Part V
Relative to the aggregation of electric customers

1 Aggregation of Electric Customers; Definition; Aggregation. Amend RSA 53-E:2, I to read as follows:

I. "Aggregation" means the grouping of retail electric customers to ~~[provide,] broker[;]~~ or contract for ~~[electric power supply and]~~ energy services for such customers.

2 New Paragraph; Definition; Energy Services. Amend RSA 53-E:2 by inserting after paragraph V the following new paragraph:

V-a. "Energy services" means the provision of electric power supply solely or in combination with any or all of the services specified in RSA 53-E:3.

3 Municipal and County Authority; Agreements. Amend RSA 53-E:3, II(a) to read as follows:

II.(a) Enter into agreements and provide for *energy services, specifically*:

(1) The supply of electric power *and capacity*.

(2) Demand side management.

(3) Conservation.

(4) Meter reading, *with commission approval for meters owned or controlled by the electric distribution utilities or used for load settlement*.

(5) Customer service *for aggregation provided services*.

(6) Other related services.

(7) The operation of energy efficiency and clean energy districts adopted by a municipality pursuant to RSA 53-F and as approved by the municipality's governing body.

4 Municipal Aggregators. Amend RSA 53-E:3-a to read as follows:

53-E:3-a Municipal Aggregators Authorized. Municipal aggregators of electricity load under this chapter, and municipalities operating municipal electric utilities under RSA 38, are expressly authorized to aggregate ~~[other] energy services [commonly and regularly billed to customers]~~ *as described in RSA 53-E:3*. Municipalities may operate approved aggregation programs as self-supporting enterprise funds including the use of revenue bonds pursuant to RSA 33-B and RSA 374-D and loans from other municipal enterprise funds as may be approved by the governing body and the legislative body of the municipality. Any such loans from other municipal enterprise funds shall be used for purposes that have a clear nexus to the primary purposes of such other funds, such as generation, storage, or sale of power generated from sites, facilities, or resources that might otherwise be operated or produced by the other enterprise fund. Nothing in this chapter shall be deemed to limit the capacity of customers to select any service or combination of services offered by such municipal aggregators or to limit the municipality from combining billing for ~~[any or all utility] energy services with other municipal~~ services.

5 Regulation of Aggregators. Amend RSA 53-E:4, I to read as follows:

I. An aggregator operating under this chapter shall not be considered a *public* utility ~~[engaging in the wholesale purchase and resale of electric power] under RSA 362:2~~ and shall not be considered a municipal utility under RSA 38. ~~[Providing electric power or energy services to aggregated customers within a municipality or county shall not be considered a wholesale utility transaction. However,]~~ A municipal or county aggregation may elect to participate in the ISO New England wholesale energy market as a load serving entity for the purpose of procuring or selling electrical energy or capacity on behalf of its participating retail electric customers, including itself.

6 Regulation of Aggregators. Amend RSA 53-E:4, IV to read as follows:

IV. For the purpose of obtaining interval meter data for load settlement, the provision of energy services, and near real-time customer access to such data, a municipal and county aggregator may contribute to the cost of electric utility provided meter upgrades, jointly own revenue grade meters with an electric utility, or provide its own revenue grade electric meter, which would be in addition to a utility provided meter[;]. *Such metering shall only be implemented* subject to the commission finding *it is* in the public good, *assuring that meters used for distribution tariff implementation remain under the control and majority*

ownership of the electric distribution utility, and [approval of] **otherwise approving** the terms and conditions for such arrangements, including sharing or transfer of meter data from and to the electric distribution utility.

7 Financial Responsibility. Amend RSA 53-E:5 to read as follows:

53-E:5 Financial Responsibility. Retail electric customers who choose not to participate in an aggregation program adopted under RSA 53-E:7 shall not be responsible for, and no entity shall require them to pay, any costs associated with such program, through taxes or otherwise except for electric power supply or energy services consumed directly by the municipality or county, or incidental costs, which may include costs necessary to comply with the provisions of this chapter up to the time that the aggregation starts to produce revenue from participating customers, **but shall not include any capitalized or operating costs of an aggregation program.**

8 Electric Aggregation Plan. Amend RSA 53-E:6, I to read as follows:

I. The governing body of a municipality or county may form an electric aggregation committee to develop a plan for an aggregation program for its citizens. A municipality or county may join other municipalities or counties in developing such plans. **A county plan may provide an aggregation program for all or a subset of municipalities within the county that request to participate by a majority vote of their respective governing bodies.**

9 Aggregation Program. RSA 53-E:7 is repealed and reenacted to read as follows:

53-E:7 Aggregation Program.

I. The governing body of a municipality or county may submit to its legislative body for adoption a final plan for an aggregation program or any revision to include an opt-out aggregation program, to be approved by a majority of those present and voting.

II. Every electric aggregation plan and any revision of a plan to include an opt-out default service program shall be submitted to the commission, either before or after being submitted by the governing body to the legislative body for approval, to determine whether the plan conforms to the requirements of this chapter and applicable rules of the commission. The commission shall approve any plan submitted to it unless it finds that it does not meet the requirements of this chapter and other applicable rules and shall detail in writing addressed to the governing bodies of the municipalities or counties concerned, the specific respects in which the proposed plan substantially fails to meet the requirements of this chapter and applicable rules. Failure to disapprove a plan submitted hereunder within 60 days of its submission shall constitute approval thereof. A municipality or county may submit a plan that is revised to comply with applicable requirements at any time and start the review process over. Any plan submitted to the commission under this paragraph shall also be submitted on the same date to the office of the consumer advocate under RSA 363:28 and any electric distribution utility providing service within the jurisdiction of the municipality or county. The consumer advocate, utilities, and members of the public may file comments about such plans within the first 21 days of their submission. Commission review and approval of electric aggregation plans shall not require a contested case but shall allow time for submission and consideration of any such comments.

III. If the plan is adopted or once adopted is revised to include an opt-out service, the municipality or county shall mail written notification to each retail electric customer within the municipality or county service area. To enable such mailed notification and notwithstanding RSA 363:38, after an aggregation plan is duly approved the electric distribution utility or utilities serving an adopting municipality or county shall provide to such municipality or county a current list of the names and mailing addresses of all electric customers taking distribution service within the municipality or county service area, and for such customers on utility provided default service, the account numbers and any other information necessary for successful enrollment in the aggregation. Notification shall include a description of the aggregation program, the implications to the municipality or county, and the rights and responsibilities that the participants will have under the program, and if provided on an opt-out basis, the fixed rate or charges that will apply. No retail electric customer shall be included in a program in which the customer does not know all of the rates or charges the customer may be subject to at least 30 days in advance and has the option, for a period of not less than 30 days from the date of the mailing, to opt out of being enrolled in such program, unless the customer affirmatively responds to the notification or requests in writing to be included in the program.

IV. Within 15 days after notification of the plan has been sent to retail electric customers in the service area, a public information meeting to answer questions on the program shall be held.

V. Services proposed to be offered by or through the aggregation shall be on an opt-in basis unless the adopted aggregation plan explicitly creates an opt-out alternative default energy service program where the rate or price is known at least 30 days in advance of its application and, for a period of not less than 30 days from the date notification is mailed, the customer has the opportunity to opt out of being enrolled in such program, by return postcard, website, or such additional means as may be provided. Customers who are on default service provided by an electric distribution utility shall be enrolled by the aggregator in an aggregation provided alternative default service if they do not elect to opt out. Customers opting out will instead remain on utility provided default service. Customers taking energy service from a competitive electricity supplier shall not be enrolled in any aggregation program, unless they voluntarily opt in.

VI. New customers to the electric distribution utility after the notification mailing required by paragraph III shall initially be enrolled in utility provided default service unless the customer has relocated within a single utility's service area and is continuing service with a competitive supplier or a municipal or county aggregation program. Upon request of an aggregator, but not more frequently than monthly and notwithstanding RSA 363:38, the utility shall make available to each operating municipal aggregation, or county aggregation where there is no municipal aggregation, the names, account numbers, mailing addresses, and any other information necessary for successful enrollment in the aggregation of customers that are new to or then currently on electric distribution utility provided default service after they have provided the customer list for the initial customer mailing required by paragraph III and that are located within the aggregation service area. The aggregation shall periodically mail a written notification to such new customers that have not previously opted out of the aggregator's service and shall enroll them in the aggregation consistent with the opt-in or opt-out requirements of this paragraph and paragraph III.

VII. Municipal aggregations shall take priority or precedence over any county aggregations and each such aggregation shall be responsible for assuring that customers are enrolled with the correct aggregation.

VIII. Customers enrolled in a municipal- or county-provided default service shall be free to elect to transfer to utility provided default service or to transfer to a competitive electricity supplier with adequate notice in advance of the next regular meter reading by the distribution utility, in the same manner as if they were on utility provided default service or as approved by the commission. No such customer shall be required to pay any exit fee or charge for such transfer. Customers requesting transfer of supply service upon dates other than on the next available regular meter reading date may be charged an off-cycle meter reading and billing charge. Upon request of the customer the aggregator shall transfer the customer back to utility provided default service.

IX. Once adopted, an aggregation plan and program may be amended and modified from time to time as provided by the governing body of the municipality or county. In all cases the establishment of an opt-out default service program shall be approved as provided in paragraphs I, II, and IV.

X. The commission shall adopt rules, under RSA 541-A, to implement this chapter and, to the extent authorities granted to municipalities and counties by this chapter materially affect the interests of electric distribution utilities and their customers, to reasonably balance such interests with those of municipalities and counties for the public good, which may also be done through adjudicative proceedings to the extent specified or not addressed in rules. Such rules shall include but not be limited to rules governing the relationship between municipal and county aggregators and distribution utilities, metering, billing, access to customer data for planning and operation of aggregations, notice of the commencement or termination of aggregation services and products, and the reestablishment of a municipal or county aggregation that has substantially ceased to provide services. Where the commission has adopted rules in conformity with this chapter, complaints to and proceedings before the commission shall not be subject to RSA 541-A:29 or RSA 541-A:29-a.

10 New Section; Billing Arrangements. Amend RSA 53-E by inserting after section 8 the following new section:
53-E:9 Billing Arrangements.

I. For purposes of this section the term "supplier" shall mean an aggregator functioning as a load serving entity under this chapter or a competitive electricity supplier serving an aggregation under this chapter. The term shall also include competitive electricity suppliers generally to the extent and for such customer rate classes as the commission finds, after notice and hearing, that it is for the public good. Such a determination shall be on a utility-specific basis, if proposed and assented to by the utility.

II. Each electric distribution utility shall propose to the commission for review and approval a program for the purchase of receivables of the supplier in which the utility shall pay in a timely manner the amounts

due such suppliers from customers for electricity supply and related services less a discount percentage rate equal to the utility's actual uncollectible rate, adjusted to recover capitalized and operating costs specific to the implementation and operation of the purchase of receivables program, including working capital. Additionally, such discount rate adjustments shall include a pro rata share of the cost of administering collection efforts such that the utility's participation in the purchase of receivables program shall not require the utility or non-participating consumers to assume any costs arising from its use. Such pro rata costs must include, but not be limited to, any increases in the utility's bad debt write-offs attributable to participants in the purchase of receivables program, as approved by the commission. However, the allocation of costs arising from different rate components and determination of the uncollectible rate shall be equitably allocated between such suppliers, utility provided default service, and other utility charges that are a part of consolidated billing by the utility as approved by the commission. The discount percentage rate shall be subject to periodic adjustment as approved by the commission.

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

2021-0724s

AMENDED ANALYSIS

This bill adopts legislation relative to:

I. Requiring the public utilities commission to adopt rules clarifying policy for the installation, interconnection, and use of energy storage systems by utility customers.

II. Hydroelectric generators that share equipment for purposes of interconnection to the electric grid.

III. Group host credits for net energy metering.

IV. The purchase of output of limited electrical energy producers in intrastate commerce and including qualifying storage system.

V. The aggregation of electric customers.

SB 146-FN, adopting omnibus legislation relative to the environment.

Ought to Pass with Amendment, Vote 5-0. Senator Watters for the committee.

This bill, as amended, makes several changes to state statute pertaining to the NH Department of Environmental Services and the NH Fish and Game Department. Part I codifies Coastal Program into state statute. This program provides funding and staff assistance to communities within NH's coastal zone to protect clean water, restore coastal habitats, and help make communities more resilient to flooding and natural hazards. Part II establishes a state solid waste disposal reduction goal. This statutory change was a top priority of the HB 617 Study Committee (2019). Reframing this goal will make it easier to measure progress, help the state better identify our solid waste challenges, and outline strategies and opportunities to manage our solid waste. Part III enables NH to prepare for zoonotic disease transmission. These diseases can spread from animals to humans, and evidence indicates that many of the world's worst epidemics and pandemics have been zoonotic in origin. Part IV makes technical changes to RSA 485-A:8, V. This needed change gives wastewater treatment facilities that discharge into tidal waters the flexibility to test for fecal bacteria while complying with EPA and National Shellfish Sanitation Program regulations. Part V requires NH Fish and Game Department's Executive Director to establish a surcharge on certain saltwater licenses through administrative rulemaking. However, this surcharge is waived if a licensee can demonstrate their participation in a coastal cleanup program. This unique mechanism will help provide additional funding for coastal cleanup programs and shift the responsibility for derelict fishing gear to the producer. Part VI aligns the definition of a high-water mark under RSA 483-C:1, V with that of a 1999 NH Supreme Court ruling.

Energy and Natural Resources

March 11, 2021

2021-0791s

08/04

Amendment to SB 146-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Sponsorship. This act consists of the following proposed legislation:

Part I. LSR 21-0255, establishing the coastal program administered by the department of environmental services, sponsored by Sen. Watters, Prime/Dist 4; Sen. Gannon, Dist 23; Sen. Gray, Dist. 6; Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Edgar, Rock 21; Rep. Spang, Straf 6.

Part II. LSR 21-0256, establishing a statewide solid waste disposal reduction goal, sponsored by Sen. Watters, Prime/Dist 4; Sen. D'Allesandro, Dist 20; Sen. Rosenwald, Dist 13; Sen. Prentiss, Dist 5; Sen. Perkins Kwoka, Dist 21; Sen. Whitley Dist 15; Sen. Sherman, Dist 24; Rep. Ebel, Merr 5; Rep. Grassie, Straf 11; and Rep. Murray, Hills 22.

Part III. LSR 21-0926, relative to the prevention of zoonotic disease transmission, sponsored by Sen. Watters, Prime/Dist 4; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; and Rep. Bixby, Straf 17.

Part IV. LSR 21-0927, relative to tidal waters, sponsored by Sen. Watters, Prime/Dist 4; Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Cushing, Rock 21; and Rep. Simpson, Rock 36.

Part V. LSR 21-0823, establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup, sponsored by Sen. Watters, Prime/Dist 4; Sen. Perkins Kwoka, Dist 21; Sen. Sherman, Dist 24; and Rep. Spang, Straf 6.

Part VI. LSR 21-1062, relative to public use of coastal shorelands, sponsored by Sen. Sherman, Prime/Dist 24; Sen. Soucy, Dist 18; Rep. Murray, Rock 24; and Rep. Cushing, Rock 21.

2 Legislation Enacted. The general court hereby enacts the following legislation:

PART I

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

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

CHAPTER 485-I COASTAL PROGRAM AND FUND

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

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

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

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

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

IV. Public access to the coasts for recreation purposes.

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

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

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

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

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. For the purposes of this section "goal" shall not establish a mandate.***

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, **2023** ~~[of every odd-numbered]~~ **and every odd-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]~~ **2022, in accordance with the state waste planning update schedule requirements of this section dating to October 1, 1998**, and every ~~[6]~~ **10** years thereafter, the department shall update the state's solid waste plan, **which shall be made available for public review and comment before final publication, and which shall contain, at minimum, the following elements:**

(a) Goals, strategies, and actions to reduce solid waste generation through source reduction, to increase diversion through methods such as reuse, recycling and composting, and to achieve the state's solid waste disposal reduction goal, with such efforts incorporating the principles of the solid waste management hierarchy established in RSA 149-M:3.

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

(c) Goals, strategies, and actions necessary to maintain and ensure adequate disposal capacity for management of waste generated in New Hampshire.

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

PART III

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 needs to prepare for the emergence and management of novel zoonotic pathogens that may threaten public health, food security, biological diversity and economic security.

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

207:14-b Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. The fish and game department shall monitor available information on animals and fish, not currently restricted under state and federal wildlife trafficking laws, that if transported into the state, will risk zoonotic disease transmission. The department may consult as needed with the department of health and human services, the state veterinarian, and scientific and educational institutions. The department shall make recommendation to the legislature on any legislation or rules needed for import or other restrictions on identified species, and to the governor if an emergency order is deemed necessary.

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

CHAPTER 428-A
LIVE ANIMAL MARKETS

428-A:1 Definitions. In this chapter:

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

II. "Live animal market" means a retail food store or other site subject to RSA 143:2 and RSA 143:3 where, in the regular course of business, animals are stored alive and sold to consumers for the purpose of human consumption.

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

IV. "Taxon" means a taxonomic group, such as a species, family, or class, known or likely to be responsible for zoonotic transmission of a disease, as determined by the director under RSA 207:14-b.

428-A:2 Operation of Live Animal Markets. During the operation of a live animal market:

I. No animal shall be offered for sale at a live animal market that is of a taxon known or likely to be responsible for zoonotic transmission of a disease, as determined by the director under RSA 207:14-b.

II. Wildlife species that are identified as known or likely carriers of zoonotic disease under RSA 207:14-b shall not be caged, handled, or transported with livestock or domestic animals, and shall not be sold in spaces near livestock or domestic animals.

III. Wildlife species that are identified as known or likely carriers of zoonotic disease under RSA 207:14-b shall not be permitted to be sold in a live animal market or a live wildlife market.

IV. In addition to wildlife covered by federal statues on wildlife trafficking, no bat, rodent, or primate species shall be sold in live animal markets.

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 and live wildlife 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. Any person who violates this chapter:

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

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

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

PART IV

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. Those tidal waters used for growing or taking of shellfish for human consumption shall, ~~in addition to the foregoing requirements, be in accordance with the criteria recommended under the National Shellfish Program Manual of Operation, United States Department of Food and Drug Administration~~ **not exceed a geometric mean most probable number (MPN) of 14 organisms per 100 ml for fecal coliform, nor shall more than 10 percent of the samples exceed an MPN of 28 per 100 ml for fecal coliform, or other values of equivalent protection based**

on sampling and analytical methods used by the department of environmental services shellfish program and approved in the latest revision of the National Shellfish Sanitation Program, Guide For The Control of Molluscan Shellfish.

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

PART V

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

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

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

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

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

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

III-c. The executive director shall establish a surcharge on each class of license issued under paragraph III-a of not more than \$25 nor less than \$10 to be deposited in the derelict fishing gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and shall adopt rules for implementing and collecting the surcharge. Any person who satisfactorily demonstrates to the executive director that he or she is participating in a coastal cleanup program shall not be required 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.

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

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

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

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

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

II. The fees for the northern shrimp resident and nonresident licenses shall be set by the executive director pursuant to RSA 206:10, I. ***The executive director shall establish a surcharge on each license issued under this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and shall adopt rules for implementing and collecting the surcharge. Any person who satisfactorily demonstrates to the executive director that he or she is participating in a coastal cleanup program shall not be required 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.***

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

II-b. The executive director shall adopt rules, pursuant to RSA 541-A, for the issuance of 5-year licenses under this section to oyster aquaculture operations in the Great Bay estuary, and the fees, terms, and conditions therefor as authorized under paragraph II-a. ***The executive director shall establish a surcharge on each license issued under this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and shall adopt rules for implementing and collecting the surcharge. Any person who satisfactorily demonstrates to the executive director that he or she is participating in a coastal cleanup program shall not be required 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 V of this act shall take effect January 1, 2022.

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

PART VI

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 VI of this act shall take effect upon its passage.

2021-0791s

AMENDED 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. The prevention of zoonotic disease transmission.
- IV. Tidal waters.
- V. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.
- VI. Public use of coastal shorelands.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 143-FN, adopting omnibus legislation relative to certain agency requests. Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

This bill adopts legislation relative to the appointment of counsel for a minor in a juvenile delinquency proceeding, the recovery of unauthorized payments by the State, as requested by the Department of Health and Human Services, alternative dispute resolution, allowing judicial referees to issue orders in non-contested probate matters, permitting a Supreme Court Justice to sit as a Circuit Court judge, payment of costs for services other than counsel for indigent parties, requiring a penalty assessment on violations, cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions, emergency medical and trauma services data, the appeal of a claim denied by the victims' assistance commission, insurance company licenses, and the New Hampshire National Guard enlistment incentive program. All of the provisions of SB 143-FN were requests by State Agencies or Departments. The Committee Amendment makes two technical changes requested by the Department of Health and Human Services and the Department of Information Technology to better achieve the goals of their parts of this omnibus bill.

Senate Executive Departments and Administration
 March 10, 2021
 2021-0776s
 04/05

Amendment to SB 143-FN

Amend Part II of the bill by replacing section 1 with the following:

1 Public Assistance to Blind, Aged, or Disabled Persons, and to Dependent Children; Unauthorized Payments; Recovery by State. RSA 167:17-a is repealed and reenacted to read as follows:

167:17-a Unauthorized Payments; Recovery by State. Any sums paid to or on behalf of any person for any public assistance program under the provisions of RSA 167 as a result of any failure to report collateral resources pursuant to each program's requirements, false statement, misrepresentation or concealment of or failure to disclose the receipt of property, wages, income, or resources by such person, or by any person legally liable for such person's support, or in the case of supplemental nutrition assistance program (SNAP) benefits overpaid in error, without regard to the reason for such SNAP benefit overpayment, if required by federal law, may be recovered through administrative or judicial process, in an action brought by the state or the commissioner of the department of health or human services, or his or her designee, against such individual. This recovery shall be limited by the provisions of RSA 161:10. The commissioner of the department of health and human services shall recover any unauthorized payments by reasonably adjusting current and future grant amounts received by the person violating the provisions of this section, or through the return of the overpayment through repayment to the department. A person who knowingly, and with malfeasance, assists a recipient or other person in obtaining an overpayment shall be jointly and severally liable for the overpayment.

Amend Part VIII of the bill by replacing section 3 with the following:

3 New Section; Duties of Towns; Cybersecurity. Amend RSA 31 by inserting after section 103-a the following new section:

31:103-b Cybersecurity. The governing body, or chief administrative officer or designee of any political subdivision, who knows of or suspects a cybersecurity incident within such political subdivision, or within any vendor acting as an agent of the political subdivision, shall immediately report such incident, upon discovery, and shall disclose all known information and interactions to the New Hampshire cyber integration center of the department of information technology. The state shall hold harmless a governing body, or chief administrative officer or designee of a political subdivision, for failing to report a cyber security incident because they were unaware such incident had occurred.

SB 153-FN, relative to retirement benefits for a police officer or firefighter disabled as a result of a violent injury. Re-refer to Committee, Vote 5-0. Senator Carson for the committee.

This bill establishes a disability retirement benefit and a medical insurance benefit for a group II police or fire member who is violently injured in performance of duties. While the Committee was moved by the testimony it heard, the Committee felt that there was more work that needed to be done on the process of creating a new pension and insurance benefit system before an OTP or ITL recommendation could be made. Re-referring SB 153-FN will allow that work to be done.

SB 161-FN, relative to non-fraud overpayments for unemployment benefits. Re-refer to Committee, Vote 5-0. Senator Carson for the committee.

This bill prohibits the commissioner of the Department of Employment Security from charging interest in the settlement of overpaid unemployment compensation where fraud is not an issue, collecting overpayments of unemployment compensation until a debtor has exhausted all administrative remedies, and collecting overpayments during the state of emergency due to COVID-19, including overpayments that occurred prior to the emergency order. Following a review for compliance with United States Department of Labor regulations, the Committee felt it was best to re-refer the bill and give the sponsor time to work with the Department of Employment Security to ensure New Hampshire's compliance status would not be harmed by this bill.

HEALTH AND HUMAN SERVICES

SB 149-FN, adopting omnibus legislation on health and human services. Ought to Pass with Amendment, Vote 5-0. Senator Gray for the committee.

This bill, as amended, adopts omnibus legislation with four parts. The first part of the bill clarifies the Medicaid spend-down requirements and requires a report to the oversight committee on health and human services. This part of the bill provides clarification for individuals who utilize the Medicaid program. The second part of the bill establishes a harm reduction and overdose prevention program in the department of health and human services. This part of the bill assists in resolving the opioid crisis. The third part of the bill is relative to automated pharmacy systems. This part of the bill regulates and allows for the use of automated pharmacy systems used by long-term care facilities, hospices, or state correctional institutions. The COVID-19 pandemic has drastically increased the need for automated pharmacy systems. The fourth part of the bill is relative to health facilities providing care in the declared emergency. This part of the bill establishes employees, agents and volunteers of health facilities engaged in, preparing for and/or carrying out "emergency management" functions when complying with any executive order, agency order, or rule shall not be liable for the death of or injury to persons, or for damage to property, as a result of such compliance or reasonable attempts to comply with such an emergency order or rule.

Health and Human Services

March 10, 2021

2021-0788s

10/04

Amendment to SB 149-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Sponsorship. This act consists of the following proposed legislation:

Part I. LSR 21-0427, clarifying Medicaid spend-down requirements and requiring a report to the oversight committee on health and human services, sponsored by Sen. Rosenwald, Prime/Dist 13; Sen. Hennessey, Dist 1; Sen. Whitley, Dist 15; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; Rep. Guthrie, Rock. 13; Rep. McMahon, Rock. 7; Rep. Marsh, Carr. 8; Rep. Knirk, Carr. 3; Rep. Mullen, Hills. 7.

Part II. LSR 21-0837, establishing a harm reduction and overdose prevention program in the department of health and human services, sponsored by Sen. Watters, Prime/Dist 4; Sen. Sherman, Dist 24; Sen. Whitley, Dist 15; Sen. D'Allesandro, Dist 20; Rep. Amanda Bouldin, Hills 12; Rep. Woods, Merr. 23; Rep. Conley, Straf. 13.

Part III. LSR 21-0936, relative to automated pharmacy systems, sponsored by Sen. Carson, Prime/Dist 14.

Part IV. LSR 21-1006, relative to health facilities providing care in the declared emergency, sponsored by Sen. Gray, Prime/Dist 6.

2 Legislation Enacted. The general court hereby enacts the following legislation:

PART I

Clarifying Medicaid spend-down requirements and requiring
a report to the oversight committee on health and human services.

1 New Section; Spend-Down Requirements for Medical Expenses. Amend RSA 167 by inserting after section 4-d the following new section:

167:4-e Spend-down Requirements for Medical Expenses. For the purposes of off-setting the Medicaid spend-down requirements, mental health expenses shall be included as medical expenses.

2 Report to Oversight Committee on Health and Human Services.

I. The department of health and human services shall submit an interim report on or before October 1, 2021, to the oversight committee on health and human services, established pursuant to RSA 126-A:13, relative to actions taken to ensure the uniform application of spend-down requirements. The report shall include a description of how spend-down requirements were addressed in remedial staff training programs, updates to the policy manual, and updates to the brochure and any other department publications.

II. The department shall submit a final report by October 1, 2022, on the application of spend-down requirements. The report shall include data indicating how spend-down requirements have been applied since the interim report was filed.

3 Effective date. Part I of this act shall take effect upon its passage.

PART II

Establishing a harm reduction and overdose prevention program
in the department of health and human services.

1 Findings. The legislature finds and declares all of the following:

I. Overdose deaths in New Hampshire are an urgent public health crisis. For many years, overdose has been the leading cause of accidental death in the United States and in New Hampshire.

II. Harm reduction and overdose prevention programs (OPPs) are an evidence-based harm reduction strategy that allow individuals to consume drugs in a hygienic environment under the supervision of trained staff, who are able to intervene if the patient overdoses. OPPs also provide sterile consumption equipment and offer general medical advice and referrals to drug treatment and other community social services.

III. There are approximately 165 overdose prevention programs operating in 10 countries around the world, and numerous peer-reviewed studies have confirmed that those programs are effective in reducing overdose deaths and HIV transmission, and in increasing access to counseling, treatment, and other risk reduction services. Research has also demonstrated that those programs decrease use of emergency medical services, reduce public drug use, reduce syringe debris, and do not increase crime or drug use.

IV. An analysis published in the Journal of Drug Issues in 2016, OPPs in New Hampshire would save the state and municipalities substantial funds by reducing other costs due to opioid use and overdose.

V. An increase in overdose deaths was observed nationwide in 2020 according to the Office of National Drug Control Policy, rising 16.6 percent, based on a comparison of January to April, inclusive, of 2019 with the same time frame of 2020.

VI. As demands for reform of the criminal legal system reverberate around the country, OPPs offer an alternative framework for addressing both drug use as well as the enforcement of drug laws. OPPs bring people inside to a safe and therapeutic space, instead of leaving them vulnerable to police intervention, arrest, and incarceration.

VII. It is the intent of the legislature to promote the health and safety of communities by evaluating the health impacts of OPPs. It is the intent of the legislature to prevent fatal and nonfatal drug overdoses, reduce drug use by providing a pathway to drug treatment, as well as medical and social services for high-risk drug users, many of whom are homeless or uninsured or very low income, prevent the transmission of HIV and hepatitis C, reduce nuisance and public safety problems related to public use of controlled substances, reduce emergency room use and hospital utilization related to drug use, reserving precious space, including intensive care beds, for treatment of COVID-19, and other life-threatening conditions.

VIII. Further, it is the intent of the legislature that OPPs should be evaluated in New Hampshire municipalities that authorize them, as OPPs show great promise to save lives, enhance public safety, improve access to drug treatment, medical care, and related services, reduce emergency department and hospital utilization related to drug overdose, and reduce the human, social, and financial costs of epidemics of drug misuse, homelessness, and COVID-19.

2 New Subdivision; Harm Reduction and Overdose Prevention Programs. Amend RSA 318-B by inserting after section 45 the following new subdivision:

Harm Reduction and Overdose Prevention Programs

318-B:45-a Harm Reduction and Overdose Prevention Programs

I.(a) Notwithstanding any other law, a New Hampshire municipality may approve entities within its jurisdiction to establish and operate overdose prevention programs for persons 18 years of age or older that satisfy the requirements set forth in paragraph IV.

II. Prior to approving an entity within its jurisdiction pursuant to paragraph I, a municipality shall provide local law enforcement officials, local public health officials, and the public with an opportunity to comment in a public meeting. The notice of the meeting to the public shall be sufficient to ensure adequate participation in the meeting by the public. The meeting shall be noticed in accordance with all state laws and local ordinances, and as local officials deem appropriate.

III.(a) The following entities, if self-funded, may operate an OPP upon approval of the municipality's governing body in New Hampshire to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs:

- (1) Federally qualified health centers.
- (2) Community health centers.
- (3) Public health networks.
- (4) AIDS service organizations.
- (5) Substance misuse support or treatment organizations.
- (6) Community based organizations.

(b) The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, further defining the entities which may operate an overdose prevention program.

IV. Any entity operating an OPP in New Hampshire shall:

(a) Provide a hygienic space supervised by health care professionals where people who use drugs can consume pre-obtained drugs. For purposes of this paragraph, "health care professional" includes, but is not limited to, a physician, physician assistant, nurse practitioner, licensed vocational nurse, registered nurse, psychiatrist, psychologist, licensed clinical social worker, licensed professional clinical counselor, mental health provider, social service provider, or substance use disorder provider, trained in overdose recognition and reversal.

(b) Provide sterile consumption supplies, collect used hypodermic needles and syringes, and provide secure hypodermic needle and syringe disposal services.

(c) Administer first aid, if needed, monitor participants for potential overdose, and provide treatment as necessary to prevent fatal overdose.

(d) Provide referral and linkage to HIV, viral hepatitis, and substance use disorder prevention, care, and treatment services, as appropriate.

(e) Coordinate and collaborate with other local agencies, organizations, and providers involved in comprehensive prevention programs for people who inject drugs to minimize duplication of effort.

(f) Attempt to be a part of a comprehensive service program that may include, as appropriate:

(1) Providing sterile needles, syringes, and other drug preparation equipment and disposal services.

(2) Educating and counseling to reduce sexual, injection, and overdose risks.

(3) Providing condoms to reduce risk of sexual transmission of viral hepatitis, HIV, or other STDs.

(4) Screening for HIV, viral hepatitis, STDs, and tuberculosis.

(5) Providing naloxone to reverse opioid overdoses.

(6) Providing referral and linkage to HIV, viral hepatitis, STD and tuberculosis prevention, treatment, and care services, including antiretroviral therapy for hepatitis C virus (HCV) and HIV, pre-exposure prophylaxis (PrEP), post-exposure prophylaxis (PEP), prevention of mother-to-child transmission, and partner services.

(7) Providing referral and linkage to hepatitis A virus (HAV) and hepatitis B virus (HBV) vaccination.

(8) Providing referral and linkage to and provision of substance use disorder treatment including medication assisted treatment for opioid use disorder which combines drug therapy such as methadone, buprenorphine, or naltrexone with counseling and behavioral therapy.

(9) Providing referral to medical care, mental health services, and other support services.

(g) Post its address, phone number, program contact information, if appropriate, hours of operation, and services offered on its Internet website.

(h) Provide reasonable security of the program site.

(i) Establish operating procedures for the program, made available to the public either through an Internet website or upon request, that are publicly noticed, including, but not limited to, standard hours of operation, a minimum number of personnel required to be on site during those hours of operation, the licensing and training standards for staff present, an established maximum number of individuals who can be served at one time, and an established relationship with the nearest emergency department of a general acute care hospital, as well as eligibility criteria for program participants.

(j) Train staff members to deliver services offered by the program.

(k) Establish a good neighbor policy that facilitates communication from and to local businesses and residences, to the extent they exist, to address any neighborhood concerns and complaints.

(l) Establish a policy for informing local government officials and neighbors about the approved entity's complaint procedures, and the contact number of the director, manager, or operator of the approved entity.

(m) Register with the department of health and human services and confirm registration annually on or before November 1 of each subsequent year; provided however, the registration process shall be limited to notification to the department for data collection purposes only.

(n) Report quarterly to the department, which report shall include the following information regarding the program's activities:

(1) The number of program participants.

(2) Aggregate information regarding the characteristics of program participants.

(3) The number of hypodermic needles and syringes distributed for use on site.

(4) The number of overdoses experienced and the number of overdoses reversed on site.

(5) The number of persons referred to substance misuse treatment/services.

(6) The number of individuals directly and formally referred to other services and the type of service.

V. Notwithstanding any other law, a person or entity, including, but not limited to, property owners, managers, employees, volunteers, clients or participants, and employees of the New Hampshire municipalities, state agencies, hospitals, or overdose prevention programs, acting in the course and scope of employment, shall not be arrested, charged, or prosecuted under RSA 318-B:2 for possession of controlled substances, posses-

sion of drug paraphernalia, or allowing drug use on premises, including for attempt, aiding and abetting, or conspiracy to commit a violation of any of those offenses, or otherwise be penalized solely for actions, conduct, or omissions on the site of a harm reduction and overdose prevention program approved under this section, or for conduct relating to the approval of an entity to operate an OPP, or the inspection, licensing, or other regulation of an OPP approved under this section.

