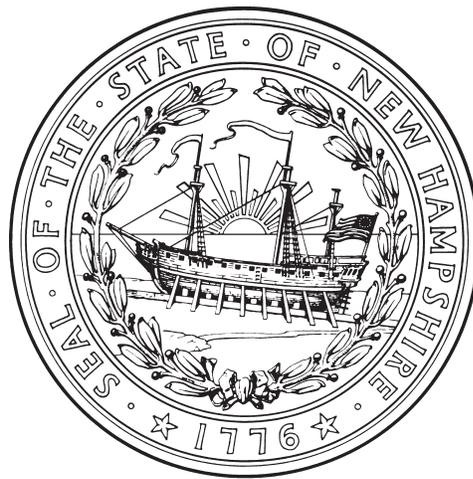


May 27, 2021  
Nos. 16-17

# STATE OF NEW HAMPSHIRE

Web Site Address: [www.gencourt.state.nh.us](http://www.gencourt.state.nh.us)



**First Year of the 167<sup>th</sup> Session of the  
New Hampshire General Court**

**Legislative Proceedings**

## **SENATE JOURNAL**

**ADJOURNMENT – MAY 20, 2021 SESSION  
COMMENCEMENT – MAY 27, 2021 SESSION**

# SENATE JOURNAL 16 *(continued)*

*May 20, 2021*

## REPORT OF COMMITTEE ON ENROLLED BILLS

The committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 79, relative to town health officers.

HB 240, relative to identification of cannabis strain for therapeutic cannabis.

HB 360, relative to the rental of shared living facilities.

HB 464, relative to the commission to study school funding.

HB 626-FN, relative to historic horse racing.

Senator Avard moved adoption of the Report of Committee on Enrolled Bills. Adopted in recess.

## REPORT OF COMMITTEE ON ENROLLED BILLS

The committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 545, relative to the use of certain out-of-state banks by the state treasurer and municipal and county treasurers or trustees.

Senator Avard moved adoption of the Report of Committee on Enrolled Bills. Adopted in recess.

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.

Adopted. Adjournment from the Late Session.

# SENATE JOURNAL 17

*May 27, 2021*

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

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

Since Memorial Day is coming up, my prayer this morning is based upon that and you'll notice it has sections of the Gettysburg Address incorporated.

Let us Pray.

Dear God. We thank you for the freedoms that we enjoy today and remember today the cost of it all. The great sacrifice for freedom. We give thanks for the brave men and women who have fought and continue to fight so courageously for our nation. Bless them and their families. We know that we enjoy so many freedoms because of the sacrifices they have made. Because of their sacrifices in our nation today we are free to worship, free to speak, free to share, free to pursue happiness. We are free to work and make decisions that guide our future. And it is for us today, the living, rather to be dedicated here to the unfinished work which they have thus so far, so nobly carried on. It is rather for us to be here dedicated to the great task remaining before us. That from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion that we here highly resolve that these dead shall not have died in vain. That this nation shall have a new birth of freedom and that this government of the people, by the people, and for the people, shall not perish from the earth. Help the New Hampshire State Senate to be dedicated to the work here today. In that work, help them to carry on a legacy that we have been handed down by all those throughout history of our country, who have fought and died for our freedoms. Amen.

Senator Soucy led the Pledge of Allegiance.

## AMENDMENT TO SENATE RULES

Senator Bradley moved to amend the Senate Rules, with the amendment provided here today.

**AMENDMENT TO SENATE RULES****Amend the Senate Rules by inserting Senate Rule 2-33 with the following:**

**2-33 Remote Participation in Senate Session** - Upon the vote of two-thirds of members present and voting, a member may participate in a Senate session from a remote location by electronic or other means that ensures that the member participating remotely is able to simultaneously see and hear each of the other members of the Senate speak during the session. The member participating remotely shall identify his or her location and identify all persons present in the location from which the member is participating. The member's participation shall be audible to the public watching the Senate's live stream. No roll call shall be required unless moved and seconded pursuant to Rule 2-25. A quorum of the Senate shall be present in the chamber at all times. This rule shall expire on January 1, 2022.

The question is on the adoption of the Amendment to the Senate Rules. Adopted by necessary 2/3 vote.

Senator D'Allesandro announced he was participating remotely via Zoom in his home in Manchester.

## CONSENT CALENDAR REPORTS REMOVED

## EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 186, by Senator Bradley

HB 509, by Senator Carson

## JUDICIARY

HB 566, by Senator Carson

## TRANSPORTATION

HB 224, by Senator Carson

## SPECIAL ORDER

Without objection, the following Bill is special ordered to the next session. Adopted.

## FINANCE

HB 15-FN, relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.

## 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 to Third Reading.

## ELECTION LAW AND MUNICIPAL AFFAIRS

HB 391, increasing the threshold for reporting by political committees.

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

This bill as amended will establish a commission to review and make recommendations on campaign finance laws. The purpose of this Commission is to determine how New Hampshire can streamline the current process in order to balance transparency and reporting requirements for both candidates and political committees. The Commission will consult with members of both major political parties and receive testimony from any independent election organization and the public.

Election Law and Municipal Affairs

May 24, 2021

2021-1683s

11/06

## Amendment to HB 391

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

AN ACT establishing a commission to review and make recommendations on campaign finance laws.

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

1 New Section; Commission on Campaign Finance Laws. Amend RSA 664 by inserting after section 5-c the following new section:

664:5-d Commission Established. There is established a commission to review and make recommendations on campaign finance laws of the state of New Hampshire.

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

(a) Two members of the senate election law and municipal affairs committee, one from the majority appointed by the president of the senate and one from the minority nominated by the senate minority leader and appointed by the president of the senate.

(b) Three members of the house of representatives election law committee, 2 from the majority appointed by the speaker of the house of representatives and one from the minority nominated by the minority leader of the house of representatives and appointed by the speaker of the house of representatives.

(c) The attorney general, or designee.

(d) The secretary of state, or designee.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The commission shall, during at least one of its meetings, seek comment from individuals representing the 2 major political parties regarding their concerns and/or issues with existing campaign finance laws.

IV. The commission shall solicit input and receive public testimony from any person or independent organizations that participate in the election process.

V. The commission shall review and make specific recommendations on the following items:

(a) Existing campaign finance laws and any inconsistencies that may exist therein.

(b) Determining whether state campaign finance laws differ from current federal campaign finance laws.

(c) Making legislative recommendations to streamline and improve the current process in an effort to balance transparency and reporting requirements for both candidates and political committees.

(d) Providing direction and clarity for those committees that have local reporting requirements in addition to the state reporting requirements.

VI. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 30 days of the effective date of this section. Four members of the commission shall constitute a quorum.

VII. The commission 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 election law and municipal affairs committee, and the house election law committee on or before June 1, 2022. The report shall describe the activities and findings of the commission and recommendations for proposed legislation and rulemaking by relevant agencies.

2 Prospective Repeal. RSA 664:5-d, relative to the commission to review and make recommendations on campaign finance laws, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect June 1, 2022.

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

2021-1683s

#### AMENDED ANALYSIS

This bill establishes a commission to review and make recommendations on campaign finance laws.

#### EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 130, relative to administration by the retirement system of certain health care premium deductions. Inexpedient to Legislate, Vote 5-0. Senator Carson for the committee.

This bill clarifies the deduction by the Retirement System of a member's or beneficiary's health care premium costs as determined by the Department of Administrative Services. The Committee heard testimony

that this bill stems from a highly technical dispute between the Retirement System and the Department of Administrative Services regarding a specific deduction for certain retirees for a supplemental benefit that is no longer able to be enrolled in. The Committee felt it was better for the Retirement System and the Department to discuss the issue between themselves and then, if needed, bring an agreed-upon solution to the General Court.

HB 218, repealing RSA 320 relative to hawkers and peddlers and RSA 321 relative to itinerant vendors. Re-refer to Committee, Vote 5-0. Senator Carson for the committee.

This bill repeals RSA 320, relative to hawkers and peddlers, and repeals RSA 321, relative to itinerant vendors. It was brought to the Committee's attention that there may be potential problems with repealing the statutes involved. Rereferring HB 218 will allow for conversations to take place to ensure that there is clarity and that there are no unintended consequences to the repeal of RSA 320 and RSA 321.

HB 499, relative to the use of face recognition technology. Inexpedient to Legislate, Vote 5-0. Senator Cavanaugh for the committee.

This bill permits the state to use face recognition technology if it has a warrant supported by probable cause. The Committee heard testimony that raised concerns about the potential impact HB 499 would have on counties and municipalities. The Committee also heard that HB 499 could have a negative impact on the ability of law enforcement to conduct investigations into, and prosecute cases against, child sex offenders and human traffickers. For these reasons, the Committee felt it was best to recommend Inexpedient to Legislate on HB 499.

HB 567, permitting certain military personnel, emergency medical technicians, and paramedics to apply for licensure as a nursing assistant. Ought to Pass, Vote 5-0. Senator Prentiss for the committee.

This bill permits certain military personnel, emergency medical technicians, and paramedics to apply for licensure as a nursing assistant. This bill recognizes the training that military personnel, emergency medical technicians, and paramedics go through in the course of their work and allows them to take the licensed nursing assistant exam without having to take the standard courses. This will help address the long-term shortage of nursing staff in New Hampshire, which has only been exacerbated during the COVID-19 pandemic. Because the text of this bill references specific military code designations, future legislators will need to remain aware of any potential code designation changes and file legislation accordingly in order to keep the statute up to date.

HB 575, relative to licensure of applicants for cosmetology, esthetics, and manicuring through apprenticeship programs. Inexpedient to Legislate, Vote 5-0. Senator Carson for the committee.

This bill expands the use of apprenticeship programs in qualifying for licensure as a cosmetologist, manicurist, or esthetician by the board of barbering, cosmetology, and esthetics. The Committee did not hear from the Board of Barbering, Cosmetology, and Esthetics, the Office of Professional Licensure and Certification, or from any member of the industry on the potential impacts of changing the requirements of qualification for licensure. Without hearing about those potential impacts, the Committee felt it was best to recommend Inexpedient to Legislate.

HB 606, exempting services provided without remuneration from license requirements for barbering, cosmetology, and esthetics. Ought to Pass, Vote 5-0. Senator Ricciardi for the committee.

This bill clarifies that a person may provide barbering, cosmetology, or esthetics services without remuneration and not be in violation of the regulations of barbering, cosmetology, and esthetics. Under the current statute, anyone who trims a spouse's hair or paints a child's nails without a license to do so is in violation of the law and committing a misdemeanor. This was an oversight in the crafting of the statute, as the criminal violations were only intended for individuals who were being paid for performing these services while unlicensed. HB 606 will bring the statute in-line with the practice that individuals performing these services for free, such as to a spouse or child, without a license are not in violation of the law.

#### HEALTH AND HUMAN SERVICES

HB 143, relative to an electronic prescription drug program. Ought to Pass with Amendment, Vote 5-0. Senator Whitley for the committee.

This bill requires electronic prescribing for controlled drugs under certain circumstances. The bill also establishes under the board of mental health practice additional levels of social work licensure available at the associate's or bachelor's degree levels and requirements for licensure and conditional licensure. As amended, this bill addresses the mental health workforce shortage and provides opportunity for adequate reimbursement for mental health workers. The mental health workforce shortage has been one of the problems contributing to the mental health crisis in New Hampshire.

Health and Human Services

May 19, 2021

2021-1589s

10/08

Amendment to HB 143

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

AN ACT relative to an electronic prescription drug program and establishing licensure and requirements for licensed social workers, licensed social work associates, and social work conditional licenses.

Amend the bill by replacing all after section 5 with the following:

6 Mental Health Practice; Fees. Amend RSA 330-A:12, I to read as follows:

I. The board shall establish fees pursuant to RSA 541-A for supervisory agreements; applications for licensed pastoral psychotherapist, independent clinical social worker, school social worker, **licensed social worker, licensed social work associate**, clinical mental health counselor, [and] marriage and family therapist, **and conditional licenses**; renewal of license; renewal of dual license; reinstatement of license; inactive license status; reactivation of an inactive license; examination of applicants; transcribing and transferring records; and other services, including investigations and hearings conducted under this chapter.

7 New Sections; Mental Health Practice; Licensed Social Worker; Licensed Social Work Associate; Conditional Licenses. Amend RSA 330-A by inserting after section 18-a the following new sections:

330-A:18-b Licensed Social Workers: Initial License.

I. An applicant for an initial license as a licensed social worker shall comply with the following requirements:

(a) Graduate with a bachelor's degree in social work from a college or university approved by the Council on Social Work Education.

(b) Complete 300 hours of social work or mental health education within the degree-granting program or separately.

(c) Complete 4,000 hours of supervised work experience.

(d) Complete 300 hours of supervised practical training within the degree-granting program, as part of the supervised work experience or separately.

(e) Pass a national proctored examination approved by the board.

(f) Meet other criteria as established by the board.

II. The scope of practice of a licensed social worker shall be the screening, assessment, treatment planning, and treatment of mental health conditions as defined in this section as follows:

(a) The performance of clinical evaluation including the screening and assessment of mental health disorders, the assessment and identification of symptoms of co-occurring mental health disorders and differential diagnosis indicators, and the development of preliminary mental health disorder diagnoses for further assessment and confirmation by an appropriate professional. This includes severity assessment and assessment of dangerousness to self or others.

(b) The performance of treatment planning and case management referrals including co-occurring substance use disorders and medical conditions, case management and service coordination including implementation of treatment plans, consultation, coordination of care with mental health and other community providers, ongoing assessment of progress and needs, and client advocacy, education, and documentation.

(c) The performance of counseling, including:

- (1) Individual, group, family, and significant other counseling; and
- (2) Crisis prevention and intervention to include enlisting the support of trained personnel to manage risk of harm to self or others.
- (d) Adherence to professional and ethical responsibilities as determined by the board.

III. During the first 2 years of licensure, a licensed social worker may engage in practice only under clinical supervision of a licensed clinical social worker, a licensed mental health counselor, a master licensed drug and alcohol counselor, a psychiatric APRN, or a licensed mental health provider approved by the board. The supervising clinician shall sign off on any clinical diagnostic assessment and treatment plan established by a licensed social worker.

330-A:18-c Licensed Social Work Associate: Initial License.

I. An applicant for an initial license as a licensed social work associate shall comply with the following requirements:

(a)(1) Graduate with a bachelor's degree in clinical mental health, social work, psychology, behavioral health counseling, human services discipline, or equivalent program from an accredited college or university.

(2) Complete 300 hours of social work or mental health education within the degree-granting program or separately.

(3) Complete 4,000 hours of supervised work experience.

(4) Complete 300 hours of supervised practical training within the degree-granting program, as part of the supervised work experience or separately.

(5) Pass a national proctored examination approved by the board.

(6) Meet other criteria as established by the board; or

(b)(1) Graduate with an associate's degree in clinical mental health, social work, psychology, behavioral health counseling, human services discipline, or equivalent program.

(2) Complete 300 hours of social work or mental health education within the degree-granting program or separately.

(3) Complete 6,000 hours of supervised work experience.

(4) Complete 300 hours of supervised practical training within the degree-granting program, as part of the supervised work experience or separately.

(5) Pass a national proctored examination approved by the board.

(6) Meet other criteria as established by the board.

II. The scope of practice of a licensed social work associate shall be the screening, assessment, treatment planning, and treatment of mental health conditions under clinical supervision as defined in this section as follows:

(a) The performance of clinical evaluation including the screening and assessment of mental health disorders, the assessment and identification of symptoms of co-occurring mental health disorders and differential diagnosis indicators, and the development of preliminary mental health disorder diagnoses for further assessment and confirmation by an appropriate professional. This includes severity assessment and assessment of dangerousness to self or others.

(b) The performance of treatment planning and case management referrals including cooccurring substance use disorders and medical conditions, case management and service coordination including implementation of treatment plans, consultation, coordination of care with mental health, substance use treatment and other community providers, ongoing assessment of progress and needs, and client advocacy, education, and documentation.

(c) The performance of counseling, including:

- (1) Individual, group, family, and significant other counseling; and

(2) Crisis prevention and intervention to include enlisting the support of trained personnel to manage risk of harm to self or others.

(d) Adherence to professional and ethical responsibilities as determined by the board.

III. A licensed social work associate may engage in practice only under clinical supervision of a licensed clinical social worker, a licensed mental health counselor, a master licensed drug and alcohol counselor, a psychiatric APRN, or a licensed mental health provider approved by the board. The supervising clinician shall sign off on any clinical diagnostic assessment and treatment plan established by a licensed social work associate.

330-A:18-d Social Work; Conditional License.

I. Applicants for licensure under this section may apply to the board for conditional licensure. To receive a conditional license, applicants shall comply with the following requirements:

(a) Clinical Social Worker:

(1) Hold a master's or doctoral degree in social work or social welfare from a CSWE approved program.

(2) Obtain a board approved supervisory agreement with documented intent to pursue licensure as a clinical social worker under this chapter.

(3) Meet other criteria as reasonably established by the board.

(b) School Social Worker:

(1) Hold a master's or doctoral degree in social work or social welfare from a CSWE approved program.

(2) Obtain a board approved supervisory agreement, with documented intent to pursue licensure as a clinical social worker under this chapter.

(3) Meet other criteria as reasonably established by the board.

(c) Licensed Social Worker:

(1) Hold a bachelor's degree in social work or social welfare from a CSWE approved program.

(2) Obtain a board approved supervisory agreement consistent with RSA 330-A:18-b, III, with documented intent to pursue licensure as a licensed social worker under this chapter.

(3) Meet other criteria as reasonably established by the board.

(d) Licensed Social Work Associate:

(1) Hold an associate's or bachelor's degree in clinical mental health, social work, psychology, behavioral health counseling, human services discipline, or equivalent program from an accredited college or university.

(2) Complete 300 hours of social work or mental health education within the degree-granting program or separately.

(3) Complete 300 hours of supervised practical training within the degree-granting program, as part of the supervised work experience or separately.

(4) Obtain a board approved supervisory agreement consistent with RSA 330-A:18-c, III, with documented intent to pursue licensure as a licensed social work associate under this chapter.

(5) Meet other criteria as reasonably established by the board.

(e) Clinical Mental Health Counselor:

(1) Hold a master's or doctoral degree in clinical mental health counseling from a CACREP accredited institution or its equivalent which has received regional accreditation from the Association of Secondary Schools and Colleges.

(2) Obtain a board approved supervisory agreement with documented intent to pursue licensure as a clinical mental health counselor under this chapter.

(3) Meet other criteria as reasonably established by the board.

(f) Marriage and Family Therapist:

(1) Hold a master's or doctoral degree in family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education or has a master's degree or doctorate degree with a concentration in the field of marriage and family therapy from a regionally accredited institution or has a clinical membership in the American Association for Marriage and Family Therapy.

(2) Obtain a board approved supervisory agreement with documented intent to pursue licensure as a marriage and family therapist under this chapter.

(3) Meet other criteria as reasonably established by the board.

II. Conditional licenses issued under this section shall be valid for a period not to exceed 2 years from the date of issuance. Applicants in good standing with the board may apply for a one-time renewal of a conditional license.

8 Mental Health Practice; Unlawful Practice. Amend RSA 330-A:23, I-II to read as follows:

I. Except as provided in RSA 330-A:34, it shall be unlawful for any person to be engaged in mental health practice unless that person is licensed by the board, working as a candidate under the direct supervision of a person licensed by the board, **conditionally licensed by the board**, or engaged in the practice of other mental health services as an alternative provider as defined in RSA 330-A:2, I. The license or the registration of such person shall be current and valid. It shall be unlawful for any person to practice as or to refer to oneself as a pastoral psychotherapist, a clinical social worker, **a school social worker, a licensed social worker, a licensed social work associate**, a clinical mental health counselor, or a marriage and family therapist, or use the word "psychotherapist," or any variation thereof, in such person's title unless that person is licensed by the board or working as a candidate under the direct supervision of a person licensed **or conditionally licensed** by the board. Psychiatrists licensed under RSA 329 and psychiatric nurse practitioners licensed under RSA 326-B:18 may refer to themselves as psychotherapists.

II. Except as otherwise provided in this chapter, any person who violates paragraph I or paragraph III of this section or who violates any of the other provisions of this chapter relating to pastoral psychotherapy, clinical social work, **licensed social work**, clinical mental health counseling, or marriage and family therapy, or, having had his or her license suspended or revoked, shall continue to represent himself or herself as a licensed pastoral psychotherapist, clinical social worker, **school social worker, licensed social worker, licensed social work associate**, clinical mental health counselor, or marriage and family therapist, or as a psychotherapist, shall be guilty of a class A misdemeanor if a natural person, and a felony if any other person, and each violation shall be deemed a separate offense.

9 New Section; Managed Care Law; Credentialing Verification Procedures. Amend RSA 420-J by inserting after section 4 the following new section:

420-J:4-a Facility Credentialing.

I. Health carriers shall credential qualified entities administering community mental health programs as defined under RSA 135-C:7, entities administering community substance use disorder treatment programs as defined under RSA 172:2-c, and community health centers as facilities when paneling and enrolling participating providers, consistent with health carriers' facility credentialing standards and practices, unless the entity requests professional level credentialing. Health carriers shall not be required to credential entities who do not meet the health carriers' facility credentialing eligibility standards. If an entity disagrees with the outcome of a health carrier's application of its facility credentialing standards and practices, the entity may request a formal hearing and review of the carrier's decision by the New Hampshire insurance department pursuant to RSA 400-A:17 and/or file a complaint with the New Hampshire insurance department's health care provider complaint process.

II. Nothing in this section shall be construed to require a health carrier to select or enroll a specific facility as a participating provider.

10 Effective Date.

I. Sections 1-5 of this act shall take effect January 1, 2022.

II. Sections 6-8 of this act shall take effect 60 days after its passage.

III. The remainder of this act shall take effect 30 days after its passage.

2021-1589s

## AMENDED ANALYSIS

This bill requires electronic prescribing for controlled drugs under certain circumstances. The bill also establishes under the board of mental health practice licenses and requirements for licensure and conditional licensure for licensed social workers and licensed social work associates.

## JUDICIARY

HB 108-FN-L, relative to minutes and decisions in nonpublic sessions under the right-to-know law. Ought to Pass with Amendment, Vote 5-0. Senator Kahn for the committee.

As amended this bill requires that for meetings in nonpublic session where the minutes or decisions were determined to not be subject to public disclosure, a list shall be kept which shall include certain information; the list shall be made available for public disclosure. The bill also requires that sealed minutes of a nonpublic session related to the acquisition, sale, or lease of real or personal property be released once the transaction closes or the public body decides not to proceed. Additionally, the bill establishes requirements for remote access to public meetings under RSA 91-A: allowing members of public bodies to participate by electronic or other means and allowing a public body to provide remote access to their meetings to the public. Finally, the bill exempts materials falling within the attorney-client privilege or attorney work product doctrine from the provisions of RSA 91-A. These changes are important updates to RSA 91-A, Access to Governmental Records and Meeting, otherwise known as the Right-to-Know Law. The Committee asks for your support in the motion of Ought to Pass with Amendment.

Senate Judiciary

May 25, 2021

2021-1711s

08/04

## Amendment to HB 108-FN-LOCAL

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

AN ACT relative to minutes and decisions in nonpublic sessions; an exemption for items falling within the attorney-client privilege or the attorney work product doctrine under the right-to-know law; and remote access to public meetings under the right-to-know law.

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

1 Right-to-Know Law; Nonpublic Sessions. Amend RSA 91-A:3, III to read as follows:

III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes of such sessions shall record all actions in such a manner that the vote of each member is ascertained and recorded. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply. ***For all meetings held in nonpublic session, where the minutes or decisions were determined to not be subject to full public disclosure, a list of such minutes or decisions shall be kept and this list shall be made available as soon as practicable for public disclosure. This list shall identify the public body and include the date and time of the meeting in nonpublic session, the specific exemption under paragraph II on its face which is relied upon as foundation for the nonpublic session, the date of the decision to withhold the minutes or decisions from public disclosure, and the date of any subsequent decision, if any, to make the minutes or decisions available for public disclosure. Minutes related to a discussion held in nonpublic session under subparagraph II(d) shall be made available to the public as soon as practicable after the transaction has closed or the public body has decided not to proceed with the transaction.***

2 Access to Governmental Records and Meetings; Meetings Open to the Public. Amend RSA 91-A:2, III to read as follows:

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

~~(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.~~

~~(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an “emergency” means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.~~

~~(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting.]~~

*(a) A physical location is not required for any meeting, provided the meeting complies with the provisions of this paragraph.*

*(b) If a meeting has no physical location, public access shall be provided to the public by telephone, and additional access may be provided by video or other electronic means.*

*(c) If a meeting has no physical location, public notice of the meeting, with all information necessary to access the meeting telephonically and by other means, shall be given as provided in this chapter. The notice shall provide a mechanism for the public to alert the public body during the meeting if there are problems with access. The meeting shall be adjourned if the public is unable to access the meeting because of any technical communication problems experienced by the provider of the communication media.*

*(d) Each member participating electronically or otherwise [must] in a meeting required to be open to the public shall be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting’s location, if the meeting has a physical location. Any member participating in such fashion shall identify the location from which the person is participating and the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.*

~~(d)~~ *(e) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.*

~~(e)~~ *(f) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.*

3 Access to Governmental Records and Meetings; Meetings Open to the Public; Version Effective July 1, 2022. RSA 91-A:2, III is repealed and reenacted to read as follows:

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an “emergency” means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

(e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

4 New Paragraph; Right To Know; Exemptions. Amend RSA 91-A:5 by inserting after paragraph XI the following new paragraph:

XII. Records protected under the attorney-client privilege or the attorney work product doctrine.

5 Effective Date.

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

II. Section 3 of this act shall take effect July 1, 2022.

III. The remainder of this act shall take effect upon its passage.

2021-1711s

#### AMENDED ANALYSIS

This bill:

I. Requires that for meetings in nonpublic session where the minutes or decisions were determined to not be subject to public disclosure, a list shall be kept which shall include certain information. The list shall be made available for public disclosure.

II. Requires that sealed minutes of a nonpublic session related to the acquisition, sale, or lease of real or personal property be released once the transaction closes or the public body decides not to proceed.

III. Exempts materials falling within the attorney-client privilege or attorney work product doctrine from the provisions of RSA 91-A.

HB 139, relative to the submission of evidence in divorce proceedings.  
Inexpedient to Legislature, Vote 5-0. Senator Whitley for the committee.

This bill would permit the parties to request a continuance if evidence in a divorce proceeding is not submitted prior to the hearing. The Judicial Branch already has rules addressing discovery deadlines and this bill would create inconsistency and confusion by imposing different requirements.

HB 142, relative to causes for divorce.  
Inexpedient to Legislature, Vote 5-0. Senator French for the committee.

This bill would revise the fault-based grounds for divorce. With the New Hampshire Supreme Court ruling in *Blaisdell v. Blaisdell* already overturning the definition of the grounds established in *Blanchflower v. Blanchflower*, there is no reason to move forward with this bill.

HB 161, relative to the calculation of child support.  
Inexpedient to Legislature, Vote 5-0. Senator Whitley for the committee.

This bill would revise the child support guideline percentages, increase the self-support reserve amount, define a shared parenting plan, establish a new formula for the calculation of child support in cases involving shared parenting plans; and permit the court to modify the presumptive child support amount as justice and the best interest of the child may require. The Committee strongly believes that the child's best interest should be of the utmost importance in these proceedings and that time parenting should not be tied to a financial incentive and therefore recommends this bill to be Inexpedient to Legislature.

HB 179-FN, relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.

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

This bill establishes an enhanced penalty for persons convicted of negligent homicide who have prior convictions for driving under the influence of drugs or liquor. The Committee amended the bill to clarify the language to include when a person causes serious bodily injury as defined in RSA 625:11 to another and asks for your support in passing the bill.

Senate Judiciary

May 25, 2021

2021-1692s

04/05

Amendment to HB 179-FN

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

1 Short Title. This act shall be known as Tyler Shaw's Law.

2 Extended Term of Imprisonment. RSA 651:6, II(c) is repealed and reenacted to read as follows:

(c) Has been previously convicted of driving or operating under the influence of drugs or liquor under RSA 265-A:2, aggravated driving while intoxicated under RSA 265-A:3, or negligent homicide under RSA 630:3, II, or under reasonably equivalent offenses in an out-of-state jurisdiction, and such person is charged with an offense under RSA 630:3, II or RSA 265-A:3, I(b) or II(b).

3 Extended Term of Imprisonment. Amend RSA 651:6, III(a) to read as follows:

(a) Any felony, other than murder [or], manslaughter, ***negligent homicide under RSA 630:3, II, or aggravated driving while intoxicated under RSA 265-A:3, I(b) or II(b) under circumstances where the person caused serious bodily injury as defined in RSA 625:11 to another***, a minimum to be fixed by the court of not more than 10 years and a maximum to be fixed by the court of not more than 30 years;

4 Extended Term of Imprisonment. Amend RSA 651:6, III(f)-(g) to read as follows:

(f) A third offense under RSA 632-A:3, life imprisonment; [or]

(g) Any of the crimes listed under RSA 651:6, I(j), a minimum to be fixed by the court of not less than 90 days and a maximum of not more than one year; ***or***

***(h) Negligent homicide under RSA 630:3, II or aggravated driving while intoxicated under RSA 265-A:3, I(b) or II(b) under circumstances where the person caused serious bodily injury as defined in RSA 625:11 to another, provided that the court may consider an enhanced sentence of not less than 10 years or more than 20 years where the person has once previously been convicted under RSA 265-A:2, I, RSA 265-A:3, or RSA 630:3, II, or under a reasonably equivalent offense in an out-of-state jurisdiction; or***

***(i) Negligent homicide under RSA 630:3, II or aggravated driving while intoxicated under RSA 265-A:3, I(b) or II(b) under circumstances where the person caused serious bodily injury as defined in RSA 625:11 to another, provided that the court may consider an enhanced sentence of not less than 15 years or more than 30 years where the person has, on 2 or more prior occasions, been convicted under RSA 265-A:2, I, RSA 265-A:3, or RSA 630:3, II, or under a reasonably equivalent offense in an out-of-state jurisdiction.***

5 Effective Date. This act shall take effect January 1, 2022.

HB 180, increasing the penalty for buyers under the law regarding trafficking in persons.

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

This bill changes the penalty for a person who pays to engage in sexual contact with another person under the age of 18 who is a victim of human trafficking to a class B felony. The Committee amended the bill to compromise on concerns raised by the amendment passed by the House, leaving the actor as guilty of a class A felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact or sexual penetration with a person who is under the age of 16.

Senate Judiciary  
 May 25, 2021  
 2021-1693s  
 04/08

Amendment to HB 180

Amend the bill by replacing section 1 with the following:

1 Interference With Freedom; Trafficking in Persons. Amend RSA 633:7, III-a to read as follows:

III-a.(a) A person is guilty of a class B felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 or sexual penetration, as defined in RSA 632-A:1, V with a person under the age of 18, or to observe a sexually explicit performance involving a person under the age of 18. The payment or offer or agreement to pay may be made to the person under the age of 18 or a third party. Neither the actor's lack of knowledge of the other person's age nor consent of the other person shall constitute a defense to a charge under this paragraph.

***(b) A person is guilty of a class A felony if the person pays, agrees to pay, or offers to pay to engage in sexual contact, as defined in RSA 632-A:1 or sexual penetration, as defined in RSA 632-A:1, V with a person who is under the age of 16. The payment or offer or agreement to pay may be made to the person who is under the age of 16 or a third party.***

2021-1693s

AMENDED ANALYSIS

This bill increases the penalty for a person who pays to engage in sexual contact with another person under the age of 16 who is a victim of human trafficking.

HB 196, adding trespass as an exception to the charge of criminal threatening.  
 Re-refer to Committee, Vote 5-0. Senator Gannon for the committee.

This bill would add an exception to the criminal threatening statute for a person who displays a firearm to warn away a trespasser. This is an issue that needs further clarification regarding the language being proposed, and therefore the Committee requests support in the motion of Re-Refer to Committee in order to have more time to work on this legislation.

HB 232, relative to nonpublic sessions under the right to know law.  
 Re-refer to Committee, Vote 5-0. Senator French for the committee.

This bill would permit nonpublic sessions under RSA 91-A for the consideration of the amount paid, offered, or accepted for the sale or lease of property, but nonpublic sessions would not be permitted for general discussions of whether to proceed with the sale or lease. The Committee would like to take some more time to understand the ramifications of this legislation and therefore asks for support of the motion of Re-Refer to Committee.

HB 236, creating a statute of limitation on civil actions relative to damage caused by perfluoroalkyl and polyfluoroalkyl substances.  
 Ought to Pass with Amendment, Vote 5-0. Senator Whitley for the committee.

This bill extends the statute of limitation on civil actions relative to damage caused by perfluoroalkyl and polyfluoroalkyl substances. This is an important piece of legislation that gives those impacted by these damages six years to bring forward civil action as opposed to the standard three years. The Committee amended the bill to ensure that this language would not impact the State's ability to bring forward actions in these cases and asks for your support in passing this language with the amendment.

Senate Judiciary  
 May 25, 2021  
 2021-1695s  
 08/11

Amendment to HB 236

Amend RSA 485-H:11 as inserted by section 1 of the bill by replacing it with the following:

485-H:11 Statute of Limitations; Civil Actions; PFAS Exposure. A civil action arising out of any harm or injury caused by a person or entity found legally responsible for or an action for any damages resulting from

a PFAS exposure may be brought within the 6 years after the date the plaintiff discovers, or in the exercise of reasonable diligence should have discovered, such harm, injury, or damages and the causal relationship of an act or omission to such harm, injury or damages. Nothing in this section shall be construed as limiting any action brought by the state.