VI. Nothing in this section shall be construed to prohibit the department of health and human services from administering and/or disbursing federal or other funds to harm reduction and overdose prevention programs authorized under this section. The use of state general funds shall be prohibited unless otherwise appropriated by the general court.

VII. No overdose prevention program shall be located within a drug-free school zone as defined in RSA 193-B:1, II. Exceptions to this prohibition may be granted by the applicable district school board when a request is initiated by a overdose prevention program administrator.

3 Syringe Service Programs; Reference Added. Amend RSA 318-B:44 to read as follows:

318-B:44 Syringe Service Programs; Affirmative Defense. It is an affirmative defense, as provided in RSA 626:7, to prosecution for possession of a hypodermic syringe or needle that the item was obtained through participation in a syringe service program *or an overdose prevention program under RSA 318-B:45-a*. Nothing in this section shall be construed as an affirmative defense for any offense other than as set forth under RSA 318-B:26, ~~II(e)~~ **II(e)**.

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

PART III

Relative to automated pharmacy systems.

1 New Section; Pharmacies; Automated Pharmacy Systems. Amend RSA 318 by inserting after section 42 the following new section:

318:42-a Automated Pharmacy Systems; Long-term Care Facilities, Hospices, or State Correctional Institutions.

I. A pharmacy may provide pharmacy services to a long-term care facility or hospice licensed under RSA 151 or to a state correctional institution through the use of an automated pharmacy system that need not be located at the same location as the pharmacy.

II. Medicinal drugs stored in bulk or unit of use in an automated pharmacy system servicing a long-term care facility, hospice, or correctional institution are part of the inventory of the pharmacy providing pharmacy services to that facility, hospice, or institution, and drugs delivered by the automated pharmacy system are considered to have been dispensed by that pharmacy.

III. The operation of an automated pharmacy system shall be under the supervision of a New Hampshire-licensed pharmacist. To qualify as a supervisor for an automated pharmacy system, the pharmacist need not be physically present at the site of the automated pharmacy system and may supervise the system data electronically. The New Hampshire-licensed pharmacist shall be required to develop and implement policies and procedures designed to verify that the medicinal drugs delivered by the automated dispensing system are accurate and valid and that the machine is properly restocked.

IV. This section is not intended to limit the current practice of pharmacy in this state. This section is intended to allow automated pharmacy systems to enhance the ability of a pharmacist to provide pharmacy services in locations that do not employ a full-time pharmacist. This section does not limit or replace the use of a consultant pharmacist.

V. The board shall adopt rules governing the use of an automated pharmacy system under this section, not later than January 1, 2022, which shall specify:

- (a) Recordkeeping requirements;
- (b) Security requirements; and
- (c) Labeling requirements.

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

PART IV

Relative to health facilities providing care in the declared emergency.

1 New Section; Department of Safety; Homeland Security and Emergency Management; Novel Coronavirus Disease (COVID-19); Health Facilities. Amend RSA 21-P by inserting after section 42 the following new section:

21-P:42-a Novel Coronavirus Disease (COVID-19); Health Facilities. Acute care hospitals, assisted living facilities, long-term care facilities, nursing facilities, residential care facilities, ambulatory care clinics (as defined in RSA 151, RSA 151-A, RSA 151-D, RSA 151-E and RSA 151-H), and any other similar facilities providing care to elderly or infirm patients (“health facilities”), and the employees, agents and volunteers of such health facilities, are deemed to have been engaged in preparing for and/or carrying out “emergency management” functions for the purposes of RSA 21-P:35 when complying, or reasonably attempting to comply, with any executive order, agency order or rule (including but not limited to waivers from the Centers for Medicare and Medicaid Services (CMS) both issued as blanket waivers by CMS and as requested by New Hampshire department of health and human services pertaining to the state of emergency declared under state and/or federal law in response to the Novel Coronavirus (COVID-19). All such orders and rules are deemed to constitute orders and/or rules adopted and/or regulations promulgated pursuant to RSA 21-P. Accordingly, no such organization or person shall be liable for the death of or injury to persons, or for damage to property, as a result of such compliance or reasonable attempts to comply with such an emergency order or rule under this section. This section shall not apply to actions of health care facilities, employees, agents, or volunteers of such facilities that are not related to compliance or reasonable attempts at compliance with an emergency order or rule. This section shall not apply to actions performed after such an emergency order or rule is no longer in effect.

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

2021-0788s

AMENDED ANALYSIS

This bill adopts legislation relative to:

I. Clarifying Medicaid spend-down requirements and requiring a report to the oversight committee on health and human services.

II. Establishing a harm reduction and overdose prevention program in the department of health and human services.

III. Automated pharmacy systems.

IV. Health facilities providing care in the declared emergency.

SB 156, relative to management of the secure psychiatric unit facility at New Hampshire hospital.

Re-refer to Committee, Vote 5-0. Senator Sherman for the committee.

This bill would further clarify the management of the new secure psychiatric unit facility. Under this bill, the department shall not enter into a contract for the construction or operation of the facility with a private for-profit prison construction or management company. The committee members determined that more work is needed both on the original purpose of the bill and the issue of accreditation of the facility, which will require more time and effort as well as result in the need for a fiscal note. Therefore, the committee voted to rerefer the bill back to the committee in order to address these concerns adequately.

JUDICIARY

SB 39, exempting information and records contained in law enforcement personnel files from disclosure under the right-to-know law.

Re-refer to Committee, Vote 5-0. Senator Carson for the committee.

This bill would exempt information and records contained in personnel files, internal investigations, and pre-employment background investigations of any state or local law enforcement officer from public access or disclosure under the right-to-know law. This is a complicated issue that would affect all municipal and state employees, and could give people access to information that may not have any public interest. Re-referring this bill will allow for the opportunity to examine this issue further and continue the discussion on how to resolve concerns surrounding transparency of law enforcement officers' records.

SB 40, relative to informed consent to search a motor vehicle.
Ought to Pass with Amendment, Vote 5-0. Senator French for the committee.

As amended, this bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator and amends the statutory requirements for a search warrant to allow consistency with the requirements for electronic warrants. This bill simply codifies what is already state law and ensures that individuals are informed of their rights.

Senate Judiciary
March 10, 2021
2021-0757s
04/08

Amendment to SB 40

Amend the title of the bill by replacing it with the following:

AN ACT relative to informed consent to search a motor vehicle and amending the statutory requirements for a search warrant.

Amend the bill by replacing all after section 1 with the following:

2 Search Warrants; Form of Warrant; Written Statement Under Oath. Amend RSA 595-A:3 and 595-A:4 to read as follows:

595-A:3 Form of Warrant. The warrant shall be in substantially the following form:

The State of New Hampshire

(County), ss. (Name) Court.

To the Sheriffs of our several counties, or their deputies, any State Police Officer, or any Constable or Police Officer of any city or town, within our said State.

Proof by [affidavit] **written statement under oath** (supplemented by oral statements under oath) having been made this day before (name of person authorized to issue warrant) by (names of person or persons whose [affidavits] **written statements under oath** have been taken) that there is probable cause for believing that (certain property has been stolen, embezzled, or fraudulently obtained; certain property is intended for use or has been used as the means of committing a crime; contraband; evidence of the crime to which the probable cause upon which the search warrant is issued relates.)

We therefore command you in the daytime (or at any time of the day or night) to make an immediate search of (identify premises) (occupied by A.B.) and (of the person of A.B.) and of any person present who may be found to have such property in his possession or under his control or to whom such property may have been delivered, for the following property:

(description of property)

and if you find any such property or any part thereof to bring it and the persons in whose possession it is found before (name of court and location).

Dated at (city or town) this day of, 20.....

595-A:4 [Affidavit] **Written Statement Under Oath** in Support of Application for Warrant; Contents and Form.

A person seeking a search warrant shall appear [personally] before a court or justice authorized to issue search warrants in criminal cases and shall give [an affidavit] **a written statement under oath** in substantially the form hereinafter prescribed. Such [affidavit] **written statement under oath** shall contain facts, information, and circumstances upon which such person relies to establish probable cause for the issuance of the warrant and such [affidavit] **written statement under oath** may be supplemented by oral statements under oath for the establishment of probable cause. The person issuing the warrant shall retain the [affidavit] **written statement under oath** and shall make notes, personally, of the substance, or arrange for a transcript, of any oral statements under oath supplementing the [affidavit] **written statement under oath**. The person issuing the search warrant shall deliver the [affidavit] **written statement under oath** and the notes or transcript within 3 days after the issuance of the warrant to the court to which the warrant is returnable.

Upon the return of said warrant, the [affidavit] **written statement under oath** and the notes or transcript shall be attached to it and shall be filed therewith, and they shall be a public document when the warrant is returned, unless otherwise ordered by a court of record.

The [affidavit] **written statement under oath** in support of the application for a search warrant shall be in substantially the following form:

The State of New Hampshire

(County), ss. (Name) Court.

....., 20.....

I, (name of applicant) being duly sworn, depose and say:

- 1. I am (describe position, assignment, office, etc.).
- 2. I have information, based upon (describe source, facts indicating reliability of source and nature of information; if based on personal knowledge, so state).
- 3. Based upon the foregoing reliable information (and upon my personal knowledge) there is probable cause to believe that the property hereinafter described (has been stolen, etc.) and may be found (in the possession of A.B. or any other person) at premises (identify).
- 4. The property for which I seek the issuance of a search warrant is the following: (here describe the property as particularly as possible).

Wherefore, I request that the court issue a warrant and order of seizure, authorizing the search of (identify premises and the persons to be searched) and directing that if such property or evidence or any part thereof be found that it be seized and brought before the court; together with such other and further relief that the court may deem proper.

.....

Name

~~{Then personally appeared the above named and made oath that the foregoing affidavit by him subscribed is true.~~

~~Before me this day of, 20.....]~~

Return

I received the attached search warrant on, 20....., and have executed it as follows:

On, 20....., at o'clock ... M, I searched (the person) (the premises) described in the warrant and I left a copy of the warrant with (name of person searched or owner) at (the place of search) together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

This inventory was made in the presence of and

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant

~~{Subscribed and sworn to and returned before me this day of, 20.....]~~

.....

~~[Justice of the Court]~~

Name

Signed under penalty of perjury, the penalty for which may include a fine or imprisonment or both.

3 Effective Date. This act shall take effect 60 days after its passage.

2021-0757s

AMENDED ANALYSIS

This bill permits a warrantless search of a motor vehicle with the informed consent of the motor vehicle operator. The bill also amends the statutory requirements for a search warrant to allow consistency with the requirements for electronic warrants.

SB 41, relative to police disciplinary hearings.
Ought to Pass, Vote 5-0. Senator French for the committee.

This bill will make police decertification hearings open to the public, while providing that portions of a hearing can be made confidential if it is warranted. Police have enormous power over the public and therefore ensuring there is transparency in these proceedings is essential for public trust.

SB 93-FN, relative to permanency planning under the child protection act.
Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

The bill is a request of the New Hampshire Model Court Protect and the Committee To Investigate Whether Modification Should Be Made To the Time Frame For Determining Permanency Pursuant To RSA 169-C:24-B. As amended, this bill clarifies that adoption rather than the termination of parental rights is a potential permanency plan objective; clarifies the timing of the 12-month permanency hearing; specifies other circumstances for when a subsequent permanency hearing may be conducted; allows for an earlier permanency hearing; provides for cases where the parents are in compliance but the unique needs of the child prevent reunification; and clarifies that the court can modify a permanency plan by agreement at a post-permanency hearing. The Committee amended the bill to address two technical corrections requested by the Judicial Branch.

Senate Judiciary
March 10, 2021
2021-0763s
05/04

Amendment to SB 93-FN

Amend the bill by replacing section 1 with the following:

1 Child Protection Act; Definition of Compelling Reason Added. Amend RSA 169-C:3, VII-a to read as follows:

VII-a. ***“Compelling reason” for assessing permanency at an early permanency hearing includes circumstances where:***

(a) Both parents, or only one parent if the other parent is deceased or not identified, have made no effort or only negligible efforts to comply with the dispositional orders;

(b) A ground exists for termination of parental rights for both parents, or for only one parent if other parent is deceased or not identified, under one or more paragraphs of RSA 170-C:5; or

(c) There is another compelling reason to assess the permanency plan of reunification earlier than the 12-month permanency hearing.

VII-b. “Concurrent plan” means an alternate permanency plan in the event that a child cannot be safely reunified with his or her parents.

Amend the introductory paragraph of RSA 169-C:24-b, II(b) as inserted by section 4 of the bill by replacing it with the following:

(b) At an early permanency hearing pursuant to subparagraph I(f), the court shall determine whether the department has proven by clear and convincing evidence that both parents, or only one parent if the other parent is deceased or not identified, cannot currently satisfy the standard of return of the child under RSA 169-C:23 and would be highly unlikely to satisfy such standard at the time of a 12-month permanency hearing such that permanency should be assessed early, based on parents making no effort or only negligible efforts to comply with dispositional orders or based on another compelling reason. If the department does not satisfy its burden, the court shall hold, within 90 days, a periodic review hearing or the 12-month permanency hearing. If the department satisfies its burden, the court shall determine whether it is in the child’s best interest to:

SB 110, relative to animals in motor vehicles.
Ought to Pass with Amendment, Vote 5-0. Senator French for the committee.

This bill allows a person to rescue a confined animal endangered by extreme temperatures if they are authorized to do so by a law enforcement officer and if the rescue is witnessed by another individual. The Committee amended the bill to clarify that the language only applies when an animal is confined in a vehicle.

Senate Judiciary
 March 10, 2021
 2021-0761s
 08/10

Amendment to SB 110

Amend RSA 644:8-aa, III(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Any individual may take action to rescue an animal confined within a vehicle endangered by extreme temperatures, provided that such actions are expressly authorized by a law enforcement officer and witnessed by another individual.

SB 122-FN, adopting omnibus legislation relative to certain crimes and judicial processes and procedures. Ought to Pass with Amendment, Vote 5-0. Senator French for the committee.

As amended, this bill adopts legislation which allows persons charged with driving or operating under the influence of drugs or liquor to register for an impaired driving education program after attending or waiving their arraignment, exempts victims of human trafficking from prosecution of offenses directly related to the individual being trafficked, amends the definition of 'grandparent' in the guardianship statute to include great-grandparents or great-great grandparents, gives immunity from arrest or prosecution for prostitution for individuals seeking medical assistance for reporting certain crimes, increases the penalty for harming a service animal, and makes changes to the membership of the Council on Autism Spectrum Disorders.

Senate Judiciary
 March 10, 2021
 2021-0754s
 11/04

Amendment to SB 122-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Sponsorship. This act consists of the following proposed legislation:

Part I. LSR 21-0830, relative to the impaired driver education program, sponsored by Sen. French, Prime/Dist. 7; Sen. Bradley, Dist. 3; Sen. Giuda, Dist. 2; Sen. Carson, Dist. 14.

Part II. LSR 21-0191, relative to exemptions from prosecution for victims of human trafficking, sponsored by Sen. Ward, Prime/Dist. 8.

Part III. LSR 21-0600, relative to guardianship by grandparents, sponsored by Sen. French, Prime/Dist. 7; Sen. Avard, Dist. 12; Sen. Gannon, Dist. 23; Sen. Reagan, Dist. 17; Sen. Watters, Dist. 4; Sen. Whitley, Dist. 15; Sen. Hennessey, Dist. 1; Sen. Carson, Dist. 14; Sen. Kahn, Dist. 10; Sen. Sherman, Dist. 24; Sen. Prentiss, Dist. 5; Sen. Giuda, Dist. 2; Sen. D'Allesandro, Dist. 20; Sen. Bradley, Dist. 3; Sen. Cavanaugh, Dist. 16; Sen. Soucy, Dist. 18.

Part IV. LSR 21-0921, relative to immunity from arrest or prosecution for prostitution for seeking medical assistance for reporting certain crimes, sponsored by Sen. French, Prime/Dist. 7; Sen. Reagan, Dist. 17; Sen. Watters, Dist. 4.

Part V. LSR 21-0479, increasing the penalty for harming a service animal and making changes to the membership of the council on autism spectrum disorders, sponsored by Sen. Bradley, Prime/Dist. 3

2 Legislation Enacted. The general court hereby enacts the following legislation:

PART I

Relative to the Impaired Driver Education Program.

1 New Paragraph; Motor Vehicles; Driving or Operating Under the Influence of Drugs or Liquor; Penalties for Intoxication or Under Influence of Drugs Offenses. Amend RSA 265-A:18 by inserting after paragraph X the following new paragraph:

XI. Any person charged with violating any provision of RSA 265-A:2, 265-A:3, or 265-A:19 who would be required to complete an IDCMP if convicted may, at his or her discretion, register for such a program after attending or waiving arraignment in a criminal proceeding. Such registration shall not be considered as evidence of his or her culpability in judicial or administrative proceedings.

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

PART II

Relative to Exemptions from Prosecution for Victims of Human Trafficking.

1 New Paragraph; Trafficking in Persons; Definitions. Amend RSA 633:6 by inserting after paragraph VI the following new paragraph:

VII. "Victim of human trafficking" means:

(a) An individual who, at any point in time, was the victim of a trafficking in persons offense under RSA 633:7, I-III, whether or not the offense was prosecuted; or

(b) An individual who at any point in time was the victim of a severe form of trafficking in persons offense under 22 U.S.C. section 7102(11)(A), whether or not the offense was prosecuted.

2 Trafficking in Persons. RSA 633:7, VI is repealed and reenacted to read as follows:

VI. No victim of human trafficking shall be prosecuted for any offense, where the otherwise chargeable conduct was committed as a direct result of being trafficked, provided that the conduct chargeable did not involve an act of violence or a threat of violence as defined in RSA 625:9, VII.

VII. A victim of human trafficking who was under 18 years of age at the time of the offense shall not be subject to juvenile delinquency proceedings under RSA 169-B for any otherwise chargeable offense, where the conduct was committed as a direct result of being trafficked, provided that the conduct chargeable did not involve an act of violence or a threat of violence as defined in RSA 625:9, VII.

VIII.(a) This paragraph shall apply to:

(1) An individual convicted for an offense which was committed as a direct result of being trafficked;

(2) An individual who was under 18 years of age at the time of the offense, who was adjudicated as delinquent for an offense which was committed as a direct result of being trafficked; or

(3) An individual who entered into a diversion agreement in lieu of further criminal proceedings for an offense which was committed as a direct result of being trafficked.

(b) A victim of human trafficking who was subject to adjudication as specified in VIII (a) above, may, at any time, file a motion with the circuit court, district division or superior court to vacate a conviction, adjudication of delinquency, or diversion agreement, and the related court records and arrest records, for any offense. A copy of the motion to vacate shall be provided to the agency that prosecuted the offense.

(c) After a hearing, the court shall grant the motion to vacate the conviction, adjudication of delinquency, or diversion agreement upon a finding by a preponderance of the evidence that the petitioner's participation in the offense underlying the conviction, delinquency adjudication, or diversion agreement was the direct result of being trafficked. A finding by the court that the petitioner was a victim of human trafficking at the time of the offense shall be a prima facie evidence that the petitioner's participation in the offense was a direct result of being trafficked.

(d) The petitioner shall not be required to provide any official documentation indicating that he or she was a victim of human trafficking at the time of the offense. However, if such documentation is provided, it shall be prima facie evidence that the petitioner's participation in the offense was a direct result of being trafficked. In this subparagraph, "official documentation" means:

(1) A copy of an official record, certification, or eligibility letter from a federal, state, tribal, or local proceeding, including an approval notice or an enforcement certification generated from a federal immigration proceeding, that shows the petitioner was a victim of human trafficking; or

(2) An affidavit or sworn testimony from a member of the clergy, a medical professional, a trained professional staff member of a victim services organization, or other professional from whom the petitioner has sought legal counsel or other assistance in addressing the trauma and other challenges associated with being a victim of human trafficking.

(e) In determining whether the petitioner was a victim of human trafficking at the time of the offense, the court may consider any other evidence the court finds has sufficient credibility and probative value. Such evidence may include, but is not limited to:

(1) The affidavit or sworn testimony of the petitioner;

(2) Branding or other tattoos on the body of the petitioner that identify the petitioner as having had a trafficker;

(3) Photographic evidence of branding or other tattoos on the body of the petitioner that identify the petitioner as having or having had a trafficker;

(4) Affidavits or sworn testimony of police, police interview notes, or police reports;

(5) Affidavits or sworn testimony from any person with firsthand knowledge of the petitioner's involvement in the trafficking or any person who indicates that he or she was trafficked or exploited by the same individual or group of individuals who trafficked the petitioner;

(6) Financial records showing revenues or expenses from the trafficking;

(7) Internet listings, print advertisements, or business cards used to promote the petitioner for services; or

(8) Email, text messages, or voicemail records between the petitioner, the trafficker, or solicitors of sex that reveal aspects of the trafficking, such as examples of trafficker exerting control over the petitioner, evidence of behavior patterns of the trafficker or the petitioner, or discussion of meeting times or payments.

(f) Upon request of the petitioner and in lieu of the personal appearance of the petitioner in the courtroom, a hearing shall be conducted by 2-way electronic audio-video communication, between the petitioner, the judge, and any other present in the courtroom for the hearing, if the petitioner is represented by counsel and upon request of the petitioner, the petitioner's personal appearance shall be waived and counsel for petitioner shall be permitted to appear on the petitioner's behalf.

IX. Upon request of the petitioner, the court shall not disclose or open to public inspection any information identifying the petitioner, including any records of the motion hearing which could provide circumstantial details that may identify the petitioner. Information regarding the petitioner that is sealed pursuant to this paragraph shall be disclosed only to the following:

(a) The judge of the circuit court, district division or superior court and members of the staff of the court as designated by the judge;

(b) Parties to the proceedings and their attorneys;

(c) With the consent of the petitioner, any individual or public or private agency or institution providing educational, medical, or mental health service to the petitioner;

(d) When necessary for the discharge of official duties, law enforcement officers, prosecutors, or law enforcement or prosecution staff, or

(e) When authorized by court order, any other person, subject to any conditions imposed by the order, consistent with the petitioner's safety and privacy interests.

X.(a) An order vacating a conviction, adjudication of delinquency, or diversion agreement shall:

(1) Nullify the conviction, delinquency adjudication, or diversion agreement;

(2) Vacate the conviction, delinquency adjudication, or diversion agreement due to a substantive defect in the underlying criminal proceedings;

(3) Remove all civil disabilities and disqualifications imposed as a result of the conviction, delinquency adjudication, or diversion agreement; and

(4) Place the petitioner in the position of never having been investigated, arrested, convicted, deemed delinquent, or diverted for the offense.

(b) Upon a finding that the petitioner's participation in the offense underlying the conviction, delinquency adjudication, or diversion agreement was a direct result of being trafficked and an entry of an order vacating the conviction, delinquency's adjudication, or diversion agreement the court shall:

(1) Order the conviction, delinquency adjudication, or diversion agreement and any related court records expunged and purged from all applicable state and federal systems. The court shall enter this order regardless of whether the petitioner had any criminal record prior or subsequent to the conviction, delinquency adjudication, or diversion agreement being vacated.

(2) Order the division of state police to purge the conviction, delinquency adjudication, or diversion agreement, and any related court records or arrest records from the criminal history record information repository and all applicable state and federal databases. The clerk of the court shall send a certified copy of the order to the division of state police, which shall carry out the order and shall notify the following of the court's order: the Federal Bureau of Investigation, the New Hampshire department of corrections, and any other criminal justice agency that may have a record of the conviction, adjudication of delinquency, or diversion agreement and related court records or arrest records.

(c) Upon a finding that the petitioner's participation in the offense underlying the conviction, delinquency adjudication, or diversion agreement was a direct result of being trafficked and an entry of an order vacating the conviction, delinquency adjudication, or diversion agreement, the court may, in its discretion, grant other relief to the petitioning victim in the interests of justice.

(d) Vacating a conviction, delinquency adjudication, or diversion agreement shall not affect any right of the person whose offense was vacated to appeal the conviction or sentence.

3 Effective Date. Part II of this act shall take effect upon its passage.

PART III

Relative to Guardianship by Grandparents.

1 New Paragraph; Guardianship of Minors; Definition of Grandparent Added. Amend RSA 463:2 by inserting after paragraph III the following new paragraph:

III-a. "Grandparent" includes a great-grandparent or great-great grandparent.

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

PART IV

Relative to Immunity from Arrest or Prosecution for Prostitution for Seeking Medical Assistance for Reporting Certain Crimes.

1 New Paragraphs; Prostitution and Related Offenses; Immunity From Prosecution. Amend RSA 645:2 by inserting after paragraph VI the following new paragraphs:

VII. As used in this section, "reports being the victim of a sexual assault or other crime" means reporting the initial crime to law enforcement. It does not include further cooperation in prosecution.

VIII. It shall be a defense to a violation of this section that a person reports being the victim of a sexual assault as defined in RSA 632-A:2, 632-A:3, or 632-A:4. A person who reports being the victim of such an offense shall not be arrested, prosecuted, or convicted for a violation of this section if the evidence for the charge was gained as a proximate result of the person's reporting. Any victim seeking medical treatment following a sexual assault will be afforded all options of care outlined in the New Hampshire attorney general's sexual assault medical forensic exam protocol without making a report to or cooperating with law enforcement.

IX. Nothing in this section shall be construed to limit the admissibility of evidence in connection with the investigation or prosecution of a crime involving a person who is not protected as provided in paragraph VIII. Nothing in this section shall be construed to limit the lawful seizure of any evidence or contraband. Nothing in this section shall be construed to limit or abridge the authority of a law enforcement officer to detain or place into custody a person as part of a criminal investigation who is not protected by the provisions of paragraph VIII.

2 Effective Date. Part IV of this act shall take effect January 1, 2021.

PART V

Increasing the Penalty for Harming a Service Animal and Making Changes to the Membership of the Council on Autism Spectrum Disorders.

1 Penalty; Harming a Service Dog. Amend RSA 167-D:10, II to read as follows:

II. It is a [~~misdemeanor~~] **class B felony** if a person willfully causes physical injury to a service animal or willfully allows his or her animal to cause physical injury to a service animal. If the physical injury to a service animal is severe enough that a veterinarian or service animal trainer determines that the service animal is incapable of returning to service, that person shall be guilty of a [~~class A misdemeanor~~] **class A felony**.

2 Council on Autism Spectrum Disorders; Membership. RSA 171-A:32, I is repealed and reenacted to read as follows:

I. There is established a council on autism spectrum disorders to provide leadership in promoting comprehensive and quality education, health care, and services for individuals with autism spectrum disorders and their families. The members of the council shall be as follows:

- (a) The governor, or designee.
- (b) The commissioner of the department of education, or designee.
- (c) The commissioner of the department of health and human services, or designee.
- (d) The director of the division of public health services, department of health and human services, or designee.
- (e) The bureau chief of the bureau of developmental services, department of health and human services, or designee.
- (f) The bureau chief of the bureau of behavioral health, department of health and human services, or designee.
- (g) The director of the Institute on Disability, University of New Hampshire, or designee.
- (h) A special education director, appointed by the New Hampshire Association of Special Education Administrators, Inc.
- (i) The president of the New Hampshire Medical Society, or designee.
- (j) A representative of the New Hampshire Developmental Disabilities Council, appointed by the council.
- (k) An individual who has an autism spectrum disorder, appointed by the governor.
- (l) A family member of a person who has an autism spectrum disorder, appointed by the governor.
- (m) A representative of the Community Support Network, Inc., appointed by such organization.
- (n) A representative of the New Hampshire Psychological Association, appointed by the association.
- (o) The director of the office of Medicaid business and policy, department of health and human services, or designee.
- (p) Five additional members, appointed by the council.
- (q) A person who has an autism spectrum disorder, appointed by the council.
- (r) A representative of the New Hampshire Nurses' Association, appointed by the association.
- (s) A licensed speech-language pathologist, appointed by the New Hampshire Speech-Language-Hearing Association, Inc.

3 Effective Date.

I. Section 1 of Part V of this act shall take effect January 1, 2022.

II. The remainder of Part V this act shall take effect upon its passage.

2021-0754s

AMENDED ANALYSIS

This bill adopts legislation relative to:

I. Allowing persons charged with driving or operating under the influence of drugs or liquor to register for an impaired driving education program after attending or waiving their arraignment.

II. Exemptions from prosecution for victims of human trafficking.

III. Guardianship by grandparents.

IV. Immunity from arrest or prosecution for prostitution for seeking medical assistance for reporting certain crimes.

V. Increasing the penalty for harming a service animal and making changes to the membership of the council on autism spectrum disorders.

SB 134-FN, adopting omnibus legislation relative to civil actions and criminal liability. Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

This bill is omnibus legislation that as amended addresses prohibiting certain uses of laser pointing devices; the revised uniform law on notarial acts and the uniform real property electronic recording act; incarceration under a suspended sentence; civil liability for damage to highways; procedures for structured settlements; establishing the New Hampshire collaborative law act; probate administration, distribution upon intestacy, and powers of attorney and adopting the uniform disclaimer of property interests act; school employee and school volunteer criminal history background checks and establishing a committee to study department of education oversight of criminal history background checks for private schools; making an appropriation funding mental health intervention training programs; employer access to motor vehicle records; and authorization to grow industrial hemp. The Committee removed Part X of the bill as drone and airspace regulation is overseen by the federal government and not the state.

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04/10

Amendment to SB 134-FN

Amend section 1 of the bill, Sponsorship, by deleting Part X and renumbering the original Parts XI and XII to read as Parts X and XI, respectively.

Amend Part II of the bill by replacing RSA 456-B:2, VII as inserted by section 4 with the following:

VII.(a) For the purposes of this section, but only in the context of executing an estate planning instrument such as a will[, trust, or power of attorney] **or estate planning trust**, the requirement that a person appear before a notarial officer at the time of the notarial act is satisfied if the notarial officer is:

(1) The attorney, licensed to practice law in New Hampshire and in good standing, who drafted the estate planning instrument;

(2) Another attorney licensed to practice law in New Hampshire and in good standing, under the drafting attorney's supervision; or

(3) A paralegal under the supervision of either such attorney; and

(b) The person and the notarial officer can communicate simultaneously by sight and sound through an electronic device or process at the time of the notarial act.

(c) This paragraph shall apply only to notarial acts performed on or after March 23, 2020 [~~and ending on the last day of the state of emergency declared by executive order 2020-04~~]. In addition, a notarial act performed in compliance with emergency order #11 pursuant to executive order 2020-04 from its effective date through the date of its expiration is valid.

Amend Part II of the bill by replacing all after section 10 with the following:

11 Wills; Requirements. Amend RSA 551:2, III(b) to read as follows:

(b) Nothing in this paragraph shall be deemed to allow an electronic will or codicil. This paragraph shall apply only to wills executed on or after March 23, 2020 [~~and ending on the last day of the state of emergency declared by executive order 2020-04~~].

12 Effective Date.

I. RSA 456-B:2, VII as inserted by section 4 of Part II of this act and section 11 of Part II of this act shall take effect upon its passage.

II. The remainder of Part II of this act shall take effect 180 days after its passage.

Amend Part III of the bill by replacing section 1 with the following:

1 Incarceration Under a Suspended Sentence. Amend the introductory paragraph of RSA 651:20, I(a) to read as follows:

(a) Any person sentenced to state prison for a minimum term of 6 years or more shall not bring a petition to suspend sentence until such person [~~has served at least 4 years or 2/3 of his minimum sentence, whichever is greater,~~] **is within 12 months of serving 2/3 of the minimum sentence**, and not more frequently than every 3 years thereafter. Any person sentenced to state prison for a minimum term of less than 6 years shall not bring a petition to suspend sentence until such person has served at least 2/3 of the minimum sentence, or the petition has been authorized by the sentencing court. For the purposes of this subparagraph:

Amend the bill by replacing Part VIII with the following:

PART VIII

Relative to school employee and school volunteer criminal history background checks and establishing a committee to study department of education oversight of criminal history background checks for private schools.

1 School Employee and Designated School Volunteer Criminal History Records Check. Amend RSA 189:13-a, III to read as follows:

III. The superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph. [~~If the criminal history records information indicates no criminal record, the superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy shall destroy the information received immediately following review of the information.~~] **The superintendent of the school administrative unit, or chief executive officer of the chartered public school or public academy shall review the criminal history records information in accordance with paragraph V.** If the criminal history records information indicates that the applicant has been convicted of any crime or has been charged pending disposition for or convicted of a crime listed in paragraph V, the superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy shall review the information for a hiring decision[, and the division of state police shall notify the department of education of any such charges pending disposition or convictions. The superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy shall destroy any criminal history record information that indicates a criminal record within 60 days of receiving such information.] **If the applicant's criminal history records information indicates that the applicant has been charged pending disposition for or has been convicted of a crime listed in paragraph V, the superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy shall notify the department of education.**

III-a. The superintendent of the school administrative unit or chief executive officer of the chartered public school or public academy shall destroy any criminal history record information within 60 days of receipt. The superintendent of the school administrative unit or chief executive officer of the chartered public school or public academy shall destroy any criminal history record information that indicates a criminal record within 60 days of receiving said information.

2 School Employee and Designated School Volunteer Criminal History Records Check. Amend RSA 189:13-a, VI to read as follows:

VI. **In accordance with paragraphs I-V**, this section shall apply to any employee, **including substitute teachers**, selected applicant for employment, designated volunteer, [~~or~~] volunteer organization, **or individual or entity** which contracts with a school administrative unit, school district, chartered public school, or public academy to provide services, including but not limited to cafeteria workers, school bus drivers, custodial personnel, or any other service where the contractor or employees of the contractor provide services directly to students of the district, chartered public school, or public academy. The employing school administrative unit, school district, or chartered public school shall be responsible for completing the criminal history records check on the people identified in this paragraph, except for school bus drivers and transportation monitors, as provided in RSA 189:13-b. The cost for criminal history records checks for employees or selected applicants for employment with such contractors shall be borne by the contractor.

3 School Employee and Designated School Volunteer Criminal History Records Check. Amend RSA 189:13-a, IX to read as follows:

IX.(a) [~~Substitute teachers and other educational staff, not otherwise addressed in this section, shall apply for a criminal history records check at the employing school administrative unit, school district, chartered public school, or public academy. The division of state police shall complete the criminal history records check,~~

as established in paragraph II, and, upon completion, shall issue a report to the applicant. The report shall be valid for 30 days from the date of issuance and shall constitute satisfactory proof of compliance with this section.

~~(b) Upon enrollment in an educator preparation program at an institution of higher education, a candidate shall submit to a criminal history records check. The institution of higher education in which the candidate is enrolled shall conduct the criminal history records check.] Upon placement of a candidate, **as defined in RSA 189:13-c**, as a student teacher, the receiving school administrative unit, school district, or chartered public school shall conduct [another] **a** criminal history records check of the candidate and shall follow the same procedures for assessing the candidate's criminal history background as for applicants for employment. [The governing body of the institution of higher education may adopt a policy relative to how often a candidate shall submit to a criminal history records check. In this subparagraph, "candidate" shall mean a student who is enrolled in an educator preparation program at an institution of higher education in New Hampshire.]~~

(b) A receiving school administrative unit, school district, or chartered public school may conduct a criminal history records check upon a candidate, as defined in RSA 189:13-c.

4 New Section; Teacher Credentialing Criminal History Records Check. Amend RSA 189 by inserting after section 13-b the following new section:

189:13-c Credentialing Applicant and Candidate Criminal History Records Check.

I. Definitions:

(a) "Credentialing applicant" means a first-time applicant for a New Hampshire teaching credential.