HB 293, relative to the procedure for adoption of a minor child.  
Re-refer to Committee, Vote 5-0. Senator Gannon for the committee.

This bill would provide that, in an adoption proceeding, a home assessment may not be required if the parents are deceased or their parental rights have been terminated and the child has lived with the prospective adoptive parents for at least two years, or if an assessment has been completed in the previous three years. The Committee appreciates the intention behind this legislation but feels it needs more time to examine the consequences of implementing this kind of change, and therefore, asks for support of the motion of Re-Refer to Committee.

HB 474, prohibiting surveillance by the state on public ways or sidewalks.  
Inexpedient to Legislate, Vote 5-0. Senator Gannon for the committee.

This bill would prohibit the use of surveillance to determine the location of a motor vehicle or the identity or location of a pedestrian. Individuals do not have an expectation of privacy on public ways and the significant unintended consequences of this bill would severely impact the safety of our roadways. Therefore, the Committee asks for support of the motion of Inexpedient to Legislate.

HB 494, relative to temporary relief and permanent restraining orders issued in a divorce proceeding.  
Inexpedient to Legislate, Vote 5-0. Senator French for the committee.

This bill would provide that the court shall not issue an order in a divorce proceeding that infringes on a party's constitutional rights unless the court determines there is no less restrictive means to achieve a compelling government interest. Currently, if an enumerated constitutional right is violated in an order, then the constitution and the facts of the case already provide the legal basis for an appeal. Therefore, there is no need to move this bill forward.

HB 495, relative to restraining orders issued in a parenting case.  
Inexpedient to Legislate, Vote 5-0. Senator French for the committee.

This bill would provide that the court shall not issue an order in a parenting case that infringes on a party's constitutional rights unless the court determines there is no less restrictive means to achieve a compelling government interest. The Committee recommends moving this bill as Inexpedient to Legislate due to the fact that the courts are already not allowed to issue unconstitutional orders.

HB 539, relative to records of communications common carriers.  
Inexpedient to Legislate, Vote 5-0. Senator Gannon for the committee.

This bill would require that customer information in records of communications common carriers only be provided pursuant to a search warrant or a judicially-recognized exception to the warrant requirement. Common carriers already must adhere to the Customer Proprietary Network Information regulations at the FCC and cannot divulge information about subscribers without the proper judicial requirements. This bill would implement a significant amount of change and there is a lack of clarity regarding the impact of this on our existing emergency procedures. Therefore, the Committee asks for support of the motion of Inexpedient to Legislate.

## TRANSPORTATION

HB 222-FN, relative to official cover plates.  
Inexpedient to Legislate, Vote 5-0. Senator Birdsell for the committee.

This bill permits the director to issue official cover plates to the clerk of the New Hampshire house of representatives. The bill also clarifies the number of sets of official cover plates that may be issued to any eligible person. The committee unanimously determined that this bill is inexpedient to legislate. The committee learned that clerks in many other states do not have official cover plates. The committee believes that access to official cover plates should be reasonably limited.

The question is on the adoption of the Consent Calendar. Adopted.

## REGULAR CALENDAR

## COMMERCE

HB 610-FN, requiring certain licensing and reporting functions be conducted through the Nationwide Multistate Licensing System and Registry, and relative to background investigations of trust officers, to certain filing fees, assessments, and interest rates, and to the transmission of consumer complaints by the banking department.

Ought to Pass, Vote 5-0. Senator Bradley for the committee.

Senator Perkins Kwoka offered a Floor Amendment.

Sen. Perkins Kwoka, Dist 21

May 24, 2021

2021-1676s

11/06

## Floor Amendment to HB 610-FN

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

AN ACT requiring certain licensing and reporting functions be conducted through the Nationwide Multistate Licensing System and Registry, relative to background investigations of trust officers, to certain filing fees, assessments, and interest rates, and to the transmission of consumer complaints by the banking department, and establishing the New Hampshire housing and conservation planning program.

Amend the bill by replacing all after section 28 with the following:

29 New Subdivision; Housing and Conservation Planning Program. Amend RSA 4-C by inserting after section 37 the following new subdivision:

## Housing and Conservation Planning Program

4-C:38 Definitions. In this subdivision:

I. "Eligible applicant" means a single municipality or 2 or more municipalities applying together.

II. "Growth and development strategy" means a plan by a single municipality or 2 or more municipalities to guide community growth in a way that creates a balanced housing supply, including higher density and workforce housing opportunities, while preserving valuable natural resources and the community's quality of life through efficient and compact development.

III. "Phase" means one of the 4 specific phases of developing and implementing a growth and development strategy to be funded through the housing and conservation planning program.

IV. "Program" means the housing and conservation planning program.

4-C:39 Housing and Conservation Planning Program Established. There is hereby established the housing and conservation planning program, which shall be administered by the office of strategic initiatives. The program shall provide technical assistance matching grants to municipalities to plan for growth and development in a manner that permits a balanced housing stock, including higher density and workforce housing opportunities, and promotes, whenever possible the reuse of existing buildings, including historic properties, while protecting communities' natural resources through more efficient and compact development. Participation in the program is voluntary.

4-C:40 Program Administration; Eligible Applicants; Use of Program Funds.

I. Eligible applicants shall include:

(a) Municipalities; or

(b) A group of municipalities applying together to plan on a regional basis.

II. Awards of program funds may be used to purchase technical assistance from third-party technical assistance providers, including but not limited to regional planning commissions, to achieve the purposes of the program.

4-C:41 Program Administration; Eligible Technical Assistance.

I. The program shall award matching grants to fund technical assistance activities in the development and implementation of a growth and development strategy. The 4 specific phases of activities are as follows:

(a) Phase 1: Natural and Historic Resource and Housing Data Gathering and Analysis. This phase includes:

(1) Understanding and mapping housing, income, and demographic data, including housing market costs, housing units needed to meet future expected growth in a municipality and the region, and the affordability of a municipality's housing for all income ranges.

(2) Mapping land use values, including conservation, soils, wetlands, working forests, farmlands, and other natural resources.

(3) Developing a build-out analysis of growth and development impacts on housing availability and natural resources.

(4) Mapping historic structures and buildings within communities.

(b) Phase 2: Development of the Growth and Development Strategy. This phase includes:

(1) Drafting and endorsing a growth and development strategy to guide future growth, including using land more efficiently and encouraging compact development and reuse of suitable historic and existing structures. The growth and development strategy would also identify specific areas to be conserved and to be developed.

(2) Engaging in a public process to develop the growth and development strategy.

(3) Auditing the existing master plan to identify portions that conflict with or pose a barrier to achieving the growth and development strategy.

(c) Phase 3: Integration of Growth and Development Strategy into the Master Plan. This phase includes:

(1) Rewriting or amending the master plan so that it can realistically implement the growth and development strategy.

(2) Adopting the revised master plan.

(3) Auditing existing municipal ordinances, including zoning, site-plan, and subdivision regulations, to identify conflicts with the growth and development strategy and the revised master plan.

(d) Phase 4: Implementation into Regulatory Framework. This phase includes:

(1) Rewriting and amending municipal ordinances, including zoning, site-plan, and subdivision regulations, to allow for the realistic implementation of growth and development strategy and the new master plan.

(2) Drafting and adopting new articles that incorporate new tools to accomplish the growth and development strategy, including transfer of development rights, density bonuses, cluster development, and inclusionary zoning.

(3) Seeking the adoption of the needed amendments to municipal ordinances.

II. Each phase shall require that:

(a) Municipalities address housing and conservation together in an integrated manner.

(b) Municipalities engage in a communication and education process that will promote informed decision-making and communicate with and educate citizens regarding the work being undertaken in each phase of the process.

III. Municipalities may be awarded technical assistance for only one phase at a time but may apply and obtain funding for each successive phase. Funding for future phases shall require a demonstration that the previous phase was accomplished in a manner consistent with the principles of the program. Such a showing shall also result in a priority for additional funding.

IV. Municipalities' initial applications for funding need not start with the first phase in the process. However, to begin with a later phase, an initial application shall demonstrate prior completion of the previous phase's work in a manner consistent with the program principles.

4-C:42 Rulemaking Authority. Upon the effective date of this subdivision, the office of strategic initiatives shall adopt rules, pursuant to RSA 541-A, relative to operation of the housing and conservation planning program, including:

I. The application process.

II. The amount of matching funds required and permissible sources for matching funds.

III. Reporting requirements by municipalities.

IV. Scoring criteria for awarding grants that provide a priority for applications that address growth and development on a regional basis and provide opportunities for municipalities without professional planning staff to access the program.

4-C:43 Housing and Conservation Planning Program Advisory Board Established.

I. There is hereby established the housing and conservation planning program advisory board.

II. The advisory board shall review and comment on proposed rules and scoring criteria used by the office of strategic initiatives to evaluate applications for matching grants.

III. The advisory board shall consist of:

(a) One member of the senate, appointed by the senate president.

(b) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(c) The commissioner of the department of natural and cultural resources, or designee.

(d) The commissioner of the department of business and economic affairs, or designee.

(e) The commissioner of the department of transportation, or designee.

(f) One member appointed by each of the following entities:

(1) The New Hampshire housing finance authority.

(2) The New Hampshire community development finance authority.

(3) The current use board.

(4) The land and community heritage authority.

(5) The New Hampshire Municipal Association.

(6) The New Hampshire Association of Regional Planning Commission Executive Directors.

(7) The Business and Industry Association of New Hampshire.

(8) Housing Action New Hampshire.

(9) The Home Builders and Remodelers Association of New Hampshire.

(10) The New Hampshire Preservation Alliance.

(11) The Society for the Protection of New Hampshire Forests.

(12) Plan NH.

(13) New Hampshire Association of Realtors.

IV. Members of the advisory board shall serve without compensation, except that legislative members of the board shall receive mileage at the legislative rate when attending to the duties of the board.

4-C:44 Program Principles. The program shall be guided by the following principles. Awards of technical assistance funding shall be based on consistency with these principles:

I. Consistency with smart growth principles in RSA 9-B:3.

II. Development of a comprehensive growth and development strategy through which a municipality integrates housing and conservation planning.

III. Planning for the full range of current and future housing needs for families of all income levels, as encouraged in RSA 672:1, III-e.

IV. Planning for the protection of natural and historic resource values, as encouraged in RSA 36-A:2, including the preservation of working forests and farmlands as provided in RSA 672:1, III-b and III-c, and critical or sensitive natural areas and resources, including water resources as provided for in RSA 674:2, III(d).

V. Evaluating these conservation and housing issues on a community-wide, site-by-site, and regional basis.

VI. Understanding the interrelationship between natural resources and housing development in a municipality and the impact each has on the other.

VII. Planning for and encouraging higher density, compact development and allowing for the infrastructure needed to support such development.

VIII. Planning for and encouraging reuse of existing properties, especially historic structures.

IX. Planning for and integrating the growth and development strategy into the municipality's master plan and implementation into regulatory structure.

X. Encouragement of community input and education of citizens about the growth and development strategy and the need to plan for future conservation and housing growth.

30 Effective Date.

I. Section 29 of this act shall take effect July 1, 2021.

II. The remainder of this act shall take effect 60 days after its passage.

2021-1676s

#### AMENDED ANALYSIS

This bill:

I. Requires retail sellers, sale finance companies, small loan lenders, debt adjusters, and money transmitters to license and report through NMLA, and clarifies the filing deadlines for call reports under RSA 397-A.

II. Clarifies the circumstances under which background investigations are conducted for trust executive officers, and provides for removal of directors or officers by the commissioner.

III. Adjusts fees for filings by state chartered institutions.

IV. Requires payment of assessment by institutions seeking approval to dissolve or convert.

V. Establishes minimum interest rates tied to federal funds interest rates set by the Federal Open Market Committee.

VI. Authorizes the department to transmit consumer complaints via email rather than by certified mail.

VII. Establishes the New Hampshire housing and planning conservation program.

The question is on the adoption of the Floor Amendment. Adopted.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

Sen. Whitley, Dist 15

Sen. Hennessey, Dist 1

May 26, 2021

2021-1768s

11/04

#### Floor Amendment to HB 610-FN

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

AN ACT requiring certain licensing and reporting functions be conducted through the Nationwide Multistate Licensing System and Registry; relative to background investigations of trust officers, to certain filing fees, assessments, and interest rates, and to the transmission of consumer complaints by the banking department; and requiring employers to provide certain workplace accommodations for employees.

Amend the bill by replacing all after section 28 with the following:

29 State Commission for Human Rights; Unlawful Discriminatory Practices. Amend RSA 354-A:7, VI(a)-(b) to read as follows:

VI.(a) For the purposes of this chapter, the word "sex" includes pregnancy, *childbirth*, and *related* medical conditions [~~which result from pregnancy~~].

(b) ~~[An employer shall permit a female employee to take leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth or related medical conditions.]~~ ***An employer shall provide reasonable accommodations and/or permit a female employee to take a leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth, or related medical conditions, unless such employer can demonstrate that the accommodation would impose an undue hardship on the operation of the employer's business.*** When the employee is physically able to return to work, her original job or a comparable position shall be made available to her by the employer unless business necessity makes this impossible or unreasonable.

30 New Subdivision; Policies Relating to Nursing Mothers. Amend RSA 275 by inserting after section 77 the following new subdivision:

Policies Relating to Nursing Mothers

275:78 Policies Relating to Nursing Mothers. In this subdivision:

I. "Employee" shall mean a person who may be permitted, required, or directed by an employer in consideration of direct or indirect gain or profit but shall not include any individual who volunteers services for a public, charitable, or religious facility without expectation or promise of pay.

II. "Employer" shall mean a person, partnership, association, corporation, or legal representative of a person, partnership, association, or corporation, or the state or any of its political subdivisions, which has 6 or more employees working in the state.

III. "Expression of milk" means the initiation of lactation by manual or mechanical means but shall not include breastfeeding.

IV. "Reasonable break period" shall mean an unpaid break of approximately 30 minutes for every 3 hours of work performed by a nursing employee for the purpose of expressing milk.

V. "Undue hardship" shall mean any action that requires significant difficulty or expense when considered in relation to factors such as the size of the business, its financial resources and the nature and structure of its operation.

275:79 Notification of Policies.

I. Every employer shall adopt a policy to address the provision of sufficient space and reasonable break periods for nursing employees that need to express milk during working hours.

II. Every employer shall, at the time of hire, make available to its employees the employer's policy related to expression of milk during working hours.

III. A nursing employee shall notify its employer at least 2 weeks prior to needing reasonable break periods and sufficient space for expression of milk during work hours.

275:80 Sufficient Space.

I. Every employer shall provide access to reasonable, sufficient space, either temporary or permanent in nature, for the use of an employee to express milk for a nursing child for a period of one year from the date of birth of the child.

II. The location of the space provided shall be within a reasonable walk of the employee's worksite, unless otherwise mutually agreed to by the employer and employee.

III. Sufficient space provided in accordance with this section shall not be a bathroom, and shall be a clean space shielded from view and free from intrusion from coworkers and the public.

(a) If the space is not solely for the use of employees expressing milk it shall be made available when requested to comply with the requirements set forth in this subdivision.

(b) If feasible, the room shall have, at a minimum, an electrical outlet and a chair.

275:81 Reasonable Break Period.

I. Every employer shall provide reasonable break periods to employees who need to express milk for a child for a period of one year from the date of birth of the child. Nothing in this section shall preclude an employer from negotiating with an employee reasonable break periods to express milk that are different from the requirements in this subdivision.

II. Nothing under this subdivision shall preclude an employee from taking a reasonable break period contemporaneously with break or meal periods already provided to the employee by the employer.

III. An employer shall not require an employee to make up time related to use of unpaid reasonable break periods.

275:82 Penalties. Any employer who violates any provision of this subdivision shall be subject to a civil penalty pursuant to RSA 273:11-a.

275:83 Hardship Exemption. An employer may be exempted from this subdivision if providing reasonable break time and sufficient space for expressing milk would impose an undue hardship to the employer's operations.

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

2021-1768s

#### AMENDED ANALYSIS

This bill:

I. Requires retail sellers, sale finance companies, small loan lenders, debt adjusters, and money transmitters to license and report through NMLA, and clarifies the filing deadlines for call reports under RSA 397-A.

II. Clarifies the circumstances under which background investigations are conducted for trust executive officers, and provides for removal of directors or officers by the commissioner.

III. Adjusts fees for filings by state chartered institutions.

IV. Requires payment of assessment by institutions seeking approval to dissolve or convert.

V. Establishes minimum interest rates tied to federal funds interest rates set by the Federal Open Market Committee.

VI. Authorizes the department to transmit consumer complaints via email rather than by certified mail.

VII. Requires an employer to provide reasonable accommodations to an employee related to the employee's pregnancy or childbirth and makes the failure to provide such accommodations an unlawful discriminatory practice.

VIII. Requires certain employers to provide access to a sufficient space and a reasonable break period for nursing mothers to express milk during working hours.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

#### EDUCATION

HB 278, relative to the use of unused district facilities by chartered public schools.

Pending Motion: Ought to Pass, SJ 16. Senator Hennessey.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

Sen. Kahn, Dist 10

May 24, 2021

2021-1680s

06/04

#### Floor Amendment to HB 278

Amend RSA 194:61, I-II as inserted by section 1 of the bill by replacing them with the following:

I. In this subdivision, "unused facility" means a school building owned by a school district which is not used for academic purposes, extracurricular activities, administrative school functions, or sports and for which the school district has no school board approved written plan for future use. In order to comply with this paragraph, such school approved plan shall include academic purposes, extracurricular activities, administrative functions, or sports to be used by the school within 2 years of the plan's approval.

II. On July 1, 2022, and on July 1 every year thereafter, the superintendent of each school district shall report to the department of education each unused facility owned by the school district. The department shall establish and maintain a list of unused facilities owned by each school district and make such list available on the department's website.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

#### ELECTION LAW AND MUNICIPAL AFFAIRS

HB 98, relative to the date of the state primary election.

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

Election Law and Municipal Affairs

May 24, 2021

2021-1660s

11/10

#### Amendment to HB 98

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

1 Election of Officers and Delegates; Election Dates; State Primary Election; Authority for Change in Filing Period. Amend RSA 653:8 to read as follows:

653:8 State Primary Election. The state primary election shall be held on the second Tuesday in [~~September~~] **August** of every even-numbered year.

***653:8-a Change in Primary Date. Notwithstanding the provisions of RSA 653:8, if the secretary of state changes the dates of the filing period pursuant to RSA 655:14-c, he or she is hereby authorized to make a corresponding change to the date of the primary election.***

2 Voters and Checklists; Hearings on Alterations to Party Registration. Amend RSA 654:32 to read as follows:

654:32 Hearings on Alterations to Party Registration. Before each state or presidential primary election, the supervisors of the checklist shall be in session before each primary for the change of registration of legal voters as provided in RSA 654:34 or 654:34-a or both. Before the presidential primary, the session shall be on the Friday preceding the first day of the filing period, between 7:00 p.m. and 7:30 p.m. and at the discretion of the supervisors for extended hours. Before the state primary election, the session shall be on Tuesday before the first Wednesday in [~~June~~] **May** between 7:00 p.m. and 7:30 p.m. and at the discretion of the supervisors for extended hours.

3 Voters and Checklists; Change of Registration. Amend RSA 654:34, IV to read as follows:

IV. No person, who is already registered to vote, whether his ***or her*** party membership has been previously registered or not, shall affiliate with a party or disaffiliate from a party between the first Wednesday in [~~June~~] **May** and the day before the state primary election.

4 Voters and Checklists; Verification of Checklists. Amend RSA 654:38, III to read as follows:

III. Upon completion of verification of the checklist, but, in no event later than [~~September 1~~] **August 1**, the supervisors shall file with the secretary of state the following certificate: We, the supervisors of the checklist of the town (or ward \_\_\_\_\_) of \_\_\_\_\_, do hereby certify that we have verified the checklist of registered voters in the town (or ward \_\_\_\_\_ of the city) of \_\_\_\_\_ as directed by the ballot law commission.

5 Voters and Checklists; Verification Every 10 Years. Amend RSA 654:39, V to read as follows:

V. Upon completion of verification of the checklist, but in no event later than [~~September 1~~] **August 1**, the supervisors shall file with the secretary of state the following certificate: We, the supervisors of the checklist (or registrars of voters) of the town (or ward \_\_\_\_\_) of \_\_\_\_\_, do hereby certify that we have verified the checklist of registered voters in the town (or ward \_\_\_\_\_ of the city) of \_\_\_\_\_, pursuant to the provisions of RSA 654:39.

6 Elections; Nominations by Primary; Filing: General Provisions. Amend RSA 655:14 to read as follows:

655:14 Filing; General Provisions. The name of any person shall not be printed upon the ballot of any party for a primary unless he or she is a registered member of that party, he or she shall have met the age and

domicile qualifications for the office he or she seeks at the time of the general election, he or she meets all the other qualifications at the time of filing, and he or she shall file with the appropriate official between the first Wednesday in ~~[June]~~ **May** and the Friday of the following week a declaration of candidacy as provided in RSA 655:17.

7 Elections; Nominations by Primary. Amend RSA 655:21 to read as follows:

655:21 Form. Primary petitions shall be made in the following form:

State of New Hampshire

County of \_\_\_\_\_ ss.

City (Town) of \_\_\_\_\_

I do hereby join in a petition for the printing on the primary ballot of the name of \_\_\_\_\_ whose domicile is in the city (town) of \_\_\_\_\_ (ward, street, and number, if in a city), in the county of \_\_\_\_\_, for the office of \_\_\_\_\_ to be voted for on Tuesday, the \_\_\_\_ day of ~~[September]~~ **August**, \_\_\_\_ (year), and certify that I am qualified to vote for a candidate for said office, that I am a registered member of the \_\_\_\_\_ party, and am not at this time a signer of any other similar petition for any other candidate for the above office; that my domicile is in the city (town) of \_\_\_\_\_ (ward, street, and number, if in a city), in the county of \_\_\_\_\_. I certify that to my knowledge the above-named candidate is not a candidate for incompatible offices as defined in RSA 655:10, and that he or she is not a federal employee which makes him or her ineligible to file as a candidate for this office. I further certify that I believe the above-named person is especially qualified to fill said office.

I hereby swear, under the penalties for voting fraud set forth below, that the information above is true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
Print Voter's name

\_\_\_\_\_  
Voter's Signature

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

8 Elections; Nomination by Primary; Examination and Rejection. Amend RSA 655:26 to read as follows:

655:26 Examination and Rejection. The officer with whom primary petitions are filed shall immediately upon receipt thereof examine the same and ascertain whether they conform to the law. If found not to conform thereto or to be conflicting as provided in RSA 655:23, he **or she** shall then endorse thereon the reason why such petition cannot be accepted and shall, within 24 hours, return the same to the candidate in whose behalf it was filed. In such case, the candidate may file supplementary petitions with the official, but not later than ~~[the third Wednesday in June]~~ **14 days after the opening of the filing period under RSA 655:14.**

9 Ballot Law Commission; Hearing Date. Amend the introductory paragraph of RSA 665:5, I to read as follows:

I. If necessary, the ballot law commission shall meet on the ~~[third]~~ **second** Thursday ~~[of September]~~ **following the date of the state primary election** in each general election year and the third Friday following the presidential primary election in order to hear and decide:

10 Effective Date. This act shall take effect January 1, 2023.

2021-1660s

#### AMENDED ANALYSIS

This bill changes the date of the state primary election to the second Tuesday in August.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

HB 291, relative to public inspection of absentee ballot lists.  
Ought to Pass with Amendment, Vote 3-2. Senator Gray for the committee.

Election Law and Municipal Affairs  
May 24, 2021  
2021-1674s  
06/11

#### Amendment to HB 291

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

AN ACT relative to the analysis of requests for absentee ballot information by the attorney general.

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

1 New Section; Analysis of Requests for Absentee Ballot Information. Amend RSA 657 by inserting after section 24 the following new section:

657:24-a Analysis of Requests for Absentee Ballot Information. The attorney general shall analyze the requests for absentee ballot information for state general elections and presidential primary elections contained in the statewide centralized voter registration database for evidence of misuse. The analysis shall include, but shall not be limited to, the number of absentee ballots mailed to a common address and significant differences in the number of ballots that were requested from a city or town. The results of the analysis and any additional actions identified shall be reported to the house and senate committees with jurisdiction over elections within 120 days of the election.

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

2021-1674s

#### AMENDED ANALYSIS

This bill requires the attorney general to analyze absentee ballot information requests for evidence of misuse.

The question is on the adoption of the Committee Amendment.

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

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. Adopted, bill ordered to Third Reading.

#### ENERGY AND NATURAL RESOURCES

HB 271, relative to standards for per and polyfluoroalkyl substances (PFAS) in drinking water and ambient groundwater.

Ought to Pass, Vote 4-0. Senator Perkins Kwoka for the committee.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3  
May 26, 2021  
2021-1780s  
08/10

#### Floor Amendment to HB 271

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 7:

4 PFAS Program; Drinking Water Protection; Groundwater. RSA 485-H:3 and 485-H:4 are repealed and reenacted to read as follows:

#### 485-H:3 Implementation of Drinking Water Protection Program.

I. The department shall provide low-interest loans and grants to municipalities, community water systems, and non-profit, non-transient non-community water systems whose testing of untreated source water shows an exceedance of a PFAS drinking water standard. Such loans and grants shall be provided for the projects described below begun after September 30, 2019.

II. The department shall provide the loans and grants described in paragraph I for projects needed to meet a PFAS drinking water standard if the applicant demonstrates, and the department agrees, that the project is the most cost-effective way to meet PFAS drinking water standards and if the project meets the other provisions of this chapter and department rules adopted pursuant to this chapter.

III. The department shall adopt rules, and include conditions in loan and grant documents, to ensure that the applicant has made and will make reasonable efforts to obtain and use funds from any potentially liable third party prior to and after taking a loan from the PFAS loan fund or receiving a grant, and that any money received from a potentially liable third party after the loan is provided is applied to early repayment of such loan to the extent reasonable. In addition, the department shall adopt rules establishing criteria to ensure that an applicant shall not be eligible for loans or grants for any project or portion of a project to the extent the negligence of the applicant caused the contamination that resulted in the exceedance of a PFAS drinking water standard.

IV. If the department forgives any part of a loan or provides a grant related to costs for a project for which a third party might otherwise be liable, the right to recover payment from such third party shall be subrogated to the department to the extent of such forgiveness or grant. Any money recovered by the department from such third party shall be deposited in the PFAS loan fund.

V. Loans may be made for up to the total cost of the project minus any contribution from a liable or potentially liable third party or any other portion deemed ineligible under this chapter and department rules.

#### 485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection.

I. The department shall provide low interest loans and grants to publicly-owned and non-profit wastewater and/or wastewater residual treatment or storage facilities that are required to treat effluent and residuals to achieve applicable PFAS standards prior to discharge or disposal.

II. The department shall provide the loans and grants described in paragraph I if the applicant demonstrates, and the department agrees, that the project is the most cost-effective way to meet applicable PFAS standards and if the project meets the other provisions of this chapter and department rules adopted pursuant to this chapter. The applicant shall provide evidence in the application for funding that there is not a more cost-effective way to meet applicable PFAS standards.

III. The department shall adopt rules, and include conditions in loan and grant documents, to ensure that the applicant has made reasonable efforts to obtain and use funds from any liable or potentially liable third party prior to and after taking a loan from the PFAS loan fund or receiving a grant, and that any money received from a liable or potentially liable third party at a later time is applied to early repayment of the loan from the PFAS loan fund to the extent reasonable. In addition, the department shall adopt rules establishing criteria to ensure that an applicant shall not be eligible for loans or grants for any project or portion of a project to the extent the negligence of the applicant caused the contamination that resulted in the exceedance of an applicable PFAS standard.

IV. If the department forgives any part of a loan or provides a grant related to costs for a project for which a third party might otherwise be liable, the right to recover payment from such third party shall be subrogated to the department to the extent of such forgiveness. Any money recovered by the department from such third party shall be deposited in the PFAS loan fund.

V. Loans may be made for up to the total cost of the project minus any contribution from a liable or potentially liable third party or any other portion deemed ineligible under this chapter and department rules.

5 Duties of the Department; Remediation Loan Forgiveness Program. Amend RSA 485-H:8 to read as follows:

#### 485-H:8 Duties of the Department.

I. The department shall perform the following duties to the limit of available funding:

(a) Establishing and administrating the PFAS remediation loan **and grant** program to assist municipalities; community and non-profit, non-transient non-community water systems; and publicly owned and non-profit wastewater treatment facilities with the cost of complying with ~~[state maximum contaminant level for]~~ **applicable PFAS standards.**

(b) Establishing and administering a loan forgiveness program to assist disadvantaged communities with loan repayment.

(c) Awarding loan funds to projects that meet **the provisions of this chapter including** the following criteria:

(1) The project is or was necessary to comply with a ~~[state mandated]~~ **PFAS drinking water standard or other applicable** PFAS standard and the applicant for funding is a municipality, a community water system, or a non-profit, non-transient public water system, or a publicly-owned or non-profit wastewater and/or wastewater residual treatment or storage facility.

(2) The applicant has demonstrated, to the satisfaction of the department, that ~~[low or no-cost solutions are neither viable nor effective]~~ **the project is the most cost-effective way to meet PFAS drinking water standards and other applicable PFAS standards.**

(d) Awarding reimbursements to projects from the fund in a manner consistent with this chapter.

II. Every year beginning December 1, 2020, the department shall prepare and file a report with the general court evaluating the progress made relative to PFAS contamination, the efficiency of the program established under this chapter, and whether it continues to provide the maximum benefit to New Hampshire citizens, and providing any recommendations on potential additional tasks for which the fund could be used to address PFAS contamination.

6 New Section; Grants. Amend RSA 485-H by inserting after section 10 the following new section:

485-H:11 Grants. The department, to the limit of available federal funds deposited into the fund from the American Rescue Plan Act of 2021, Public Law 117-2, shall provide grants to entities meeting the eligibility requirements of RSA 485-H:3 and RSA 485-H:4 for up to 100 percent of the total eligible cost of the project.

2021-1780s

#### AMENDED ANALYSIS

This bill directs the department of environmental services to set maximum contaminant limits for per and polyfluoroalkyl substances (PFAS).

This bill also enables the department of environmental services to make grants to eligible municipalities and drinking water and wastewater systems to address PFAS contamination.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

#### EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 417, relative to the powers of the governor during a renewal of a declared state of emergency, and relative to the acceptance of federal assistance.

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

Senate Executive Departments and Administration

May 19, 2021

2021-1591s

10/04

#### Amendment to HB 417

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

AN ACT relative to the powers of the governor during a declared state of emergency.

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

1 Emergency Powers; Termination at 30 Days. Amend RSA RSA 4:45, I(d) and II to read as follows:

(d) Duration of the state of emergency, if less than ~~[21]~~ **30** days.

II.(a) A state of emergency shall terminate automatically [21] **30** days after its declaration unless it is renewed under the same procedures set forth in paragraph I of this section. The governor may, by executive order, renew a declaration of a state of emergency as many times as the governor finds is necessary to protect the safety and welfare of the inhabitants of this state.

(b) If the governor finds that maintaining the state of emergency is no longer justified, the governor shall issue an executive order terminating the state of emergency.

(c) The legislature may terminate a state of emergency *or any emergency order issued thereunder* by concurrent resolution adopted by a majority vote of each chamber. The governor's power to renew a declaration of a state of emergency shall terminate upon the adoption of a concurrent resolution under this subparagraph; provided, however, that such resolution shall not preclude the governor from declaring a new emergency for different circumstances under paragraph I of this section.

2 New Paragraphs; State of Emergency; Procedure. Amend RSA 4:45 by inserting after paragraph III the following new paragraphs:

IV. Members of the legislature shall be exempt from any emergency orders that would infringe on their ability to travel and conduct their business as representatives of the people.

V. The acceptance and expenditure of any federal, private, or other non-state gift, grant, or loan for purposes of emergency powers of the state pursuant to RSA 21-P:43 which exceed \$100,000, shall be required to be approved by the fiscal committee of the general court according to RSA 14:30-a. Notwithstanding any other provision of law, under circumstances requiring expedited action for the immediate health, safety and welfare of the citizens of New Hampshire, the governor has the sole authority to accept and expend funds hereunder.

VI. Under this section, the governor shall submit an item to the chairperson of the fiscal committee of the general court for consideration by the fiscal committee. If the fiscal committee of the general court does not render a rejection or acceptance within 5 business days, the governor shall be able to accept and expend the funds without further action by the fiscal committee.

3 New Section; Homeland Security; Governor Duty. Amend RSA 21-P by inserting after section 43 the following new section:

21-P:43-a Governor Duty. The governor shall provide a list of all expenditures pursuant to this subdivision under a state of emergency to the executive council for informational purposes only, in order to ensure transparency.

4 Applicability of Act. The provisions of this act shall take effect upon the latter of either the passage of this act or 30 days after the termination of the COVID-19 state of emergency, as certified to the secretary of state and the director of legislative services by the office of the governor.

5 Effective Date. This act shall take effect as provided in section 4 of this act.

2021-1591s

#### AMENDED ANALYSIS

This bill terminates a state of emergency called by the governor after 30 days, modifies the emergency powers, and requires approvals by the fiscal committee of the general court in certain instances.

The question is on the adoption of the Committee Amendment. Adopted.

Senator Carson offered a Floor Amendment.

Sen. Carson, Dist 14

Sen. Bradley, Dist 3

May 24, 2021

2021-1661s

10/04

#### Floor Amendment to HB 417

Amend the bill by replacing section 1 with the following:

1 Emergency Powers; Notice; Termination at 30 Days. Amend RSA RSA 4:45, I and II to read as follows:

I. The governor shall have the power to declare a state of emergency, as defined in RSA 21-P:35, VIII, by executive order if the governor finds that a natural, technological, or man-made disaster of major proportions is imminent or has occurred within this state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section. ***When practicable, the governor shall notify the speaker of the house of representatives and senate president of the impending issuance of emergency orders under this section and provide a description of such orders.*** The general court shall have the same power to declare a state of emergency by concurrent resolution of the house and senate. An executive order or concurrent resolution declaring a state of emergency shall specify the:

- (a) Nature of the emergency;
- (b) Political subdivisions or geographic areas subject to the declaration;
- (c) Conditions that have brought about the emergency; and
- (d) Duration of the state of emergency, if less than [21] **30** days.