(b) "Candidate" means a student at an institution of higher education in New Hampshire who has been selected to participate in a K-12 educator preparation program.

II.(a) The department shall complete a confidential criminal history records check on all first-time applicants for a teaching license, under RSA 21-N:9, II(s), as shall school administrative units, school districts, and chartered public schools pursuant to RSA 189:13-a.

(b) The department shall complete a confidential criminal history records check on all candidates as shall school administrative units, school districts, and chartered public schools pursuant to RSA 189:13-a. The department shall adopt rules pursuant to RSA 541-A relative to coordination with institutions of higher education in New Hampshire on procedures for conducting clearances for candidates for K-12 educator preparation programs.

(c) The criminal history records check on a candidate shall valid for a period of 3 years.

III.(a) The credentialing applicant or candidate shall submit to the department a criminal history records release form, as provided by the division of state police, which authorizes the division of state police to conduct a criminal history records check through its state records and through the Federal Bureau of Investigation and to release a report of the credentialing applicant's or candidate's criminal history record information, including confidential criminal history record information, to the background check coordinator of the department, as described in RSA 21-N:8-a, I-a.

(b) The credentialing applicant or candidate shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the department of education. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be taken in order to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearance from every city, town, or county where an applicant or candidate has lived during the past 5 years.

IV.(a) The department shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph. The department shall destroy all criminal history record information within 60 days of receiving said information.

(b) The department may require the credentialing applicant or candidate to pay the actual costs of the criminal history records check.

V. Any person who has been charged pending disposition for or convicted of any violation or attempted

violation of RSA 630:1; 630:1-a; 630:1-b; 630:2; 632-A:2; 632-A:3; 632-A:4; 633:1; 639:2; 639:3; 645:1, II or III; 645:2; 649-A:3; 649-A:3-a; 649-A:3-b; 649-B:3; or 649-B:4; or any violation or any attempted violation of RSA 650:2 where the act involves a child in material deemed obscene in this state, or under any statute prohibiting the same conduct in another state, territory, or possession of the United States, shall not be granted a teaching credential by the department nor shall candidates be granted clearance.

VI. The department shall adopt rules, pursuant to RSA 541-A, governing the rights of a credentialing applicant and candidate and their ability to appeal a denial of a teaching credential or clearance pursuant to a charge pending disposition for or a conviction of any of the offenses under paragraph V.

VII. If a credentialing applicant had submitted to a criminal history records check within the prior 6 months as a candidate, that check shall be deemed valid for purposes of this section.

5 Committee Established. There is established a committee to study department of education oversight of criminal history background checks by private schools.

6 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

II. The commissioner of the department of education, or designee, shall serve as a non-voting, ex officio member of the committee.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

7 Duties. The committee shall:

I. Review current statutes regarding criminal history background checks in private schools.

II. Review department of education rules and oversight of private schools regarding criminal history background checks.

III. Review annual reporting on criminal history background checks to the department of education by private schools.

IV. Review other states' statutes and rules regarding criminal history background checks in private schools.

V. Make recommendations for updating statutes and department of education rules regarding criminal history background checks in private schools.

8 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

9 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the commissioner of the department of education, the governor, and the state library on or before November 1, 2021.

10 Effective Date.

I. Sections 1-4 of Part VIII of this act shall take effect January 1, 2022.

II. The remainder of Part VIII of this act shall take effect upon its passage.

Amend the bill by replacing all after Part IX with the following:

PART X

Relative to employer access to motor vehicle records.

1 New Paragraph; Motor Vehicle Records; Employer Access. Amend RSA 260:14 by inserting after paragraph IV the following new paragraph:

IV-a.(a) Except for a person's photograph, computerized image, and social security number, motor vehicle records and at least monthly electronic bulk files indicating changes in driving violations and driver license status shall be made available upon proof of the identity of the person requesting the records and representation by such person on a form satisfactory to the department that the records will be strictly limited to one or both of the following described uses:

(1) For use by an entity that employs drivers in the course of their business, or an authorized agent of such an entity, which requires a motor vehicle record or a monthly notification of changes to motor vehicle records in connection with pre-employment or continued employment screening of employees for driver safety reasons; or

(2) For use with respect to requests as to whether a driver meets the requirements of RSA 376-A:12.

(b) No motor vehicle records made available under this paragraph shall be sold, rented, transferred, or otherwise made available in whole or in part, in any form or format, directly or indirectly, to another person, except that an authorized agent may make such records available to any principal on whose behalf the records were sought if the name of that principal was provided to the department at the time the records were sought.

(c) Any person who makes a request under this paragraph shall have first obtained the written consent of the person whose records are being requested. The written consent shall be retained for a period of 3 years and shall be made available upon request to the division for inspection. Motor vehicle records obtained under this paragraph shall not be subject to the notarization requirements of RSA 260:14, VII.

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

PART XI

Relative to authorization to grow industrial hemp.

1 Industrial Hemp Research; Authorization. Amend RSA 433-C:2 to read as follows:

433-C:2 Authorization. An institution of higher education, as defined in 20 U.S.C. section 1001, may grow or cultivate ***or may contract with a private party to grow or cultivate***, industrial hemp, on site or off site, for purposes of research under an agricultural pilot program or other agricultural or academic research. In addition to studying the plant's growth and cultivation, the research shall also study the economics of industrial hemp, including markets and processing. Industrial hemp grown or cultivated in accordance with this chapter shall not be considered a controlled drug or controlled substance under RSA 318-B.

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

2021-0775s

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Prohibiting certain uses of laser pointing devices.
- II. The revised uniform law on notarial acts and the uniform real property electronic recording act.
- III. Incarceration under a suspended sentence.
- IV. Civil liability for damage to highways.
- V. Procedures for structured settlements.
- VI. Establishing the New Hampshire collaborative law act.
- VII. Probate administration, distribution upon intestacy, and powers of attorney and adopting the uniform disclaimer of property interests act.
- VIII. School employee and school volunteer criminal history background checks and establishing a committee to study department of education oversight of criminal history background checks for private schools.
- IX. Making an appropriation funding mental health intervention training programs.
- X. Employer access to motor vehicle records.
- XI. Authorization to grow industrial hemp.

TRANSPORTATION

SB 116, relative to the project to complete construction of an exit on I-93 in Derry and Londonderry. Ought to Pass, Vote 5-0. Senator Birdsell for the committee.

This bill requires the department of transportation to complete the Derry/Londonderry project to construct exit 4a on I-93 within the time frame of the Ten-Year Transportation Improvement Plan. The towns of Londonderry and Derry have been advocating for this bill for decades. The two towns have already put forward five million dollars each towards the project established by this bill. The Towns of Londonderry and Derry support this bill and do not want any further delay on the project.

SB 131-FN, adopting omnibus legislation relative to vehicles, municipal water maintenance certificates, safety certificates, nondrivers's picture I.D.s, decals, and private roads. Ought to Pass with Amendment, Vote 5-0. Senator Birdsell for the committee.

This bill, as amended, adopts omnibus legislation with five parts. The first part of the bill establishes electric vehicle supply equipment and infrastructure. This part of the bill establishes electric vehicle charging equipment requirements, such as publicly available universal hookups available for all electric vehicle models; revitalization of municipal tax relief enabling legislation for individuals with electric vehicle supply equipment; and codifying principles to establish charging rate design standards. The second part of the bill establishes the removal of abandoned or disabled vehicles by towing. This bill allows for the NH State Police, when necessary, to call from a rolling list of tow companies to arrive to assist at the scene. The creation of a rolling list establishes a fair and equitable use of tow services by the NH State Police. Furthermore, this part of the bill also requires tow companies on rolling list to be vetted and meet professional standard requirements to ensure safe and reliable tow services. The third part of the bill establishes the municipal winter maintenance certification program. This part of the bill allows municipalities the option to apply for a certification that allows them to use less salt during winter storm maintenance while remaining protected from liability for doing so. A reduction in salt use will lead to less water pollution and decreased destruction to plant life. The fourth part of the bill establishes eligibility for the issuance of a nondriver's picture identification card. This part of the bill requires that the ID goes to one person, living in one state, with one credential. The fifth part of the bill removes what is now rendered unnecessary language about the initial implementation date for the certificate of boating safety. The sixth part of the bill allows emergency medical services chiefs to issue decals for multi-use decal plates. This same service was previously available for fire chiefs.

Senate Transportation
March 10, 2021
2021-0771s
06/04

Amendment to SB 131-FN

Amend the title of the bill by replacing it with the following:

AN ACT adopting omnibus legislation relative to vehicles, municipal water maintenance certificates, nondriver's picture identification, and firefighter and emergency medical services decals.

Amend the bill by replacing all after the enacting clause with the following:

1 Sponsorship. This act consists of the following proposed legislation:

Part I. LSR 21-0839, relative to electric vehicle supply equipment and infrastructure and relative to state motor vehicle fleet management, sponsored by Sen. Watters, Prime/Dist. 4; Sen. Prentiss, Dist. 5; Sen. Sherman, Dist. 24; Rep. P. Schmidt, Straf. 19; Rep. Sykes, Graf. 13.

Part II. LSR 21-0324, relative to removal of abandoned or disabled vehicles by towing, sponsored by Sen. Birdsell, Prime/Dist. 19.

Part III. LSR 21-0523, relative to the municipal winter maintenance certification program, sponsored by Sen. Morse, Prime/Dist. 22.

Part IV. LSR 21-0896, relative to eligibility for the issuance of a nondriver's picture identification card, sponsored by Sen. Watters, Prime/Dist. 4; Rep. Sykes, Graf. 13.

Part V. LSR 21-0325, relative to certificate of boating safety, sponsored by Sen. Birdsell, Prime/Dist. 19.

Part VI. LSR 21-1055, relative to allowing emergency medical services chiefs and fire chiefs to issue decals for multi-use decal plates, sponsored by Sen. Prentiss, Prime/Dist. 5; Sen. Watters, Dist. 4; Sen. Sherman, Dist. 24; Rep. Merchant, Sull. 4; Rep. Goley, Hills. 8; Rep. McGuire, Merr. 29.

2 Legislation Enacted. The general court hereby enacts the following legislation:

PART I

Relative to electric vehicle supply equipment and infrastructure and relative to state motor vehicle fleet management.

1 Findings. The general court finds that:

I. Availability of electric vehicle supply equipment (EVSE) is critical to facilitating the development of the overall electric vehicle (EV) market in the region and will support our tourism-based economy. Adequate EVSE in New Hampshire, and in particular direct current fast chargers (DCFC) along major travel corridors in the state, is necessary to enable travel within and through the state, promote tourism, generate jobs, and support consumers, businesses, and automobile dealers and manufacturers. The state should commit to the development of zero emission vehicles (ZEV) technology and infrastructure, including the state, private and rental residence, business, and municipal installation of EVSE.

II. Electric utility investments in grid infrastructure to support the installation of EVSE lowers the barriers to such installation. Electric distribution companies (EDC) are uniquely positioned to enable strategic electrification as part of larger investments in grid modernization capabilities, specifically investments in electric vehicle charging infrastructure. EDC owned or funded behind the meter enabling infrastructure, also known as “make-ready” infrastructure, can accelerate charging infrastructure deployment, and it has the potential to put downward pressure on rates by spreading fixed costs over a greater volume of electric sales.

III. Initial investment from the Volkswagen Settlement and other potential sources should prioritize EVSE installation along the interstate highway system, the New Hampshire turnpike system, and other roadways, with careful consideration of the needs of rural areas and tourism centers, prioritized as determined by the office of strategic initiatives, the New Hampshire department of environmental services, and the New Hampshire department of transportation, in consultation with interested parties.

2 Vehicle Charging Station Requirements. Amend RSA 236:133, III to read as follows:

III. All publicly funded chargers, ***including those funded by the Volkswagen Trust Settlement or by federal or other competitively awarded funds***, installed after the effective date of this paragraph that are accessible to the public shall be equipped to enable universal access.

3 New Section; Community Revitalization Tax Relief; Electric Vehicle Supply Equipment. Amend RSA 79-E by inserting after section 7-a the following new section:

79-E:7-b Public Benefit; Electric Vehicle Supply Equipment. Cities and towns may provide tax relief under this chapter on the value of electric vehicle supply equipment installed in residential homes and rental properties, businesses, and industries.

4 New Subdivision; Electric Vehicle Charging Station Rate Design Standards. Amend RSA 378 by inserting after section 54 the following new subdivision:

Electric Vehicle Charging Station Rate Design Standards

378:55 Electric Vehicle Charging Station Rate Design Standards. In determining the schedule of rates, fares, charges, and prices applicable to electric vehicle supply equipment pursuant to RSA 378:1, every public utility shall adhere to the following rate design standards:

I. Initial electric vehicle charging rate design shall reflect the marginal cost of providing electric vehicle charging services to the maximum extent practicable, provided that these rates will be updated and reconciled on a regular basis to ensure they reflect costs associated with customer usage patterns.

II. Declining block rates shall not be used for electric vehicle charging for separately metered electric vehicle supply equipment; provided that where declining block rates are already offered, such rates may be appropriate for customers that do not want to separately meter electric vehicle supply equipment.

III. Seasonal rates may be charged to account for the seasonality of winter and summer cost drivers on the electric system. Such rate changes may occur coincident with other rate changes.

IV. Interruptible rates are not appropriate for electric vehicle charging.

V. Load management offerings may be an appropriate strategy for electric vehicle rate design, especially when offered in conjunction with electric vehicle time of use rate offerings.

VI. Demand charges may be appropriate rate design for high demand draw electric vehicle supply equipment, but not for residential charging applications.

VII. Time of use rates are appropriate for electric vehicle charging, provided that utilities propose a separately metered electric vehicle time of use rate.

VIII. Any separately metered residential electric vehicle charging rate shall:

- (a) Be based directly on cost causation.
- (b) Incorporate time varying energy supply, transmission, and distribution components.
- (c) Have off-peak, mid-peak, and peak periods.
- (d) Be seasonably differentiated.
- (e) Have an average price differential between off-peak and peak of no less than 3:1 for the entire year.
- (f) Have a peak period no longer than 5 hours.

IX. Each utility seeking approval of an electric vehicle time of use rate shall provide a quantification of costs, including but not limited to billing, metering, and marketing costs.

5 Effective Date. Part I of this act shall take effect upon passage.

PART II

Relative to removal of abandoned or disabled vehicles by towing.

1 New Section; Abandoned Vehicles; Use of Tow List Required. Amend RSA 262 by inserting after section 31 the following new section:

262:31-a Use of Tow List Required. In the event the state police in the interest of public safety and pursuant to applicable statutes and rules, including but not limited to clearing roads and entrances of disabled or abandoned vehicles, seeks to tow any vehicle, the tow company responsible for removal and storage shall be chosen from a tow list in accordance with RSA 106-B:26 through RSA 106-B:34.

2 New Subdivision; Removal of Abandoned Vehicles by State Police. Amend RSA 106-B by inserting after section 25 the following new subdivision:

Removal of Abandoned Vehicles by State Police

106-B:26 Applicability.

I. This subdivision shall apply to the enforcement of provisions of the motor vehicle laws by the state police, including clearing roads and entrances of stolen, unregistered, illegally parked, disabled or abandoned vehicles, vehicles involved in accidents or crimes or other situations, regarding the removal, storage, and release of such vehicles towed and transported by wreckers, towing, and emergency road service organizations in a fair and equitable manner, upon request of the division of state police:

- (a) In response to requests from owners or custodians of vehicles that have encountered mechanical problems that rendered them inoperable or unsafe to be driven;
- (b) In response to requests from a state trooper when a vehicle has been abandoned on private property without consent of the property owner;
- (c) When a vehicle is found obstructing the passage of vehicles from a public street or highway onto the driveway of such private property or public building;
- (d) When a vehicle was involved in a traffic accident or crime or its driver is incapacitated or under arrest, or is without a valid driver 's license;
- (e) When a vehicle is interfering with snow removal or highway maintenance;
- (f) When a vehicle has been left unattended within a state-owned park and ride facility for a period greater than 21 days; or

(g) When a vehicle is without proper registration or apparently unsafe to be driven.

II. Nothing in this subdivision shall restrict the authority of town and city law enforcement agencies to enforce relevant state statutes, to enact local bylaws or ordinances not in conflict with any state law or administrative rule regarding the clearance of disabled, abandoned, illegally parked, unregistered, or stolen vehicles or vehicles involved in crimes or collisions in areas where the local police have sole or shared jurisdiction with state police, or to enter into contractual agreements with tow companies for the removal of vehicles at the request of local authorities.

106-B:27 State Police; Use of Tow List.

I. In the event the division of state police seeks to tow or remove any vehicle pursuant to applicable laws and rules, whenever practicable the tow company responsible for such towing or removal shall be chosen from a tow list in accordance with this subdivision.

II. To facilitate the timely and effective towing and removal of vehicles pursuant to this subdivision, the division of state police is authorized to develop and maintain a rotating list of qualified tow services within each geographical troop. Where long distances could cause unreasonably long wrecker response times, the director of state police or designee may authorize a separate rotation list by county or group of municipalities within a troop. The director from time to time may enlarge or shrink an area if necessary, to ensure an adequate number of qualified tow businesses to handle the call workload and travel distances involved, and shall review the lists periodically to ensure that needs are being met. The list may be further segmented to distinguish between heavy and light/medium duty wreckers, recovery vehicles, rollback carriers and other specialized equipment.

III. Rotation lists shall include notations identifying tow businesses that maintain heavy duty wreckers, heavy duty recovery vehicles, and recovery vehicles, and whenever there is a specific, identified need for one of those vehicles it shall be summoned from the rotating list in the order in which it appears. Nothing herein shall prevent a tow business on a tow list from responding to a call with a larger, heavier, or more sophisticatedly equipped vehicle where only a lighter wrecker is required, provided the tow business does not exceed its normal charge for a lighter duty wrecker.

IV. The director of state police with the approval of the commissioner of safety may adopt rules pursuant to RSA 541-A consistent with relevant provisions of this subdivision setting forth minimum qualifications of tow companies and their employees to participate in the state police tow list, including qualifications, training, and minimum standards for equipment, response times, storage and release of towed vehicles and their contents, and criminal history and motor vehicle record checks of tow truck drivers.

V. State troopers handling an incident shall not call a tow business that, in their opinion, lacks a vehicle of sufficient size and equipment for a particular job. Under such conditions a tow business not called shall retain its position on the rotation list.

VI. Whenever a desired tow business is unable to respond to a call in a timely manner with the proper equipment, the tow business next on the rotation list shall be called.

VII. Tow businesses may also be called for service, such as for fuel, tire changes, dead battery, and removal of disabled, stolen, or abandoned vehicles according to placement on the appropriate rotation list and shall have a service vehicle suitably equipped and personnel capable of handling the assignment.

106-B:28 Definitions. In this subdivision:

I. "Heavy duty wrecker" means a wrecker intended and suitably equipped for towing vehicles in excess of 10,000 pounds gross weight, such as a tractor-trailer, large truck, or similar vehicle but excluding carriers and flatbeds, and meeting the following requirements, provided that come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable:

(a) A truck chassis having a minimum gross vehicle weight rating of not less than 54,500 pounds;

(b) Tandem axles, or a cab-to-axle length of not less than 102 inches;

(c) A combined winch capacity of not less than 50,000 pounds, as rated by the winch manufacturer;

(d) A single winch in good operating condition with a capacity of 50,000 pounds, as rated by the winch manufacturer, or if equipped with 2 winches, a combined rating of 50,000 pounds;

- (e) A manufactured wheel-lift in good operating condition, with retracted lifting capacity of not less than 20,000 pounds, as rated by the lift manufacturer, with safety chains or a tow bar of equal capacity;
- (f) A winch cable rated as specified by the winch manufacturer, in good condition;
- (g) Light and airbrake hookups for the towed vehicle; and
- (h) Additional safety equipment as specified in this chapter and consistent with United States Department of Transportation inspection requirements.

II. "Light/Medium duty wrecker" means a wrecker intended and suitably equipped for safely towing vehicles weighing 26,000 pounds or less gross weight, including passenger cars, pickup trucks, motorcycles, small trailers, and similar vehicles, that meets the following requirements, provided that come-a-longs, chains, or other similar devices shall not serve as substitutes for a winch and cable:

- (a) A minimum gross vehicle weight rating of not less than 14,500 pounds;
- (b) Individual boom capacity of not less than 8,000 pounds, as rated by the boom manufacturer;
- (c) Individual power takeoff or hydraulic power or electric winch capacity of not less than 8,000 pounds, as rated by the manufacturer, and wire rope of a capacity and length consistent with the device manufacturer;
- (d) A manufactured wheel-lift with a retracting lifting capacity of not less than 3,500 pounds, as rated by the manufacturer, with safety chains;
- (e) Dual rear wheels;
- (f) Two chock blocks that will prevent rolling or slippage of the wrecker; and
- (g) Additional safety equipment as specified in this chapter and consistent with United States Department of Transportation inspection requirements.

III. "Recovery vehicle" means a motor vehicle consisting of a commercially available truck chassis equipped with a commercially manufactured tow body or bed and that is rated and issued a serial number by the manufacturer, designed and equipped for and used in the towing or recovery of vehicles, in good condition and capable of towing a vehicle by means of a tow bar, sling, or wheel lift, and capable of recovering a vehicle by means of a hoist, winch, or towline.

IV. "Rollback carrier" means a flatbed vehicle in good condition that meets the following requirements, provided that come-a-longs, chains, or similar devices shall not be used as substitutes for a winch and cable:

- (a) A minimum gross vehicle weight rating of at least 19,500 pounds;
- (b) A specially equipped chassis with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle;
- (c) At least one 8,000 pound winch, as rated by the winch manufacturer, with at least 50 feet of cable, as recommended by the winch manufacturer; and
- (d) Additional safety equipment as specified in this chapter and consistent with United States Department of Transportation inspection requirements.

V. "Tow business" means a person, enterprise, partnership, company, LLC, or other corporation having a registered trade name, an active New Hampshire tax identification number, an active New Hampshire workers' compensation insurance policy or exemption papers, an active New Hampshire employment security account, and that meets all state and local legal requirements including, but not limited to, those related to payment of business related taxes, fees, and insurance coverage, and that regularly engages in the impoundment, recovery, transport, or storage of towed or abandoned vehicles, or in the disposal of abandoned vehicles.

VI. "Tow list" means a list or lists of qualified New Hampshire businesses compiled by the division of state police and used by them to dispatch wreckers and recovery and road service vehicles to tow, recover, and temporarily store a vehicle when the owner, driver, or other person responsible for the vehicle is not present or wishes to have the vehicle removed and expresses no choice or preference of a specific tow business, or when public safety requires the law enforcement official in charge at the scene to clear the vehicle from the location believing, in his or her sole opinion, the vehicle is causing a public hazard or safety issue or is stolen, unregistered, was involved in a crime, or is in violation of a statute that requires immediate removal.

VII. "Vehicle storage area" means a suitable yard or enclosed building where a qualified tow business keeps or stores towed or impounded vehicles.

VIII. "Wrecker" for purposes of this chapter and except where the context clearly indicates otherwise, means a tow truck, road service vehicle, or carrier and recovery vehicle used by tow businesses on the state police tow list.

106-B:29 Use of Tow List.

I. When a towing situation being handled by state police involves a vehicle that requires recovery, towing, or removal from the scene, the trooper in charge shall make a best effort attempt to allow the owner, operator, or other person lawfully responsible for the vehicle to contact a preferred tow business, unless doing so will delay the timely restoration of safe traffic movement, prolong a serious hazard, or compromise the preservation or collection of evidence. The preferred tow business when called shall notify state police communications of its estimated time of arrival. The trooper on scene shall determine if that time will unduly continue a hazardous condition or cause serious inconvenience for the public and, if so, state police communications shall summon the next appropriate tow business from the tow list. If there is no one on site who is the owner, operator, or other person lawfully responsible for the vehicle, and in the opinion of the trooper the vehicle presents a hazard or unreasonable delay to the public, the trooper on site shall request that state police communications contact the next appropriate tow business on the list.

II. To help ensure a timely and professional response and to promote fairness to individual towing businesses, the division of state police shall maintain a separate rotation list for each state police geographical troop area. In any case where distances involved could cause unreasonably long wrecker responses, the director of state police may authorize a separate rotational list by county or group of communities for that troop. The director may enlarge or shrink an area if necessary to provide a sufficient number of tow businesses to handle the number of calls in the area and the travel distances involved, and shall review the zones periodically to determine if needs are being met.

III. If the desired tow business is unable to respond to a call in a timely manner with the proper equipment, the tow business next in line on the rotation list will be called.

IV. Placement on the tow list shall be by order of application. Whenever a new tow business becomes authorized, it shall be placed on the bottom of the appropriate list or lists for which the director finds the tow business qualified. The director shall have authority to determine when a tow list is adequately staffed with towing businesses and may refuse to add a business to the list if he or she determines the amount and type of calls in that zone is insufficient to justify a larger list.

V. Separate rotation lists shall be maintained for each category of wrecker. When a situation requires services of a specific category of wrecker, such wrecker shall be called from the appropriate tow list unless the person responsible for the vehicle is present and has a preference for a different tow business with that category of wrecker, in which case the preferred wrecker shall be summoned if available within a reasonable response time.

VI. Nothing in this chapter shall be construed to confer any vested property rights upon a tow business to continue on the rotating list.

VII. Calling a tow company from the list does not create a contract with or obligation on the part of the state police or state police personnel to reimburse any fee or towing charge, except when towing a vehicle owned or leased by the state police or that is later forfeited to the state police, or if a court determines that the state police wrongfully authorized the tow and orders the state police to pay transportation and storage fees.

VIII. Placement on the rotation list does not guarantee a particular number of calls, an equal number of calls to every tow business on the list, nor any compensation as a consequence of not being called in accordance with the list, or when removed from the rotation list. If a towing business responds to a state police call and the call is later canceled due to the vehicle no longer being disabled, or the circumstances change such that after calling a tow company the vehicle must be stored in a manner that preserves all evidence in or on the vehicle and the tow business is not so equipped, the tow business shall go back to the top of the list.

IX. A tow business shall, upon receiving a request from the state police, use its own equipment and shall not refer a call to another tow business.

X. A tow business may terminate or temporarily suspend its designation as a service provider and be removed from the rotation list by providing prompt written notice to state police communications. In the event of unforeseen circumstances such as death, fire, bankruptcy, or loss of equipment from accident or failure, a tow business on the tow list shall timely notify the director of state police in writing of its intent to suspend its designation as a service provider. If and when it desires to return to service, such tow company shall send a new application to the director. If approved to resume operation, they shall be placed at the bottom of the rotation list.

XI. New tow businesses, when qualified and accepted, shall be placed on the bottom of the rotation list.

XII. The trooper in charge at the scene of a towing situation shall have discretionary authority to deny a request for a specific tow business whenever time is of the essence and the request will delay the restoration of safe traffic movement.

XIII. If a motorcycle is to be towed, a tow sling, wheel lift, car carrier, or other comparable device shall be used that has the capability to transport motorcycles.

XIV. The division shall not call a tow business that, in its opinion, does not have a vehicle of sufficient size and equipment for a specific job. Under these conditions, the tow business not called will remain on the top of the rotation list.

XV. A tow business shall not sell, assign, transfer, pledge, surrender, encumber, or dispose of its place on the rotation list. By applying to be placed on the list, a tow business agrees to respond to all state police calls 24 hours a day, 7 days a week. If for any reason the business cannot respond to a call, it rotates to the bottom of the list. Businesses that develop a pattern of non-response to calls may be subject to removal from the rotation list.

XVI. A tow business shall appear on the rotation list only once. The listing shall use the name of the business submitted at the time of application and a designation for any specialty in which the business is qualified. A tow business conducting business at a location shall not receive multiple listings or classifications by utilizing a different or fictitious name for trucks operating from the same location or trucks operating with the same name out of different locations within that zone.

XVII. When emergency conditions necessitate, the state police may request the services of the tow business that is best equipped to handle the emergency and can reach the scene in the shortest time, regardless of its position on the rotation list. A call made under these circumstances shall count as such business's next rotation call.

XVIII. Whenever heavy equipment or large vehicles are involved in an incident, and it is determined that the tow business next up on the rotation list lacks adequate equipment to handle the incident, the division may call a larger piece of equipment from a business on the list that can handle the situation. In such case, the tow business shall be repositioned on the rotation list accordingly. Having only one large rotation wrecker shall not justify for being called to all truck accidents.

XIX. In the event of an overturned truck, the state police shall determine at the time if the situation requires the use of only one tow business or if additional vehicles are required. The first named tow business shall determine the amount of assistance necessary to remove any public hazards. The tow business responding to the law enforcement request shall be responsible for contacting others meeting the qualifications to operate in New Hampshire and shall be the business responsible for efficient and safe handling of the recovery. Decisions made pursuant to this paragraph shall be based on the public safety concerns.

XX. At no time shall any towing vehicle exceed its manufacturer's gross vehicle weight rating or the manufacturer's rated capacity for the towing assembly or be attached to a vehicle which by its size and or weight would make towing it an unsafe movement.

106-B:30 Requirements for Placement on the Tow List.

I. Any tow business that wishes to be placed on the rotation list with appropriate designation shall make application to the director of state police.

II. The tow business shall provide as part of its application a list of all tow truck operator personnel, including full name, current address, date and place of birth, driver's license number and type, and any restrictions, license expiration date, and social security number. The application shall be updated with state police communications within 5 days of whenever a new employee is hired, or an employee leaves the employ of the business.

III. The application shall include an individual form approved by the director of state police for each tow truck operator and for the owner and manager of the business and any supervisors, listing under penalty of unsworn falsification their full name, date and place of birth, driver license number and type and any restrictions or limitations, and a listing of all motor vehicle offense convictions in this or any other state or Canadian province including type, court, and year in the preceding 5 years, and a list of any criminal convictions in this or any other state or Canadian province within the past 10 years, including type of offense, year of conviction, court, and sentence imposed, and whether the person is currently on probation or parole or has ever been a registered sex offender or subject to a domestic violence protective order. Nothing in this paragraph shall restrict the employer or state police in case of doubt from verifying the information through a record check or checks.

IV. Any criminal history of convictions involving a felony against persons or property involving fraudulent activity, aggravated assaults, sex offenses, burglary or thefts resulting in a felony conviction within the last 3 years, or a serious or repetitive motor vehicle violation history of any such individual shall be grounds for refusing to place on or removing the business from the rotation list.

V. If an operator is employed by more than one listed towing company, each company shall maintain an independent and separate driver file on such individual. When a driver, manager, or supervisor ceases employment at the business or a new such employee is hired, the company shall notify the state police director in writing within 10 days and include a copy of the application including a copy of the form described in paragraph III. It shall be the responsibility of the operator to maintain appropriate records of driving times showing full compliance with all applicable laws, rules, and regulations.

VI. In the event the ownership of a tow business changes for any reason including but not limited to the sale of the business, death, or retirement of the owner, the tow business shall reapply before the effective date of the change in ownership for approval or the tow business shall be removed from the rotation list until such time as the new owner complies with the application process.

VII. The business shall have a telephone number listed in its name and shall also have an after-hours telephone number where it can be contacted after normal business hours. The business shall be staffed Monday through Friday from at least 9 a.m. to 5 p.m. with someone who will be available for administrative matters and the release of a vehicle or other related items stored on premises. After normal business hours and on weekends or holidays a responsible person shall be on call to provide those services.

VIII. Wreckers dispatched shall arrive at the scene within 30 minutes of being called, except for cases where the travel distance, posted speeds, or traffic and weather conditions and volume of traffic make this unreasonable. For heavy duty calls the company shall respond within a maximum of 60 minutes regardless of the time of day. If the time exceeds the above limit and the tow business does not provide state police communications or the trooper in charge at the scene a valid reason for the delay within that time, a second rotation wrecker may be dispatched. If a second wrecker is requested before the arrival of the initially dispatched rotation wrecker, the initially requested wrecker shall forfeit the call and leave the incident scene. Repeated tardiness may result in suspension or removal from the rotation list.

IX. If a tow business responds to a rotation call and through no fault of its own, does not tow the vehicle, the business shall retain its position on the rotation list.

X. Towing personnel shall wear reflective clothing meeting Federal Highway Administration specifications at all times when working in or adjacent to the roadway.

XI. The tow business shall maintain a reasonably secure area for the safe storage of motor vehicles or other items stored at the request of the state police. Storage facilities shall be clearly marked as belonging to that tow business and shall have adequate lighting to illuminate the enclosed area. If a vehicle must be stored for processing after a crime, death, or serious injury then storage facilities shall include a gated or fenced area adequate to reasonably secure the storage facility and prevent unauthorized entrance. Camera surveillance is recommended but not mandatory.

XII. A secure building that provides written proof that it meets all applicable state and local codes and which is suitably alarmed may substitute for a fenced area if the tow business provides for total inside storage.

XIII. The tow business shall provide reasonable accommodations for after-hours release of personal property in stored vehicles or other related storage once the state police releases any hold on personal or other property not affixed to the towed vehicle, and upon payment in full or mutual agreement for payment of all towing and storage fees. The towing of a vehicle at the request of law enforcement shall grant a lien to the tow business, equal to the cost of recovery and storage.

XIV. Under no circumstance may a tow business withhold wallets, purses, life essential clothing, mail, legal documents, child safety seats, eyeglasses or contact lenses, medicines, medical equipment, license plates, or house or place of business keys pending payment of fees.

XV. Any towing or recovery vehicle used by the tow business shall display lettering on both sides of the vehicle in letters that contrast in color with the background and are readily legible during daylight hours from a distance of 50 feet while the vehicle is stationary, and kept and maintained in a manner that retains such legibility, indicating the name or trade name of the wrecking service or owner thereof, the city or town and state in which the vehicle is customarily based, and the business telephone number on each front door of the truck. The identification number issued by the Federal Motor Carrier Safety Administration to the motor carrier, preceded by the letters "USDOT"; shall also be included in such lettering.

XVI. The tow business participating in the tow list shall maintain tow and hook, liability, and garage-keepers' liability insurance in an amount not less than that designated under New Hampshire law or administrative rule. This shall include a minimum coverage of \$1,000,000 in liability including garage-keeper's insurance coverage. The tow business shall also comply with all other business requirements and taxes required under state or federal law.

XVII. The tow business shall not place or imprint on its vehicles, buildings, equipment, clothing, or correspondence anything that suggests or implies an official relationship between the company and any emergency services provider or law enforcement agency. This shall extend to paint schemes, colors, shoulder patches, or decals similar in design to department of safety or state police vehicles or any name or logo implying an official connection. State police may design and issue a suitable decal to indicate that a tow vehicle's owner is on the rotating list. Termination of services or suspension, even if temporary, from the rotation list shall require any decal provided, issued, or approved by state police to be removed immediately from the tow vehicle if such vehicle will be operated on public roads.

XVIII. The tow business shall provide state police with a complete updated list of all rates for the services it performs related to the towing and storage of vehicles, on the letterhead of the business, and shall update such list when prices change. State Police shall not set the fees for these services nor use the rate schedule provided in determining placement on a rotation schedule. Price lists shall remain confidential except when determining the reasonable fee in a requested hearing conducted by the department of safety.

XIX. Whenever the owner of a towed or impounded vehicle or their agent pays a towing company for those services, the company shall provide a detailed receipt to the owner or agent for the services rendered.