II.(a) A state of emergency shall terminate automatically [21] **30** days after its declaration unless it is renewed under the same procedures set forth in paragraph I of this section. The governor may, by executive order, renew a declaration of a state of emergency as many times as the governor finds is necessary to protect the safety and welfare of the inhabitants of this state.

(b) If the governor finds that maintaining the state of emergency is no longer justified, the governor shall issue an executive order terminating the state of emergency.

(c) The legislature may terminate a state of emergency ***or any emergency order issued thereunder*** by concurrent resolution adopted by a majority vote of each chamber. The governor's power to renew a declaration of a state of emergency shall terminate upon the adoption of a concurrent resolution under this subparagraph; provided, however, that such resolution shall not preclude the governor from declaring a new emergency for different circumstances under paragraph I of this section.

The question is on the adoption of the Floor Amendment. Adopted.

Senator Soucy offered a Floor Amendment.

Sen. Soucy, Dist 18  
 May 26, 2021  
 2021-1772s  
 10/04

#### Floor Amendment to HB 417

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

AN ACT relative to a state of emergency called by the governor.

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

1 Emergency Powers; Termination at 30 Days. Amend RSA 4:45, I(d) and II to read as follows:

- (d) Duration of the state of emergency, if less than [21] **30** days.

II.(a) A state of emergency shall terminate automatically [21] **30** days after its declaration unless it is renewed under the same procedures set forth in paragraph I of this section. The governor may, by executive order, renew a declaration of a state of emergency as many times as the governor finds is necessary to protect the safety and welfare of the inhabitants of this state.

(b) If the governor finds that maintaining the state of emergency is no longer justified, the governor shall issue an executive order terminating the state of emergency.

(c) The legislature may terminate a state of emergency ***or any emergency order issued thereunder*** by concurrent resolution adopted by a majority vote of each chamber. The governor's power to renew a declaration of a state of emergency shall terminate upon the adoption of a concurrent resolution under this subparagraph; provided, however, that such resolution shall not preclude the governor from declaring a new emergency for different circumstances under paragraph I of this section.

2 New Paragraphs; State of Emergency; Procedure. Amend RSA 4:45 by inserting after paragraph III the following new paragraphs:

IV. Members of the legislature shall be exempt from any emergency orders that would infringe on their ability to travel and conduct their business as representatives of the people.

V. The acceptance and expenditure of any federal, private, or other non-state gift, grant, or loan for purposes of emergency powers of the state pursuant to RSA 21-P:43 which, in total, equal or exceed \$100,000, shall be required to be approved by the fiscal committee of the general court according to RSA 14:30-a. Notwithstanding any other provision of law, under circumstances requiring expedited action for the immediate health, safety and welfare of the citizens of New Hampshire, the governor has the sole authority to accept and expend funds hereunder.

VI. Under this section, the governor shall submit an item to the chairperson of the fiscal committee of the general court for consideration by the fiscal committee. If the fiscal committee of the general court does not render a rejection or acceptance within 5 business days, the governor shall be able to accept and expend the funds without further action by the fiscal committee.

3 Budget and Appropriations; Civil Emergency. Amend RSA 9:13-d to read as follows:

9:13-d [Civil] **State of** Emergency. Should it be determined by the governor that a [civil] **state of** emergency exists, the governor may, with the advice and consent of the fiscal committee, authorize [~~such~~] expenditures, **which, in total, equal or exceed \$100,000**, by any department or agency, as may be necessary to effectively deal with said [civil] emergency and may draw [his] warrants in payment for the same from any money in the treasury not otherwise appropriated. In determining whether [~~a civil~~] **an** emergency exists, the governor shall consider whether there is such imminent peril to the public health, safety and welfare of the inhabitants of this state so as to require immediate action to remedy the situation. This section shall not be construed to enlarge any of the powers which the governor may possess under the constitution or other statutes.

4 Applicability of Act. The provisions of this act shall take effect upon the latter of either the passage of this act or 30 days after the termination of the COVID-19 state of emergency, as certified to the secretary of state and the director of legislative services by the office of the governor.

5 Effective Date. This act shall take effect as provided in section 4 of this act.

2021-1772s

#### AMENDED ANALYSIS

This bill terminates a state of emergency called by the governor after 30 days, modifies the emergency powers, and requires approvals by the fiscal committee of the general court in certain instances.

The question is on the adoption of the Floor Amendment. Failed.

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 Avard.

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.

#### FINANCE

HB 605-FN, relative to the therapeutic cannabis program.

Ought to Pass, Vote 4-3. Senator Rosenwald for the committee.

The question is on the adoption of the motion of Ought to Pass.

A roll call was requested by Senator Daniels, seconded by Senator Giuda.

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

The following Senators voted No: Giuda, Ward, Daniels, Carson, Birdsell, Gannon, Morse.

Roll Call, Yeas: 17 - Nays: 7. Adopted, bill ordered to Third Reading.

## HEALTH AND HUMAN SERVICES

HB 220, establishing medical freedom in immunizations.

Ought to Pass with Amendment, Vote 3-2. Senator Bradley for the committee.

Health and Human Services

May 19, 2021

2021-1595s

10/08

## Amendment to HB 220

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

AN ACT relative to medical freedom in immunizations and establishing a committee to examine the policy of medical intervention including immunizations.

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

1 New Section: Communicable Disease: Medical Freedom in Immunizations. Amend RSA 141-C by inserting after section 1 the following new section:

141-C:1-a Medical Freedom in Immunizations.

I. Every person has the natural, essential, and inherent right to bodily integrity, free from any threat or compulsion by government to accept an immunization. Accordingly, no person may be compelled to receive an immunization for COVID-19 in order to secure, receive, or access any public facility, any public benefit, or any public service from the state of New Hampshire, or any political subdivision thereof, including but not limited to counties, cities, towns, precincts, water districts, school districts, school administrative units, or quasi-public entities.

II. Paragraph I shall not:

(a) Limit the commissioner's authority to order treatment pursuant to RSA 141-C:15 or RSA 141-C:18, nor to order quarantine pursuant to RSA 141-C:11 or RSA 141-C:18.

(b) Supersede the requirement for vaccination as a prerequisite for admission to a school or child care agency pursuant to RSA 141-C:20-a, II.

(c) Supersede the involuntary emergency admission process pursuant to RSA 135-C:27-33; the revocation of conditional discharge process under RSA 135-C:51; or involuntary treatment of patients compliant with RSA 135-C:57, III.

(d) Limit treatment authorized by a guardian over a person; or short term treatment of a personal safety emergency declared by a licensed physician or nurse practitioner in a psychiatric care setting, or authorized by a surrogate decision maker or durable power of attorney for health care delegated by the person while competent to make decisions for them during periods when they are not competent, pursuant to RSA 137-J.

(e) Apply to county nursing homes, the New Hampshire state hospital, or any other medical facility or provider operated by the state of New Hampshire or any political subdivision identified in paragraph I.

III. The department of corrections may mandate medical treatment or immunization for inmates when a direct threat exists as defined in 28 CFR section 36.208.

2 Committee Established. There is established a committee to examine the policy of medical intervention including immunizations..

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

(a) Two members of the senate, including one member of the minority party, appointed by the president of the senate.

(b) Four members of the house of representatives, including 2 members 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 examine the policy of medical intervention including immunizations..

IV. The members of the 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. Four members of the committee shall constitute a quorum.

V. 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 December 1, 2021.

3 Effective Date. This act shall take effect upon its passage.

2021-1595s

#### AMENDED ANALYSIS

This bill states the rights for medical freedom in immunizations. The bill also establishes a committee to examine the policy of medical intervention including immunizations.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Avard, seconded by Senator Birdsell.

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 Avard, seconded by Senator Birdsell.

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.

#### JUDICIARY

HB 125, relative to post-arrest photo distribution by law enforcement officers.  
Ought to Pass, Vote 3-2. Senator French for the committee.

Senator Bradley moved to Re-refer to Committee.

The question is on the adoption of the motion of Re-refer to Committee. Adopted.

HB 195, adding display of a firearm as an exception to reckless conduct.  
Ought to Pass with Amendment, Vote 3-2. Senator Gannon for the committee.

Senate Judiciary  
May 25, 2021  
2021-1708s  
04/11

#### Amendment to HB 195

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Reckless Conduct; Exception for Display of a Firearm. Amend RSA 631:3 by inserting after paragraph IV the following new paragraph:

V. The act of displaying a firearm shall not, in and of itself and without additional circumstances, constitute reckless conduct under this section.

The question is on the adoption of the Committee Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment.

A roll call was requested by Senator Daniels, seconded by Senator Birdsell.

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.

Recess. Out of recess.

#### COMMERCE

HB 610-FN, requiring certain licensing and reporting functions be conducted through the Nationwide Multistate Licensing System and Registry, and relative to background investigations of trust officers, to certain filing fees, assessments, and interest rates, and to the transmission of consumer complaints by the banking department.

The Chair Rescinded Third Reading.

Senator Perkins Kwoka offered a Floor Amendment.

Sen. Perkins Kwoka, Dist 21

May 27, 2021

2021-1791s

11/06

#### Floor Amendment to HB 610-FN

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

AN ACT requiring certain licensing and reporting functions be conducted through the Nationwide Multistate Licensing System and Registry, relative to background investigations of trust officers, to certain filing fees, assessments, and interest rates, and to the transmission of consumer complaints by the banking department, requiring employers to provide certain workplace accommodations for employees, and establishing the New Hampshire housing and conservation planning program.

Amend the bill by replacing all after section 30 with the following:

31 New Subdivision; Housing and Conservation Planning Program. Amend RSA 4-C by inserting after section 37 the following new subdivision:

#### Housing and Conservation Planning Program

4-C:38 Definitions. In this subdivision:

I. "Eligible applicant" means a single municipality or 2 or more municipalities applying together.

II. "Growth and development strategy" means a plan by a single municipality or 2 or more municipalities to guide community growth in a way that creates a balanced housing supply, including higher density and workforce housing opportunities, while preserving valuable natural resources and the community's quality of life through efficient and compact development.

III. "Phase" means one of the 4 specific phases of developing and implementing a growth and development strategy to be funded through the housing and conservation planning program.

IV. "Program" means the housing and conservation planning program.

4-C:39 Housing and Conservation Planning Program Established. There is hereby established the housing and conservation planning program, which shall be administered by the office of strategic initiatives. The program shall provide technical assistance matching grants to municipalities to plan for growth and development in a manner that permits a balanced housing stock, including higher density and workforce housing opportunities, and promotes, whenever possible the reuse of existing buildings, including historic properties, while protecting communities' natural resources through more efficient and compact development. Participation in the program is voluntary.

4-C:40 Program Administration; Eligible Applicants; Use of Program Funds.

I. Eligible applicants shall include:

- (a) Municipalities; or
- (b) A group of municipalities applying together to plan on a regional basis.

II. Awards of program funds may be used to purchase technical assistance from third-party technical assistance providers, including but not limited to regional planning commissions, to achieve the purposes of the program.

4-C:41 Program Administration; Eligible Technical Assistance.

I. The program shall award matching grants to fund technical assistance activities in the development and implementation of a growth and development strategy. The 4 specific phases of activities are as follows:

(a) Phase 1: Natural and Historic Resource and Housing Data Gathering and Analysis. This phase includes:

(1) Understanding and mapping housing, income, and demographic data, including housing market costs, housing units needed to meet future expected growth in a municipality and the region, and the affordability of a municipality's housing for all income ranges.

(2) Mapping land use values, including conservation, soils, wetlands, working forests, farmlands, and other natural resources.

(3) Developing a build-out analysis of growth and development impacts on housing availability and natural resources.

(4) Mapping historic structures and buildings within communities.

(b) Phase 2: Development of the Growth and Development Strategy. This phase includes:

(1) Drafting and endorsing a growth and development strategy to guide future growth, including using land more efficiently and encouraging compact development and reuse of suitable historic and existing structures. The growth and development strategy would also identify specific areas to be conserved and to be developed.

(2) Engaging in a public process to develop the growth and development strategy.

(3) Auditing the existing master plan to identify portions that conflict with or pose a barrier to achieving the growth and development strategy.

(c) Phase 3: Integration of Growth and Development Strategy into the Master Plan. This phase includes:

(1) Rewriting or amending the master plan so that it can realistically implement the growth and development strategy.

(2) Adopting the revised master plan.

(3) Auditing existing municipal ordinances, including zoning, site-plan, and subdivision regulations, to identify conflicts with the growth and development strategy and the revised master plan.

(d) Phase 4: Implementation into Regulatory Framework. This phase includes:

(1) Rewriting and amending municipal ordinances, including zoning, site-plan, and subdivision regulations, to allow for the realistic implementation of growth and development strategy and the new master plan.

(2) Drafting and adopting new articles that incorporate new tools to accomplish the growth and development strategy, including transfer of development rights, density bonuses, cluster development, and inclusionary zoning.

(3) Seeking the adoption of the needed amendments to municipal ordinances.

II. Each phase shall require that:

(a) Municipalities address housing and conservation together in an integrated manner.

(b) Municipalities engage in a communication and education process that will promote informed decision-making and communicate with and educate citizens regarding the work being undertaken in each phase of the process.

III. Municipalities may be awarded technical assistance for only one phase at a time but may apply and obtain funding for each successive phase. Funding for future phases shall require a demonstration that the previous phase was accomplished in a manner consistent with the principles of the program. Such a showing shall also result in a priority for additional funding.

IV. Municipalities' initial applications for funding need not start with the first phase in the process. However, to begin with a later phase, an initial application shall demonstrate prior completion of the previous phase's work in a manner consistent with the program principles.

4-C:42 Rulemaking Authority. Upon the effective date of this subdivision, the office of strategic initiatives shall adopt rules, pursuant to RSA 541-A, relative to operation of the housing and conservation planning program, including:

I. The application process.

II. The amount of matching funds required and permissible sources for matching funds.

III. Reporting requirements by municipalities.

IV. Scoring criteria for awarding grants that provide a priority for applications that address growth and development on a regional basis and provide opportunities for municipalities without professional planning staff to access the program.

4-C:43 Housing and Conservation Planning Program Advisory Board Established.

I. There is hereby established the housing and conservation planning program advisory board.

II. The advisory board shall review and comment on proposed rules and scoring criteria used by the office of strategic initiatives to evaluate applications for matching grants.

III. The advisory board shall consist of:

(a) One member of the senate, appointed by the senate president.

(b) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(c) The commissioner of the department of natural and cultural resources, or designee.

(d) The commissioner of the department of business and economic affairs, or designee.

(e) The commissioner of the department of transportation, or designee.

(f) One member appointed by each of the following entities:

(1) The New Hampshire housing finance authority.

(2) The New Hampshire community development finance authority.

(3) The current use board.

(4) The land and community heritage authority.

(5) The New Hampshire Municipal Association.

(6) The New Hampshire Association of Regional Planning Commission Executive Directors.

(7) The Business and Industry Association of New Hampshire.

(8) Housing Action New Hampshire.

(9) The Home Builders and Remodelers Association of New Hampshire.

(10) The New Hampshire Preservation Alliance.

(11) The Society for the Protection of New Hampshire Forests.

(12) Plan NH.

(13) New Hampshire Association of Realtors.

IV. Members of the advisory board shall serve without compensation, except that legislative members of the board shall receive mileage at the legislative rate when attending to the duties of the board.

4-C:44 Program Principles. The program shall be guided by the following principles. Awards of technical assistance funding shall be based on consistency with these principles:

- I. Consistency with smart growth principles in RSA 9-B:3.
- II. Development of a comprehensive growth and development strategy through which a municipality integrates housing and conservation planning.
- III. Planning for the full range of current and future housing needs for families of all income levels, as encouraged in RSA 672:1, III-e.
- IV. Planning for the protection of natural and historic resource values, as encouraged in RSA 36-A:2, including the preservation of working forests and farmlands as provided in RSA 672:1, III-b and III-c, and critical or sensitive natural areas and resources, including water resources as provided for in RSA 674:2, III(d).
- V. Evaluating these conservation and housing issues on a community-wide, site-by-site, and regional basis.
- VI. Understanding the interrelationship between natural resources and housing development in a municipality and the impact each has on the other.
- VII. Planning for and encouraging higher density, compact development and allowing for the infrastructure needed to support such development.
- VIII. Planning for and encouraging reuse of existing properties, especially historic structures.
- IX. Planning for and integrating the growth and development strategy into the municipality's master plan and implementation into regulatory structure.
- X. Encouragement of community input and education of citizens about the growth and development strategy and the need to plan for future conservation and housing growth.

32 Effective Date.

- I. Section 31 of this act shall take effect July 1, 2021.
- II. The remainder of this act shall take effect 60 days after its passage.

2021-1791s

#### AMENDED ANALYSIS

This bill:

- I. Requires retail sellers, sale finance companies, small loan lenders, debt adjusters, and money transmitters to license and report through NMLA, and clarifies the filing deadlines for call reports under RSA 397-A.
- II. Clarifies the circumstances under which background investigations are conducted for trust executive officers, and provides for removal of directors or officers by the commissioner.
- III. Adjusts fees for filings by state chartered institutions.
- IV. Requires payment of assessment by institutions seeking approval to dissolve or convert.
- V. Establishes minimum interest rates tied to federal funds interest rates set by the Federal Open Market Committee.
- VI. Authorizes the department to transmit consumer complaints via email rather than by certified mail.
- VII. Requires certain employers to provide access to a sufficient space and a reasonable break period for nursing mothers to express milk during working hours.
- VIII. Establishes the New Hampshire housing and planning conservation program.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

#### JUDICIARY

HB 233-FN, relative to the right of any infant born alive to medically appropriate and reasonable care and treatment.

Re-refer to Committee, Vote 3-2. Senator Carson for the committee.

The question is on the adoption of the motion of Re-refer to Committee.

A roll call was requested by Senator Avard, seconded by Senator Birdsell.

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.

HB 307, relative to the state preemption of the regulation of firearms and ammunition.  
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. Adopted.

HB 334, relative to prohibitions on carrying a loaded firearm on an OHRV or snowmobile.  
Ought to Pass, Vote 4-1. Senator French for the committee.

Senator Giuda offered a Floor Amendment.

Sen. Giuda, Dist 2  
May 26, 2021  
2021-1769s  
04/05

#### Floor Amendment to HB 334

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

AN ACT relative to prohibitions on carrying a loaded firearm on an OHRV or snowmobile and relative to the procedure for conducting firearm background checks.

Amend the bill by replacing all after section 2 with the following:

3 Findings. The general court finds that:

I. The New Hampshire gun line, in the department of safety, permits and licensing unit, currently performs all background checks in relation to the store purchase of handguns. It also performs background checks regarding the transfer of firearms from law enforcement agencies back to individual owners in relation to restraining order and criminal proceedings. The gun line uses the National Instant Criminal Background Check System ("NICS") to perform these tasks, serving as the partial "Point of Contact" system for the FBI.

II. The gun line's inefficiencies have created significant delays in the orderly processing of firearm-related background checks. Courts and Federal Firearm Licensed Dealers have faced incredible backlogs of pending background checks that are intended to be "instant." Many background checks have remained pending for several months. This has come at a great cost to the economic wellbeing of dealers and the constitutional rights of firearm owners and purchasers. Additionally, the gun line has, on multiple occasions, failed to timely deny firearm transfers to prohibited individuals.

III. Sections 4-9 of this act allow the FBI to conduct all National Instant Criminal Background Check System ("NICS") searches concerning the purchase, sale and transfer of firearms through Federal Firearm Licensed Dealers operating in the state of New Hampshire. Sections 4-9 of this act effectively repeal the state's partial Point of Contact system for handguns, allowing the authority to remain exclusively with the FBI. The FBI is federally funded to perform this task and has a long history of accuracy and efficiency with its use of NICS. The FBI provides faster responses in regard to approving the background checks of nonprohibited purchasers, while simultaneously issuing faster denials of attempted purchases by prohibited individuals. Sections 4-9 of this act save state tax dollars while producing better results, protecting the rights of law-abiding citizens and protecting the safety of domestic violence victims. Also, sections 4-9 of this act provide the sheriff's office for each county with the authority and obligation to conduct background searches using NICS for the purpose of approving or denying the return of firearms to individuals who have been the subject of restraining order proceedings or criminal proceedings.

4 Criminal Background Checks; Sale of Firearms. RSA 159-D:1 and 159-D:2 are repealed and reenacted to read as follows:

159-D:1 Sale of Firearms; Criminal History Record and Protective Order Check.

I.(a) The Federal Bureau of Investigation (“FBI”) shall have the exclusive authority and jurisdiction to conduct background checks in relation to the sale or transfer of firearms involving Federal Firearms Licensed Dealers (“FFL”) in New Hampshire. This provision and the FBI’s exclusive jurisdiction pertain to all firearms, as defined by federal law pursuant to 18 U.S.C. section 921(a)(3), regardless of caliber, barrel length, or firearm type.

(b) No state agency or political subdivision shall access the National Instant Criminal Background Check System (“NICS”) unless specifically authorized by this chapter.

(c) Nothing in this chapter shall be construed to limit, prevent, or impose background check requirements on the private transfer of firearms as otherwise not prohibited by RSA 159 or federal law.

II. For the purpose of determining whether an individual is prohibited by federal or state statute from firearm possession or ownership in relation to a motion or requested return of firearms in connection with a restraining order under RSA 173-B or RSA 633:3-a, or criminal proceeding in any state court of competent jurisdiction, the sheriff’s office for the county in which the court is situated shall access NICS to perform a background check. The following conditions, process and time constraints shall apply to all such background checks:

(a) The county sheriff’s office shall initiate the NICS background check within 10 business days of the date of filing of the motion or other pleading requesting the return of firearms.

(b) Within 15 business days of the date of filing of the motion or other pleading requesting the return of firearms, the county sheriff’s office shall provide a conclusive decision to the court stating either “proceed” or “deny.” This decision will be based solely on whether or not the individual is prohibited from possessing or owning a firearm according to state or federal statute. Should the NICS background check fail to demonstrate that the petitioner is prohibited from firearm possession within the 15-business-day time period stated in this chapter, the sheriff’s office shall provide a “proceed” decision to the court.

(c) If the county sheriff’s office determines that an individual is prohibited from owning or possessing a firearm, a specific citation to statute, such as one of the prohibited categories listed under 18 U.S.C. section 922(g), and the specific facts relied upon for finding that the individual is a prohibited person must be supplied in a narration with the “deny” response. The narration supporting a deny response shall be held in a confidential record with the court and only accessible to court staff, the individual seeking the return of firearms and his or her designated legal counsel.

(d) All records retained by any county sheriff’s office or court concerning a background check conducted pursuant to this chapter shall be destroyed within one business day of transmitting a “proceed” determination to the court. Should a “deny” determination be made, all records shall be destroyed by the county sheriff’s office within 30 days of the later of the following:

- (1) The expiration of the deadline for filing a petition or notice of appeal in the trial court; or
- (2) The exhaustion or expiration of all appeal rights included in RSA 159-D:2.

(e) For the purpose of carrying out the requirements of this chapter, each county sheriff’s office shall register with NICS and obtain sufficient training so that each office is situated to begin fully fulfilling its limited background check functions required by this chapter by January 1, 2022.

#### 159-D:2 Appeal of Denials.

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.

II. Should any person seeking the return of firearms be aggrieved by the ruling made by the trial court regarding a motion or other request for the return of firearms, such individual shall be entitled to appeal and have his or her case heard by the New Hampshire supreme court. In any such case, a transcript of the proceedings and the trial court’s record shall be transmitted to the supreme court in full, without any fee charged to the petitioner.

5 New Paragraph; Protection of Persons From Domestic Violence; Notification. Amend RSA 173-B:8 by inserting after paragraph III the following new paragraph:

IV. Any temporary or final court order requiring the relinquishment of firearms or prohibiting the possession of firearms under RSA 173-B or RSA 633:3-a shall, within 24 hours of issuance, be submitted by the court into the NICS system directly or, alternatively, be transmitted to the New Hampshire department of safety to be added to the NICS system within 24 hours of receipt. Additionally, when any of the following events occur, the court will update the NICS system directly or transmit the updated information to the New Hampshire department of safety to be updated in NICS within 24 hours of receipt:

- (a) Any modification or dismissal of a firearm relinquishment.
- (b) Any modification or dismissal of an order prohibiting firearm possession.
- (c) The dismissal of any temporary restraining order.
- (d) The dismissal of any final restraining order.

6 New Paragraph; Interference With Freedom; Stalking. Amend RSA 633:3-a by inserting after paragraph III-d the following new paragraph:

III-e. Any temporary or final court order requiring the relinquishment of firearms or prohibiting the possession of firearms under RSA 173-B or RSA 633:3-a shall, within 24 hours of issuance, be submitted by the court into the NICS system directly or, alternatively, be transmitted to the New Hampshire department of safety to be added to the NICS system within 24 hours of receipt. Additionally, when any of the following events occur, the court will update the NICS system directly or transmit the updated information to the New Hampshire department of safety to be updated in NICS within 24 hours of receipt:

- (a) Any modification or dismissal of a firearm relinquishment.
- (b) Any modification or dismissal of an order prohibiting firearm possession.
- (c) The dismissal of any temporary restraining order.
- (d) The dismissal of any final restraining order.

7 Department of Safety; Division of State Police; Permits and Licensing Unit; New Hampshire State Gun Line Abolished. The New Hampshire state gun line, in the permits and licensing unit of the division of state police, department of safety, is hereby abolished.

8 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 as permitted by New Hampshire statute.

9 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.

10 Effective Date.

- I. Sections 1 and 2 of this act shall take effect 60 days after its passage.
- II. Sections 3-8 of this act shall take effect June 1, 2022.
- III. The remainder of this act shall take effect upon its passage.

2021-1769s

## AMENDED ANALYSIS

This bill creates an exception to the prohibition on carrying a loaded firearm on an OHRV or snowmobile for any person carrying a pistol or revolver who is not prohibited from possessing a firearm by a New Hampshire statute. The bill also 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; and 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 Giuda, seconded by Senator Avard.

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. Adopted, bill ordered to Third Reading.

HB 440, prohibiting the suspension of civil liberties during a state of emergency. Re-refer to Committee, Vote 3-2. Senator Carson for the committee.

The question is on the adoption of the motion of Re-refer to Committee. Adopted.

HB 542, relative to the protection of religious liberty.

Ought to Pass with Amendment, Vote 3-2. Senator Carson for the committee.

Senate Judiciary

May 25, 2021

2021-1712s

05/08

## Amendment to HB 542

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

1 New Chapter; Protection of Religious Liberty. Amend RSA by inserting after chapter 546-B the following new chapter:

## CHAPTER 546-C

## PROTECTION OF RELIGIOUS LIBERTY

546-C:1 Definitions. In this chapter:

I. “Exercise of religion” means the practice or observance of religion. It includes, but is not limited to, any action that is motivated by a sincerely held religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief.

II. “Religious organization” means:

(a) A house of worship, including but not limited to churches, synagogues, mosques, shrines, and temples;

(b) A religious group, corporation, association, educational institution, ministry, order, society, or similar entity, regardless of whether it is integrated or affiliated with a church or other house of worship; or

(c) An officer, owner, employee, manager, religious leader, clergy, or minister of an entity or organization described in this paragraph.

III. "Religious service" means a meeting, gathering, or assembly of 2 or more persons organized by a religious organization for the purpose of worship, teaching, training, providing educational services, conducting religious rituals, or other activities that are deemed necessary by the religious organization for the exercise of religion.

IV. "State government" means:

- (a) The state or a political subdivision of the state;
- (b) Any agency of the state or of a political subdivision of the state, including a department, bureau, board, commission, council, court, or public institution of higher education;
- (c) Any person acting under color of state law; and
- (d) Any private person suing under or attempting to enforce a law, rule, or regulation adopted by the state or a political subdivision of the state.

V. "Substantial burden" means any action that directly or indirectly constrains, inhibits, curtails, or denies the exercise of religion by any person or compels any action contrary to a person's exercise of religion. It includes, but is not limited to, withholding benefits, assessing criminal, civil, or administrative penalties or damages, or exclusion from governmental programs or access to governmental facilities.

546-C:2 State of Emergency Protections.

I. Notwithstanding RSA 4:45 or any other provision of law to the contrary, during a state of emergency, the state government shall permit a religious organization to continue operating and to engage in religious services to the same or greater extent that other organizations or businesses that provide essential services that are necessary and vital to the health and welfare of the public are permitted to operate.

II. Nothing in this section shall prohibit the state government from requiring religious organizations to comply with neutral health, safety, or occupancy requirements issued by the state or federal government that are applicable to all organizations and businesses that provide essential services. Provided, however, that the state government shall not enforce any health, safety, or occupancy requirement that imposes a substantial burden on a religious service unless the state government demonstrates that applying the burden to the religious service in this particular instance is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

III. A religious organization may assert a violation of this section as a claim against the state government in any judicial or administrative proceeding or as a defense in any judicial or administrative proceeding without regard to whether the proceeding is brought by or in the name of the state government, any private person, or any other party.

IV. Any religious organization that successfully asserts a claim or defense under this section may recover appropriate relief including, but not limited to, injunctive relief, declaratory relief, compensatory damages, and costs and attorney fees.

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

2021-1712s

#### AMENDED ANALYSIS

This bill provides that, during a state of emergency, the state shall permit religious organizations to operate to the same degree as other organizations that provide essential services or are vital to public health and welfare.

The question is on the adoption of the Committee Amendment.

A roll call was requested by Senator Avard, seconded by Senator Birdsell.

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. Adopted, bill ordered to Third Reading.

Recess. Out of recess.

HB 625-FN, relative to the protection of fetal life.

Ought to Pass with Amendment, Vote 3-2. Senator Carson for the committee.

Senate Judiciary

May 25, 2021

2021-1714s

05/08

#### Amendment to HB 625-FN

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

1 Title. This act may be known and cited as the “Fetal Life Protection Act.”

2 Legislative Findings and Purpose.

I. The general court finds that:

(a) The prohibition of late-term abortion is supported by history and the common law. The Hippocratic Oath as Literary Text: A Dialogue Between Law and Medicine, 2 *Yale J. Health Policy L. & Ethics* 299, 308 (discussing the Hippocratic Oath’s prohibition on abortion); *Digest of Justinian: Digest 4.48.8.8* (classifying abortion as a form of homicide); 2 *Bracton on Laws and Customs of England* 341 (S. Thorne trans. 1968) (classifying abortion as a form of homicide “especially if [the fetus] is quickened”); 1 *W. Blackstone, Commentaries on the Law of England* 125 (1773) (stating that the common law has historically prohibited abortion “as soon as an infant is able to stir in the mother’s womb.”). The New Hampshire supreme court has observed that “The common law has always been most solicitous for the welfare of the fetus in connection with its inheritance rights as well as protecting it under the criminal law.” *Poliquin v. Donald*, 101 N.H. 104, 107 (1957).

(b) The United States Supreme Court, in holding that the United States Constitution protects abortion, also stated that “The pregnant woman cannot be isolated in her privacy. She carries an embryo and, later, a fetus... The situation therefore is inherently different from marital intimacy [etc.]... it is reasonable and appropriate for a State to decide that at some point in time another interest, that of... [fetal] life, becomes significantly involved. The woman’s privacy is no longer sole and any right of privacy she possesses must be measured accordingly.” *Roe v. Wade*, 410 U.S. 113, 159 (1973).

(c) The *Roe* Court specifically rejected the view that “the woman’s right is absolute and that she is entitled to terminate her pregnancy at whatever time, in whatever way, and for whatever reason she alone chooses.” *Roe v. Wade*, 410 U.S. 113, 153 (1973).

(d) The *Roe* Court affirmed that “For the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.” *Roe v. Wade*, 410 U.S. 113, 164-165 (1973).

(e) The United States Supreme Court, in rejecting the trimester framework of *Roe*, reaffirmed “the State’s power to restrict abortions after fetal viability, if the law contains exceptions for pregnancies which endanger the woman’s life or health” and stated that “the State has legitimate interests from the outset of the pregnancy in protecting... the life of the fetus that may become a child.” *Planned Parenthood v. Casey*, 505 U.S. 833, 846 (1992).

(f) Already in 1973, the Supreme Court had observed that “Viability is usually placed at about seven months (28 weeks) but may occur earlier, even at 24 weeks.” *Roe v. Wade*, 410 U.S. 113, 160 (1973). Since that time, however, there has been “dramatic improvement in survival for infants born at the border of viability ( $\leq 24$  weeks).” Barbara Luke and Morton B. Brown, The changing risk of infant mortality by gestation, plurality, and race: 1989-1991 versus 1999-2001, *Pediatrics*, Dec. 2006, 118 (6): 2488-2497.

(g) The Supreme Court has observed that “In some broad sense it might be said that a woman who fails to act before viability has consented to the State’s intervention on behalf of the developing child.” *Planned Parenthood v. Casey*, 505 U.S. 833, 870 (1992).

(h) New Hampshire has historically seen the fetus as a separate entity from the mother with distinct legal interests. *Bennett v. Hymers*, 101 N.H. 483, 485 (1958) (“We adopt the opinion that the fetus from the time of conception becomes a separate organism and remains so throughout its life.”); N.H. Rev. State. Ann § 630:1-a: IV (stating that “the meaning of ‘another’ shall include a fetus” under specified criminal laws).