XX. Motorists using a wrecker under the rotation list shall have the option of paying by cash or major debit or credit card. The tow business may inquire, prior to accepting a dispatch, as to how the motorist will be paying. The owner of a towed or impounded vehicle who believes an exorbitant or unreasonable fee was charged for towing the vehicle if such service rendered was covered by RSA 262:31 through RSA 262:40-c, may file a complaint with the commissioner of safety and request review pursuant to RSA 262:35-a. If not covered by RSA 262:31 through RSA 262:40-c, the owner or his or her agent shall be notified of his or her ability to make a complaint to the consumer protection division of the department of justice.

XXI. A tow business shall not be operated without a Federal Motor Carrier Safety Administration safety registration, an active United States Department of Transportation number, and valid New Hampshire registration.

106-B:31 Requirements to Remain on the Tow List.

I. Tow personnel shall perform a general cleanup of an accident area before leaving the scene, and remove any glass, vehicle parts, debris, or other substances dropped or spilled prior to leaving an incident scene. Vehicle fluids or hazardous substances shall not be intentionally drained or left on the road or surrounding environment. There will be no charge for normal highway cleanup of 30 minutes or less unless cleanup is a regular part of the itemized bill. If the debris field was caused by more than one vehicle all tow personnel shall share in the cleanup duties under the direction of the trooper in charge at the scene.

II. The tow business shall be responsible for securing and preserving personal property in a vehicle to be towed, unless the owner or person responsible is present and wishes to take custody of it.

III. The tow business shall employ reasonable safeguards and procedures so that all personal belongings and contents in the towed vehicle are intact and returned to the vehicle's owner or authorized agent upon release of the vehicle upon payment in full or mutual agreement for payment of fees with the exception of those essential items as provided.

IV. All personal property left in a vehicle and unclaimed shall be handled in accordance with applicable state laws.

V. No tow business shall accept a call if the employee who will be responding is under the influence of any substance that could cause impairment or has the odor of alcohol on his or her breath, nor shall a tow business employee respond in such a condition.

VI. The tow business shall maintain a log or ledger of all vehicles towed at the request of state police. It shall contain the date, time, and location of the tow, a description of the vehicle towed including the owner's name and address, vehicle identification number, registration plate number and state of registration, name of the tow vehicle operator, name and address of the person to whom the vehicle was released, and location to which the vehicle was towed. This record and any other records and equipment associated with compliance with these applicable state statutes and these rules shall be open to inspection by department of safety personnel during normal business hours and retained for the year when the record was made and one full year beyond.

VII. The owner, operator, and any employee of the tow business on the list shall comply with all applicable state and federal laws and local ordinances. In matters where conflict of laws arises the tow business shall follow the lawful direction of the law enforcement officer controlling the scene of the investigations and shall be held harmless from any conflicts.

VIII. All wrecker drivers shall have a valid driver's license for the class of vehicle they are operating. Wrecker drivers shall have a motor vehicle record free of convictions of serious motor vehicle offenses, or license revocations, or suspensions for serious motor vehicle offenses for the past 3 years.

IX. Tow companies on the tow list shall not permit any person to drive a wrecker if said person has been convicted for any felony against persons or property involving fraudulent activity, sex offenses, aggravated assaults, burglary, theft resulting in a felony conviction within the last 3 years. No tow company shall permit any person to drive a wrecker if the person is currently subject to probation, parole restrictions, or court order restricting the area the person may or may not be present in at any time.

X. Wreckers at the scene of a service call may be asked to provide minor on-site repairs, such as jump-starting a dead battery or changing a tire.

XI. Each tow vehicle shall carry at a minimum the following supplies and equipment in good working order, in addition to meeting the requirements herein for each class of vehicle that will be responding to wrecker calls:

(a) Emergency lights meeting statutory requirements, visible at 3/4 of a mile when illuminated, and visible over any vehicle being towed. Sirens are prohibited.

(b) At least one working spotlight capable of being aimed.

(c) One fire extinguisher, 5-lb. carbon monoxide or dry powder, fully charged and able to be operated.

(d) At least one heavy duty push broom and garbage container.

(e) A steering lock mechanism or capability to properly lock steering.

(f) A first aid kit.

(g) A reflectorized safety vest for each employee on the vehicle.

(h) For heavy duty vehicles and heavy-duty recovery vehicles, portable lighting equipment.

(i) Heavy duty wreckers and heavy-duty recovery vehicles shall have 10 of at least 2 of the following: reflector flare, road flare, colored LED flashing road flare. Lighter vehicles shall have at least 3 of 2 or more of the following: reflector flare, road flare, colored LED flashing road flare. Traffic cones may be substituted for one of the above on a clear day during the hours from dawn to dusk.

(j) At least one flat scoop type shovel.

(k) For heavy duty wreckers and heavy-duty recovery vehicles, necessary equipment to perform the tasks necessary for towing a vehicle.

(l) For any wreckers called to recover vehicles with air assisted brakes, the capability to provide air to the towed vehicle to facilitate brake operation.

(m) A current, valid motor vehicle registration and a current, valid state safety inspection sticker.

(n) An FCC licensed 2-way business radio or a wireless telephone.

(o) Portable lights for any vehicle being towed including taillights, stop lights, and directional signals.

(p) A minimum of 40 pounds of sand or other appropriate absorbent material designed and verified by the manufacturer to absorb hazardous waste and spills in an efficient and effective manner.

XII. The management of a towing business on the rotating list shall be primarily responsible to the division of state police to inspect and maintain an ongoing awareness of compliance with relevant rules, regulations, and laws affecting the business and to make prompt corrections of any discrepancies. Each tow business on the list shall annually, on or before January 15 of the following year, certify to the director of state police under penalty for unsworn falsification that it has conducted an internal inspection and that the business is in compliance with the provisions of this subdivision and any administrative rules adopted pursuant to it.

XIII. State troopers or other designated department of safety personnel may be assigned at the discretion of the state police director to conduct reviews from time to time of towing businesses, their records, and equipment to ensure compliance with relevant rules and laws and make a recommendation through the state police communications commander to the director as to the level of compliance and any appropriate action. Tow businesses participating in the tow list shall make, during normal business hours, their records, vehicles, facility, and equipment available for examination for such reviews by troopers or other department of safety employees. In cases of non-compliance, the state police communications commander shall recommend appropriate action to the director, which may include a verbal or written reprimand, suspension, or revocation from continued participation in the rotating list. Such action is discretionary and shall be based on the nature and seriousness of the discrepancy and any prior record of the business.

XIV. Before being removed from the rotating list for disciplinary reasons, a tow business or employee shall be served with a written notice of intent describing the reasons, and notified that it may request a hearing before the department of safety bureau of hearings prior to any such removal. A tow business that is removed from the list may contest the result of the hearing in superior court. Nothing in this subdivision shall be construed to confer any vested property rights upon a tow business or employee to remain on the state police rotating tow list.

XV. Tow vehicle owners, operators, and employees shall not be abusive, disrespectful, or use profane language when dealing with the public or officials and shall cooperate with the members of the state police.

XVI. Tow businesses shall employ only drivers who demonstrate an ability to perform required services in a safe, timely, courteous and civil manner and who satisfy all applicable state and federal laws and regulations.

XVII. The tow business shall tow disabled vehicles to any destination requested by the vehicle owner or person in charge of the vehicle after financial obligations have been finalized to the satisfaction of the tow business providing the service. The tow business may hold the vehicle for payment of services at the business location if not satisfied with payment on site.

XVIII. Access to the storage facility or yard by insurance inspectors, appraisers, attorneys and their assistants and private investigators shall be at their own risk and the tow business shall not be responsible for any injury sustained. A vehicle owner or the owner's authorized agent, upon presentation of suitable identification, may enter the yard at their own risk under supervision by the tow business to remove personal items or belongings.

XIX. A wrecker operator on the rotation list shall not offer towing services to the owner or operator of a vehicle currently under the supervision of state police unless dispatched by the rotation list or specifically hailed for service by the trooper or other law enforcement officer under emergency circumstances. Any activity done or designed for the purpose of circumventing the list shall be cause for the division to remove the business from the rotating list permanently or for a specific time determined by the division.

XX. Tow service vehicles shall not be driven at an unsafe or unreasonable speed, commit other moving motor vehicle violations or drive recklessly on the way to or from a towing service call, and may be removed from the list for such behavior.

XXI. State police shall not show any favoritism or circumvent the tow list to favor one or more businesses and shall be subject to divisional discipline for doing so.

106-B:32 Recordkeeping; Mandatory Records.

I. Each operator or business on the rotating list shall maintain a record system covering all services performed in roadside service, pulling, towing, or transporting vehicles in response to calls from the state police, which shall include the following information:

(a) The date and time of day the business was contacted and requested to the scene and the times of arrival and departure from the scene.

(b) The name of the person requesting the service.

(c) The location of the vehicle or incident.

(d) A description of the vehicle including license plate and vehicle identification number.

(e) The name and address of the owner or lessee of the vehicle, if known.

(f) The name and address, date of birth, driver license number, and licensing state or province of the driver of the vehicle, if known.

(g) The service or towing charge and other related fees.

II. All such records shall be available for inspection and copying by state troopers or agents of the department of safety during normal business hours at the place of business of the wrecker business, and shall be maintained for the current calendar year and the year immediately prior to the current calendar year.

106-B:33 Confiscated Vehicles; Impoundment. A state trooper may impound or confiscate a vehicle towed by a tow business that is on the rotation list in furtherance of law enforcement duties, such as when the vehicle is reported stolen or involved in a crime, is unsafe to be driven, or is to be processed for possible forensic evidence of a crime. In such events:

I. The vehicle may be towed to a location specified by the processing officer to facilitate evidence preservation, collection, or processing, otherwise it shall be securely stored on the premises of the towing service.

II. The towing and storage of the vehicle shall be at the expense of the state police. The wrecker business shall not release the vehicle to anyone unless and until authorized to do so by the trooper who arranged for the hold or a state police officer superior in rank to that trooper, or on an order by the court.

III. The tow business shall not allow anyone except a member of the law enforcement agency having jurisdiction or someone having written permission from the state police to enter, inspect, or touch the vehicle or any parts from the vehicle.

IV. When the vehicle is released, the tow business shall require that the person to whom the vehicle is released display a valid photo driver license or other official government photo identification, and the tow business shall keep a photocopy of such card or document.

106-B:34 Compliance Action; Disciplinary Enforcement. Participation in the state police tow list is a privilege, not a right. The director of state police is charged with the responsibility of ensuring that the towing, storage, roadside emergency service, and recovery of vehicles at the direction or request of the division of state police is accomplished consistent with state law and administrative rules and in a manner that maintains the confidence and respect of the motoring public. To accomplish this, the director may take appropriate action to uphold the integrity and efficiency of the tow list and the duties and responsibilities of businesses participating in the list and their owners, managers, and employees. The director may take appropriate action including removal of a tow business or a tow business employee from participating in the tow list, and which may include upon satisfactory evidence of violations or deliberate noncompliance, a verbal or written warning, suspending the business or employee or both from the list for a period of one to 120 days, or removal from the list and ineligibility for restoration for up to 2 years, depending on the seriousness of the offense, any prior history of violations, and any resulting harm. Causes for such action shall include violations of the equipment and other requirements set forth in RSA 106-B:28, and the provisions of RSA 106-B:29 through 106-B:33. Disciplinary actions may be appealed to the department of safety bureau of hearings and to the superior court as provided in RSA 106-B:31, XIV.

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

PART III

Relative to the municipal winter maintenance certification program.

1 Salt Applicator Certification; Definitions. New Paragraph; Municipal Winter Maintenance Certification Program. Amend RSA 489-C to 489-C:1 by inserting after paragraph IV the following new paragraph:

IV-a. "Municipal winter maintenance certification program" means a program implemented by a governmental unit as defined in RSA 507-B:1, I to maintain public roads, parking areas, and walkways in the winter months to be safe for public passage.

2 Commercial Applicators; Certification Option.. Amend RSA 489-C:2 to read as follows:

489-C:2 **Commercial Applicator** Certification Option.

I. Commercial applicators may elect to be [annually] certified by the department. Applicator certificates shall be issued by the department **and may be renewed annually**.

II. Any business that employs multiple commercial applicators may obtain a master certificate for the owner or chief supervisor, and commercial applicators employed by the business may obtain [certificates] **either an individual certificate or a subordinate certificate** to qualify under the master certificate. Any business holding a master certificate shall ensure that all commercial applicators operating **with a subordinate certificate** under its master certificate receive the required training and shall provide the required record keeping on behalf of all commercial applicators **working under the master certificate**.

III. **The department shall charge an annual fee for master, individual, and subordinate certificates.** Annual fees for [certificates] **a subordinate certificate** obtained under a master certificate shall be significantly less than the fees for a master certificate. **Annual fees for individual certificates shall be higher than the fee for a subordinate certificate but less than the fee for a master certificate.**

3 New Section; Municipal Winter Maintenance Certification Program Option. Amend RSA 489-C by inserting after section 2 the following new section:

489-C:2-a Municipal Winter Maintenance Certification Program Option.

I. Any governmental unit that has a municipal winter maintenance program may elect to have the program certified by the department. Municipal winter maintenance certification program certificates shall be issued by the department and may be renewed annually.

II. Any governmental unit holding a municipal winter maintenance program certificate shall ensure that each applicator operating under its certificate receives the required training approved by the department and shall provide record keeping on behalf of all applicators working under the municipal winter maintenance certificate. A governmental unit may meet the training requirement by requiring its employees to obtain commercial applicator individual certificates.

III. The department may create more than one class of certificate to recognize different complexity levels of municipal winter maintenance programs. If such classes are created, the department shall, through rules adopted pursuant to RSA 541-A, identify the criteria, required record keeping, and other requirements as may apply to each level.

IV. The department shall charge an annual fee for a municipal winter maintenance program certificate.

4 Salt Applicator Certification; Rulemaking. Amend RSA 489-C:3, V to read as follows:

V. Recordkeeping [~~required for commercial applicators to maintain certification~~] **and reporting requirements for certificate holders**.

5 New Paragraph; Salt Applicator Licenses; Rulemaking. Amend RSA 489-C:3 by inserting after paragraph VI the following new paragraph:

VII. Procedures for governmental units to obtain certification for their municipal winter maintenance programs.

6 Snow, Ice, and Other Weather Hazards. Amend RSA 507-B:2-b to read as follows:

507-B:2-b Snow, Ice, and Other Weather Hazards. Notwithstanding RSA 507-B:2, a governmental unit shall not be liable for damage arising from insufficiencies or hazards on any premises owned, occupied, maintained, or operated by it, even if it has actual notice of them, when such hazards are caused solely by snow, ice, or other inclement weather, and the governmental unit's failure or delay in removing or mitigating such hazards is the result of its implementation, absent gross negligence or reckless disregard of the hazard, of a winter or inclement weather maintenance policy or set of priorities with respect to such premises, adopted in good faith by the official responsible for such policy. All governmental units, officials, and agents shall be presumed to be acting pursuant to such a policy or set of priorities in the absence of proof to the contrary. **Municipal winter maintenance programs certified under RSA 489-C:2-a shall be presumed to meet the standards herein for all public roads, parking areas, and walkways in the absence of proof to the contrary.**

7 Liability Limited for Winter Maintenance. Amend RSA 508:22 to read as follows:

508:22 Liability Limited for Winter Maintenance.

I. No commercial applicator as defined in RSA 489-C:1, II and certified under RSA 489-C:2, **or his or her employer or principal**, or **an** owner, occupant, or lessee of land whose premises is maintained by a commercial applicator certified under RSA 489-C:2, **whether by contract with the commercial applicator or his or employer or principal**, shall be liable for damages arising from insufficiencies or hazards on any premises owned, occupied, maintained, or operated by them, even with actual notice thereof, when such hazards are caused solely by snow or ice, and the ~~[commercial applicator's, owner's, occupant's, or lessee's]~~ failure or delay in removing or mitigating such hazards is the result of [its] **the** implementation, absent gross negligence or reckless disregard of the hazard, of best management practices for winter road, parking lot, and sidewalk maintenance adopted and published by the department of transportation and the department of environmental services. All commercial applicators, owners, occupants, or lessees who adopt such best management practices shall be presumed to be acting pursuant to the best management practices in the absence of proof to the contrary.

II. In order to receive the liability protection provided in paragraph I, a commercial applicator as defined in RSA 489-C:1, II, or an owner, occupant, or lessee of land shall keep a written record describing its winter road, parking lot and property maintenance practices. The written record shall include the type ~~[and rate of application]~~ of de-icing materials used, **the rate or quantity of deicing materials used**, the dates of treatment, and the weather conditions for each event requiring de-icing. Such records shall be kept for a period of 3 years.

8 Effective Date. Part III of this act shall take effect July 1, 2021.

PART IV

Relative to eligibility for the issuance of a nondriver's picture identification card.

1 Identification Cards; Eligibility. Amend RSA 260:21, I to read as follows:

I. The department shall upon application issue a nondriver's picture identification card to any resident who:

(a) Is 12 years of age or older and does not possess a driver's license, **or**

(b) Is disabled and does not possess a driver's license~~[-or-~~

~~(c) Is 65 years of age or older, whether or not said resident possesses a driver's license].~~

2 Identification Cards; Design and Validity. Amend RSA 260:21, III and IV to read as follows:

III. The identification card shall bear the name, address, date of birth, blood type (optional), gender indicated as "M" for "male," "F" for "female," or "X" for "other," veteran's status for the purposes of identification for receiving benefits and services under New Hampshire law (optional), **and the** picture and signature of the applicant~~[-and in the case of a card issued pursuant to RSA 260:21, I(c), said card shall bear the notation "Golden Granite State Discount Card."].~~ The identification card shall bear an approved security marking indicating that it was not issued in compliance with Public Law 109-13 and is therefore not acceptable for federal identification purposes.

IV. The identification card shall be valid for 5 years from the date of issuance; provided, however, that ~~[a card issued pursuant to RSA 260:21, I(c) shall be valid for as long as the holder is a resident of the state and]~~ a card issued pursuant to RSA 260:21, XI shall be valid for 2 years from the date of issuance. If the director has adopted rules under RSA 263:10, II with respect to on-line renewal of licenses, the director shall provide the same on-line option for identification cards, provided that the applicant is eligible for identification card renewal and has a computerized image on file with the division. An identification card may be renewed on-line only once in every other license renewal cycle and the next cycle shall require appearance in person at a licensing facility.

3 Administration of Motor Vehicle Laws; Disposition of Fees; Reimbursement to the Highway Fund. Amend RSA 260:22 to read as follows:

260:22 Disposition of Fees; Reimbursement to the Highway Fund. The necessary expenses incurred under RSA 260:21 shall be a charge against the operating budget of the department of safety, division of motor vehicles, motor vehicle and driver safety, driver licensing. Pursuant to RSA 260:21, 50 percent of all fees collected shall be credited to the department to reimburse operating expenditures and are hereby appropriated for that pur-

pose. Fifty percent of all fees collected shall be credited as unrestricted revenue to the highway fund[; provided, however, that 50 percent of all fees collected for cards issued pursuant to RSA 260:21, I(c) shall be credited to the state committee on aging pursuant to RSA 161-F:29]. Upon prior approval of governor and council, transfers may be made from nondriver's picture identification card unrestricted revenue for other related expenditures, but in no event shall the cumulative annual transfers exceed 50 percent of all fees collected.

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

PART V

Relative to certificate of boating safety.

1 Safe Boater Education; Certificate Required. Amend RSA 270-D:10, I to read as follows:

I. No person [~~born on or after the dates provided in this section~~] shall operate a motorized vessel with any type of power motor in excess of 25 horsepower on the public waters of this state without first obtaining a certificate of boating safety education in accordance with this subdivision[;—

Date of Birth: _____ Certificate Required:

January 1, 1983 _____ January 1, 2002

January 1, 1977 _____ January 1, 2003

January 1, 1973 _____ January 1, 2004

January 1, 1967 _____ January 1, 2005

January 1, 1963 _____ January 1, 2006

January 1, 1957 _____ January 1, 2007

All _____ January 1, 2008].

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

PART VI

Relative to allowing emergency medical services chiefs and fire chiefs to issue decals for multi-use decal plates.

1 Firefighter Decals. Amend RSA 261-B:3-a to read as follows:

261-B:3-a Firefighter *and Emergency Medical Services* Decals.

I. A city or town fire chief may issue a firefighter decal to a full-time or volunteer firefighter employed by the city or town or a retired firefighter. A firefighter decal may only be placed on the multi-use decal plate of a motor vehicle registered and owned or leased by the firefighter.

II. Emergency medical services chiefs and fire chiefs may issue an emergency medical services decal solely to emergency medical services personnel and retired emergency medical services personnel. An emergency medical services decal may only be placed on a multi-use decal plate on a motor vehicle owned and registered by the emergency services personnel.

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

2021-0771s

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Electric vehicle supply equipment and infrastructure and relative to state motor vehicle fleet management.
- II. Removal of abandoned or disabled vehicles by towing.
- III. The municipal winter maintenance certification program.
- IV. Eligibility for the issuance of a nondriver's picture identification card.
- V. Certificate of boating safety.
- VI. Allowing emergency medical services chiefs and fire chiefs to issue decals for multi-use decal plates.

WAYS AND MEANS

SB 139-FN, relative to bingo dates.

Ought to Pass, Vote 5-0. Senator Rosenwald for the committee.

This bill increases the number of game dates allowed per month for bingo games from 10 game dates to 16 for charitable organizations. This will help non-profit organizations raise needed funds to fulfill their charitable missions if they have the staffing capability and the desire to hold 6 additional bingo game dates per month.

The question is on the adoption of the Consent Calendar.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: D'Allesandro.

Roll Call, Yeas: 23 - Nays: 1. Adopted.

REGULAR CALENDAR

COMMERCE

SB 65-FN, repealing the prohibition on the sale of over-the-counter rape test kits.

Re-refer to Committee, Vote 3-2. Senator French for the committee.

The question is on the adoption of the motion of Re-refer to Committee.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

SB 126-FN, adopting omnibus legislation on landlord tenant proceedings.

Ought to Pass with Amendment, Vote 5-0. Senator Soucy for the committee.

Commerce

March 9, 2021

2021-0733s

10/05

Amendment to SB 126-FN

Amend the bill by replacing Parts I , II and III with the following:

PART I

Relative to a notice to quit for residential tenants.

1 Actions Against Tenants; Payment After Notice. RSA 540:9 is repealed and reenacted to read as follows:

540:9 Payment After Notice.

I. Any possessory action based solely on nonpayment of rent shall be dismissed if both of the following occur:

(a) The tenant, at any time prior to the hearing on the merits, pays to the landlord, in cash, certified check, prepaid money order, electronic transfer, or other guaranteed or immediately drawable funds, including any form of payment specified in 540:9-a, I, all rent due and owing through the time of such payment plus other lawful charges contained in the lease, \$15 liquidated damages, and any filing fee and service charges incurred by the landlord in connection with the possessory action; and

(b) The landlord also submits prior to the hearing date a receipt of such payment to court and states in writing that a copy of same receipt has also been forwarded to the tenant prior to the time and date of the hearing on the merits. If the landlord fails to file such receipt the hearing on the merits shall proceed, and if the tenant proves that payment has been made in accordance with subparagraph (a), the case shall be dismissed.

II. Notwithstanding the provisions of paragraph I, a tenant may not defeat an eviction for nonpayment of rent by use of this section more than 3 times within a 12-month period.

2 Rent; Payment by Voucher. Amend RSA 540:9-a, I to read as follows:

I. Any rental payment or partial rental payment tendered by the tenant in the form of a written promise to pay on behalf of the tenant by the state, a county or a municipality of this state, or a payment by any organization which disburses federal or state funds, and any application by a municipality of amounts owed to it by a landlord pursuant to RSA 165:4-a, shall constitute payment by the tenant of the amount represented in the voucher, and of any amount applied by a municipality to delinquent balances of the landlord; provided, that this section shall not be construed to obligate a landlord to accept partial rental payments ~~or payments tendered after the expiration of the eviction notice~~.

3 Effective Date. Part I of this act shall take effect upon its passage.

PART II

Relative to prohibiting certain denials of rental assistance.

1 New Section; Aid to Assisted Persons. Amend RSA 165 by inserting after section 4-b the following new section:

165:4-c Eviction Notice Not Required. The governing body and overseers of public welfare shall not require the issuance of an eviction notice before providing rental assistance. An eviction notice may be required to assist the applicant in documenting emergency needs for emergency assistance, timely application and decision making, and referrals to other agencies with eviction notice requirements for consideration of additional rent arrearage assistance.

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

PART III

Relative to civil rights violations and discriminatory actions related to real estate transactions.

1 Law Against Discrimination; Fair Housing; Real Estate Transactions. RSA 354-A:8 through 354-A:15 are repealed and reenacted to read as follows:

354-A:8 Equal Housing Opportunity Without Discrimination a Civil Right. The opportunity to obtain housing without discrimination because of age, sex, gender identity, race, creed, color, marital status, familial status, physical or mental disability or national origin is hereby recognized and declared a civil right. In addition, no person shall be denied the benefit of the rights afforded by this section on account of that person's sexual orientation.

354-A:9 Definitions. In this subdivision:

I. "Aggrieved person" includes any person who:

(a) Claims to have been injured by a discriminatory housing practice; or

(b) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

II. "Discriminatory housing practice" means an act that is unlawful under section 804, 805, 806, or 818 of the Fair Housing Act, 42 U.S.C. section 3601, et seq.

III. "Family" includes a single individual.

IV. "Familial status" means one or more individuals who have not attained the age of 18 years and who are domiciled with:

(a) A parent or another person having legal custody of such individual or individuals; or

(b) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

V. "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy cases under Title 11 of the United States Code, receivers, and fiduciaries.

VI. "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

VII. "Real estate transaction" includes the sale, exchange, rental or lease of real property. "Real estate transaction" also includes the brokering or appraising of residential real property and the making or purchasing of loans or providing other financial assistance:

- (a) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
- (b) Secured by residential real estate.

VIII. "Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home or residence of one or more individuals.

IX. "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself or herself out as engaged in these.

X. "Conciliation" means the attempted resolution of issues raised by a charge, or by the investigation of such charge, through informal negotiations involving the aggrieved party, the respondent, and the commission.

XI. "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

354-A:10 Civil Rights Violations; Real Estate Transactions. It shall be an unlawful discriminatory practice because of age, sex, gender identity, race, religion, color, marital status, familial status, physical or mental disability or national origin to:

I. Refuse to engage in a real estate transaction with a person or to discriminate in making available such a transaction.

II. Alter the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith.

III. Refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person.

IV. Refuse to negotiate for a real estate transaction with a person.

V. Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit him or her to inspect real property.

VI. Make, print, or publish, or cause to be made, printed, or published, any notice, statement, advertisement, or sign, with respect to the sale or rental of a dwelling, or commercial structure, that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, familial status, physical or mental disability, sexual orientation, or national origin, or an intention to make any such preference, limitation, or discrimination.

VII. Offer, solicit, accept, use or retain a listing of real property with knowledge that unlawful discrimination or discrimination on the basis of familial status or an arrest record in a real estate transaction is intended.

354-A:11 Disability.

I. It is a civil rights violation to refuse to sell or rent or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of that buyer or renter, a disability of a person residing or intending to reside in that dwelling after it is sold, rented, or made available, or a disability of any person associated with the buyer or renter.

II. It is a civil rights violation to alter the terms, conditions, or privileges of sale or rental of a dwelling or the provision of services or facilities in connection with such dwelling because of a disability of a person with a disability or a disability of any person residing or intending to reside in that dwelling after it is sold, rented, or made available, or a disability of any person associated with that person.

III. It is a civil rights violation:

(a) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it

is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before modifications, reasonable wear and tear excepted. The landlord may not increase for persons with a disability any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant. A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained;

(b) To refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, to fail to design and construct those dwellings in such a manner that:

(1) The public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability;

(2) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs; and

(3) All premises within such dwellings contain the following features of adaptive design:

(A) An accessible route into and through the dwelling;

(B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(C) Reinforcements in bathroom walls to allow later installation of grab bars; and

(D) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

IV. Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of subparagraph III(c)(3).

V. If a unit of local government has incorporated into its building code the requirements set forth in subparagraph III(c), compliance with the local building code shall be deemed to satisfy the requirements of that subparagraph.

VI. A unit of local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of subparagraph III(c) are met.

VII. The commission shall encourage, but may not require, units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with subparagraph III(c), and shall provide technical assistance to units of local government and other persons to implement the requirements of subparagraph III(c).

VIII. Nothing in this subdivision shall be construed to require the commission to review or approve the plans, designs or construction of all covered multifamily dwellings to determine whether the design and construction of such dwellings are consistent with the requirements of subparagraph III(c).

IX. Nothing in paragraph IV, V, VI, or VII shall be construed to affect the authority and responsibility of the commission to receive and process complaints or otherwise engage in enforcement activities under state law.

X. Determinations by a unit of local government under paragraphs IV and V shall not be conclusive in enforcement proceedings under this chapter if those determinations are not in accord with the terms of this chapter.

XI. Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of others or would result in substantial physical damage to the property of others.

354-A:12 Blockbusting. It is a civil rights violation for any person to:

I. Solicit for sale, lease, listing or purchase any residential real estate within this state, on the grounds of loss of value due to the present or prospective entry into the vicinity of the property involved of any person or persons of any particular race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, familial status or disability.

II. Distribute or cause to be distributed, written material or statements designed to induce any owner of residential real estate in this state to sell or lease his or her property because of any present or prospective changes in the race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, familial status or disability of residents in the vicinity of the property involved.

III. Intentionally create alarm, among residents of any community, by transmitting communications in any manner, including a telephone call whether or not conversation thereby ensues, with a design to induce any owner of residential real estate in this state to sell or lease his or her property because of any present or prospective entry into the vicinity of the property involved of any person or persons of any particular race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, familial status or disability.

IV. Evict a tenant solely on the grounds that the person has acquired immune deficiency syndrome (AIDS) or is regarded to have acquired immune deficiency syndrome.

354-A:13 Restrictive Covenants.

I. Every provision in an oral agreement or a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof on the basis of race, color, religion, or national origin is void.

II.(a) Every condition, restriction or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, color, religion, or national origin is void.

(b) This section shall not apply to a limitation of use on the basis of religion of real property held by a religious institution or organization or by a religious or charitable organization operated, supervised, or controlled by a religious institution or organization, and used for religious or charitable purposes.

III. It is a civil rights violation to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.

354-A:14 Interference, Coercion, or Intimidation. It is a civil rights violation to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this subdivision.

354-A:15 Exemptions. Nothing contained in RSA 354-A:10 shall prohibit:

I. Private sales of single family homes.

(a) Any sale of a single family home by its owner so long as the following criteria are met:

(1) The owner does not own or have a beneficial interest in more than three single family homes at the time of the sale;

(2) The owner or a member of his or her family was the last current resident of the home;

(3) The home is sold without the use in any manner of the sales or rental facilities or services of any real estate broker or salesman, or of any employee or agent of any real estate broker or salesman;

(4) The home is sold without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of RSA 354-A:10, VII.

(b) This exemption shall not apply to RSA 354-A:10, VII.

II. Rental of a housing accommodation in a building which contains housing accommodations for not more than 4 families living independently of each other, if the owner resides in one of the housing accommodations. This exemption does not apply to RSA 354-A:10, VII.

III. Rental of a room or rooms in a private home by an owner if he or she or a member of his or her family resides therein or, while absent for a period of not more than 12 months, if he or she or a member of his or her family intends to return to reside therein.

IV. Reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

V. A religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of a dwelling which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin.

VI. Conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in the federal Controlled Substances Act, 21 U.S.C. section 802(6).

VII. Persons engaged in the business of furnishing appraisals of real property from taking into consideration factors other than those based on unlawful discrimination or familial status in furnishing appraisals.

VIII. No provision in this subdivision regarding familial status shall apply with respect to housing for older persons.

(a) As used in this paragraph, "housing for older persons" means housing:

(1) Provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program; or

(2) Intended for, and solely occupied by, persons 62 years of age or older; or

(3) Intended and operated for occupancy by persons 55 years of age or older and:

(A) At least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(B) The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(C) The housing facility or community complies with rules adopted by the commission for verification of occupancy, which shall:

(i) Provide for verification by reliable surveys and affidavits; and

(ii) Include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of subparagraph X(a)(3)(B). These surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(b) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(1) Persons residing in such housing as of the effective date of this amendatory Act of 1988 who do not meet the age requirements of subparagraph X(a)(2) or X(a)(3); provided, that new occupants of such housing meet the age requirements of subparagraph X(a)(2) or X(a)(3); or

(2) Unoccupied units; provided, that such units are reserved for occupancy by persons who meet the age requirements of subparagraph X(a)(2) or X(a)(3).

(c)(1) A person shall not be held personally liable for monetary damages for a violation of this subdivision if the person reasonably relied, in good faith, on the application of the exemption under this paragraph relating to housing for older persons.

(2) For the purposes of this subparagraph, a person may show good faith reliance on the application of the exemption only by showing that:

(A) The person has no actual knowledge that the facility or community is not, or will not be, eligible for the exemption; and

(B) The facility or community has stated formally, in writing, that the facility or community complies with the requirements for the exemption.

IX. Inquiry into or the use of an arrest record if the inquiry or use is otherwise authorized by state or federal law.

2 Effective Date. Part III of this act shall take effect January 1, 2022.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

SB 136-FN, relative to the state minimum hourly rate.

Inexpedient to Legislate, Vote 3-2. Senator Bradley for the committee.

The question is on the adoption of the motion of Inexpedient to Legislate.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

EDUCATION

SB 50, relative to the renomination of teachers following certification as experienced educator.

Inexpedient to Legislate, Vote 3-2. Senator Ricciardi for the committee.

The question is on the adoption of the motion of Inexpedient to Legislate.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

SB 130-FN, relative to education freedom accounts.

Ought to Pass with Amendment, Vote 3-2. Senator Ward for the committee.

Senate Education

March 10, 2021

2021-0769s

06/10

Amendment to SB 130-FN

Amend RSA 194-E:1, VI as inserted by section 2 of the bill by replacing it with the following:

VI. "Eligible student" means a resident of this state who is eligible to enroll in a public elementary or secondary school and whose annual household income is less than or equal to 300 percent of the federal poverty guidelines as updated annually in the Federal Register by the United States Department of Health and Human Services under 42 U.S.C. section 9902(2). Students in the special school district within the department of corrections established in RSA 194:60 shall not be eligible students.

Amend RSA 194-E:3, III(d) as inserted by section 2 of the bill by replacing it with the following:

(d) The parent signs an agreement with the scholarship organization:

(1) To provide an education for the eligible student in the core knowledge domains that include science, mathematics, language, government, history, health, reading, writing, spelling, the history of the constitutions of New Hampshire and the United States, and an exposure to and appreciation of art and music.

(2) Not to enroll the eligible student as a full-time student in their resident district public school while participating in the EFA program.

(3) To provide an annual record of educational attainment by:

(A) Having the student take a nationally-standardized, norm-referenced achievement test and to provide the results to the scholarship organization by the end of each school year which the scholarship organization shall make available to the department as aggregate scores; or

(B) Having the student take the statewide student assessment test pursuant to RSA 193-C:6; or

(C) Maintaining a portfolio including, but not limited to, a log which designates by title the reading materials used; samples of writings, worksheets, workbooks, or creative materials used or developed by the student. The parent shall have a certified teacher or a teacher currently teaching in a nonpublic school, who is selected by the parent, evaluate the student's educational progress upon review of a portfolio and discussion with the parent or student.

(4) To use the funds in the EFA only for qualifying expenses to educate the eligible student as established by the EFA program.

(5) To comply with the rules and requirements of the EFA program.

Amend RSA 194-E:4, VI(a) as inserted by section 2 of the bill by replacing it with the following:

(a) The scholarship organization shall not adopt a system that relies exclusively on requiring parents to be reimbursed for out-of-pocket expenses, but rather shall provide maximum flexibility to parents by facilitating direct payments to education service providers. Scholarship organizations may pre-approve requests for reimbursements for qualifying expenses, including expenses pursuant to RSA 194-E:2, II, but shall not disperse funds to parents without receipt that such pre-approved purchase has been made.

Amend RSA 194-E:4, XV and the introductory paragraph of RSA 194-E:4, XVI as inserted by section 2 of the bill by replacing them with the following:

XV. The department shall adopt rules that are necessary for the administration of this chapter.

XVI. The scholarship organization shall adopt policies or procedures that are necessary for the administration of this chapter. This may include policies or procedures:

Amend RSA 194-E:4, XVI as inserted by section 2 of the bill by inserting after subparagraph (d) the following new subparagraph:

(e) Ensuring appropriate use and rigorous oversight of all funds expended under this program.

Amend RSA 194-E:5, I as inserted by section 2 of the bill by replacing it with the following:

I. There is established the parent and education service provider advisory commission to assist the scholarship organization by providing recommendations about implementing, administering, and improving the EFA program.

Amend RSA 194-E as inserted by section 2 of the bill by inserting after RSA 194-E:9 the following new sections:

194-E:10 Phase-Out Grants.

I. For each school district, the commissioner shall calculate the amount of the reduction in adequate education grants pursuant to RSA 194-E:2, I for each student receiving an EFA under this chapter. In the

first year of the grant reduction, the commissioner shall calculate 50 percent of the reduction for each student and shall disburse that amount to the district as a district funding phaseout grant. In the second year of the grant reduction, the commissioner shall calculate 25 percent of the reduction for each student and shall disburse that amount to the district as a district funding phase-out grant. All district funding phase-out grants shall be included in the September 1 disbursement required pursuant to RSA 198:42.

II. The phase-out grants will terminate for new EFA students receiving an EFA effective July 1, 2026.

194-E:11 Legislative Oversight Committee Established. There is established an education freedom savings account oversight committee.

I. The members of the committee shall be as follows:

(a) Two members of the senate, one of whom shall be a member of the majority party and one of whom shall be a member of the minority party, appointed by the president of the senate.

(b) Three members of the house of representatives, one of whom shall be a member of the majority party and one of whom shall be a member of the minority party, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall monitor the implementation of RSA 194-E, including the impact of state education funding to local district schools, and make recommendations for any legislative changes to the education freedom savings account program.

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

V. The committee shall submit a report on or before November 30, 2022, and each year thereafter, to the general court including findings, recommendations, and any corrective or technical improvements that the education freedom account program may require.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

Sen. Ward, Dist 8

March 12, 2021

2021-0814s

06/04

Floor Amendment to SB 130-FN

Amend RSA 194-E:2 as inserted by section 2 of the bill by inserting after paragraph VIII the following new paragraph:

IX. A home education program pursuant to RSA 193-A:5 is terminated upon the commencement of a student's participation in an EFA program. A parent shall provide notification pursuant to RSA 193-A:5 when a student starts participating in an EFA program.

Amend the bill by replacing all after section 2 with the following:

3 Duty of Parent; Compulsory Attendance by Pupil. Amend RSA 193:1, I(g) to read as follows:

(g) The pupil has been accepted into an accredited postsecondary education program; [or]

(h) The pupil obtains a waiver from the superintendent, which shall only be granted upon proof that the pupil is 16 years of age or older and has an alternative learning plan for obtaining either a high school diploma or its equivalent.

(1) Alternative learning plans shall include age-appropriate academic rigor and the flexibility to incorporate the pupil's interests and manner of learning. These plans may include, but are not limited to, such components or combination of components of extended learning opportunities as independent study, private instruction, performing groups, internships, community service, apprenticeships, and on-line courses.

(2) Alternative learning plans shall be developed, and amended if necessary, in consultation with the pupil, a school guidance counselor, the school principal and at least one parent or guardian of the pupil, and submitted to the school district superintendent for approval.

(3) If the superintendent does not approve the alternative learning plan, the parent or guardian of the pupil may appeal such decision to the local school board. A parent or guardian may appeal the decision of the local school board to the state board of education consistent with the provisions of RSA 21-N:11, III; *or*

(i) The pupil is enrolled in the education freedom account program pursuant to RSA 194-E and is therefore exempt from this requirement.

4 Effective Date. This act shall take effect 60 days after its passage.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

Senator Kahn offered a Floor Amendment.

Sen. Kahn, Dist 10

March 17, 2021

2021-0883s

06/08

Floor Amendment to SB 130-FN

Amend RSA 194-E:4 as inserted by section 2 of the bill by inserting after paragraph XVII the following new paragraph:

XVIII. The scholarship organization shall require, from an organization that qualifies as an education service provider under RSA 194-E:1, V, a criminal history background check pursuant to RSA 194-E:12 on every employee or volunteer who has contact with a pupil served by the education service provider.

Amend RSA 194-E as inserted by section 2 of the bill by inserting after section 11 the following new section:

194-E:12 Criminal History Record Checks.

I.(a) An employee, selected applicant for employment, or designated volunteer with an education service provider, shall submit to the education service provider a criminal history records release form, as provided by the division of state police, authorizing the division of state police to conduct a criminal history records check through its state records and through the Federal Bureau of Investigation, and to release, for the purposes of determining if such person has been charged pending disposition for or convicted of any violation or attempted violation of crimes covered in RSA 189-13-A.V, including RSA 630:1; 630:1-a; 630:1-b; 630:2; 632-A:2; 632-A:3; 632-A:4; 633:1; 639:2; 639:3; 645:1, II or III; 645:2; 649-A:3; 649-A:3-a; 649-A:3-b; 649-B:3; or 649-B:4; or any violation or any attempted violation of RSA 650:2 where the act involves a child in material deemed obscene; in this state, or under any statute prohibiting the same conduct in another state, territory, or possession of the United States, as defined under this section. The education service provider shall deny employment or a volunteering role to a person if such person has been charged pending disposition or convicted of any crime, misdemeanor, or felony listed in this paragraph.

(b) The applicant shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency. In the event that the first set of fingerprints is invalid due to insufficient pattern and a second set of fingerprints is necessary in order to complete the criminal history records check, the conditional offer of employment shall remain in effect. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the education service provider may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where an applicant has lived during the past 5 years.

II. The education service provider shall maintain the confidentiality of all criminal history records information received pursuant to this section. If the criminal history records information indicates that the applicant has been convicted of any crime or has been charged pending disposition for or convicted of a crime listed in paragraph I, the education service provider shall review the information for a hiring decision.

III. If the applicant's criminal history records information indicates that the applicant has been charged pending disposition for or has been convicted of a crime listed in paragraph I, the education service provider shall notify the department of education.

IV. The scholarship organization shall adopt a policy relative to assurance from an educational service provider of their agreement to conduct criminal history records checks under this section prior to authorizing reimbursement and disbursement of funds to the education service providers. Such policy shall also state that an education service provider shall not employ or place into a volunteer role any person who has contact with a pupil served by the education service provider who has been charged pending disposition or convicted of any crime, misdemeanor or felony listed in paragraph I.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

The following Senators voted No: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

Roll Call, Yeas: 10 - Nays: 14. Failed.

Senator Watters offered a Floor Amendment.

Sen. Watters, Dist 4
March 17, 2021
2021-0885s
06/11

Floor Amendment to SB 130-FN

Amend RSA 194-E:6, II as inserted by section 2 of the bill by inserting after subparagraph (b) the following new subparagraph:

(c) Comply with all state and federal anti-discrimination laws.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: Gray.

Roll Call, Yeas: 23 - Nays: 1. Adopted.

Recess. Out of recess.

President Morse stated that the Clerk is instructed to make the necessary administrative corrections to SB 130-FN. Senator Watters Floor Amendment 2021-0885s amending language referenced RSA 196-E:6, II and should have referenced RSA 194-E:6, II.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

Senator Bradley moved to Lay on the Table.

The question is on the adoption of the motion to Lay on the Table.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 16 - Nays: 8. Adopted.

SB 145-FN-L, relative to a temporary change in the formula for school funding.
Re-refer to Committee, Vote 3-2. Senator Hennessey for the committee.

The question is on the adoption of the motion of Re-refer to Committee.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

MOTION OF RECONSIDERATION

Senator Bradley, having voted on the prevailing side, moved to reconsider the following action taken by the body on SB 130-FN, relative to education freedom accounts. Laid on the Table.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

Senator Bradley moved to Lay on the Table.

The question is on the adoption of the motion to Lay on the Table.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

SB 147-FN, adopting omnibus legislation relative to student aid, the central registry, transportation of students, and special education costs.
Ought to Pass with Amendment, Vote 5-0. Senator Prentiss for the committee.

Senate Education
 March 9, 2021
 2021-0740s
 06/10

Amendment to SB 147-FN

Amend PART I of the bill by replacing section 1 with the following:

1 New Section; Graduation Requirements; Free Application for Federal Student Aid. Amend RSA 193 by inserting after section 26 the following new section:

193:26-a Graduation Requirements; Free Application for Federal Student Aid.

I. Beginning with the 2023-2024 school year, each student who is at least 18 years of age or legally emancipated, who is otherwise eligible to graduate from high school, or the parent of such a student who is under the age of 18 years, as a prerequisite to receiving a high school diploma from a public high school, shall either:

(a) File a Free Application for Federal Student Aid with the United States Department of Education; or

(b) File a waiver on a form created by the state board of education with the student's school district indicating that the parent or guardian or, if applicable, the student, understands what the Free Application for Federal Student Aid is and has chosen not to file an application

II. Each school district with a high school shall provide to each high school student and, if applicable, his or her parent or guardian, any support or assistance necessary to comply with paragraph I. A school district shall award a high school diploma to a student who is unable to meet the requirements of paragraph I due to extenuating circumstances, as determined by the school district, if the student has met all other graduation requirements and the principal attests that the school district has made a good faith effort to assist the student or, if applicable, his or her parent or guardian in filing an application or a waiver.

Amend the bill by replacing PART II with the following:

PART II

Relative to a central registry in the department of education to maintain records of founded reports of abuse and neglect.

1 Department of Education; Rulemaking. Amend RSA 21-N:9, II(s) to read as follows:

(s) License standards for educational personnel, to include the establishment and implementation of a secure system for conducting criminal background checks pursuant to RSA 189:13-a for all first-time applicants listed in this section, the establishment and implementation of a secure system for accessing findings of abuse for individuals on the central registry pursuant to RSA 169-C:35, and educator certification fees for granting licenses to educational personnel, including teachers, paraprofessionals, superintendents, assistant superintendents, special education administrators, business administrators, principals, vocational directors, coordinators of comprehensive health education and services, directors of pupil personnel services, guidance directors, guidance counselors, school psychologists, associate school psychologists, speech-language specialists, social workers, health educators, physical education teachers, consumer and family science teachers, elementary teachers, specialists in assessment of intellectual functioning, school bus drivers and transportation monitors, media supervisors, media generalists, and master teachers as authorized by RSA 186:8 and RSA 186:11, X, professional licenses including beginning educator licenses, experienced educator licenses, and intern authorizations, and other classifications of educators, administrators, specialists, and paraprofessionals necessary to address educational needs as determined by the state board upon the recommendation of the professional standards board pursuant to RSA 186:60.

2 Reporting; Central Registry. Amend RSA 169-C:35, I to read as follows:

I. There shall be established a state registry for the purpose of maintaining a record of founded reports of abuse and neglect. The registry shall be confidential and subject to rules on access established by the commissioner of the department under RSA 541-A. The commissioner of the department shall allow the credentialing bureau of the department of education access to the records of applicants for purposes of RSA 21-N:9, II(s) and in accordance with RSA 189:13-c.

3 New Paragraphs; Central Registry. Amend RSA 169-C:35 by inserting after paragraph VII the following new paragraphs:

VIII. Upon receipt of a written request from the department of education, credentialing bureau, the department shall provide the department of education with a copy of the notice of finding or court order establishing the finding and resulting individual's name being placed on the central registry.

IX. The department of education shall maintain the confidentiality of all division for children, youth, and families records.

4 New Section; Teacher Credentialing Criminal History Records Check. Amend RSA 189 by inserting after section 13-b the following new section:

189:13-c Credentialing Applicant State Registry Check.

I. In this subdivision, "credentialing applicant" means a first-time applicant for a New Hampshire teaching credential.

II. The department shall complete a central registry check as established in RSA 169-C:35 on each credentialing applicant. The central registry check shall include a check of the department's central registry of founded reports of child abuse under RSA 169-C:35.

III. By submitting an application for a teaching credential, an applicant is deemed to have consented to have the department of education check his or her name for findings of abuse on the central registry pursuant to RSA 169-C:35.

IV. Any individual whose name has been submitted for this check who has been the subject of finding of abuse, shall be denied a teaching credential by the department.

V. The department shall adopt rules, pursuant to RSA 541-A, governing the rights of a credentialing applicant and the ability to appeal a denial of a teaching credential pursuant to a founded report of child abuse under RSA 169-C:35.

5 Effective Date. Part II of this act shall take effect January 1, 2022.

Amend PART III of the bill by replacing section 1 with the following:

1 New Section; Pupils Transported in a Contract Carrier. Amend RSA 189 by inserting after section 6-d the following new section:

189:6-e Pupils Transported in a Contract Carrier.

I. A school district may contract with a contract carrier of passengers, as defined by RSA 376:2, VII, that is designed to transport 16 or more passengers including the operator, to transport pupils to or from school activities. The motor vehicle used by the contract carrier of passengers shall bear a valid state inspection sticker, comply with applicable provisions of RSA 376, and be operated by a driver who holds a valid commercial driver's license to operate that vehicle.

II. In this section, "school activities" shall include, but is not limited to, sporting events, intramural events, events associated with student clubs or organizations, job training programs, field trips, and special education transition services. "School activities" shall not include transportation between home and school.

III. Contract carriers of passengers shall ensure that motor vehicle operators transporting 16 or more passengers for a school activity comply with requirements for training and criminal history record checks required in RSA 189:13-a, XII and RSA 189:13-b.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

Senator Kahn offered a Floor Amendment.

Sen. Kahn, Dist 10
 Sen. Ward, Dist 8
 March 18, 2021
 2021-0889s
 06/04

Floor Amendment to SB 147-FN

Amend Part III of the bill by replacing section 1 with the following:

1 New Section; Pupils Transported in a Contract Carrier. Amend RSA 189 by inserting after section 6-d the following new section:

189:6-e Pupils Transported in a Contract Carrier.

I. A school district may contract with a contract carrier of passengers, as defined by RSA 376:2, VII, that is designed to transport 16 or more passengers including the operator, to transport pupils to or from school activities. The motor vehicle used by the contract carrier of passengers shall bear a valid state inspection sticker, comply with applicable provisions of RSA 376, and be operated by a driver who holds a valid commercial driver's license and a school bus driver's certificate defined in RSA 263:29.

II. In this section, "school activities" shall include, but is not limited to, sporting events, intramural events, events associated with student clubs or organizations, job training programs, field trips, special education transition services that require travel of at least 75 miles. "School activities" shall not include transportation between home and school.

III. Contract carriers of passengers shall ensure that motor vehicle operators capable of transporting 16 or more passengers for a school activity comply with requirements for training and criminal history record checks required in RSA 189:13-a, XII and RSA 189:13-b as well as school bus driver's certificate requirements of RSA 263:29.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

SB 158-FN-L, relative to the formula for funding an adequate education. Inexpedient to Legislate, Vote 3-2. Senator Ricciardi for the committee.

President Pro Tempore Carson presiding.

President Morse presiding.

The question is on the adoption of the motion of Inexpedient to Legislate.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Sherman, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka.

Roll Call, Yeas: 15 - Nays: 9. Adopted.

ELECTION LAW AND MUNICIPAL AFFAIRS

SB 47, modifying the absentee voter registration process, absentee ballot application, and absentee ballot voting process.

Inexpedient to Legislate, Vote 3-2. Senator Birdsell for the committee.

The question is on the adoption of the motion of Inexpedient to Legislate.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

SB 52, relative to city charter provisions for tax caps.

Ought to Pass with Amendment, Vote 3-2. Senator Gray for the committee.

Election Law and Municipal Affairs

March 9, 2021

2021-0710s

06/11

Amendment to SB 52

Amend the title of the bill by replacing it with the following:

AN ACT relative to municipal charter provisions for tax caps.

Amend the bill by replacing all after the enacting clause with the following:

1 Municipal Charters; Separability, Preservation. Amend RSA 49-B:13, II-a to read as follows:

II-a. ***Notwithstanding RSA 49-B:1***, all town or city charters which have been adopted, revised, or amended ***before July 5, 2011*** to include a tax or spending cap of any kind and all charter commissions which have been properly established and elected; all elections properly held; and all actions properly taken related to the tax or spending cap in such charters are hereby endorsed, ratified, validated, and legalized and are fully enforceable~~[-without regard to whether such entities or actions were authorized by law at the time they were established or taken].~~

2 City Charters; Limitations. Amend RSA 49-C:33, I(d) to read as follows:

(d) A limit on the annual spending increases that increase the amount raised by taxes under the city budget adopted pursuant to RSA 49-C:23. Such a tax cap shall provide for an override threshold on a vote to exceed the limit on annual increases which shall be by a supermajority as determined in the charter. A tax cap provision in the city charter may provide for specific exclusions for dedicated, enterprise, or self-supporting funds or accounts, capital reserve funds, grants, or revenue from sources other than local taxes, ***or interest and principal payments on municipal bonded debt, or capital expenditures which shall be by a supermajority vote as determined in the charter. An ordinance or accounting practice that redistributes excludable budget items from within the limits of the capped budget to outside the limits of the capped budget shall be by a supermajority vote as determined in the charter.***

3 Optional Forms of Legislative Body. Amend RSA 49-D:3, I(e) to read as follows:

(e) Other matters of local concern may be included in a charter including, but not limited to, conflict of interest provisions which shall be at least as strict as those established in the general laws, citizen powers of initiative, referendum and recall as described in RSA 49-C, the adoption and periodic review of an administrative code, a merit personnel system, a purchasing system, and a town investment policy, and the adoption of a tax cap limiting the annual increases in amounts raised by taxes under the town budget. Such tax cap shall include an override threshold on a vote to exceed the limit on annual increases which shall be by a supermajority as determined in the charter. Such tax cap may specifically exclude certain dedicated, enterprise,

or self-supporting funds or accounts, capital reserve funds, grants, or revenue from sources other than local taxes, *or interest and principal payments on municipal bonded debt, or capital expenditures which shall be by a supermajority vote as determined in the charter. An ordinance or accounting practice that redistributes excludable budget items from within the limits of the capped budget to outside the limits of the capped budget shall be by a supermajority vote as determined in the charter.*

4 Effective Date. This act shall take effect 60 days after its passage.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted, bill ordered to Third Reading.

SB 83, adopting omnibus legislation relative to elections.

Ought to Pass with Amendment, Vote 5-0. Senator Gray for the committee.

Election Law and Municipal Affairs

March 9, 2021

2021-0717s

11/05

Amendment to SB 83

Amend the bill by replacing Part III-V with the following:

PART III

Relative to Recount Fees.

1 State General Election Recounts; Fees. Amend RSA 660:2 to read as follows:

I. If the difference between the vote cast for the applying candidate and a candidate declared elected shall be less than *or equal to one quarter of one percent (0.25%)* of the total votes cast in the towns which comprise the office to be recounted, ~~[the following fees shall apply:]~~ *no fee is due.*

II. If the difference between the vote cast for the applying candidate and a candidate declared elected shall be greater than one quarter of one percent but less than or equal to one percent of the total votes cast in the towns which comprise the office to be recounted, the following fees shall apply:

- (a) Candidate for president, United States senator or governor, ~~[\$500]~~ *\$1,000.*
- (b) Candidate for United States representative, ~~[\$250]~~ *\$500.*
- (c) Candidate for executive councilor, ~~[\$100]~~ *\$200.*
- (d) Candidate for state senator or county officer, ~~[\$50]~~ *\$100.*
- (e) Candidate for state representative, ~~[\$10]~~ *\$20.*

~~[H:]~~ *III.* If the difference between the vote cast for the applying candidate and a candidate declared elected shall be ~~[between]~~ *greater than* one percent and *less than or equal to* 2 percent of the total votes cast in the towns which comprise the office to be recounted, the following fees shall apply:

- (a) Candidate for president, United States senator or governor, [~~\$1,000~~] **\$2,000**.
- (b) Candidate for United States representative, [~~\$500~~] **\$1,000**.
- (c) Candidate for executive councilor, [~~\$200~~] **\$400**.
- (d) Candidate for state senator or county officer, [~~\$100~~] **\$200**.
- (e) Candidate for state representative, [~~\$20~~] **\$40**.

[~~HH~~] **IV**. If the difference between the vote cast for the applying candidate and a candidate declared elected shall be [~~between~~] **greater than** 2 percent and **less than or equal to** 3 percent of the total votes cast in the towns which comprise the office to be recounted, the following fees shall apply:

- (a) Candidate for president, United States senator or governor, [~~\$2,000~~] **\$4,000**.
- (b) Candidate for United States representative, [~~\$1,000~~] **\$2,000**.
- (c) Candidate for executive councilor, [~~\$400~~] **\$800**.
- (d) Candidate for state senator or county officer, [~~\$200~~] **\$400**.
- (e) Candidate for state representative, [~~\$40~~] **\$80**.

[~~IV~~] **V**. If the difference between the vote cast for the applying candidate and a candidate declared elected shall be greater than 3 percent of the total votes cast in the towns which comprise the office to be recounted, the candidate shall pay the fees as provided in RSA 660:2, [~~HH~~] **IV** and shall agree in writing with the secretary of state to pay any additional costs of the recount. The secretary of state may require that the applying candidate pay the estimated additional costs of the recount prior to commencing the recount.

2 State General Election Recounts; Reference Changed. Amend RSA 660:6, III to read as follows:

III. If any person who has applied for a recount loses the recount by a margin of less than one percent of the total votes cast in the towns which comprise the district for the office recounted, the secretary of state shall return to the person within 10 days of the recount any fees that were paid in excess of those required by RSA 660:2, [~~I~~] **II**.

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

PART IV

Relative to Itemized Statements Filed by Political Committees and Candidates.

1 Political Expenditures and Contributions; Reports of Receipts and Expenditures. RSA 664:9-a and RSA 664:9-b are repealed and reenacted to read as follows:

664:9-a Reports of Receipts and Expenditures Filed Electronically. A political committee of a candidate or a candidate may file such candidate's report of receipts and expenditures, pursuant to RSA 664:6, RSA 664:7, and RSA 664:7-b, electronically online by using the New Hampshire Campaign Finance System, which may also be used to register, file reports, and search information filed by candidates, political committees, and candidate committees.

664:9-b Reports of Receipts and Expenditures Filed by Other Methods. A political committee of a candidate or a candidate may file such candidate's required reports as an email attachment, a facsimile, or a paper copy, provided that:

- I. The font size of the document as printed is not less than an 8 point font.
- II. Email attachments are to be in portable document format archive (PDF/A) or other acceptable format as determined by the secretary of state.
- III. The report is mailed, delivered, or sent to the secretary of state on or before the date and time that the report is due.

2 New Section; Reports; Legibility Required. Amend RSA 664 by inserting after section 9-b the following new section:

664:9-c Reports; Legibility Required. A political committee of a candidate or a candidate who files a report pursuant to RSA 664:9-b shall be responsible for ensuring the report is legible. The political committee of a candidate or a candidate shall file an amended copy of such candidate's report within one week after being notified by the secretary of state or attorney general's office that such report is non-compliant.

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

PART V

Providing for Optional Town Meeting Procedures.

1 Expenditures Prior to Meeting. Amend RSA 32:13, II to read as follows:

II. This subdivision shall not be construed to affect the authority of the local governing body [~~in towns with a March annual meeting and a January through December fiscal year,~~] to make expenditures between [January 1] ***the beginning of the fiscal year*** and the date a budget is adopted which are reasonable in light of prior [year's] ***years'*** appropriations and expenditures for the same purposes during the same time period.

2 Effective Date. Part V of this act shall take effect September 1, 2021.

2021-0717s

AMENDED ANALYSIS

This bill adopts legislation:

I. Clarifying the circumstances under which certain persons are disqualified from performing certain duties of an election official.

II. Relative to the establishment of an election information portal.

III. Relative to recount fees.

IV. Relative to itemized statements filed by political committees and candidates.

V. Providing for optional town meeting procedures.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

SB 90, adopting omnibus legislation on redistricting.

Inexpedient to Legislate, Vote 3-2. Senator Gray for the committee.

Senator Gray moved to Lay on the Table.

The question is on the adoption of the motion to Lay on the Table.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

ENERGY AND NATURAL RESOURCES

SB 151-FN, relative to renewable energy procurement.

Ought to Pass with Amendment, Vote 5-0. Senator Watters for the committee.

Energy and Natural Resources
March 11, 2021
2021-0795s
10/06

Amendment to SB 151-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Renewable Energy Procurement. Amend RSA 362-F by inserting after section 15 the following new subdivision:

Renewable Energy Procurement

362-F:16 Definitions. In this subdivision:

I. "Benefits to New Hampshire's economy" includes but is not limited to capital investments by the renewable energy generation facility, employment resulting from the clean energy generation facility; payment by the clean energy generation facility to a host community, or the state of New Hampshire, whether or not required by law or rule; and, purchase of goods and services by the clean energy generation facility, from New Hampshire and other domestic sources.

II. "Class I," "Class II", "Class III", and "Class IV" energy mean those terms as described and defined in RSA 362:F:4.

III. "Clean energy generation" means Class I including offshore wind energy generation, Class II, Class III, and Class IV.

IV. "Contract" means a contract for generation of renewable portfolio standard resource for a period of up to 30 years.

V. "Offshore wind developer" means a provider of electricity developed from an offshore wind energy generation project that is located on the outer continental shelf.

VI. "Offshore wind energy generation" means offshore electric generating resources derived from wind that are Class I renewable energy generating sources, have a commercial operations date on or after January 1, 2018, have been verified by the commission; and operate in a designated wind energy area for which an initial federal lease was issued on a competitive basis after January 1, 2015.

VII. "REPC" means the renewable energy procurement committee established in RSA 362-F:20.

362-F:17 Procurement.

I. In order to facilitate the procurement of renewable energy generation and the financing of offshore wind energy generation resources not later than June 30, 2023, or a date determined by the governor, the renewable energy procurement committee (REPC) shall solicit proposals for offshore wind energy generation and other renewable energy generation resources; and, provided that reasonable proposals have been received, the REPC shall select proposals for energy distribution company submission to the commission. Such submission shall occur following approval of the governor.

II. The timetable and method for solicitations of procurement contracts using a competitive bidding process shall be proposed jointly by the distribution companies and REPC, and, upon approval by the governor, shall be subject to review and approval by the commission. The distribution companies, in coordination with the REPC, shall consult with the attorney general regarding the choice of solicitation methods. A solicitation may be coordinated and issued jointly with other New England states within ISO-NE or entities designated by those states.

III. The REPC and distribution companies may conduct, upon approval of the governor, one or more competitive solicitations through a staggered procurement schedule developed by the distribution companies and the REPC; provided, that the schedule shall ensure that the distribution companies enter into cost-effective contracts for offshore wind energy generation and other renewable energy generation sources up to approximately 800 megawatts of aggregate nameplate capacity not later than June 30, 2028 and provided further, that solicitations in total shall seek proposals for no less than 600 megawatts of aggregate nameplate capacity of offshore wind energy generation resources, and associated transmission costs. Such solicitations may inclusively or separately include other renewable energy sources, including Class II, Class III, and Class IV.

IV. A staggered procurement schedule may be developed by the REPC. If the REPC, in consultation with the distribution companies and the independent evaluator, determines that reasonable proposals were not received pursuant to a solicitation, the REPC may terminate the solicitation, and may require additional solicitations to fulfill the requirements of this section.

V. A proposed contract shall be subject to the review and approval of the commission. As part of its approval process, the commission shall consider recommendations by the attorney general, which shall be submitted to the commission within 45 days following the filing of a proposed contract with the commission. The commission shall consider the potential cost effectiveness of the proposed contract under the criteria in this section and shall approve a proposed contract within 90 days if the commission finds that the proposed contract is a cost-effective mechanism for procuring renewable energy on a long-term basis, taking into account the factors outlined in this section. A distribution company shall be entitled to cost recovery of payments made under a contract approved under this section.

VI. In developing proposed contracts, the distribution companies shall consider contracts for renewable energy and renewable energy certificates individually and for a combination of both renewable energy certificates and energy. A distribution company may decline to pursue a proposal if the proposal's terms and conditions would require the contract obligation to place an unreasonable burden on the distribution company's balance sheet; provided, however, that the distribution company shall take all reasonable actions to structure the contracts, pricing, or administration of the products purchased under this section in order to prevent or mitigate an impact on the balance sheet or income statement of the distribution company or its parent company, subject to the approval of the commission; provided further, that mitigation shall not unreasonably increase costs to ratepayers. If a distribution company and the REPC deem all proposals to be unreasonable, the distribution company shall, within 20 days of the date of its decision, submit a filing to the commission. The filing shall include, in the form and detail prescribed by the commission, documentation supporting the REPC and distribution company's decision to decline the proposals. Following a distribution company's filing, and within 3 months of the date of filing, the commission shall approve or reject the distribution company's decision and may order the distribution company to reconsider any proposal. If distribution companies are unable to agree on a winning bid following a solicitation under this section, the matter shall be submitted to the REPC which shall, in consultation with the independent evaluator, issue a final, binding determination of the winning bid upon approval of the governor; provided, that the final contract executed shall be subject to review by the commission. The REPC may require additional solicitations to fulfill the requirements of this section.

VII. The commission shall adopt rules for this subdivision consistent with this section by June 30 2023. The rules shall:

(a) Allow solicitation respondents to submit proposals for contracts consistent with this section.

(b) Require that a proposed contract executed by the distribution companies under a proposal be filed with, and approved by, the commission before becoming effective.

(c) Provide criteria for evaluation and approval of annual remuneration for the contracting distribution company of 2.75 per cent of the annual payments under the contract to compensate the company for accepting the financial obligation of the contract, such provision to be acted upon by the commission at the time of contract approval.

(d) Require associated transmission costs to be incorporated into a proposal; provided that, to the extent there are transmission costs included in a bid, the commission may authorize or require the contracting parties to seek recovery of such transmission costs of the project through federal transmission rates, consistent with policies and tariffs of the Federal Energy Regulatory Commission, to the extent the commission finds such recovery is in the public interest.

(e) Require the mitigation of transmission costs, and avoidance of line loss, to the extent possible and ensure that transmission cost overruns, if any, are not borne by ratepayers.

VIII. The distribution companies shall each enter into a contract with the winning bidders for their apportioned share of the market products being purchased from the project. The apportioned share shall be calculated and based upon the total default service energy demand from all distribution customers in each service territory of the distribution companies.

IX. Upon the approval of a proposal by the commission, the electric distribution company shall have exclusive authority and control over power purchase agreement contracts, which shall be completed within 90 days.

362-F:18 Public Utilities Commission Evaluation Criteria.

I. Agreements can be approved if the commission determines that the clean energy resources to be used by a developer under the proposal meet the following criteria:

(a) Provide adequate energy with enhanced electricity distribution reliability, where there is a clear public need, including, but not limited to a just and reasonable price over the term of the contract;

(b) Contribute to reducing winter electricity price spikes;

(c) Are cost effective to electric ratepayers in New Hampshire over the term of the contract taking into consideration potential economic benefits, as defined in RSA 362-F:16, I, greenhouse gas and other polluting emission reductions and other health and environmental benefits to the ratepayers, and, where feasible, create and foster employment and economic development in New Hampshire, as defined in RSA 362-F:16, I.

(d) Avoid line loss and mitigate transmission costs to the extent possible and ensure that transmission cost overruns, if any, are not borne by ratepayers;

(e) Are commercially reasonable;

(f) Allow contracts for clean energy generation resources to be paired with energy storage systems;

(g) Address reliable energy delivery in winter months;

(h) Adequately demonstrate project viability and that the respondent (bidder) has the technical, financial, and managerial capabilities to perform in a commercially reasonable timeframe;

(i) Whether the proposal uses practices to avoid, minimize, and mitigate impacts to wildlife, natural resources, ecosystems and traditional or existing water-dependent uses, including, but not limited to, commercial and recreational fishing and transit lanes; and

(j) Creates energy diversity for New Hampshire's electricity supply.

II. For purposes of this section, "commercially reasonable" means terms and pricing that are reasonably consistent with what an experienced power market analyst would expect to see in transactions involving regional-energy resources and regional-energy infrastructure. Commercially reasonable shall include having a credible project operation date, contingent on final permitting, as determined by the commission. Commercially reasonable shall require a determination by the commission that the benefits to New Hampshire exceed the cost of the project. The commission shall determine, based on the preponderance of the evidence, that the total energy security, reliability, environmental, and economic benefits to the state of New Hampshire and its ratepayers exceed the costs of such projects. If there is a dispute about whether any terms or pricing are commercially reasonable, the commission shall make the final determination after evidentiary hearings.

III. A proposed contract shall be subject to the review and approval of the commission. As part of its approval process, the commission shall consider recommendations by the attorney general, which shall be submitted to the commission within 45 days following the filing of such contracts with the commission. The commission shall consider both the potential costs and benefits of such contracts and shall approve a contract only upon a finding that it is a cost effective mechanism for procuring renewable energy generation on a long-term basis taking into account the factors outlined in the REPC selection process.

IV. A contract procured under this subdivision shall utilize an appropriate tracking system to ensure a unit specific accounting of the delivery of clean energy, to enable the REPC to accurately measure progress in achieving the goals of this section.

V. The REPC and the commission may jointly develop requirements for a bond or other security to ensure performance with requirements under this section. If this section is subjected to a legal challenge, the commission may suspend the applicability of the challenged provision during the pendency of the action until a final resolution, including any appeals, is obtained and shall issue an order and take other actions as are necessary to ensure that the provisions not subject to the challenge are implemented expeditiously to achieve the public purposes of this section.

362-F:19 Renewable Energy Credits.

I. A distribution company may elect to use any energy purchased under such contracts for sale to its customers and may elect to retain renewable energy certificates to meet the applicable annual renewable portfolio standard requirements under RSA 362-F:6. If the energy and renewable energy certificates are not

so used, the distribution companies shall sell the purchased energy into the wholesale market and, provided that the commission has not notified the distribution company that the renewable energy certificates should be retained to facilitate reaching emission reduction targets pursuant to RSA 362-F:3, shall sell the purchased renewable energy certificates to minimize the costs to ratepayers under the contract. If a distribution company sells the purchased energy into the wholesale market and sells the renewable energy certificates, the distribution company shall net the cost of payments made to projects under the contracts against the net proceeds obtained from the sale of energy and renewable energy certificates, and the difference shall be credited or charged to all distribution customers through a uniform fully reconciling annual factor in distribution rates, subject to review and approval of the commission.