(i) “[R]espect for the dignity of human life” is a legitimate state purpose. *Gonzales v. Carhart*, 550 U.S. 124, 157 (2007). The United States Supreme Court has said that “Respect for human life finds an ultimate expression in the bond of love the mother has for her child... While we find no reliable data to measure the phenomenon, it seems unexceptionable to conclude some women come to regret their choice to abort the infant life they once created and sustained.” *Id.* at 159.

(j) In addition, there is substantial medical evidence that a fetus by at least 20 weeks’ gestation has the capacity to feel pain during an abortion. K. Anand and P. R. Hickey, Pain and its effects in the human neonate and fetus, *N.E.J.M.*, 1987, 317:1321.

II. Based on the findings in paragraph I, the general court’s purposes in promulgating this act are:

(a) Based on the state’s interest in protecting fetal life, to prohibit abortions at or after 24 weeks gestation, except in cases of a medical emergency.

(b) To define “medical emergency” to encompass “significant health risks,” namely those circumstances in which a pregnant woman’s life or a major bodily function is threatened. *Gonzales v. Carhart*, 550 U.S. 124, 161 (2007).

3 New Subdivision; Fetal Life Protection Act. Amend RSA 329 by inserting after section 42 the following new subdivision:

#### Fetal Life Protection Act

329:43 Definitions. In this subdivision:

I. “Abortion” means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will with reasonable likelihood cause the death of the fetus. Such use, prescription, or means is not an abortion if done with the intent to:

- (a) Save the life or preserve the health of the fetus;
- (b) Remove a dead fetus caused by spontaneous abortion; or
- (c) Remove an ectopic pregnancy.

II. “Attempt to perform” means an act or omission of a statutorily required act that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance or inducement of an abortion.

III. “Conception” means the fusion of a human spermatozoon with a human ovum.

IV. “Gestational age” means the time that has elapsed since the first day of the woman’s last menstrual period.

V. “Major bodily function” includes, but is not limited to, functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

VI. “Medical facility” means any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician’s office, infirmary, dispensary, ambulatory surgical treatment center, or other institution or location wherein medical care is provided to any person.

VII. “Health care provider” means any person who provides health care services. The term includes but is not limited to medical doctors, doctors of osteopathy, nurses, or any employee of a medical facility.

VIII. “Pregnant” or “pregnancy” means the female reproductive condition of having one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.

IX. “Probable gestational age” means what, in reasonable medical judgment, will with reasonable probability be the gestational age of the fetus at the time the abortion is considered, performed, or attempted.

X. "Reasonable medical judgment" means that medical judgment that would be made by a reasonably prudent physician in the community, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

XI. "Fetus" means an unborn offspring, from the embryo stage which is the end of the twentieth week after conception or, in the case of in vitro fertilization, the end of the twentieth week after implantation, until birth.

#### 329:44 Prohibition.

I. Except in the case of a medical emergency as specifically defined in paragraph III, no abortion shall be performed, induced, or attempted by any health care provider unless a physician has first made a determination of the probable gestational age of the fetus. In making such a determination, the physician shall make such inquiries of the pregnant woman and perform or cause to be performed all such medical examinations, imaging studies, and tests as a reasonably prudent physician in the community, knowledgeable about the medical facts and conditions of both the woman and the fetus involved, would consider necessary to perform and consider in making an accurate diagnosis with respect to gestational age, provided, however, that the physician shall conduct an obstetric ultrasound examination of the patient for the purpose of making the determination.

II. Except in a medical emergency as specifically defined in paragraph III, no health care provider shall knowingly perform, induce, or attempt to perform an abortion upon a pregnant woman when the probable gestational age of her fetus has been determined to be at least 24 weeks or in the absence of a determination by a physician pursuant to paragraph I as to the fetus' probable gestational age.

III. For the purposes of this subdivision only, "medical emergency" means a condition in which an abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function, as defined in RSA 329:43, V, of the pregnant woman.

#### 329:45 Reporting.

I. Any health care provider who performs an abortion under this subdivision shall report, in writing, to the medical facility in which the abortion is performed the reason for the determination that a medical emergency existed. The health care provider's written report shall be included in a written report from the medical facility to the department of health and human services. If the abortion is not performed in a medical facility, the health care provider shall report, in writing, the reason for the determination that a medical emergency existed to the department of health and human services as part of the written report made by the health care provider to the department. The health care provider and the medical facility shall retain a copy of the written reports required under this section for not less than 5 years.

#### 329:46 Criminal Penalties.

I. Any health care provider who fails to perform the determination required in RSA 329:44, I, under circumstances where the probable gestational age is less than 24 weeks, shall be guilty of a misdemeanor.

II. Any health care provider who knowingly performs or induces an abortion in violation of any other provision of this subdivision shall be guilty of a class B felony and, in addition to any other penalties the court may impose, be fined not less than \$10,000 nor more than \$100,000.

#### 329:47 Civil Remedies.

I. The woman, the father of the fetus if married to the mother at the time she receives an abortion in violation of this subdivision, and/or, if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or, if brought by the maternal grandparents, the maternal grandparents consented to the abortion.

II. Such relief shall include monetary damages for all psychological and physical injuries caused by the violation of this subdivision.

#### 329:48 Review by New Hampshire Board of Medicine.

I. A defendant health care provider accused of violating this subdivision may seek a hearing before the board of medicine as to whether the health care provider's conduct was necessary to save the life of the

mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself; and/or as to whether the continuation of the pregnancy would have created a serious risk of substantial and irreversible impairment of a major bodily function, as defined in RSA 329:43, V, of the pregnant woman.

II. The findings on this issue are admissible at the criminal and civil trials of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

329:49 Construction. Nothing in this subdivision shall be construed as creating or recognizing a right to abortion.

329:50 Severability. If any provision of this subdivision or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the subdivision which can be given effect without the invalid provision or application, and to this end the provisions of this subdivision are declared to be severable.

4 Effective Date. This act shall take effect January 1, 2022.

Senator Carson moved to Lay on the Table.

A roll call was requested by Senator Avard, 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.

#### CONSENT CALENDAR REPORTS REMOVED

PRESIDENT MORSE: We are at the conclusion of the regular calendar and will take up the Bills that were removed from the consent calendar.

#### EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 186, repealing certain inactive committees and revising the membership or duties of certain committees, councils, and boards.

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

Senate Executive Departments and Administration

May 19, 2021

2021-1598s

05/04

#### Amendment to HB 186

Amend section 1 of the bill by deleting paragraph I and renumbering the original paragraphs II-IX to read as I-VIII, respectively.

Amend the bill by deleting section 8 and renumbering the original sections 9-30 to read as 8-29, respectively.

Amend the bill by inserting after section 28 the following and renumbering the original section 29 to read as 31:

29 Repeal; Weights and Measures Advisory Board. The following are repealed:

I. RSA 438:8-b, establishing the weights and measures advisory board.

II. RSA 438:8-a, V, relative to the submission of quarterly complaint investigation reports to the advisory board.

30 County State-Finance Commission; House Membership. Amend RSA 28-B:1, V to read as follows:

V. Three members of the legislature, 2 of whom shall be members of the house *of representatives, one of whom shall be a member of the house finance committee and one of whom shall be a member of the standing committee responsible for municipal and county government*, appointed by the speaker of the house of representatives, and one of whom shall be a member of the senate, appointed by the president of the senate, whose terms shall be coterminous with their terms in office.

The question is on the adoption of the Committee Amendment. Adopted.

Senator Carson offered a Floor Amendment.

Sen. Carson, Dist 14  
May 25, 2021  
2021-1696s  
05/10

Floor Amendment to HB 186

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

AN ACT relative to certain legislative study commissions and committees.

Amend the bill by replacing all after section 30 with the following:

31 New Section; Commission to Study the Incidence of Post-Traumatic Stress Disorder in First Responders Reestablished. Amend RSA 281-A by inserting after section 17-c the following new section:

281-A:17-d Commission to Study the Incidence of Post-traumatic Stress Disorder in First Responders Re-established.

I.(a) There is reestablished the commission to study the incidence of post-traumatic stress disorder in first responders and whether such disorder should be covered under workers' compensation. The members of the commission shall be as follows:

- (1) One member of the senate, appointed by the president of the senate.
- (2) Three members of the house of representatives, one of whom shall be from the labor, industrial and rehabilitative services committee, one of whom shall be from the executive departments and administration committee, and one of whom shall be from the state-federal relations and veterans affairs committee, appointed by the speaker of the house of representatives.
- (3) The labor commissioner, or designee.
- (4) The commissioner of safety, or designee.
- (5) The insurance commissioner, or designee.
- (6) The commissioner of the department of corrections, or designee.
- (7) A representative of the New Hampshire Municipal Association, appointed by the association.
- (8) A representative of the New Hampshire Association of Counties, appointed by the association.
- (9) A representative of the National Alliance on Mental Illness New Hampshire, appointed by the alliance.
- (10) A fire chief, appointed by the New Hampshire Association of Fire Chiefs.
- (11) One member appointed by the New Hampshire Association of Chiefs of Police.
- (12) One member appointed by the New Hampshire Police Association.
- (13) A representative of the Professional Firefighters of New Hampshire, appointed by that organization.
- (14) A representative of the New Hampshire Association of Emergency Medical Technicians, appointed by the association.
- (15) A representative of the New Hampshire Public Risk Management Exchange, appointed by that organization.
- (16) An attorney, appointed by the New Hampshire Association for Justice.

(b) Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

II.(a) The commission shall study:

- (1) Costs associated with training and resources, application of training, and operation of the presumption that post-traumatic stress disorder in first responders is occupationally caused.

(2) Whether a first responder's death from suicide is a line of duty death.

(3) Life insurance payouts for first responders who die of suicide.

(4) Life insurance payouts for retired first responders who die of suicide.

(5) Federal line of duty deaths by suicide.

(6) Cost and administration of resiliency training.

(7) The need for culture change to enable first responders to openly address PTSD issues without impacting their careers.

(8) Discuss the intersection of benefits provided by Workers' Compensation and the New Hampshire Retirement System when a first responder retires because of PTSD and whether additional benefits are warranted, including a retirement insurance subsidy.

(b) The commission may solicit input from any person or entity the commission deems relevant to its study.

III. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Nine members of the commission shall constitute a quorum.

IV. On or before November 1, 2021, the commission shall submit an interim report of 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 and shall submit a final report on or before November 1, 2022.

32 New Section; Mental Health Training for First Responders. Amend RSA 106-L by inserting after section 7 the following new section:

106-L:7-a Mental Health Training for First Responders.

I. No person shall assume their role as a first responder unless such person has satisfactorily completed mental health training focusing on post-traumatic stress disorder. In the case of a law enforcement officer, such person will receive such training from a program developed and delivered by the New Hampshire police academy. In the case of a firefighter or EMS provider, such person will receive such training from a program developed and delivered by the New Hampshire fire academy. Subsequently, all first responders shall successfully complete annual online training, and shall attend a live training program every 5 years from the first responder's respective training academy.

II. Mental health training focusing on post-traumatic stress disorder shall be made available annually and at no cost to any first responders after their retirement.

33 New Section; Office of Strategic Initiatives; Commission to Study Barriers to Increased Density of Land Development in New Hampshire. Amend RSA 4-C by inserting after section 8-a the following new section:

4-C:8-b Commission to Study Density of Land Development in New Hampshire.

I. There is established a commission to study barriers to increased density of land development in New Hampshire. The membership of the commission shall be as follows:

(a) Two members of the senate, one of whom shall serve on the election law and municipal affairs committee and one of whom shall serve on the energy and natural resources committee, appointed by the senate president.

(b) Two members of the house of representatives, one of whom shall serve on the municipal and county government committee and one of whom shall serve on the environment and agriculture committee, appointed by the speaker of the house of representatives.

(c) Two public members, appointed by the governor.

(d) The director of the office of strategic initiatives, or designee.

(e) The commissioner of the department of environmental services, or designee.

(f) The commissioner of the department of business and economic affairs, or designee.

(g) The executive director of the New Hampshire housing finance authority, or designee.

- (h) The executive director of New Hampshire Legal Assistance, or designee.
- (i) The executive director of Housing Action NH, or designee.
- (j) One representative of the New Hampshire Municipal Association, appointed by the association.
- (k) One representative of the New Hampshire Home Builders Association, appointed by the association.
- (l) One representative of the New Hampshire Association of Regional Planning Commissions, appointed by the association.
- (m) One representative of the New Hampshire Business and Industry Association, appointed by the association.
- (n) One representative of the housing subcommittee of the Governor's Millennial Advisory Council, chosen by the council.
- (o) One person to represent conservation interests, chosen jointly by the Society for the Protection of New Hampshire Forests, the Nature Conservancy, and the New Hampshire Association of Conservation Commissions.
- (p) One representative of the New Hampshire Association of Realtors, appointed by the association.
- (q) One member of the American Council of Engineering Companies of New Hampshire, appointed by the council.
- (r) The president of the NH Planners Association, or designee.

II. The commission shall study issues related to the density of land development in New Hampshire. The commission's duties shall include revisiting the actions of the commission established in 2019, 300, and shall specifically include but not be limited to:

- (a) Determining minimum standards of residential development density by considering the availability of public water and sewer infrastructure or other appropriate alternatives and account for variability of environmental conditions.
- (b) Considering possible property tax incentives to promote residential density development, particularly workforce housing.
- (c) Exploring possible methods of enforcement of the share community responsibility of workforce housing under RSA 674.
- (d) Studying the impacts of development, specifically impacts on school enrollment and property values.
- (e) Examining potential model ordinances to support municipalities in their planning work.
- (f) Recommending any proposed legislation resulting from the work of the commission.

III. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Seven members of the commission shall constitute a quorum. The senate election law and municipal affairs committee staff shall provide clerical, administrative, and research services to the commission as may be needed.

IV. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

V. The commission shall submit an interim report of 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 and shall submit a final report on or before November 1, 2022.

34 Repeal. RSA 4-C:8-b, relative to the commission to study density of land development in New Hampshire, is repealed.

35 New Section; Commission to Study Grandfamilies in New Hampshire. Amend RSA 170-G by inserting after section 17-a the following new section:

170-G:17-b Commission to Study Grandfamilies in New Hampshire.

I. There is established a commission to study grandfamilies in New Hampshire. The membership of the commission shall be as follows:

- (a) One member of the senate, appointed by the senate president.
- (b) Three members of the house of representatives, one of whom shall serve on the health, human services and elderly affairs committee, one of whom shall serve on the committee responsible for children and family law, and one of whom shall serve on the finance committee, appointed by the speaker of the house of representatives.
- (c) The commissioner of the department of health and human services, or designee.
- (d) The commissioner of the department of education, or designee.
- (e) One representative of the division of family assistance, department of health and human services, appointed by that division.
- (f) One representative of the division for children, youth and families, department of health and human services, appointed by that division.
- (g) One representative of MomsRising, appointed by that organization.
- (h) One representative of the Family Assistance Advisory Council, appointed by the council.
- (i) One representative of Waypoint, formerly Child and Family Services of New Hampshire, appointed by that organization.
- (j) One representative of a family resource center, appointed by Family Support New Hampshire.
- (k) One representative of Court Appointed Special Advocates of New Hampshire, appointed by that organization.
- (l) One representative of New Futures, appointed by that organization.
- (m) One representative of National Alliance on Mental Illness New Hampshire, appointed by that organization.
- (n) One representative of the NH Head Start Directors Association, appointed by the association.
- (o) One public school principal, appointed by the New Hampshire Association of School Principals.
- (p) One pediatrician licensed in New Hampshire, appointed by the New Hampshire Pediatric Society.
- (q) One member of the New Hampshire Bar Association, appointed by the association.
- (r) One representative of AARP, appointed by that organization.
- (s) One representative of the New Hampshire Association of Chiefs of Police, appointed by the association.
- (t) Three grandparent caregivers, appointed by the Family Assistance Advisory Council.
- (u) One representative of a community health center in New Hampshire, appointed by the governor.

II. The commission shall address issues related to grandfamilies in New Hampshire. The commission's duties shall include, but not be limited to:

- (a) Review of current data regarding grandfamilies in New Hampshire.
- (b) Review of current barriers facing grandparents who are raising children in New Hampshire.
- (c) Identification of causes of issues affecting New Hampshire grandfamilies.
- (d) Development of corrective actions for addressing issues facing grandfamilies in New Hampshire.
- (e) Identification of current actions being taken to assist grandfamilies in New Hampshire and their effectiveness.

III. Members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the senate member. The first meeting of the commission shall be held within 30 days of the effective date of this section. Seven members of the commission shall constitute a quorum.

IV. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

V. The commission shall submit an interim report of 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, 2022 and November 1, 2024. The commission shall submit a final report on or before November 1, 2026.

36 Repeal. RSA 170-G:17-b, establishing a commission to study grandfamilies in New Hampshire, is repealed.

37 Effective Date.

I. Section 2 of this act shall take effect July 1, 2023.

II. Sections 31, 33, and 35 of this act shall take effect upon its passage.

III. Section 34 of this act shall take effect November 1, 2022.

IV. Section 36 of this act shall take effect November 1, 2026.

V. The remainder of this act shall take effect 60 days after its passage.

2021-1696s

#### AMENDED ANALYSIS

This bill:

I. Repeals certain inactive committees and revises the membership and duties of others.

II. Reestablishes the commission to study the incidence of post-traumatic stress disorder in first responders and requires first responders to have mental health training focusing on post-traumatic stress disorder.