II. If a distribution company sells the purchased energy into the wholesale spot market and auctions the renewable energy certificates as described in this section, the distribution company shall net the cost of payments made to projects under the contracts against the net proceeds obtained from the sale of energy and renewable energy certificates, and the difference shall be credited or charged to all distribution customers through a uniform fully reconciling annual factor in distribution rates, subject to review and approval of the commission.

III. The commission shall conduct periodic reviews to determine the impact on the energy and renewable energy certificate markets of the disposition of energy and renewable energy certificates under this section and may issue reports recommending legislative changes if it determines that actions are being taken that will adversely affect the energy and renewable energy certificate markets.

362-F:20 Renewable Energy Procurement Committee. There is established the renewable energy procurement committee (REPC).

I. The REPC shall consist of the following members:

(a) An individual familiar with New Hampshire energy distribution and economic development, who shall serve as chair, appointed by the governor.

(b) The commissioner of the department of business and economic affairs, or designee.

(c) The commissioner of the department of environmental services, or designee.

(d) The executive director of the fish and game department, or designee.

(e) One representative of energy distribution companies, appointed by the governor.

(f) One representative of labor, appointed by the president of the NH AFL-CIO.

(g) One representative of commercial or recreational fisheries, appointed by the governor.

(h) An attorney from the department of justice, designated by the attorney general, with experience in energy procurement, who shall serve in a nonvoting, advisory capacity to the committee.

II. Members of the REPC shall serve without compensation. Appointed members shall each serve a term of 3 years.

III. The REPC shall, in coordination with other states in the control area of the regional independent system operator, in coordination with states in a neighboring control area or on behalf of New Hampshire alone, solicit proposals, in one solicitation or multiple solicitations, from providers of renewable energy, in accordance with RSA 362-F:17, and select proposals for electric distribution company submission to the commission.

IV. In solicitation and selection of proposals for offshore wind development, the REPC shall require selected bidders to include a plan to engage in a good faith negotiation of a project labor agreement for laborers, workers, and mechanics performing construction activities within the United States with respect to the project. Any solicitation issued pursuant to this section shall specify the minimum terms that such project labor agreements shall address.

V. In responding to any solicitations issued pursuant to this section, a bidder may include such bidder's plans for the use of skilled labor, including, but not limited to, for any construction and manufacturing components of the proposal including any outreach, hiring, and referral systems, or any combination thereof, that are affiliated with an apprenticeship training program and other workforce development education and training programs recognized by the New Hampshire department employment security.

VI. In responding to any solicitations issued pursuant to this section that involve activities in New Hampshire, including state waters, a bidder shall demonstrate that it has prepared or will prepared for the Bureau of Ocean Energy Management an environmental, fisheries, and transit lanes mitigation plan for the construction and operation of such offshore wind facilities, provided such plan shall include, but not be limited to, an explicit description of the best management practices the bidder will employ that are informed by the latest science at the time the proposal is made that will avoid, minimize, and mitigate any impacts to wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses, including, but not limited to, commercial and recreational fishing, and transit lanes. For each solicitation issued pursuant to this section, the commissioner of the department of environmental services and the executive director of the New Hampshire fish and game department shall inform the REPC concerning its input to the bidder on best practices for avoiding, minimizing, and mitigating any impacts to wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses, including, but not limited to, commercial and recreational fishing, and transit lanes, during the construction and operation of facilities eligible pursuant to this section.

VII. The REPC shall select, and the commission shall contract with, an independent evaluator to monitor and report on the solicitation and bid selection process in order to assist the REPC in determining whether a proposal received pursuant to this section is reasonable and to be selected for submission to the commission in its consideration of contracts filed for approval. To ensure an open, fair, and transparent solicitation, and a bid selection process that is not unduly influenced by an affiliated company, the independent evaluator shall issue a report to the commission analyzing the timetable and method of solicitation and the solicitation process implemented by the distribution companies and the REPC and include recommendations, if any, for improving the process. Upon the opening of an investigation by the commission into a proposed contract for a winning bid proposal, the independent evaluator shall file a report with the commission summarizing and analyzing the solicitation and the bid selection process, and providing its independent assessment of whether all bids were evaluated in a fair and non-discriminatory manner. The independent evaluator shall have access to all information and data related to the competitive solicitation and bid selection process necessary to fulfill the purposes of this subsection, but shall ensure all proprietary information remains confidential. The commission shall consider the findings of the independent evaluator and may adopt recommendations made by the independent evaluator as a condition for approval. If the independent evaluator concludes in the findings that the solicitation and bid selection of a contract was not fair and objective and that the process was substantially prejudiced as a result, the commission shall reject the contract. The public utilities' cost of evaluation shall be directly assessed to the state's distribution utilities and the New Hampshire Electric Cooperative as authorized by the public utilities commission.

VIII. The REPC shall consult interested parties and provide opportunities for submission of information in public meetings or other means by members of the public in the process of solicitation of proposals.

IX. The representatives of energy distribution companies on the REPC shall not participate in the selection of procurement proposals.

X. The REPC shall report on its activities annually to the governor, the senate president, the speaker of the house of representatives, and to the commission on offshore wind and port development established in RSA 374-F:10.

XI. All reasonable costs associated with the REPC solicitation and review of proposals pursuant to this section shall be recoverable through the same fully reconciling rate component for all customers of the electric distribution companies.

362-F:21 Energy and Capacity Requirements Report. On or before January 1, 2022, and biennially thereafter, the commission, in consultation with the electric distribution companies, shall prepare an assessment of:

- I. The energy and capacity requirements of customers for the next 5 years.
- II. The manner of and how best to manage growth in electric demand.
- III. How best to level electric demand in the state by reducing peak demand and shifting demand to off-peak periods.
- IV. The impact of current and projected environmental standards, including, but not limited to, those related to greenhouse gas emissions and the federal Clean Air Act goals and how different resources could help achieve those standards and goals.
- V. Energy security and economic risks associated with potential energy resources.

VI. The estimated lifetime cost and availability of potential energy resources.

2 Effective Date. This act shall take effect 60 days after its passage.

2021-0795s

AMENDED ANALYSIS

This bill establishes a program for the procurement of renewable energy and the financing of offshore wind energy generation resources in New Hampshire, upon recommendation of the renewable energy procurement commission established in the bill, through the solicitation and development of contracts with distribution companies by the public utilities commission.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: Ward.

Roll Call, Yeas: 23 - Nays: 1. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: Ward.

Roll Call, Yeas: 23 - Nays: 1. Adopted, bill ordered to the Committee on Finance (Rule 4-5).

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 133-FN, adopting omnibus legislation relative to occupational licensure.

Ought to Pass with Amendment, Vote 5-0. Senator Cavanaugh for the committee.

Senate Executive Departments and Administration

March 10, 2021

2021-0779s

05/10

Amendment to SB 133-FN

Amend the bill by replacing section 1 with the following:

1 Sponsorship. This act consists of the following proposed legislation:

Part I: LSR 21-0964, relative to the definition of "licensing agency" for purposes of licensing places of assembly, sponsored by Sen. Carson, Prime/Dist 14.

Part II: LSR 21-0506, repealing the emergency medical services personnel licensure interstate compact, sponsored by Sen. Rosenwald, Prime/Dist 13, Sen. Cavanaugh, Dist 16; Sen. Carson, Dist 14; Rep. Goley, Hills. 8; Rep. Milz, Rock. 6; Rep. O'Brien, Hills. 36; Rep. S. Pearson, Rock. 6.

Part III: LSR 21-0207, relative to hearings of the New Hampshire board of nursing, sponsored by Sen. Ward, Prime/Dist 8.

Part IV: LSR 21-0838, relative to membership of the professional standards board, sponsored by Sen. Kahn, Prime/Dist 10; Sen. Prentiss, Dist 5.

Part V: LSR 21-0846, adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact, sponsored by Sen. Sherman, Prime/Dist 24; Sen. Soucy, Dist 18; Sen. Carson, Dist 14; Rep. March, Carr. 8.

Part VI: LSR 21-0859, relative to the licensure and regulation of music therapists, sponsored by Sen. Avard, Prime/Dist 12; Sen. Watters, Dist 4; Sen. Carson, Dist 14; Sen. Reagan, Dist 17; Sen. Kahn, Dist 10; Sen. Sherman, Dist 24; Sen. Prentiss, Dist 5; Sen. Perkins Kwoka, Dist 21; Rep. McGhee, Hills. 27.

Part VII: LSR 21-0899, relative to the authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals, sponsored by Sen. Reagan, Prime/ Dist 17, Sen. Carson, Dist 14; Sen. French, Dist 7; Sen. Kahn, Dist 10; Sen. Prentiss, Dist 5; Sen. Rosenwald, Dist 13; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Sen. Ward, Dist 8; Sen. Soucy, Dist 18; Sen. Giuda, Dist 2; Rep. Spillane, Rock. 2; Rep. McGuire, Merr. 29; Rep. Seaworth, Merr. 20.

Part VIII: LSR 21-0928, relative to skilled professional medical personnel, sponsored by Sen. Ward, Prime/Dist 8.

Part IX: LSR 21-0973, relative to temporary licensure of certain licensed nursing assistants, sponsored by Sen. Hennessey, Dist 1; Sen. Rosenwald, Dist 13; Rep. Dostie, Coos 1; Rep. Thompson, Coos 1.

Part X: LSR 21-1011, relative to the revocation of licensure for licensed emergency medical service units and emergency medical service vehicles, sponsored by Sen. Prentiss, Prime/Dist 5; Rep. Merchant, Sull. 4; Rep. Goley, Hills. 8; Rep. McGuire, Merr. 29.

Part XI: LSR 21-1050, relative to schools for barbering, cosmetology, and esthetics, sponsored by Sen. Reagan, Prime/Dist 17; Sen. Rosenwald, Dist 13; Sen. Prentiss, Dist 5; Sen. Carson, Dist 14; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Sen. Gannon, Dist 23; Rep. McGuire, Merr. 29; Rep. Roy, Rock. 32; Rep. Harrington, Straf. 3.

Part XII: LSR 21-0277, relative to telemedicine provided by out of state psychologists, sponsored by Sen. Reagan, Prime/Dist 17; Sen. Carson, Dist 14; Sen. Bradley, Dist 3; Sen. Prentiss, Dist 5; Sen. French, Dist 7; Sen. Giuda, Dist 2; Sen. Hennessey, Dist 1; Sen. D'Allesandro, Dist 20; Rep. Spillane, Rock. 2; Rep. Tudor, Rock. 1.

Part XIII: LSR 21-1049, establishing program rules within the department of health and human services for sanitary production and distribution of food, sponsored by Sen. Giuda, Prime/Dist 2; Sen. Gannon, Dist 23.

Amend the bill by deleting Part II and renumbering Parts III through XIV, and the Part references in each Part's effective date, to be Parts II through XIII, respectively.

Amend Part V of the bill by replacing section 2(A) of RSA 326-F:15 with the following:

A. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C Chapter 1211.

Amend the bill by replacing Part XIII with the following:

PART XIII

Relative to certified food protection managers.

1 New Section; Food Service Licensure; Certified Food Protection Manager. Amend RSA 143-A by inserting after RSA 143-A:11 the following new section:

143-A:11-a Certified Food Protection Manager

I. Each food service establishment licensed by the state under RSA 143-A:6 shall:

(a) Have a person in charge and present during all hours of operation trained as a certified food protection manager by a program approved by the Conference for Food Protection or other equivalent industry standards program.

(b) The requirement in RSA 143-A:11-a, I(a) shall not apply under these conditions:

(1) Food establishments having at least one certified food protection manager on staff shall not be required to have the certified food protection manager present when no food preparation is taking place;

(2) Food establishments having at least one certified food protection manager on staff shall not be required to have the certified food protection manager present when food preparation is limited to reheating commercially prepared food or ready to eat food; or

(3) Food establishments having 5 food employees or less on duty are required to have only one certified food protection manager on staff who is available, although not required to be present, during all hours of operation.

II. This section shall not apply to any food service establishment exempt from licensure or inspection under RSA 143-A:5.

III. This section shall not apply to food establishments licensed under RSA 143-A:6 as food processing plants, cold storage or refrigerating warehouses; retail stores with no food preparation or limited to self service foods, servicing areas, bed and breakfasts, lodging facilities serving continental breakfasts, home delivery services of packaged frozen food; pushcarts and other mobile food units, those serving packaged food and non-potentially hazardous unwrapped foods only; wholesalers/distributors; on-site vending machines, bars/lounges without a food preparation area; arena/theater concessions serving non-potentially hazardous; sellers of pre-packaged frozen meat or poultry that is processed in a USDA-inspected plant; homestead food operations.

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

2021-0779s

AMENDED ANALYSIS

This bill adopts legislation relative to:

I. Licensing places of assembly.

II. Repealing the emergency medical services personnel licensure interstate compact.

III. Hearings at the board of nursing.

IV. Membership of the professional standards board.

V. Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.

VI. Licensure and regulation of music therapists.

VII. The authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.

VIII. Skilled professional medical personnel.

IX. Temporary licensure of certain licensed nursing assistants.

X. The revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.

XI. Schools for barbering, cosmetology, and esthetics.

XII. Telemedicine provided by out of state psychologists.

XIII. Sanitary production and distribution of food.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: Kahn.

Roll Call, Yeas: 23 - Nays: 1. Adopted.

Senator Prentiss moved to divide the question on the motion of Ought to Pass with Amendment: Part II, and then, the Remainder of the Bill.

The Chair ruled the question divisible.

The question is on the adoption of the motion of Ought to Pass with Amendment: Part II.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Gray, French, Ward, Ricciardi, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: Kahn, D'Allesandro.

The following Senators filed a Declaration of Intent: Prentiss.

Roll Call, Yeas: 21 - Nays: 2. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment: The Remainder of the Bill.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: Kahn.

Roll Call, Yeas: 23 - Nays: 1. Adopted, bill ordered to the Committee on Finance (Rule 4-5).

SB 155-FN, codifying provisions included in select emergency orders issued by the governor in response to the COVID-19 pandemic.

Ought to Pass with Amendment, Vote 4-1. Senator Carson for the committee.

Senate Executive Departments and Administration

March 10, 2021

2021-0774s

05/10

Amendment to SB 155-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Nurse Practice Act; Temporary Health Partner. Amend RSA 326-B by inserting after section 14 the following new section:

326-B:14-a Temporary Health Partner.

I. To address staffing shortages at long-term care facilities and meet the needs of some of New Hampshire's most vulnerable populations, the position of temporary health partner (THP) is hereby authorized to work in a skilled nursing facility, notwithstanding any provision of RSA 326-B:14, provided that:

(a) The THP completes training of no less than 8 hours, provided by a national association such as the American Health Care Association or by a New Hampshire educational program.

(b) THPs shall work under the supervision of an RN, APRN, or LPN, as is required of LNAs under RSA 326-B:14.

(c) The scope of work authorized to be performed by THPs is limited to the work set forth in this section and shall be performed in accordance with the resident care plan.

(d) The THP has demonstrated competency, as determined by the employing long-term care facility, prior to performing any of the activities set forth in this section.

II. Scope of work for a temporary health partner (THP):

(a) The THP is a temporary position limited to assist LNAs and nurses in their daily tasks. Each of these tasks shall not be performed without proper training and demonstrating competency in such tasks. The THP shall work under the direction and supervision of licensed nurses to assist nurses and LNAs to provide services set forth in each resident care plan. Before performing any tasks described in subparagraph (b), the THP shall have been trained and demonstrated competency to perform such tasks, and shall review and adhere to the resident care plan. The facility shall provide direction and oversight to the THP.

(b) After the employing facility ensures skill competency, the THP may perform any of the following activities:

(1) Nutrition and elimination assistance. Assist with elimination, including toileting and peri-care, and assist with routine ostomy care.

(2) Comfort care and end-of-life care. Assist with promoting comfort and sleep, assist with end-of-life care, and assist with physical care of body after death.

(3) Activities of daily living. Assist with bathing, oral care, denture care, grooming, shaving, nail care, and dressing and undressing.

(4) Infection control practices. Assist with hand hygiene, standard and transmission-based precautions, cleaning and disinfection, utilization of personal protective equipment (PPE).

(5) Positioning, moving, and restorative care. Assist with ambulation or walking and occupied bedmaking.

III. The position of THP shall not be considered a substitute for licensure as an LNA under RSA 326-B:14 but is intended to assist the work of LNAs. The THP shall not perform services independently and shall be supervised by licensed nurses at all times.

2 New Section; Office of Professional Licensure and Certification; Emergency Licensing Process. Amend RSA 310-A by inserting after section 1-g the following new section:

310-A:1-h Emergency Licensing Process. Notwithstanding any other law to the contrary, the office of professional licensure and certification may issue emergency licenses to the following applicants:

I. Any medical provider previously licensed in New Hampshire in the last 3 years whose license is no longer active, subject to the following:

(a) The medical provider's license was in good standing prior to being placed in inactive or lapsed status.

(b) Notwithstanding any law or rule to the contrary, a medical provider shall not be required to complete continuing education as a condition precedent to reactivating their license pursuant to this section.

II. Any medical provider previously licensed to practice in another jurisdiction within the last 3 years whose license is no longer active, subject to the following:

(a) The medical provider's license was in good standing in another United States jurisdiction prior to being placed in inactive or lapsed status; and

(b) The medical provider presents evidence to the office of professional licensure and certification that the medical provider was licensed and in good standing immediately prior to the change in licensure status.

(c) Notwithstanding any law or rule to the contrary, a medical provider shall not be required to complete continuing education as a condition precedent to receive an emergency license pursuant to this section.

III. Any fellow enrolled in a New Hampshire program accredited by the Accreditation Council for Graduate Medical Education to practice within the fellow's core specialty, subject to the following:

(a) The fellow is American Board of Medical Specialties (ABMS) or American Osteopathic Association (AOA) board-eligible or certified in the core specialty.

(b) The fellow is appointed to the medical staff at a sponsoring institution and will engage in practice consistent with the policies and procedures of the sponsoring institution and its participating sites.

(c) The time spent in core specialty service is limited to 20 percent of the fellow's annual education time in any academic year.

(d) A fellow seeking to practice under this paragraph shall provide the office of professional licensure and certification with appropriate evidence that the required qualifications have been met.

IV. Senior nursing students, who are scheduled to graduate within 5 months from the date of application, from a board of nursing approved registered nursing or practical nursing program, subject to the following:

(a) The individual is employed by or providing health care services at the direction of, a licensed health care facility or a licensed health care provider.

(b) The individual is directly supervised while providing health care services.

(c) The health care services are being provided in response to the COVID-19 pandemic.

IV. Current and former military service members who have been assigned a military occupational specialty code of 68W (Army) or 4NOX1 (Air Force), with or without additional skill identifiers, and who, as part of their service in the military, have utilized their military occupational specialty within the last 3 years, may apply for a license as a nursing assistant in New Hampshire.

V. An individual licensed as an EMT-Basic, Advanced EMT, or Paramedic in any United States jurisdiction who presently holds a certification from the National Registry of Emergency Medical Technicians (NREMT), may apply for an emergency license as a licensed nursing assistant.

VI. Any provider seeking an emergency license under this section shall submit his or her request on a form adopted by the office of professional licensure and certification for such purpose.

VII. In this section, an applicant in good standing shall include medical providers who are subject to nondisciplinary conditions, but shall not include medical providers whose licenses have been revoked, canceled, surrendered, suspended, denied, or subject to disciplinary restrictions.

VIII. Licenses issued pursuant to this section shall be on a temporary basis and shall expire on or before January 31, 2022.

IX. All individuals licensed under this section shall be subject to the jurisdiction of the state licensing body for that profession.

X. The office of professional licensure and certification may issue guidance relative to the emergency licensing process established in this section, which may include guidance concerning the appropriate supervision of nursing students. Any guidance shall be posted on the board's website.

3 Pharmacists and Pharmacies; Definition of the Practice of Pharmacy. Amend RSA 318:1, XIV to read as follows:

XIV. "Practice of pharmacy" means the professional acts performed by a pharmacist and shall include the interpretation and evaluation of prescription orders; the administration, compounding, dispensing, labeling and distribution of drugs and devices; the participation in drug selection and drug-related device selection; drug evaluation; utilization or regimen review; the monitoring of drug therapy and use; medication therapy management in accordance with collaborative pharmacy practice agreements; the proper and safe storage and distribution of drugs and devices, and the proper maintenance of proper records; the responsibility of advising, when necessary or when regulated, of therapeutic values, hazards, and use of drugs and devices; ***the initiating, ordering, administering, and analyzing of FDA approved Emergency Use Authorization SARS-CoV-2 (COVID-19) point-of-care diagnostic kits (COVID-19 tests or test kits) to detect SARS-CoV-2 or its antibodies, so long as the pharmacist has received the adequate education and training to do so;*** and the offering or performing of these acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.

4 New Section; Pharmacists and Pharmacies; COVID-19 Testing. Amend RSA 318 by inserting after section 14-a the following new section:

318:14-b COVID-19 Testing. Pharmacists may administer COVID-19 testing if the following conditions are met:

I. The pharmacist received adequate education and training to initiate, order, administer, and analyze COVID-19 test kits.

II. The COVID-19 tests are administered at a pharmacy that holds the appropriate clinical laboratory improvement amendments (CLIA) certificate and a New Hampshire laboratory license issued by the department of health and human services (DHHS) or DHHS waiver.

III. The pharmacy creates and implements policies and procedures to address the collection, storage, transport, and analysis of samples collected as a result of administering and analyzing COVID-19 test kits. Such policies and procedures shall be in accordance with the manufacturer's instructions and supplemented as needed.

5 New Section; Pharmacists and Pharmacies; Pharmacy Technician Administration of COVID-19 Vaccines. Amend RSA 318 by inserting after section 16-e the following new section:

318:16-f Pharmacy Technician Administration of COVID-19 Vaccines. New Hampshire registered and certified pharmacy technicians may administer COVID-19 vaccines to persons 18 years of age or older while under the supervision of a New Hampshire licensed pharmacist, if the following conditions are met:

I. The vaccination is ordered by the supervising pharmacist.

II. The supervising pharmacist is readily and immediately available to the immunizing registered or certified pharmacy technician.

III. The COVID-19 vaccine is FDA-authorized or FDA-licensed.

IV. The COVID-19 vaccine is ordered and administered according to the Advisory Committee on Immunization Practices (ACIP) COVID-19 vaccine recommendations.

V. The registered or certified pharmacy technician has completed a practical training program approved by the Accreditation Council for Pharmacy Education (ACPE). This training program shall include hands-on injection technique and the recognition and treatment of emergency reactions to vaccines.

VI. The registered or certified pharmacy technician has a current certificate in basic cardiopulmonary resuscitation.

VII. The registered or certified pharmacy technician shall complete a minimum of 2 hours of ACPE-approved, immunization-related continuing pharmacy education during the relevant state licensing period.

VIII. The supervising pharmacist shall comply with all recordkeeping and reporting requirements.

IX. The supervising pharmacist shall be responsible for complying with requirements related to reporting adverse events.

X. The supervising pharmacist shall review the vaccine registry or other vaccination records before ordering the registered or certified pharmacy technician to administer the vaccination.

XI. The supervising pharmacist shall comply with any applicable requirements or conditions of use as set forth in the CDC's COVID-19 vaccination provider agreement and any other federal requirements that apply to the administration of COVID-19 vaccine.

6 New Section; Pharmacists and Pharmacies; Out-of-state Pharmacies as Temporary Limited Licensed Mail-Order Facilities. Amend RSA 318 by inserting after section 37 the following new section:

318:37-a Out-of-state Pharmacies as Temporary Limited Licensed Mail-Order Facilities.

I. To protect public health and increase access to medical care in New Hampshire, and to promote and secure the safety and protection of the people of New Hampshire, any out-of-state pharmacy seeking to ship investigational drugs to clinical trial participants who reside in New Hampshire and who are unable to retrieve the investigational drugs from the out-of-state pharmacy due to the novel coronavirus shall be allowed to operate as if the out-of-state pharmacy were licensed as a mail-order pharmacy within the state of New Hampshire if the following conditions are met:

(a) The out-of-state pharmacy is licensed and in good standing in another United States jurisdiction.

(b) The medical services provided within New Hampshire are in-person or through appropriate forms of telehealth.

(c) The out-of-state pharmacy presents to the office of professional licensure and certification evidence that they are licensed in good standing in another jurisdiction. Such out-of-state pharmacies shall be issued an emergency mail-order pharmacy license at no cost, which shall remain in effect until January 31, 2022.

(d) Such out-of-state pharmacies shall be subject to the jurisdiction of the board of pharmacy while acting under an emergency mail-order pharmacy license.

II. The office of professional licensure and certification, in consultation with the board of pharmacy, shall provide assistance and guidance, as necessary, to out-of-state pharmacies regarding the requirements of this section.

7 New Subdivision; Local Land Use Planning; Protection of Pre-existing, Non-conforming Use Status for Summer Camps. Amend RSA 674 by inserting after section 73 the following new subdivision:

Protection of Pre-existing, Non-conforming Use Status for Summer Camps

674:74 Protection of Pre-existing, Non-conforming Use Status for Summer Camps.

I. Notwithstanding any provision of law or municipal ordinance or regulation to the contrary, any summer camp that has been operating in the state of New Hampshire as a pre-existing, nonconforming use under its applicable zoning ordinance that either closed for the summer of 2020 due to the COVID-19 pandemic, or was forced to operate for a shorter season or at a reduced capacity during the summer of 2020 due to the COVID-19 pandemic, shall not lose its status as a pre-existing, non-conforming use due to either:

(a) Its failure to operate during the summer of 2020; or

(b) Its operation for a shorter season or at a reduced capacity during the summer of 2020.

II. The summer camp's status or ability to operate as a pre-existing, non-conforming use shall not be in any way affected by its failure to operate during the summer of 2020, or its operation for a shorter season or at a reduced capacity during the summer of 2020.

8 New Section; Continuing Construction During COVID-19. Amend RSA 674 by inserting after section 51-a the following new section:

674:51-b Continuing Construction During COVID-19. In municipalities that have adopted an enforcement mechanism pursuant to RSA 674:51 and are not presently offering any building permits and construction inspection functions as a result of COVID-19, contractors may follow these guidelines to keep construction progressing:

I. Complete typical paperwork related to the requested construction permit or building inspection. Permit applications with submittal documents shall be submitted to the building official by first class mail, drop box, if provided, or by electronic submission, such as email, where available.

II. Make and keep record of all reasonable attempts to communicate with municipal officials to determine the availability of services and follow instructions from municipal officials if typical or modified arrangements are offered.

III. If, as a result of exigent circumstances relating to COVID-19, a building official is unable to or refuses to issue any building construction or building systems permit pursuant to and within the time frame provided by RSA 676:13, III, the permit applicant or contractor may, 10 days after written notification to the building official, commence construction pursuant to the prepared project plans and documentations as if a proper building permit has been issued.

IV. The contractor may only proceed without a permit or approval with the prior written approval of the client. Written approval by the client shall be separate from the contractor's standard contract and shall state in at least 10 point bold font that the client understands that if they choose to proceed with the project, the contractor's plans will not be reviewed or pre-approved by a town building official. Written approval also shall specify whether the client can be charged for any remedial work necessary upon ultimate inspection.

V. If a construction inspection is refused or cannot be reasonably or timely offered within 5 working days, the applicant or contractor may continue with construction work in accordance with issued permits after documenting completed work and materials using photographic and/or video methods to preserve evidence for subsequent review. Work should be left unconcealed and visible for later inspection to the greatest extent practicable. If photographic or video documentation does not show all necessary aspects of the inspection process needed to demonstrate code compliance, the building official may take all necessary actions to verify compliance with applicable codes.

VI. Once a municipality resumes operations, the applicant or contractor shall communicate with municipal officials to provide updates regarding the status of commenced or progressed construction and obtain after-the-fact inspections and/or documentation of the same.

VII. Proceeding with construction under paragraph III in the absence of proper and customary building permits and inspections shall be considered a practice of last resort to commence and keep New Hampshire construction projects, vital to the economy, active and progressing during these extraordinary times.

VIII. The contractor shall bear responsibility for arranging review of photographic and/or video evidence, and obtaining proper documentation of completion at such time as normal municipal inspection services resume. The contractor remains responsible and liable for meeting minimum code requirements of the building and fire codes, as adopted in New Hampshire. The contractor further bears the risk that construction work must be altered or repaired after-the-fact to achieve code compliance. Nothing in this section prohibits the building official from taking all necessary actions to verify compliance with applicable codes.

IX. Municipal officials shall operate in good faith to administer these interim practices, however, no municipal official or municipality shall be liable to the contractor or any third party for any failure on the part of a contractor to comply with these provisions or the failure to construct pursuant to applicable codes.

9 New Section; Liquor Licenses and Fees; Temporary Expansion of Outdoor Dining through 2023. Amend RSA 178 by inserting after section 31 the following new section:

178:32 Temporary Expansion of Outdoor Dining through 2023.

I. Restaurants and other food service establishments licensed under RSA 143-A:4 shall be permitted to expand outside wherever an outdoor dining area can be set up safely, such as parking spaces close to entrances, sidewalks, existing patios, lawn areas, or other appropriate areas. The food service establishment shall be responsible for cleaning and disinfecting the outdoor dining area, pursuant to state and federal guidelines. The outdoor dining area shall be clearly delineated and distanced from the general public. If expansion is in a shared space, such as a sidewalk or street, the restaurant shall be required to coordinate and seek approval from local authorities.

II. Authorization to serve alcohol in the temporary outdoor dining area shall be limited to food service establishments with on-premises beverage and wine or on-premises beverage and liquor licenses issued under this chapter.

III. The state liquor commission shall promulgate such rules under RSA 541-A, as may be needed to implement this section.

IV. In order to minimize persons entering into restaurants or off-sale licensees, the commission shall amend administrative rule Liq404.04 (d) to permit the curbside delivery of retail beer and table wine by off-sale licensees to persons meeting the requirements of RSA 179:5 with acknowledgment that after 2023 this provision reverts back to its existing form.

10 Prospective Repeals. The following are repealed:

I. RSA 310-A:1-h, relative to emergency licensing procedures.

II. RSA 318:37-a, relative to out-of-state pharmacies temporarily licensed as mail-order facilities.

III. RSA 178:32, relative to temporary expansion of outdoor dining.

11 Effective Date.

I. Paragraphs I and II of section 10 of this act shall take effect January 31, 2022.

II. Paragraph III of section 10 of this act shall take effect December 31, 2023.

III. The remainder of this act shall take effect upon its passage.

2021-0774s

AMENDED ANALYSIS

This bill:

I. Establishes the position of temporary health partner.

II. Authorizes emergency licensing of medical providers.

III. Authorizes COVID-19 testing and vaccination by pharmacists and pharmacy technicians.

IV. Permits out-of-state pharmacies providing investigational drugs to clinical trial participants in New Hampshire to be temporarily licensed as mail-order pharmacies.

V. Protects the pre-existing, non-conforming use status of summer camps that were unable to operate during the summer of 2020 due to COVID-19.

VI. Establishes procedures to allow construction to continue during the pandemic.

VII. Temporarily allows expanded outdoor dining.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: Reagan.

Roll Call, Yeas: 23 - Nays: 1. Adopted, bill ordered to Third Reading.

HEALTH AND HUMAN SERVICES

SB 159-FN, establishing the department of children's services and juvenile justice.
Ought to Pass, Vote 5-0. Senator Whitley for the committee.

Senator Bradley moved to Lay on the Table.

The question is on the adoption of the motion to Lay on the Table.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

SB 162-FN, relative to the department of health and human services, the New Hampshire granite advantage health care trust fund, and health facility licensure.

Ought to Pass with Amendment, Vote 5-0. Senator Bradley for the committee.

Health and Human Services

March 10, 2021

2021-0778s

04/10

Amendment to SB 162-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Application of Receipts; Fund for Domestic Violence Grant Program. Amend RSA 6:12, I(b)(12) to read as follows:

(12) Moneys received under RSA 457:29, **457:32-b**, and **631:2-b**, V which shall be credited to the special fund for domestic violence programs **established in RSA 173-B:15**.

2 Application of Receipts; Public Health Services Special Fund. Amend RSA 6:12, I(b)(15) to read as follows:

(15) Money received under RSA **125-F:22**, 143:11, **143:22-a**, **143-A:6**, and 184:85, which shall be credited to the public health services special fund **established in RSA 143:11, III**.

3 Compensation of Certain State Officers; Health and Human Services Positions Amended. Amend the following position in RSA 94:1-a, I(b), grade GG to read as follows:

GG Department of health and human services director of [~~program planning and integrity~~]
Medicaid enterprise development

4 Compensation of Certain State Officers; Health and Human Services Positions Amended. Amend the following positions in RSA 94:1-a, I(b), grade JJ to read as follows:

JJ Department of health and human services associate commissioner [~~of human services and behavioral health~~]

JJ Department of health and human services associate commissioner [~~of operations~~]

JJ Department of health and human services associate commissioner [~~for population health~~]

[~~JJ Department of health and human services associate commissioner, operations~~]

[~~JJ Department of health and human services associate commissioner, population health~~]

5 Department of Health and Human Services; Emergency Services Plan. The department of health and human services in collaboration with all New Hampshire hospitals that operate emergency facilities shall draft a plan to be presented to the speaker of the house of representatives, the senate president and the governor's office by September 1, 2021 that details the necessary emergency services offered for medical treatment of both physical and behavioral health. Such a plan shall include any recommendations for future legislation or required funding to ensure sufficient physical and behavioral health services.

6 New Subparagraph; New Hampshire Retirement System; Definitions. Amend RSA 100-A:1, VIII by inserting after subparagraph (b) the following new subparagraph:

(c) The bureau chief for emergency preparedness and response with the department of health and human services, division of health public services who:

(1) Has the authority and responsibility to engage in the prevention and control of public health incidents or emergencies;

(2) As a job requirement is fully certified as an emergency preparedness official qualified to administer emergency planning, response and recovery activities in the event of natural disasters, public health crises or similar incidents; and

(3) As a job requirement shall meet all physical, mental, educational, and other qualifications for continuing certification as an emergency preparedness official that may be established by the certifying authority.

7 Radiological Health Programs; Civil Penalties. Amend RSA 125-F:22, IV to read as follows:

IV. Upon request of the department of health and human services, the department of justice is authorized to institute civil action to collect a penalty imposed pursuant to this section. The attorney general shall have the exclusive power to compromise, mitigate, or remit such civil penalties as are referred to ~~him~~ **the attorney general** for collection. All civil penalties collected under this section shall be forwarded to the state treasurer. The state treasurer shall deposit all moneys received under this section, and interest received on such money, to the public health services special fund, ~~[which shall be nonlapsing]~~, **established in RSA 143:11, from which the department of health and human services shall pay expenses incident to the administration of this chapter.**

8 Department of Health and Human Services; Office of the Ombudsman. Amend RSA 126-A:4, III to read as follows:

III. The department shall establish an office of the ombudsman to provide assistance to clients ~~and employees~~ of the department by investigating and resolving complaints regarding any matter within the jurisdiction of the department including services or assistance provided by the department or its contractors. The ombudsman's office may provide mediation or other means for informally resolving complaints. The records of the ombudsman's office shall be confidential and shall not be disclosed without the consent of the client ~~or employee~~ on whose behalf the complaint is made, except as may be necessary to assist the service provider ~~or the employee's supervisor~~ to resolve the complaint, or as required by law.

9 Repeal. RSA 126-A:5, II-a, relative to an annual report of an aggregate schedule of payables for class 90 grant lines, is repealed.

10 New Section; Department of Health and Human Services; Status in Retirement System. Amend RSA 126-A by inserting after section 5-e the following new section:

126-A:5-f Status in Retirement System. For purposes of classification under RSA 100-A, any person who is or becomes the bureau chief for emergency preparedness with the department's division of health public services, shall be included in the definition of group II under RSA 100-A:1, VII(h) and VIII(c) under the retirement system, provided that, notwithstanding RSA 100-A:1, VII(h) or VIII(c), any person not already a group II member for at least 10 years during or prior to his or her appointment shall be eligible for or remain as a group I member for the duration of service as the bureau chief for emergency preparedness.

11 Repeal. The following are repealed:

I. RSA 126-A:50 through RSA 126-A:59, RSA 126-A:61, and RSA 126-A:63, relative to the housing security guarantee program.

II. RSA 6:12, I(b)(255), relative to moneys deposited in the homeless housing and access revolving loan fund, established in RSA 126-A:63.

12 Youth Access to and Use of Tobacco Products. Amend RSA 126-K:1 to read as follows:

126-K:1 Purpose. The purpose of this chapter is to protect the citizens of New Hampshire from the possibility of addiction, disability, and death resulting from the use of tobacco products by ensuring that tobacco products will not be supplied to persons under the age of 21. ***This chapter shall not apply to individuals who have been issued a registry identification card under RSA 126-X:4 or alternative treatment centers registered under RSA 126-X:7 with respect to the therapeutic use of cannabis.***

13 Youth Access to and Use of Tobacco Products; Possession and Use. Amend RSA 126-K:6, I to read as follows:

I. No person under 21 years of age shall purchase, attempt to purchase, possess, or use any tobacco product, e-cigarette, device, or e-liquid ~~[except individuals who have been issued a registry identification card under RSA 126-X:4 may purchase, possess and use e-liquids containing cannabis and applicable devices as allowed under RSA 126-X].~~

14 Use of Cannabis for Therapeutic Purposes; Definitions. Amend RSA 126-X:1, VII(b) to read as follows:

(b) For a visiting qualifying patient, “provider” means an individual licensed to prescribe drugs to humans in the state of the patient’s residence and who possesses an active registration from the United States Drug Enforcement Administration to prescribe controlled substances. ~~[Such visiting patient shall not be eligible to purchase or transfer cannabis from an eligible New Hampshire patient.]~~

15 Use of Cannabis for Therapeutic Purposes; Definitions. Amend RSA 126-X:1, XI to read as follows:

XI. “Registry identification card” means a document indicating the date issued, ***effective date***, and expiration date by the department pursuant to RSA 126-X:4 that identifies an individual as a qualifying patient or a designated caregiver.

16 Use of Cannabis for Therapeutic Purposes; Definitions. Amend RSA 126-X:1, XVII to read as follows:

XVII. “Written certification” means documentation of a qualifying medical condition by a provider pursuant to rules adopted by the department pursuant to RSA 541-A for the purpose of issuing registry identification cards, after having completed a full assessment of the patient’s medical history and current medical condition made in the course of a provider-patient relationship. ~~[The date of issuance and the patient’s qualifying medical condition, symptoms or side effects, the certifying provider’s name, medical specialty, and signature shall be specified on the written certification.]~~

17 New Paragraph; Use of Cannabis for Therapeutic Purposes; Protections. Amend RSA 126-X:2 by inserting after paragraph XVI the following new paragraph:

XVII. Authorized employees of the department shall not be subject to arrest by state or local law enforcement, prosecution, or penalty under state or municipal law, or search, when possessing, transporting, delivering, or transferring cannabis and cannabis infused products for the purposes of regulatory oversight related to this chapter.

18 Use of Cannabis for Therapeutic Purposes; Protections. Amend RSA 126-X:2, IX(c) to read as follows:

(c) Deliver, transfer, supply, sell, or dispense cannabis and related supplies and educational materials to qualifying patients ~~[who have designated the alternative treatment center to provide for them]~~, to designated caregivers on behalf of the qualifying patients ~~[who have designated the alternative treatment center]~~, or to other alternative treatment centers.

19 Use of Cannabis for Therapeutic Purposes; Prohibitions and Limitations on the Therapeutic Use of Cannabis. Amend RSA 126-X:3, VII-VIII to read as follows:

VII. The department may revoke the registry identification card of a qualifying patient or designated caregiver for violation of rules adopted by the department or for violation of any other provision of this chapter, ***including for obtaining more than 2 ounces of cannabis in any 10-day period in violation of RSA 126-X:8, XIII(b)***, and the qualifying patient or designated caregiver shall be subject to any other penalties established in law for the violation.

VIII. A facility caregiver shall treat cannabis in a manner similar to ***controlled prescription*** medications with respect to its storage, security, and administration when assisting qualifying patients with the therapeutic use of cannabis.

20 Use of Cannabis for Therapeutic Purposes; Departmental Administration. Amend RSA 126-X:4, I(a)-(b) to read as follows:

(a) Written certification [~~as defined in RSA 126-X:1~~] **which includes the date of issuance, the patient's qualifying medical condition, symptoms, or side effects, and the certifying provider's name, medical specialty, and signature. If a written certification has been previously issued for fewer than 3 years, a provider may extend the written certification, provided that the written certification shall not exceed 3 years.**

(b) An application or a renewal application accompanied by the application or renewal fee. **A renewal application and fee shall not be required if the applicant receives an extension to the written certification previously issued for fewer than 3 years.**

21 Use of Cannabis for Therapeutic Purposes; Registry Identification Cards. Amend RSA 126-X:4, I(e) and the introductory paragraph of I(f) to read as follows:

(e) Name [~~-, address, and telephone number~~] of the applicant's provider.

(f) Name [~~-, address,~~] and date of birth of the applicant's designated caregiver, if any. A qualifying patient shall have only one designated caregiver, except as follows:

22 Use of Cannabis for Therapeutic Purposes; Registry Identification Cards. Amend RSA 126-X:4, II(d) to read as follows:

(d) Name, residential and mailing address, and date of birth of each qualifying patient for whom the applicant will act as designated caregiver, except that if the qualifying patient is homeless, no residential address is required. [~~An applicant shall not act as a designated caregiver for more than 5 qualifying patients.~~]

23 Use of Cannabis for Therapeutic Purposes; Registry Identification Cards. Amend the introductory paragraph in RSA 126-X:4, IV and RSA 126-X:4, IV(a)-(b) to read as follows:

IV. The department shall create and issue a registry identification card to a person applying as a qualifying patient or designated caregiver within 5 days of approving an application or renewal. Each registry identification card shall expire one year after the [~~date of issuance~~] **effective date of the card**, unless the provider states in the written certification that the certification should expire at an earlier [~~specified date~~] **or later effective date, not to exceed 3 years**, then the registry identification card shall expire on that date. Registry identification cards shall contain all of the following:

(a) Name, mailing address, and date of birth of the qualifying patient or designated caregiver.

(b) The date of issuance, **effective date**, and expiration date of the registry identification card.

24 Use of Cannabis for Therapeutic Purposes; Registry Identification Cards. Amend RSA 126-X:4, VII(a) to read as follows:

VII.(a) The department shall track the number of qualifying patients [~~who have designated each alternative treatment center~~] and issue a weekly written statement to the alternative treatment center identifying the number of qualifying patients [~~who have designated that alternative treatment center~~] along with the registry identification numbers of each qualifying patient and each qualifying patient's designated caregiver.

25 Use of Cannabis for Therapeutic Purposes; Registry Identification Cards. Amend RSA 126-X:4, VIII to read as follows:

VIII. In addition to the weekly reports, the department shall also provide written notice to an alternative treatment center which identifies the names and registration identification numbers of a qualifying patient and his or her designated caregiver whenever [~~any~~] **either** of the following events occur:

(a) A qualifying patient [~~designates the alternative treatment center to serve his or her needs~~] **is registered as a participating patient** under this chapter; or

(b) [~~A qualifying patient revokes the designation of the alternative treatment center; or~~

(c) A qualifying patient [~~who has designated the alternative treatment center~~] loses his or her status as a qualifying patient under this chapter.

26 Use of Cannabis for Therapeutic Purposes; Registry Identification Cards. Amend RSA 126-X:4, IX(a) to read as follows:

IX.(a) A qualifying patient shall notify IX the department before changing his or her designated caregiver [~~or alternative treatment center~~].

27 Use of Cannabis for Therapeutic Purposes; Registry Identification Cards. Amend RSA 126-X:4, XI(a) to read as follows:

XI.(a) The department shall create and maintain a confidential registry of each individual who has applied for and received a registry identification card as a qualifying patient or a designated caregiver in accordance with the provisions of this chapter. Each entry in the registry shall contain the qualifying patient's or designated caregiver's name, mailing address, date of birth, date of registry identification card issuance, ***effective date of registry identification***, date of registry identification card expiration, ***and*** random 10-digit identification number ~~[, and registry identification number of the qualifying patient's designated alternative treatment center, if any]~~. The confidential registry and the information contained in it shall be exempt from disclosure under RSA 91-A.

28 Use of Cannabis for Therapeutic Purposes; Registry Identification Cards. Amend RSA 126-X:4, XI(b)(5) to read as follows:

(5) Counsel for the department may notify law enforcement officials about falsified or fraudulent information submitted to the department where counsel has ~~[made a legal determination that there is probable cause]~~ ***reason*** to believe the information is false or falsified.

29 Use of Cannabis for Therapeutic Purposes; Departmental Rules. Amend RSA 126-X:6, I(b) to read as follows:

(b) The form and content of providers' written certifications, ***including the administrative process for tracking extensions pursuant to RSA 126-X:4, I.***

30 Use of Cannabis for Therapeutic Purposes; Alternative Treatment Centers. Amend RSA 126-X:8, VII(a) to read as follows:

(a) Records of the disposal of cannabis that is not distributed by the alternative treatment center to qualifying patients ~~[who have designated the alternative treatment center to cultivate for them]~~.

31 Use of Cannabis for Therapeutic Purposes; Alternative Treatment Centers. Amend RSA 126-X:8, XV(a)-(b) to read as follows:

XV.(a) An alternative treatment center shall not possess or cultivate cannabis in excess of the following quantities:

(1) Eighty cannabis plants, 160 seedlings, and 80 ounces of usable cannabis, or 6 ounces of usable cannabis per qualifying patient; and

(2) Three mature cannabis plants, 12 seedlings, and 6 ounces for each qualifying patient ~~[who has designated the alternative treatment center to provide him or her with cannabis for therapeutic use]~~ ***registered as a qualifying patient under this chapter.***

(b) An alternative treatment center or alternative treatment center agent shall not dispense, deliver, or otherwise transfer cannabis to any person or entity other than:

(1) A qualifying patient ~~[who has designated the relevant alternative treatment center]~~; or

(2) Such patient's designated caregiver; or

(3) Another alternative treatment center.

32 Repeal. The following are repealed:

I. RSA 126-X:4, I(g), relative to patients designating an alternative treatment center.

II. RSA 126-X:4, II(e), relative to street address of the alternative treatment center.

III. RSA 126-X:4, IX(e), relative to failure of a qualifying patient or designated caregiver for providing changes to name, address or designated caregiver.

IV. RSA 126-X:6, I(e), relative to departmental rules regarding certain fines.

33 New Hampshire Granite Advantage Health Care Trust Fund. Amend RSA 126-AA;3, I(e)-(f) to read as follows:

(e) Funds received from the assessment under RSA 404-G; ~~[and]~~

(f) ***Revenue from the Medicaid enhancement tax to meet the requirements provided in RSA 167:64; and***

(g) Funds recovered or returnable to the fund that were originally spent on the cost of coverage of the granite advantage health care program.

34 Repeal. RSA 126-A:70 and 71, relative to administration of epinephrine, are repealed.

35 Communicable Disease; Mosquito Control Fund. Amend RSA 141-C:25, I to read as follows:

I. There is hereby established a nonlapsing and continually appropriated mosquito control fund to assist cities, towns, and mosquito control districts by providing funding for the purpose of offsetting the cost of mosquito control activities including, but not limited to, the purchase and application of chemical pesticides. The purpose of the fund is to provide financial assistance, when needed, to cities, towns, and mosquito control districts engaging in mosquito control and abatement activities in response to a declared threat to the public health. ~~[Any balance remaining in the mosquito control fund at the close of the fiscal year ending June 30, 2009 shall lapse to the general fund.]~~

36 Sanitary Production and Distribution of Food; Shellfish Certificate Fees. Amend RSA 143:11, III to read as follows:

III. *There is hereby established in the state treasury the public health services special fund, which shall be kept separate and distinct from all other funds. The fund shall be nonlapsing and continually appropriated to the department of health and human services.* All fees collected under this subdivision shall be forwarded to the state treasurer~~[-The state treasurer]~~ *who shall credit all [moneys received under this subdivision,] such moneys* and interest received on such money, to ~~[a special]~~ *the* fund from which ~~[he]~~ *the department of health and human services* shall pay all the expenses of the department incident to the administration of this subdivision. ~~[This fund shall not lapse.]~~

37 Sanitary Production and Distribution of Food; Shellfish Certificate Fees. Amend RSA 143:22-a to read as follows:

143:22-a Shellfish Certificate Fees. The commissioner of the department of health and human services shall prescribe and collect fees for certificates for establishments which process or pack shellfish. Such fees shall be in accordance with rules adopted under RSA 541-A. All fees collected under this subdivision shall be forwarded to the state treasurer to be deposited in the ~~[general fund]~~ *public health services special fund established in RSA 143:11. The department of health and human services shall use such funds to pay expenses of the department incident to the administration of this subdivision.*

38 Food Service Licensure; Application. Amend RSA 143-A:6, VI to read as follows:

VI. From the amounts collected by the commissioner under paragraph V, up to \$300,000 each fiscal year may be included in the state biennial operating budget as restricted revenue to support the activities required in this chapter. *The state treasurer shall credit all moneys received under this paragraph, and interest received on such money, to the public health services special fund, established under RSA 143:11, from which the department shall pay expenses incident to the administration of this chapter.*

39 Nursing Home Administrators; Patient Accounts. Amend RSA 151-A:15, I to read as follows:

I. If within 30 days after the date of a testate or intestate patient's death in any nursing home no petition for probate has been filed under any section of RSA 553 and the gross value of the personal property remaining at the nursing home belonging to the deceased, including any amount left in a patient account, is no more than ~~[\$5,000]~~ *\$10,000*, the nursing home administrator shall file in the probate court in the county where the nursing home is located an affidavit for the purpose of disposing of such deceased patient's estate. The form of the affidavit, and the rules governing proceedings under this section, shall be provided by the probate court pursuant to RSA 547:33. The nursing home administrator shall not file a death certificate with the probate court, but shall attest to the death in the affidavit. If the nursing home patient died testate and if the nursing home administrator has the will or a copy of the will, the nursing home administrator shall file the same in the probate court in the county where the nursing home is located. The probate court shall waive all filing fees.

40 Applicability. Section 39 of this act shall apply to affidavits filed on or after the effective date of this section.

41 Repeal. RSA 151-E:11, II, relative to an annual report on the utilization of non-nursing home services, is repealed.

42 Protective Services to Adults; Reports of Adult Abuse. Amend the introductory paragraph of RSA 161-F:46 to read as follows:

Any person, including, but not limited to, physicians, other health care professionals, social workers, clergy, and law enforcement officials, suspecting or believing in good faith that any adult who is or who is suspected to be vulnerable, *at the time of the incident*, has been subjected to abuse, neglect, self-neglect, or exploitation or is, *or was* living in hazardous conditions shall report or cause a report to be made as follows:

43 Repeal. The following are repealed:

I. RSA 161-F:64, relative to an annual report on review of homemaker services.

II. RSA 161-I:4, VI, relative to reports regarding the home and community-based care waiver for the elderly and chronically ill.

III. RSA 165:20-c, relative to liability for support and reimbursement from the state.

IV. RSA 165:35, relative to rulemaking for forms and claims for reimbursement from the state.

V. RSA 167:3-j, III, relative to semi-annual reports on net savings realized for aid to the permanently and totally disabled grants.

44 Aid to Assisted Persons; Expense of General Assistance. Amend RSA 165:2-a to read as follows:

165:2-a Expense of General Assistance. The financial responsibility for general assistance for assisted persons shall be the responsibility of the town or city in which the person making application resides, except as otherwise provided in RSA 165:1-c [~~and 165:20-c~~].

45 Public Assistance; Financial Disclosure by Applicants and Recipients. Amend RSA 167:4-a, VI to read as follows:

VI. The department, in coordination with financial institutions doing business in the state, may develop and operate a data match system, using automated data exchanges to the maximum extent feasible, in which each financial institution is required to provide, when requested by the department and subject to reasonable reimbursement as set forth in Public Law 110-252, up to 5 years of information regarding the name, record address, social security number or other taxpayer identification number, monthly account balance, and other identifying information for each applicant or recipient who maintains an account at the financial institution, as identified by the department by name and social security number or other taxpayer identification number. The system shall be based on a cost-effective search algorithm and shall include means to assure compliance with the provisions of this section. [~~The department shall provide a status report regarding the implementation of the data match system to the oversight committee on health and human services, established in RSA 126-A:13, on or before November 1, 2010, and annually thereafter, until implementation has been fully completed. The report shall summarize the department's findings and recommendations to date, including savings generated by both incremental asset identification and the time and labor associated with the process, the feedback and reactions of applicants and recipients, any barriers to implementation, anticipated future actions, and the department's assessment of the relative success of the project.~~]

46 New Section; Child Protection Act; Investigatory Interviews and Evaluations. Amend RSA 169-C by inserting after section 12-f the following new section:

169-C:12-g Investigatory Interviews and Evaluations. The court may order a parent, guardian, custodian, or other caregiver to produce a child for the purpose of an investigatory interview, including a multidisciplinary team interview in accordance with RSA 169-C:34-a or an interview or evaluation by any other expert necessary for the purpose of the investigation of suspected abuse or neglect.

47 Child Protection Act; Central Registry. Amend RSA 169-C:35, II to read as follows:

II. Upon receipt by the department of a written request and verified proof of identity, an individual shall be informed by the department whether that individual's name is listed in the founded reports maintained in the central registry. It shall be unlawful for any employer other than those providing services pursuant to RSA 169-B, RSA 169-C, RSA 169-D, and RSA 135-C, and those specified in RSA 170-E [~~and~~], RSA 170-G:8-c, **and RSA 171-A** to require as a condition of employment that the employee submit his or her name for review against the central registry of founded reports of abuse and neglect. Any violation of this provision shall be punishable as a violation.

48 Interstate Compact for the Placement of Children. RSA 170-A is repealed and reenacted to read as follows:

CHAPTER 170-A
INTERSTATE COMPACT
FOR THE PLACEMENT OF CHILDREN

170-A:1 Interstate Compact for the Placement of Children. On the effective date of this chapter, based upon the enactment of the Interstate Compact for the Placement of Children into law by the thirty-fifth compacting state, the governor is authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

ARTICLE I

Purpose

The purpose of this Interstate Compact for the Placement of Children is to:

I. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

II. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

III. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

IV. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

V. Provide for uniform data collection and information sharing between member states under this compact.

VI. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

VII. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

VIII. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II

Definitions

As used in this compact:

I. "Approved placement" means the public child-placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

II. "Assessment" means an evaluation of a prospective placement by a public child-placing agency in the receiving state to determine if the placement meets the individualized needs of the child, including, but not limited to, the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement by a public child-placing agency.

III. "Child" means an individual who has not attained the age of 18.

IV. "Certification" means to attest, declare, or swear to before a judge or notary public.

V. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact or the bylaws or rules of the Interstate Commission.

VI. "Home study" means an evaluation of a home environment conducted in accordance with the applicable requirements of the state in which the home is located and that documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.

VII. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3(c) of the Alaska Native Claims Settlement Act, 43 U.S.C. section 1602(c).

VIII. "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the "Interstate Commission."

IX. "Jurisdiction" means the power and authority of a court to hear and decide matters.

X. "Legal risk placement" or "legal risk adoption" means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

XI. "Member state" means a state that has enacted this compact.

XII. "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

XIII. "Nonmember state" means a state which has not enacted this compact.

XIV. "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state, including, but not limited to, the name, date, and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

XV. "Placement" means the act by a public or private child-placing agency intended to arrange for the care or custody of a child in another state.

XVI. "Private child-placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney, that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

XVII. "Provisional placement" means a determination made by the public child-placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

XVIII. "Public child-placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether the entity acts on behalf of a state, a county, a municipality, or another governmental unit, and which facilitates, causes, or is involved in the placement of a child from one state to another.

XIX. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

XX. "Relative" means someone who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a nonrelative with such significant ties to the child that the nonrelative may be regarded as a relative as determined by the court in the sending state.

XXI. "Residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care and that is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, the term "residential facility" does not include institutions primarily educational in character, hospitals, or other medical facilities.

XXII. "Rule" means a written directive, mandate, standard, or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets, or prescribes a policy or provision of the compact. A rule has the force and effect of an administrative rule in a member state and includes the amendment, repeal, or suspension of an existing rule.

XXIII. "Sending state" means the state from which the placement of a child is initiated.

XXIV. "Service member's permanent duty station" means the military installation where an active duty United States Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

XXV. "Service member's state of legal residence" means the state in which the active duty United States Armed Services member is considered a resident for tax and voting purposes.

XXVI. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory of the United States.

XXVII. "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals who have not attained the age of 18.

XXVIII. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III Applicability

I. Except as otherwise provided in paragraph II, this compact shall apply to:

(a) The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state; provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

(b) The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

(1) The child is being placed in a residential facility in another member state and is not covered under another compact; or

(2) The child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

(c) The interstate placement of any child by a public child-placing agency or private child-placing agency as a preliminary step to a possible adoption.

II. The provisions of this compact shall not apply to:

(a) The interstate placement of a child in a custody proceeding in which a public child-placing agency is not a party; provided, however, that the placement is not intended to effectuate an adoption.

(b) The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement; provided, however, that the placement is not intended to effectuate an adoption.

(c) The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

(d) The placement of a child, not subject to paragraph I, into a residential facility by his or her parent.

(e) The placement of a child with a noncustodial parent, provided that:

(1) The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child;

(2) The court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

(3) The court in the sending state dismisses its jurisdiction in interstate placements in which the public child-placing agency is a party to the proceeding.

(f) A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

(g) Cases in which a child who is a United States citizen living overseas with his or her family, at least one of whom is in the United States Armed Services and stationed overseas, is removed and placed in a state.

(h) The sending of a child by a public child-placing agency or a private child-placing agency for a visit as defined by the rules of the Interstate Commission.

III. For purposes of determining the applicability of this compact to the placement of a child with a family member in the United States Armed Services, the public child-placing agency or private child-placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

IV. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts, including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may, in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate similar rules to ensure the coordination of services, timely placement of children, and reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV Jurisdiction

I. Except as provided in Article IV, paragraph VIII, and Article V, subparagraph II(b) and (c), concerning private and independent adoptions, and in interstate placements in which the public child-placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

II. When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

III. In cases that are before courts and subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person or by telephone, audio-video conference, or such other means as approved by the rules of the Interstate Commission, and judicial officers may communicate with other judicial officers and persons involved in the interstate process as may be permitted by their code of judicial conduct and any rules promulgated by the Interstate Commission.

IV. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

- (a) The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child-placing agency in the receiving state;
- (b) The child is adopted;
- (c) The child reaches the age of majority under the laws of the sending state;
- (d) The child achieves legal independence pursuant to the laws of the sending state;
- (e) A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state;
- (f) An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or
- (g) The public child-placing agency of the sending state requests termination and has obtained the concurrence of the public child-placing agency in the receiving state.

V. When a sending state court terminates its jurisdiction, the receiving state child-placing agency shall be notified.

VI. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

VII. Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

VIII. The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child, and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

(a) When the child is a ward of another court that established jurisdiction over the child prior to the placement;

(b) When the child is in the legal custody of a public agency in the sending state; or

(c) When a court in the sending state has otherwise appropriately assumed jurisdiction over the child prior to the submission of the request for approval of placement.

IX. A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an "approved placement" by the public child-placing agency in the receiving state.

ARTICLE V

Placement Evaluation

I. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child-placing agency shall provide a written request for assessment to the receiving state.

II. For placements by a private child-placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state public child-placing agencies. The required content to accompany a request for approval shall include all of the following:

(a) A request for approval identifying the child, the birth parents, the prospective adoptive parents, and the supervising agency, signed by the person requesting approval.

(b) The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state or, where permitted, the laws of the state where the adoption will be finalized.

(c) Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state or, where permitted, the laws of the state where finalization of the adoption will occur.

(d) A home study.

(e) An acknowledgment of legal risk signed by the prospective adoptive parents.

III. The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received, and reviewed by the public child-placing agency in both the sending state and the receiving state.

IV. Approval from the public child-placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the Interstate Commission.

V. The procedures for making the request for an assessment shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

VI. Upon receipt of a request from the public child-placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child-placing agency of the sending state may request a determination for a provisional placement.

VII. The public child-placing agency in the receiving state may request from the public child-placing agency or the private child-placing agency in the sending state, and shall be entitled to receive, supporting or additional information necessary to complete the assessment or approve the placement.

VIII. The public child-placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the Interstate Commission.

IX. For a placement by a private child-placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

X. The Interstate Commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI
Placement Authority

I. Except as otherwise provided in this compact, no child subject to this compact shall be placed in a receiving state until approval for such placement is obtained.

II. If the public child-placing agency in the receiving state does not approve the proposed placement, then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

III. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

(a) The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures act.

(b) If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved; provided, however, that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII
Placing Agency Responsibility

I. For the interstate placement of a child made by a public child-placing agency or state court:

(a) The public child-placing agency in the sending state shall have financial responsibility for:

(1) The ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(2) As determined by the public child-placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

(b) The receiving state shall only have financial responsibility for:

(1) Any assessment conducted by the receiving state; and

(2) Supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child-placing agencies of the receiving and sending states.

(c) Nothing in this section shall prohibit public child-placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

II. For the placement of a child by a private child-placing agency preliminary to a possible adoption, the private child-placing agency shall be:

(a) Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

(b) Financially responsible for the child absent a contractual agreement to the contrary.

III. The public child-placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

IV. The public child-placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

V. Nothing in this compact shall be construed to limit the authority of the public child-placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

VI. Each member state shall provide for coordination among its branches of government concerning the state's participation in and compliance with the compact and Interstate Commission activities through the creation of an advisory council or use of an existing body or board.

VII. Each member state shall establish a central state compact office which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

VIII. The public child-placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act, 25 U.S.C. section 1901 et seq., for placements subject to the provisions of this compact, prior to placement.

IX. With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII

Interstate Commission for the Placement of Children

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

I. Be a joint commission of the member states and shall have the responsibilities, powers, and duties set forth herein and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

II. Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy-related matters governed by this compact binding the state.

(a) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

(b) A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(c) A representative shall not delegate a vote to another member state.

(d) A representative may delegate voting authority to another person from that state for a specified meeting.

III. Include, in addition to the commissioners of each member state, persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

IV. Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. The executive committee shall not have the power to engage in rulemaking.

ARTICLE IX

Powers and Duties of the Interstate Commission

The Interstate Commission shall have the following powers:

I. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

II. To provide for dispute resolution among member states.

III. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, or actions.

IV. To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

V. Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements.

VI. To establish and maintain offices as may be necessary for the transacting of its business.

VII. To purchase and maintain insurance and bonds.

VIII. To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies and rates of compensation.

IX. To establish and appoint committees and officers, including, but not limited to, an executive committee as required by Article X.

X. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

XI. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

XII. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

XIII. To establish a budget and make expenditures.

XIV. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

XV. To report annually to the legislatures, the governors, the judiciary, and the state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

XVI. To coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.

XVII. To maintain books and records in accordance with the bylaws of the Interstate Commission.

XVIII. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X

Organization and Operation of the Interstate Commission

I. Organization.

(a) Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt rules to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

(b) The Interstate Commission's rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying.

II. Meetings.

(a) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

(b) Public notice shall be given by the Interstate Commission of all meetings, and all meetings shall be open to the public.

(c) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

III. Officers and staff.

(a) The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions, and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

(b) The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee, and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

IV. Qualified immunity, defense, and indemnification.

(a) The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred or that such person had a reasonable basis for believing occurred within the scope of Interstate

Commission employment, duties, or responsibilities; provided, however, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(b)(1) The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties, for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(2) The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, however, that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, a member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, however, that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI

Rulemaking Functions of the Interstate Commission

I. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

II. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate, consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

III. When promulgating a rule, the Interstate Commission shall, at a minimum:

(a) Publish the proposed rule's entire text stating the reasons for that proposed rule;

(b) Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record and made publicly available; and

(c) Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties.

IV. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

V. Not later than 60 days after a rule is promulgated, an interested person may file a petition in the United States District Court for the District of Columbia or in the federal district court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

VI. If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

VII. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12 months but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

VIII. Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

- (a) Transition rules.
- (b) Forms and procedures.
- (c) Timelines.
- (d) Data collection and reporting.
- (e) Rulemaking.
- (f) Visitation.
- (g) Progress reports and supervision.
- (h) Sharing of information and confidentiality.
- (i) Financing of the Interstate Commission.
- (j) Mediation, arbitration, and dispute resolution.
- (k) Education, training, and technical assistance.
- (l) Enforcement.
- (m) Coordination with other interstate compacts.

IX. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

- (a) The Interstate Commission may promulgate an emergency rule only if it is required to:
 - (1) Protect the children covered by this compact from an imminent threat to their health, safety, and well-being;
 - (2) Prevent loss of federal or state funds; or
 - (3) Meet a deadline for the promulgation of an administrative rule required by federal law.
- (b) An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to the emergency rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.
- (c) An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

ARTICLE XII

Oversight, Dispute Resolution, and Enforcement

I. Oversight.

- (a) The Interstate Commission shall oversee the administration and operation of the compact.
- (b) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.
- (c) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.
- (d) The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order, or other determination, however so captioned or classified, void as to this compact, its bylaws, or rules of the Interstate Commission.

II. Dispute resolution.

(a) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

(b) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

III. Enforcement. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or rules of the Interstate Commission, the Interstate Commission may:

(a) Provide remedial training and specific technical assistance;

(b) Provide written notice to the defaulting state and other member states of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default;

(c) By majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws, or rules of the Interstate Commission. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

(d) Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII

Financing of the Commission

I. The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

II. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

III. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet those obligations, nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

IV. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV

Member States, Effective Date, and Amendment

I. Any state is eligible to become a member state.

II. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the thirty-fifth state. Thereafter, it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

III. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV

Withdrawal and Dissolution

I. Withdrawal.

(a) Once effective, the compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(b) Withdrawal from this compact shall be by the enactment of a statute repealing the compact. The effective date of withdrawal shall be the effective date of the repeal of the statute.

(c) The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

(d) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

(e) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

II. Dissolution of compact.

(a) This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

(b) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI

Severability and Construction

I. The provisions of this compact shall be severable, and, if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

II. The provisions of this compact shall be liberally construed to effectuate its purposes.

III. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII

Binding Effect of Compact and Other Laws

I. Other laws. Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

II. Binding effect of the compact.

(a) All lawful actions of the Interstate Commission are binding upon the member states.

(b) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(c) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature or executive branch of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII

Indian Tribes

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

49 Adoption; Assessment. Amend RSA 170-B:18, IV to read as follows:

IV. The department or a licensed child-placing agency making the required assessment may request other departments or licensed child-placing agencies within or outside this state to make the assessment or designated portions thereof as may be appropriate. Where such written assessments are made, a written report shall be filed with the court; provided, however, said report shall not violate RSA 170-A, the interstate compact ~~[on]~~ **for** the placement of children.

50 Applicability Sections 48-49 of this act, relative to the 2009 edition of the Interstate Compact for the Placement of Children, shall take effect on the date that the commissioner of the department of health and human services certifies to the director of the office of legislative services and the secretary of state that 35 compacting states, including New Hampshire, have enacted the 2009 edition of the Interstate Compact for the Placement of Children.

51 Child Day Care Licensing; Definitions RSA 170-E:2, IV(g) is repealed and reenacted to read as follows:

(g) "School-age program" means a child day care agency providing child day care before or after, or before and after, regular school hours, and all day any time school is not in session, for 6 or more children enrolled in school, who are 4 years and 8 months of age or older, and which is not licensed under RSA 170-E:56. The number of children shall include all children present during the period of the program, including those children related to the caregiver.

52 New Section; Residential Care and Child-Placing Agency Licensing; Deemed Licensed. Amend RSA 170-E by inserting after section 31 the following new section:

170-E:31-a Deemed Licensed. Any qualified residential treatment program accredited by organizations as specified in Title 42 of the Social Security Act, 42 U.S.C. section 672(k)(4)(G), as amended, shall submit a completed license application or renewal application. Such child care institutions and child care agencies defined as group homes, specialized care, or homeless youth programs, shall be deemed licensed under this subdivision and shall be exempt from inspections carried out under RSA 170-E:31, IV. This section shall only apply to the activities or portions of the facility or agency accredited under Title 42 of the Social Security Act, 42 U.S.C. section 672(k)(4)(G), as amended.

53 Recreation Camp Licensing; Availability of Epinephrine Auto-Injector. Amend RSA 170-E:61 to read as follows:

170-E:61 Availability of Epinephrine Auto-Injector. The recreational camp nurse or, if a nurse is not assigned to the camp, the recreational camp administrator shall maintain for the use of a child with severe allergies at least one epinephrine auto-injector, provided by the child or the child's parent or guardian, ~~[in the nurse's office or in a similarly accessible location]~~ **which shall be readily accessible to the recreational camp staff caring for children requiring such medications.**

54 New Section; Recreation Camp Licensing; Availability of Asthma Inhalers. Amend RSA 170-E by inserting after section 63 the following new section:

170-E:63-a Availability of Asthma Inhalers. The recreational camp nurse or, if a nurse is not assigned to the camp, the recreational camp administrator shall maintain for the use of a child with asthma at least one metered dose inhaler or a dry powder inhaler, provided by the child or the child's parent or guardian, which shall be readily accessible to the recreational camp staff caring for children requiring such medications.

55 New Paragraph; Services for Children, Youth, and Families; Peer Support Program. Amend RSA 170-G:3 by inserting after paragraph VII the following new paragraph:

VIII. The commissioner may establish a confidential peer support program for the purpose of providing critical incident stress management and crisis intervention services for staff exposed to critical incidents and trauma through the course of their employment.

(a) In this section:

(1) "Critical incident" means any incident that has a high emotional impact on the responders, or is beyond the realm of a person's usual experience that overwhelms his or her sense of vulnerability and/or lack of control over the situation.

(2) "Critical incident stress" means a normal reaction to an abnormal event that has the potential to interfere with normal functioning and that results from the response to a critical incident or long-term

occupational exposure to a series of critical incident responses over a period of time that are believed to be causing debilitating stress that is affecting an emergency service provider and his or her work performance or family situation. This may include, but is not limited to, physical and emotional illness, failure of usual coping mechanisms, loss of interest in the job, personality changes, or loss of ability to function.

(3) “Critical incident stress management” means a process of crisis intervention designed to assist employees in coping with the psychological trauma resulting from response to a critical incident.

(4) “Critical incident stress management and crisis intervention services” means consultation, counseling, debriefing, defusing, intervention services, management, prevention, and referral provided by a critical incident stress management team member.

(5) “Critical incident stress management team” or “team” means the group of one or more trained volunteers, including members of peer support groups who offer critical incident stress management and crisis intervention services following a critical incident or long term or continued, debilitating stress being experienced by employees and affecting them or their family situation.

(6) “Critical incident stress management team member” or “team member” means an employee, including any specially trained to provide critical incident stress management and crisis intervention services as a member of an organized team.

(7) “Debriefing” means a closed, confidential discussion of a critical incident relating to the feelings and perceptions of those directly involved prior to, during, and after a stressful event. It is intended to provide support, education, and an outlet for associated views and feelings. Debriefings do not provide counseling or an operational critique of the incident.

(b)(1) Any information divulged to the team or a team member during the provision of critical incident stress management and crisis intervention services shall be kept confidential and shall not be disclosed to a third party or in a criminal, civil, or administrative proceeding. Records kept by critical incident stress management team members are not subject to subpoena, discovery, or introduction into evidence in a criminal, civil, or administrative action. Except as provided in subparagraph (c), no person, whether critical incident stress management team member or team leader providing or receiving critical incident stress management and crisis intervention services, shall be required to testify or divulge any information obtained solely through such crisis intervention.

(2) In any civil action against any individual, or the department, including the state of New Hampshire, arising out of the conduct of a member of such team, this section is not intended and shall not be admissible to establish negligence in any instance where requirements herein are higher than the standard of care that would otherwise have been applicable in such action under state law.

(c) A communication shall not be deemed confidential pursuant to this section if:

(1) The communication indicates the existence of a danger to the individual who receives critical incident stress management and crisis intervention services or to any other person or persons;

(2) The communication indicates the existence of past child abuse or neglect of the individual, abuse of an adult as defined by law, or family violence as defined by law; or

(3) The communication indicates the existence of a danger to the individual who receives critical incident stress management and crisis intervention services or to any other person or persons.

56 New Paragraph; Services for Children, Youth, and Families; Procurement Model for Services. Amend RSA 170-G:4-d by inserting after paragraph I the following new paragraph:

I-a. The commissioner shall employ a procurement model for administering the provision of therapeutic-based residential behavioral health treatment services provided pursuant to RSA 170-G and RSA 135-F. All contracts shall incorporate the use of trauma-focused models of care. In cases where the unique needs of a juvenile or the capacity of a contracted provider prevent the use of a contracted provider, the commissioner may approve and shall pay for placement with another certified provider on a temporary basis if the commissioner determines that the placement is necessary to meet the juvenile’s immediate treatment needs.

57 Repeal. RSA 170-G:8-b, IV, relative to an annual report of informational materials relating to missing children issues and matters, is repealed.

58 Services for the Developmentally Disabled; Funding for Wait List. Amend the introductory paragraph of RSA 171-A:1-a, I to read as follows:

I. The department of health and human services and area agencies shall provide services to eligible persons under this chapter and persons eligible for the brain injury program under RSA 137-K in a timely manner. The department and area agencies shall provide *funding for* services in such a manner that:

59 Committee Established to Study Gaps in Developmental Services for Individuals Still in School.

I. There is established a committee to study gaps in developmental services for individuals still in school.

II. (a) The members of the committee shall be as follows:

(1) Two members of the senate, one of whom shall be from the majority party and one of whom shall be from the minority party, appointed by the president of the senate.

(2) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall study gaps in developmental services for individuals still in school including, but not limited to, barriers to successful partnership with the mental health services system for individuals with co-occurring mental health diagnoses; the protections provided to individuals receiving services pursuant to RSA 171-A; and other gaps identified by the governor's commission on disability; analysis and report required by 2019, 346:242.

IV. The committee shall solicit information and assistance from any governmental entity, organization or person as the committee determines necessary in carrying out its duties including, but not limited to, the university of New Hampshire institute on disability, the department of health and human services, the New Hampshire council on developmental disabilities, Granite State Independent Living, Community Support Network, Inc., Disability Rights Center-NH, the developmental services quality council of the department of health and human services, the governor's commission on disability, and any other relevant stakeholders including individuals with developmental disabilities and their families and/or guardians.

V. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

VI. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2021.

60 Services for the Developmentally Disabled; Wait List. Amend RSA 171-A:1-a, II to read as follows:

II. [~~Beginning with the fiscal year ending June 30, 2010, and thereafter,~~] The department of health and human services shall incorporate *in its appropriation requests* the cost of fully funding services to eligible persons, in accordance with the requirements of paragraph I, and as otherwise required under RSA 171-A, and the legislature shall appropriate sufficient funds to meet such costs and requirements.

61 Fund for Domestic Violence Grant Program. Amend RSA 173-B:15 to read as follows:

173-B:15 Fund for Domestic Violence Grant Program. A special fund for domestic violence programs is established. The sole purpose of the fund shall be to provide revenues for the domestic violence program established in RSA 173-B:16, and shall not be available for any other purpose. The state treasurer shall deposit all fees received by the department under RSA 457:29, ~~457:32-b~~, and ~~631:2-b~~, V in the fund. All moneys deposited in the fund shall be continually appropriated for the purposes of the domestic violence grant program and shall not lapse.

62 Granite Workforce Program. Amend 2018, 342:9, as amended by 2019, 346:158, to read as follows:

342:9 Termination of Granite Workforce Program.

I. The commissioner of the department of health and human services shall be responsible for determining, every 3 months commencing no later than December 31, 2018, whether available TANF reserve funds total at least \$5,000,000. If at any time the commissioner determines that available TANF reserve funds have fallen below \$5,000,000, the commissioners of the departments of health and human services and employment security shall, within 20 business days of such determination, terminate the granite workforce program. The commissioners shall notify the governor, the speaker of the house of representatives, the president of the

senate, the chairperson of the fiscal committee of the general court, and granite workforce participants of the program's pending termination. ***The commissioners shall have the discretion to limit granite workforce program services based on the availability of appropriated, available, or reserve funds.***

II. If at any time the New Hampshire granite advantage health care program, established under RSA 126-AA, terminates, the commissioners of the departments of health and human services and employment security shall terminate the granite workforce program. The date of the granite workforce program's termination shall align with that of the New Hampshire granite advantage health care program.

III. If the work and community engagement waiver is held invalid, or is not approved, or is withdrawn by the Centers for Medicare and Medicaid Services, the granite workforce program shall be suspended until such time that the work and community engagement waiver is approved or revalidated.

63 Health Facility Licensure; Effective Dates Amended. Amend 2020, 39:72, V-VI to read as follows:

V. Sections 55-57~~[-64-67, and 69]~~ **and 64** of this act shall take effect July 1, 2020.

VI. Sections 5~~[-60[-and 68]~~] **and 60** of this act shall take effect July 1, 2021.

64 Milk Sanitation Code; Terms Defined. Amend RSA 184:79, XIII to read as follows:

XIII. The term "milk plant" means any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, packaged, or prepared for distribution, except an establishment where milk or milk products are sold at retail only. ***This term shall include wash stations where milk tank trucks are cleaned and sanitized.***

65 Milk Sanitation Code; License Fees. Amend RSA 184:85, IV to read as follows:

IV. All fees collected under this section shall be forwarded to the state treasurer. The state treasurer shall credit all moneys received under this section, and interest received on such money, to [a] ***the public health services*** special fund ***established in RSA 143:11***, from which [he] ***the department*** shall pay all the expenses of the department incident to the licensing and regulation of milk plants, milk distributors and milk producer-distributors. ~~[This fund shall not lapse.]~~

66 New Subdivision; Administration of Epinephrine. Amend RSA 329 by inserting after section 1-g the following new subdivision:

Administration of Epinephrine

329:1-h Administration of Epinephrine.

I. In this section:

(a) "Administer" means the direct application of an epinephrine auto-injector to the body of an individual.

(b) "Authorized entity" means any entity or organization in which allergens capable of causing anaphylaxis may be present, including recreation camps and day care facilities. Authorized entity shall not include an elementary or secondary school or a postsecondary educational institution eligible to establish policies and guidelines for the emergency administration of epinephrine under RSA 200-N.

(c) "Epinephrine auto-injector" means a single-use device used for the automatic injection of a pre-measured dose of epinephrine into the human body.

(d) "Health care practitioner" means a person who is lawfully entitled to prescribe, administer, dispense, or distribute controlled drugs.

(e) "Provide" means to furnish one or more epinephrine auto-injectors to an individual.

II. A health care practitioner may prescribe epinephrine auto-injectors in the name of an authorized entity for use in accordance with this section, and pharmacists and health care practitioners may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity.

III. An authorized entity may acquire and maintain a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this section. Such epinephrine auto-injectors shall be stored in a location readily accessible in an emergency and in accordance with the instructions for use, and any additional requirements that may be established by board of medicine. An authorized entity shall designate employees or agents who have completed the training required by paragraph V to be responsible for the storage, maintenance, control, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

IV. An employee or agent of an authorized entity, or other individual, who has completed the training required by paragraph V may use epinephrine auto-injectors prescribed pursuant to this section to:

(a) Provide an epinephrine auto-injector to any individual who the employee agent or other individual believes in good faith is experiencing anaphylaxis, or the parent, guardian, or caregiver of such individual, for immediate administration, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

(b) Administer an epinephrine auto-injector to any individual who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

V.(a) An employee, agent, or other individual described in paragraph IV shall complete an anaphylaxis training program at least every 2 years, following completion of the initial anaphylaxis training program. Such training shall be conducted by a nationally-recognized organization experienced in training unlicensed persons in emergency health care treatment or an entity or individual approved by the board of medicine. Training may be conducted online or in person and, at a minimum, shall cover:

- (1) How to recognize signs and symptoms of severe allergic reactions, including anaphylaxis;
- (2) Standards and procedures for the storage and administration of an epinephrine auto-injector; and
- (3) Emergency follow-up procedures.

(b) The entity or individual that conducts the training shall issue a certificate, on a form developed or approved by the board of medicine to each person who successfully completes the anaphylaxis training program.

VI. No authorized entity that possesses and makes available epinephrine auto-injectors and its employees, agents, and other individuals, or health care practitioner that prescribes or dispenses epinephrine auto-injectors to an authorized entity, or pharmacist or health care practitioner that dispenses epinephrine auto-injectors to an authorized entity, or individual or entity that conducts the training described in paragraph V, shall be liable for any injuries or related damages that result from any act or omission pursuant to this section, unless such injury or damage is the result of willful or wanton misconduct. The administration of an epinephrine auto-injector in accordance with this section shall not be considered to be the practice of medicine or any other profession that otherwise requires licensure. This section shall not be construed to eliminate, limit, or reduce any other immunity or defense that may be available under state law. An entity located in this state shall not be liable for any injuries or related damages that result from the provision or administration of an epinephrine auto-injector outside of this state if the entity would not have been liable for such injuries or related damages had the provision or administration occurred within this state, or is not liable for such injuries or related damages under the law of the state in which such provision or administration occurred.

67 Guardians and Conservators; Termination of Guardianship. Amend RSA 464-A:40, V(a) to read as follows:

V.(a) If, within 30 days after the date of a testate or intestate ward's death, no petition for probate has been filed under any section of RSA 553 and the gross value of the personal property remaining in the possession of the guardian belonging to the deceased, including any amount left in designated accounts for the ward, is no more than [~~\$5,000~~] **\$10,000**, the guardian may file in the probate court in the county having jurisdiction over the guardianship an affidavit for the purpose of disposing of such deceased ward's estate. Once approved by the court, the guardian shall be authorized to dispose of the ward's accounts in a manner consistent with the court's order. The form of the affidavit, and the rules governing proceedings under this section, shall be provided by the probate court pursuant to RSA 547:33.

68 Custody and Escheat of Unclaimed or Abandoned Property; Filing of Claim. Amend RSA 471-C:26, I(c) (2)-(3) to read as follows:

(2) Except as provided in subparagraphs (5)-(7), in the case of a closed estate where the unclaimed property is valued at less than [~~\$5,000~~] **\$10,000** and does not include securities in share form, in accordance with the final distribution of assets as approved by the probate court.

(3) Except as provided in subparagraphs (5)-(7), in the absence of an open estate or probate court decree of final distribution, and the unclaimed property is valued at less than [~~\$5,000~~] **\$10,000** and does not include securities in share form, by the surviving spouse of the deceased owner, or, if there is no surviving spouse, then to the next of kin in accordance with the provisions of RSA 561:1.

69 Applicability. Sections 67-68 of this act shall apply to affidavits or claims filed on or after the effective date of this section.

70 New Subparagraph; New Hampshire Retirement System; Definitions. Amend RSA 100-A:1, VII by inserting after subparagraph (g) the following new subparagraph:

(h) The bureau chief for emergency preparedness and response with the department of health and human services, division of health public services who:

(1) Has the authority and responsibility to engage in the prevention and control of public health incidents or emergencies;

(2) As a job requirement is fully certified as an emergency preparedness official qualified to administer emergency planning, response and recovery activities in the event of natural disasters, public health crises or similar incidents; and

(3) As a job requirement shall meet all physical, mental, educational, and other qualifications for continuing certification as an emergency preparedness official that may be established by the certifying authority.

71 Effective Date.

I. Sections 48-49 of this act shall take effect as provided in section 50 of this act.

II. Sections 3-4, 6, 10, 12-32, and 70 of this act shall take effect 60 days after its passage.

III. Sections 39-40 and 67-69 of this act shall take effect July 1, 2021.

IV. The remainder of this act shall take effect upon its passage.

2021-0778s

AMENDED ANALYSIS

This bill makes numerous revisions to funds, positions, and programs within the department of health and human services, including the therapeutic cannabis program; youth tobacco use; the interstate compact for the placement of children; residential care and child placement licensing procedures; availability of epinephrine auto-injectors and asthma inhalers at recreation camps; the developmentally disabled wait list; the New Hampshire granite workforce program; and child protection investigations. The bill also establishes a public health services special fund and directs certain fees to that fund to be used by the department for program oversight.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: Daniels.

Roll Call, Yeas: 23 - Nays: 1. Adopted.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

Sen. Avard, Dist 12

Sen. Sherman, Dist 24

Sen. Whitley, Dist 15

March 16, 2021

2021-0850s

04/05

Floor Amendment to SB 162-FN

Amend the bill by replacing section 59 with the following:

59 Coverage Plan for Services to Individuals with Developmental Disabilities. The department of health and human services in collaboration with the department of education, the Disability Rights Center-New Hampshire, and the representatives of the 10 area agencies shall develop a plan by October 1, 2021 that provides coverage for services to individuals with developmental disabilities aged 18-21 enrolled in school and

determined eligible for developmental services that are not the responsibility of the local education agency, another state agency, or another division of the department. Such a plan shall estimate the number of eligible individuals likely to need such services, the costs of providing such services, and reimbursement mechanisms for service providers.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to the Committee on Finance (Rule 4-5).

JUDICIARY

CACR 12, relating to the retirement age for judges. Providing that the mandatory retirement age for judges is repealed.

Inexpedient to Legislate, Vote 5-0. Senator Gannon for the committee.

Senator Bradley moved to Lay on the Table.

The question is on the adoption of the motion to Lay on the Table.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 19 - Nays: 5. Adopted.

SB 60-FN, prohibiting the transport of an open container of marijuana in a motor vehicle or OHRV.

Inexpedient to Legislate, Vote 3-2. Senator French for the committee.

The question is on the adoption of the motion of Inexpedient to Legislate.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Watters, Gray, French, Kahn, Rosenwald, Whitley, Cavanaugh, Reagan, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

The following Senators voted No: Hennessey, Giuda, Bradley, Prentiss, Ward, Ricciardi, Daniels, Avard, Carson, Birdsell, Gannon, Morse.

Roll Call, Yeas: 12 - Nays: 12. Failed.

Senator Bradley moved Ought to Pass.

SPECIAL ORDER

Senator Bradley moved that the following bill be special ordered to Thursday, March 25, 2021.

JUDICIARY

SB 60-FN, prohibiting the transport of an open container of marijuana in a motor vehicle or OHRV.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

SB 92-FN, relative to increasing the penalty for criminal mischief, the release of a defendant pending trial, and requiring law enforcement candidate background checks.

Ought to Pass with Amendment, Vote 3-2. Senator French for the committee.

Senate Judiciary

March 10, 2021

2021-0755s

04/11

Amendment to SB 92-FN

Amend the bill by replacing section 1 with the following:

1 Criminal Mischief; Penalty Amended. Amend RSA 634:2, VI to read as follows:

VI. Any person who is found guilty of criminal mischief under paragraph III of this section because he or she has vandalized, defaced, destroyed, tampered with, or made any other unauthorized alteration, whether permanent or temporary, on public property, shall be guilty of a ~~[violation]~~ **class A misdemeanor if the damage is \$1,000 or more, a violation if the damage is less than \$1,000**, and shall also make restitution for any damage he or she has caused.

Amend RSA 597:2, III(a)(1) as inserted by section 2 of the bill by replacing it with the following:

(1) A person who is charged with homicide under RSA 630:1; first degree assault under RSA 631:1; second degree assault under RSA 631:2; domestic violence under RSA 631:2-b; aggravated felonious sexual assault under RSA 632-A:2; felonious sexual assault under RSA 632-A:3; kidnapping under RSA 633:1; stalking under RSA 633:3-a; trafficking in persons under RSA 633:7; robbery under RSA 636:1, III; possession, manufacture, or distribution of child sexual abuse images under RSA 649-A; computer pornography and child exploitation under RSA 649-B; or felonious use of firearms under RSA 650-A:1, shall, upon arrest, be detained for a period of not more than 72 hours from the time of his or her arrest, excluding Saturdays, Sundays, and holidays, based upon the rebuttable presumption the person charged is a danger to the public.

Amend RSA 597:2, III(b)(2) as inserted by section 2 of the bill by replacing it with the following:

(2) If the court determines by a preponderance of the evidence that a person has failed to appear on any previous matter charged as a felony, class A misdemeanor, or driving or operating while impaired, or a reasonably equivalent offense in an out-of-state jurisdiction, 3 or more times within the past [5] **3** years, or twice on the present case, there shall be a rebuttable presumption that release will not reasonably assure the appearance of the person as required **and the person shall be detained in pre-trial detention.**

Amend RSA 597:2, III(c) as inserted by section 2 of the bill by replacing it with the following:

(c) Failure of a person to abide by previous bail conditions. If there is probable cause to believe that, while on release pending resolution of a previous offense, the person committed a felony, class A misdemeanor, or driving or operating while impaired, **was released on bail, and thereafter was arrested for a third felony, class A misdemeanor, or driving or operating while impaired**, there shall be a rebuttable presumption that the person will not abide by a condition that the person not commit a new offense **and the person shall be detained in pre-trial detention.** ~~[The court shall not impose a financial condition that will result in the pretrial detention of the person solely as a result of that financial condition unless the court determines by clear and convincing evidence after a hearing that no reasonable alternative or combination of conditions will assure that the person will not commit a new offense.]~~ The court may consider any relevant factors in making its determination.

President Pro Tempore Carson presiding.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Daniels, Avard, Rosenwald, Carson, Cavanaugh, Soucy, Birdsell, D'Allesandro, Gannon, Sherman, Morse.

The following Senators voted No: Kahn, Whitley, Reagan, Perkins Kwoka.

Roll Call, Yeas: 20 - Nays: 4. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Prentiss, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Cavanaugh, Soucy, Birdsell, D'Allesandro, Gannon, Sherman, Morse.

The following Senators voted No: Watters, Kahn, Rosenwald, Whitley, Reagan, Perkins Kwoka.

Roll Call, Yeas: 18 - Nays: 6. Adopted, bill ordered to Third Reading.

President Morse presiding.

SB 96-FN-A, requiring implicit bias training for judges; establishing a body-worn and dashboard camera fund and making an appropriation therefor; relative to race and ethnicity data on driver's licenses, and relative to juvenile delinquency.

Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

Senate Judiciary

March 10, 2021

2021-0773s

04/05

Amendment to SB 96-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT relative to implicit bias training for judges; establishing a body-worn and in-car camera fund and making an appropriation therefor; amending juvenile delinquency proceedings and transfers to superior court; and establishing committees to study the role and scope of authority of school resource officers and the collection of race and ethnicity data on state identification cards.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph; Application of Receipts; Body Worn and In-car Camera Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (364) the following new subparagraph:

(365) Moneys credited to the body-worn and in-car camera fund established in RSA 105-D:3.

2 Disposition of Municipal Records; Disposition and Retention Schedule. Amend RSA 33-A:3-a, CVIII to read as follows:

CVIII. Police, non-criminal-internal affairs investigations: [~~as required by attorney general and union contract and town personnel rules~~] ***upon the retirement or termination of the subject officer plus 20 years, except that the municipality shall follow the retention period for non-criminal internal affairs investigations as set forth in any applicable union or collective bargaining agreement in effect as of July 1, 2021 until such agreement expires, at which time the 20-year retention period in this paragraph shall apply.***

3 Duties of the State Board of Education. Amend RSA 186:11, XXXVII to read as follows:

XXXVII. School Resource Officers. Require each school district in the state to which a school resource officer is assigned to develop and implement a policy which shall include, at a minimum, a requirement for a signed memorandum of understanding between the school district and the law enforcement agency from which the school resource officer is deployed. ***The memorandum of understanding shall be made available as a public document.***

4 Committee to Study the Role and Scope of Authority of School Resource Officers. There is hereby established a committee to study the role and scope of authority of school resource officers (SRO).

I.(a) The members of the committee shall be as follows:

(1) Two members of the senate, appointed by the president of the senate.

(2) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

II. The committee shall examine the following issues:

(a) The scope of authority and involvement of SROs in school discipline, minor misconduct, and major criminal offenses.

(b) The scope of authority and involvement of school administrators in the investigation of minor and major criminal behavior.

(c) The roles of SROs and school administrators in decisions regarding detention, suspension, expulsion, and court referral.

(d) The availability of behavioral health services to respond to the needs of students in New Hampshire schools, including the system of care under RSA 135-F and services under RSA 167:3-1, how to expand access to such services, and the specific availability of such services at schools with SROs.

(e) The rights of students regarding searches and interrogations by law enforcement at schools.

(f) Data collection on the number of incidents resulting in law enforcement intervention at schools, including the issuance of a citation, ticket, or summons, filing of a delinquency petition, or referral to a probation officer for juvenile conduct on school grounds or at a school-sponsored event, including student demographic data.

(g) The impact of SRO involvement on student welfare and educational outcomes, including any impact on the school-to-prison pipeline.

III. During its examination, the committee shall:

(a) Review available research and data about the impact of SROs on student behavioral health and academic performance, and school safety.

(b) Accept testimony from school personnel and advocacy organizations, along with experts in the fields of education, student behavioral health, and the school-to-prison pipeline.

(c) Accept testimony from law enforcement, including from the police standards and training council.

IV. Following its review, the committee shall make recommendations for further legislation regarding the role and scope of authority of SROs in schools. It shall also make recommendations for improved reporting and data collection, if its review finds that such improvements are necessary.

V. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by a senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

VI. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2021.

5 New Section; Body-Worn and In-car Camera Fund. Amend RSA 105-D by inserting after section 2 the following new section:

105-D:3 Body-Worn and In-car Camera Fund.

I. There is hereby established the body-worn and in-car camera fund within the department of safety for the purpose of encouraging local law enforcement agencies to equip officers with body-worn cameras and agency vehicles with in-car cameras. All moneys in the fund shall be nonlapsing and continually appropriated to the department of safety.

II. The fund shall provide grants to local law enforcement agencies to assist agencies with the purchase, maintenance, and replacement of body-worn and in-car cameras and ongoing costs related to the maintenance and storage of data recorded by body-worn and in-car cameras.

III. All local law enforcement agencies shall be eligible to apply for grants from the fund.

IV. The fund shall be overseen by the commissioner of the department of safety and the attorney general who shall, within 180 days of the effective date of this section, jointly establish a process for the application for grants from the fund. Such process shall be established in rules adopted jointly by the commissioner of safety and attorney general in accordance with RSA 541-A.

6 Appropriation; Body-Worn and In-car Camera Fund. The sum of \$1 for the fiscal year ending June 30, 2022 is hereby appropriated to the body-worn and in-car camera fund established in RSA 105-D:3. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

7 Delinquent Children; Definitions. Amend RSA 169-B:2, IV to read as follows:

IV. "Delinquent" means a person who has committed an offense before reaching the age of 18 years which would be a felony or misdemeanor under the criminal code of this state if committed by an adult, or which is a violation of RSA 318-B:2-c, II or III, and is expressly found to be in need of counseling, supervision, treatment, or rehabilitation as a consequence thereof. ***No person under 13 years of age shall be subject to proceedings under this chapter unless such person has committed a violent crime as defined in RSA 169-B:35-a, I(c). This provision shall not be construed to limit the filing of a petition for any minor child under RSA 169-D.***

8 Delinquent Children; Transfer to Superior Court. Amend RSA 169-B:24, IV to read as follows:

IV. When the felony offense charged is first degree murder, second degree murder, attempted murder, manslaughter, first degree assault, [~~second degree assault (except when the allegation is a violation of RSA 631:2, I(d))~~], aggravated felonious sexual assault[, kidnapping, criminal restraint, robbery] punishable as a class A felony, a violation of RSA 318-B:26, I(a) or (b), [~~or negligent homicide under RSA 630:3, II,~~] or when the minor is charged with any felony and, prior to the filing of the felony petition, the minor has been petitioned to the court on 4 or more occasions and adjudicated delinquent in 4 separate adjudicatory hearings which alleged misdemeanor or felony offenses, and the minor commits the act after the minor's fifteenth birthday, there shall be a presumption that the factors listed in RSA 169-B:24, I support transfer to the superior court.

9 Committee to Study the Inclusion of Race and Ethnicity Data on State-issued Identification Cards. There is hereby established a committee to study the inclusion of race and ethnicity data on state-issued identification cards.

I.(a) The committee shall consist of the following members:

(1) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(2) One member of the senate, appointed by the president of the senate.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee

II.(a) The committee shall study whether the state should include race and ethnicity on any state-issued identification card and whether or not the state should be collecting data on race and ethnicity.

(b) The committee may solicit and receive advice and testimony from any individual or organization with information relevant to the committee's objective.

III. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by a senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Two members of the committee shall constitute a quorum.

IV. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2021.

10 Unified Court System; Authority Granted; Implicit Bias and Racial Profiling. Amend RSA 490-A:3, II to read as follows:

II. The chief justice of the supreme court with the advice and consent of the chief justice of the superior court and the administrative judge of the circuit court, shall encourage the justices and judges of all courts in New Hampshire to receive annual training covering the topics of implicit bias and racial profiling.

III. In carrying out the duties imposed by ~~[paragraph I]~~ **this section**, the chief justices may seek the advice and assistance of all persons and bodies interested in the administration of justice in New Hampshire, including, but not limited to, those listed in RSA 490-A:2.

11 Effective Date.

I. Sections 2, 5, and 6 of this act shall take effect July 1, 2021.

II. The remainder of this act shall take effect 60 days after its passage.

2021-0773s

AMENDED ANALYSIS

This bill:

I. Amends the municipal retention schedule for certain police non-criminal internal affairs investigations.

II. Requires the memorandum of understanding between a school district and a school resource officer to be made public and establishes a committee to study the role and scope of authority of school resource officers.

III. Establishes a body-worn and in-car camera fund and makes an appropriation therefor.

IV. Amends the juvenile delinquency statutes to exclude any child under 13 years of age unless he or she has committed a violent crime, and removes certain criminal offenses as the basis for transferring a delinquent child to superior court.

V. Establishes a committee to study whether the state should collect race and ethnicity data to be included on state identification cards.

VI. Encourages all judges to receive annual training covering the topics of implicit bias and racial profiling.

Senator Bradley moved to divide the question on the Committee Amendment: Sections 4 and 11, and then, the Remainder of the Bill.

The Chair ruled the question divisible.

The question is on the adoption of the Committee Amendment: Sections 4 and 11.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Sherman.

The following Senators voted No: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Perkins Kwoka, Gannon, Morse.

Roll Call, Yeas: 9 - Nays: 15. Failed.

The question is on the adoption of the Committee Amendment: the remainder of the Committee Amendment and the Effective Date. And the Clerk is instructed to make the administrative corrections as needed.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to the Committee on Finance (Rule 4-5).

SB 141-FN, relative to the procedure for conducting firearm background checks.
Ought to Pass, Vote 3-2. Senator Gannon for the committee.

Senator Giuda offered a Floor Amendment.

Sen. Giuda, Dist 2
March 17, 2021
2021-0876s
04/10

Floor Amendment to SB 141-FN

Amend RSA 159-D:2, I as inserted by section 2 of the bill by replacing it with the following:

I. Any person who has received a denial of a motion or other pleading requesting the return of firearms shall have the right to request a further hearing on the matter within 30 days of the date of denial. The request may be made by written or oral motion to the court. Any requested hearing shall occur within 10 business days after the date of the request. During the hearing, the burden will be placed on the county sheriff, or his or her designee, to prove by clear and convincing evidence that the petitioning party is prohibited from possessing or owning a firearm pursuant to state or federal statute. The court shall issue a decision on the matter within 10 business days after the hearing occurs.

Amend the bill by replacing all after section 5 with the following:

6 New Sections; Criminal Background Checks; Immunity for Sheriffs and Sheriff's Employees. Amend RSA 159-D by inserting after section 3 the following new sections:

159-D:4 Civil or Criminal Liability of Sheriffs and Sheriff's Employees. The county sheriff and county sheriff's office employees shall not be liable in a civil or criminal action for any act or omission in the performance of their powers and duties under this chapter.

159-D:5 Use of Federal Government Information Systems. Nothing in this chapter shall prohibit any law enforcement agency or its personnel from utilizing the federal National Instant Criminal Background Check System, or any of its component or successor systems, or any other government information system necessary to perform their duties under this chapter.

7 County Sheriff's Offices; Appropriation for Hardware, Software and Training. The sum of \$100,000 for the fiscal year ending June 30, 2021 is hereby appropriated as follows: the sum of \$10,000 shall be appropriated to each county sheriff's office for the purchase of hardware and software and to defray training costs required to comply with the provisions of RSA 159-D. The sum shall be a charge against the department of safety, permits and licensing account 02-23-23-234010-2913, line 050.

8 Effective Date.

I. Section 7 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect June 1, 2022.

2021-0876s

AMENDED ANALYSIS

This bill authorizes the FBI to conduct all National Instant Criminal Background Check System (NICS) searches concerning the purchase, sale, and transfer of firearms through Federal Firearm Licensees operating in New Hampshire; abolishes the "gun line" in the division of state police; repeals the state's partial point of contact system for handguns, allowing the authority to remain exclusively with the FBI; and authorizes county sheriffs to conduct background searches using NICS for the purpose of approving or denying the return of firearms to individuals who are subject to a protective order for domestic violence or stalking. The bill also makes an appropriation to the county sheriff's offices for hardware and software equipment purchase and training.

The question is on the adoption of the Floor Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Sherman, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka.

Roll Call, Yeas: 15 - Nays: 9. Adopted.

MOTION OF RECONSIDERATION

Senator Bradley, having voted on the prevailing side, moved to reconsider the following action taken by the body on SB 141-FN, relative to the procedure for conducting firearm background checks. Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 14 - Nays: 10. Adopted, bill ordered to the Committee on Finance (Rule 4-5).

WAYS AND MEANS

SB 3-FN, clarifying the tax treatment of federal Paycheck Protection Program loans.

Ought to Pass, Vote 5-0. Senator Giuda for the committee.

The question is on the adoption of the motion of Ought to Pass.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman.

The following Senators voted No: (None)

The following Senators filed a Declaration of Intent: Morse.

Roll Call, Yeas: 23 - Nays: 0. Adopted, bill ordered to Third Reading.

PRESIDENT MORSE: We are at the conclusion of the regular calendar and will take up the Bill that was removed from the consent calendar.

TRANSPORTATION

SB 117-FN, relative to the tolls at exit 10 in the town of Merrimack.

Ought to Pass, Vote 5-0. Senator Birdsell for the committee.

The question is on the adoption of the motion of Ought to Pass.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to the Committee on Finance (Rule 4-5).

MOTION TO ADJOURN FROM EARLY SESSION

Senator Bradley moved that the Senate adjourn from the Early Session, that the business of the Late Session be in order at the present time, that all bills and resolutions ordered to Third Reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

The question is on the adoption of the motion to adjourn from the Early Session.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted. Adjournment from the Early Session.

LIST OF RULE 6-25'S FOR THE DAY

Senator Morse: SB 3-FN

Senator Perkins Kwoka: SB 91

Senator Prentiss: SB 133-FN

LATE SESSION

Third Reading and Final Passage

SB 3-FN, clarifying the tax treatment of federal Paycheck Protection Program loans.

SB 40, relative to informed consent to search a motor vehicle and amending the statutory requirements for a search warrant.

SB 41, relative to police disciplinary hearings.

SB 51, relative to the sale of lobster meat.

SB 52, relative to municipal charter provisions for tax caps.

SB 83, adopting omnibus legislation relative to elections.

SB 88, adopting omnibus legislation relative to broadband.

SB 91, adopting omnibus legislation on renewable energy and utilities.

SB 92-FN, relative to increasing the penalty for criminal mischief, the release of a defendant pending trial, and requiring law enforcement candidate background checks.

SB 93-FN, relative to permanency planning under the child protection act.

SB 110, relative to animals in motor vehicles.

SB 116, relative to the project to complete construction of an exit on I-93 in Derry and Londonderry.

SB 122-FN, adopting omnibus legislation relative to certain crimes and judicial processes and procedures.

SB 125-FN, relative to beverage manufacturer licenses.

SB 126-FN, adopting omnibus legislation on landlord tenant proceedings.

SB 131-FN, adopting omnibus legislation relative to vehicles, municipal water maintenance certificates, nondriver's picture identification, and firefighter and emergency medical services decals.

SB 134-FN, adopting omnibus legislation relative to civil actions and criminal liability.

SB 139-FN, relative to bingo dates.

SB 143-FN, adopting omnibus legislation relative to certain agency requests.

SB 146-FN, adopting omnibus legislation relative to the environment.

SB 147-FN, adopting omnibus legislation relative to student aid, the central registry, transportation of students, and special education costs.

SB 148-FN, adopting omnibus legislation relative to vocational and career education, environmental education, and emergency plans for sports injuries.

SB 155-FN, codifying provisions included in select emergency orders issued by the governor in response to the COVID-19 pandemic.

MOTION TO RECESS TO CALL OF THE CHAIR

Senator Bradley moved that the business of the day being completed, that the Senate recess to the Call of the Chair for the purposes of introducing legislation, referring bills to committee, scheduling hearings, sending and receiving messages, vacating bills, and processing enrolled bill reports and amendments and when we recess, we recess to the Call of the Chair.

The question is on the adoption of the motion to recess to the Call of the Chair.

A roll call was requested by Senator Bradley, seconded by Senator Soucy.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted. The Senate is in recess to the Call of the Chair.