III. Establishes a commission to study barriers to increased land development in New Hampshire.

IV. Reestablishes the commission to study grandfamilies in New Hampshire.

The question is on the adoption of the Floor Amendment. Adopted.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

May 25, 2021

2021-1707s

05/10

#### Floor Amendment to HB 186

Amend the bill by replacing all after section 36 with the following:

37 Public Utilities Commission Regulation of Utility Pole Attachments; SB 88, Part II; Effective Date. If SB 88 of the 2021 legislative session becomes law, then Part II, section 1 of SB 88 shall take effect upon its passage and Part II, section 2 of the act shall not take effect.

38 Effective Date.

I. Section 2 of this act shall take effect July 1, 2023.

II. Sections 31, 33, 35, and 37 of this act shall take effect upon its passage.

III. Section 34 of this act shall take effect November 1, 2022.

IV. Section 36 of this act shall take effect November 1, 2026.

V. The remainder of this act shall take effect 60 days after its passage.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

HB 509, relative to portraits and memorial objects in the state house, legislative office building, and Upham Walker house.

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

Senate Executive Departments and Administration  
 May 19, 2021  
 2021-1593s  
 10/06

Amendment to HB 509

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

1 Portraits and Other Memorials; State House, Legislative Office Building, Upham Walker House. Amend RSA 4:9 to read as follows:

4:9 Portraits or Other Memorials. No portraits, busts, statues, or other memorial objects shall be placed in or on the state house ***with the exception of those areas under the use and control of the general court as defined by RSA 14:14-b, III***, state house annex, state library, Hannah Dustin monument, Franklin Pierce homestead, Daniel Webster birthplace, or grounds connected with each without the consent of the governor and council. ***Any portraits, flags, busts, statues, or other memorial objects to be placed in or on the state house, legislative office building, or Upham Walker house shall be at the direction of the joint legislative historical committee in consultation with the director of the division of historical resources, department of natural and cultural resources.*** The director, division of historical resources, shall be responsible for the ~~[location and]~~ care of such memorial objects at any of these sites.

2 Legislative Facilities. Amend RSA 14:14-b to read as follows:

14:14-b Office Space and Parking Facilities. Notwithstanding any other provision of law to the contrary the following shall be assigned for use by the speaker of the house and the president of the senate:

I. The legislative parking ~~[facility]~~ ***facilities***;

II. The legislative office building ***and Upham-Walker house***; and

III. All rooms and other spaces ~~[in the basement and on the first and third floors]~~ of the state house ***with the exception of those areas under the use and control of the executive branch, including the governor's offices, the executive council chamber and offices, and the secretary of state's offices.***

3 New Paragraph; Joint Legislative Historical Committee; Responsibilities. Amend RSA 17-I:2 by inserting after paragraph VIII the following new paragraph:

IX. To be responsible for the placement of portraits, flags, busts, statues, or other memorial objects within or on the state house, legislative office building, or Upham Walker house in consultation with the division of historical resources, department of natural and cultural resources.

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

The question is on the adoption of the Committee Amendment. Adopted.

Senator Carson offered a Floor Amendment.

Sen. Carson, Dist 14  
 May 24, 2021  
 2021-1678s  
 10/11

Floor Amendment to HB 509

Amend the bill by replacing section 1 with the following:

1 Portraits and Other Memorials; State House, Legislative Office Building, Upham Walker House. Amend RSA 4:9 to read as follows:

4:9 Portraits or Other Memorials. No portraits, busts, statues, or other memorial objects shall be placed in or on the state house ***with the exception of those areas under the use and control of the general court as defined by RSA 14:14-b, III***, state house annex, state library, Hannah Dustin monument, Franklin Pierce homestead, Daniel Webster birthplace, or grounds connected with each without the consent of the governor and council. ***Any portraits, flags, busts, statues, or other memorial objects to be placed in or on legislative facilities as defined by RSA 14:14-b shall be at the direction of the joint legislative historical committee in consultation with the director of the division of historical resources, department of natural and cultural resources.*** The director, division of historical resources, shall be responsible for the ~~[location and]~~ care of such memorial objects at any of these sites.

Amend the bill by replacing section 3 with the following:

3 New Paragraph; Joint Legislative Historical Committee; Responsibilities. Amend RSA 17-I:2 by inserting after paragraph VIII the following new paragraph:

IX. To be responsible for the placement of portraits, flags, busts, statues, or other memorial objects within or on legislative facilities as defined by RSA 14:14-b in consultation with the division of historical resources, department of natural and cultural resources.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

#### JUDICIARY

HB 566, relative to the discussion and disclosure of minutes from a nonpublic session under the right-to-know law.

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

Senate Judiciary

May 25, 2021

2021-1710s

08/04

#### Amendment to HB 566

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

AN ACT relative to the discussion of disclosure of the minutes from a nonpublic session under the right-to-know law.

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

2021-1710s

#### AMENDED ANALYSIS

This bill allows discussion of disclosure of the minutes of a nonpublic session to occur in nonpublic session, provided the vote on disclosure takes place in public session.

The question is on the adoption of the Committee Amendment. Adopted.

Senator Carson offered a Floor Amendment.

Sen. Carson, Dist 14

May 27, 2021

2021-1784s

06/08

#### Floor Amendment to HB 566

Amend the bill by replacing all after section 2 with the following:

3 Delinquent Children; Issuance of Summons and Notice; Appointment of Council. Amend RSA 169-B:7, III to read as follows:

**III. Upon receipt of the petition, the court shall appoint counsel for the minor. Such appointment shall occur promptly, and in no event later than the time when the summons is issued. Notice of the appointment shall be transmitted to counsel and to the petitioner by electronic mail and by first class mail on the day of the appointment.** The summons shall contain a notice of the right to representation by counsel and ~~[the available procedures for obtaining counsel]~~ **the name, address, telephone number, and electronic mail address of the attorney who has been appointed by the court.** The summons shall also state as follows: "With limited exception, the department of health and human services shall be responsible for the cost of services provided under this chapter. RSA 186-C regarding children with disabilities grants minors and their parents certain rights to services from school districts at public expense and to appeal school district decisions regarding services to be provided."

4 Appointment of Counsel; Waiver of Counsel. Amend 169-B:12, I and I-a to read as follows:

I. Absent a valid waiver, the court shall appoint counsel ~~[at the time of arraignment of an indigent minor, provided that an indigent minor detained pursuant to RSA 169-B:11, III, shall have counsel appointed upon~~

~~the issuance of the detention order]~~ **for an indigent minor pursuant to RSA 169-B:7, III.** For purposes of ~~[the appointment of counsel under]~~ this section, an indigent minor shall be a minor who satisfies the court, after appropriate inquiry, that the minor is financially unable to independently obtain counsel. If the court has received information indicating that the minor ~~[has]~~ **may have** an intellectual, cognitive, emotional, learning, or sensory disability, the court shall ~~[require the minor to consult with]~~ **not permit the minor to waive the right to** counsel.

I-a. When an attorney is appointed as counsel for a child, representation shall include counsel and investigative, expert, and other services, including process to compel the attendance of witnesses, as may be necessary to protect the rights of the child. **Representation shall include representation at related proceedings when such matters are based on the same factual circumstances as the petition under this chapter and involvement in the related proceeding is necessary to provide effective representation on the petition. Such appointment shall remain in effect until the court no longer has jurisdiction over the child pursuant to this chapter.**

5 Waiver of Counsel. Amend RSA 169-B:12, II-a to read as follows:

II-a. If the minor and the parent, guardian, or custodian have not consulted with counsel about the possible consequences of the proposed waiver of the right to counsel, the court ~~[may only]~~ **shall not** accept a waiver pursuant to paragraph II ~~[after making case-specific written findings with regard to each of the required conditions for waiver]~~.

6 New Section; Use of Statement or Confession from a Minor; Appointment of Counsel Required. Amend RSA 169-B by inserting after section 12-a the following new section:

169-B:12-b Use of Statement or Confession from a Minor. No statement or confession from a person who was a minor at the time of the statement or confession may be used against the person in any judicial proceeding unless the person was represented by counsel at the time of the statement or confession and had consulted with their counsel prior to the time of the statement or confession. Any law enforcement agency may petition the court for the appointment of counsel for a minor that the agency intends to question. Upon receipt of such a petition, the court shall appoint counsel using the procedure in RSA 169-B:12, and provide notice to the minor and the attorney who is appointed using the procedures in that section.

7 Contract Attorneys. Amend RSA 604-A:2-b to read as follows:

604-A:2-b Contract Attorneys. The state of New Hampshire, by the judicial council and with the approval of governor and council, may, within the limits of available appropriations, contract with any qualified attorney in the state to provide for the representation of indigents in circumstances where, pursuant to RSA 604-B, the public defender program is unavailable to provide such representation. **No contract providing for the representation of children in proceedings arising under RSA 169-B shall be based on payment of a predetermined fee per case or other payment structure which creates a financial disincentive for attorneys to provide effective representation in such cases.** The executive director of the judicial council shall authorize payments to contract attorneys provided for under this section.

8 Adequate Representation for Indigent Defendants in Criminal Cases. Amend RSA 604-A:9, I(a) and (b) to read as follows:

I.(a) Any adult defendant ~~[or juvenile respondent]~~ who has been assigned counsel or a public defender shall be subject to an order by the court, pursuant to this section, regarding payment to the state for counsel fees and expenses paid by the state on behalf of the defendant ~~[or juvenile]~~, and regarding payment of an administrative service assessment. Any payment obligation shall apply only to a defendant who has been convicted ~~[or a juvenile who has been found delinquent]~~.

(b) Upon entering a judgment of conviction ~~[or a finding of delinquency]~~, and the issuance of sentence or disposition, the court shall enter a separate written order setting forth the reasons for the court's conclusion regarding the financial ability of the defendant ~~[or the juvenile, including any person liable for the support of the juvenile pursuant to RSA 604-A:2-a,]~~ to make payment of counsel fees and expenses, and administrative service assessment. In its discretion, the court may conduct an ability-to-pay hearing to assist in its determination. If the court finds that there is an ability to pay some or all of the counsel fees and expenses and the assessment, either presently or in the future, it shall order payment in such amounts and upon such terms and conditions it finds equitable; any payment obligation shall not commence until the conviction and sentence ~~[or the finding of delinquency and disposition]~~ has become final. If the court finds that there is no such ability to pay, it shall so order, and any payment obligation shall terminate.

9 Adequate Representation for Indigent Defendants in Criminal Cases. Amend RSA 604-A:9, I(f) to read as follows:

(f) The maximum payment amount for counsel fees and expenses shall be according to a schedule established by the administrator of the office of cost containment with the approval of the administrative justices of the courts. Any payment obligation for fees and expenses shall not exceed the amount of the state's flat rate payable to a contract attorney as established pursuant to RSA 604-B. The administrative service assessment shall not exceed 10 percent of the counsel fees and expenses. Payment shall be made to the office of cost containment unless the defendant ~~[or juvenile]~~ is placed on probation or sentenced to a period of conditional discharge, in which case repayment shall be made to the state through the department of corrections. ~~[Any payment obligation attributable to a juvenile shall terminate when the juvenile reaches the age of majority, except when the juvenile has been certified and tried as an adult.]~~

10 Development of Performance Standards. Amend RSA 604-A:10, V to read as follows:

V. The judicial council shall adopt standards relative to appointment for juvenile counsel. Such standards shall establish training, experience, and other qualifications for attorneys to represent minors in such proceedings, and shall be developed with consideration of relevant national standards including, but not limited to, the Juvenile Justice Standards of the Institute of Judicial Administration and American Bar Association. ***The council shall develop the standards required by this section in consultation with the judicial branch, the New Hampshire Bar Association, New Hampshire Legal Assistance, the New Hampshire Public Defender, the Disability Rights Center of New Hampshire, and the American Civil Liberties Union of New Hampshire, and shall adopt them no later than July 1, 2022.***

11 Repeal. The following are repealed:

I. RSA 169-B:12, II-b, relative to appointment of counsel.

II. RSA 169-B:12, III, relative to financial responsibility for appointment of counsel.

12 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.

13 New Section; Office of Mediation and Arbitration; Quality Assurance Program. Amend RSA 490-E by inserting after section 5 the following new section:

490-E:6 Quality Assurance Program.

I. The office of mediation and arbitration may establish a quality assurance program to support the administration of alternative dispute resolution programs in all courts. The program may include, but is not limited to:

(a) Investigating and resolving complaints about alternative dispute resolution programs in all courts, including services or assistance provided by the office or a neutral party approved by the judicial branch; and

(b) Monitoring and evaluating the appropriateness of alternative dispute resolution services provided by the office or a neutral party approved by the judicial branch so that problems or trends in the delivery of services are identified and steps to correct problems can be taken.

II. The office of mediation and arbitration may request information about an alternative dispute resolution program in the courts. Any information received by the office may be shared only within the judicial branch and such information shall otherwise be confidential and privileged as provided by law, rule, or order.

III. Records of the office's quality assurance program, including records of interviews, internal reviews or investigations, reports, statements, minutes, and other documentation, shall be confidential and shall be protected from direct or indirect discovery, subpoena, or admission into evidence in any judicial or administrative proceeding.

IV. No person who provides information as part of the quality assurance program shall be held liable in any action for damages or other relief arising from such provision of information.

14 New Paragraph; Judges of Probate; Jurisdiction. Amend RSA 547:3 by inserting after paragraph IV the following new paragraph:

V. The administrative judge of the circuit court may appoint one or more referees to any matter which is not contested and to which no objection has been filed, or to which all parties have assented, for any cases arising under subparagraphs I(a), (b), and (g). Any referee so assigned shall act under the direction of a judge of probate as defined in RSA 490-F:6, III. Any party aggrieved by a decision made by a referee pursuant to this paragraph may file a request for reconsideration within 10 days of the clerk's notice of decision, and if such request is filed, the matter shall be reviewed by a judge of probate.

15 Repeal. RSA 547:3, I(h), relative to the jurisdiction of the probate court over cases involving termination of parental rights, is repealed.

16 Superior Court; Assignment From Supreme Court. Amend RSA 491:3 and 3-a to read as follows:

491:3 Assignment From Supreme Court. When the business of the superior court *or circuit court* requires it, and upon request of the [~~chief or senior associate justice~~] **chief justice of the superior court or the administrative judge** of [~~that~~] **the circuit** court, the chief or senior associate justice of the supreme court may, if not inconsistent with the proper advancement of the business of the supreme court, assign himself *or herself* or some other justice of the supreme court to preside and serve in the superior court *or circuit court*. While thus presiding and serving, such supreme court justice shall have all the authority of a superior court justice *or circuit court judge*.

491:3-a Assignment of Judges. After assessing caseload needs and requirements and consulting with the **chief justice of the superior court or** administrative [~~judges~~] **judge of the circuit court**, the chief justice of the supreme court may assign any superior court [~~judge~~] **justice** to hear cases in the [~~district~~] **circuit** court.

17 Termination of Parental Rights; Fees and Court Costs. Amend RSA 170-C:13 to read as follows:

170-C:13 Fees and Court Costs.

I. The petitioner shall pay all entry fees and court costs including costs of giving notice, costs of advertising, and court-appointed guardian ad litem fees. The court, however, may waive entry fees and court costs where payment would work a hardship on the petitioner. Where the court waives payment by the petitioner, the state, through the court system, shall pay court costs. The judicial council shall pay the cost of a CASA guardian ad litem appointed for the child or other guardian ad litem in cases arising from an underlying abuse and neglect proceeding when the state is the moving party or in cases where payment would work a hardship on the petitioner. The cost of such appointment, including counsel and investigative, expert, or other services and expenses necessary to provide adequate representation, shall be paid from funds appropriated for indigent defense pursuant to RSA 604-A.

II. The department of health and human services is exempted from paying any entry fees and court costs.

III. When appointment of counsel is made by the court pursuant to RSA 170-C:10 for a parent determined to be financially unable to employ counsel, the court shall use a financial eligibility guideline established by the office of cost containment to determine if the party is indigent. Upon determination that the party is indigent, the court may appoint counsel, subject to an order of repayment through the office of cost containment. The judicial council shall bear the financial responsibility for the payment of costs for attorneys appointed pursuant to RSA 170-C:10 in accordance with the financial eligibility guideline established by the office of cost containment. The cost of such appointment, including counsel and investigative, expert, or other services and expenses necessary to provide adequate representation, shall be paid from funds appropriated for indigent defense pursuant to RSA 604-A. Counsel shall petition the court for investigative, expert, or other services necessary to provide adequate representation. If the court finds that such services are necessary and that the parent is financially unable to obtain them, the court shall authorize counsel to obtain the necessary services on behalf of the parent. Services authorized under this section shall not include the payment of expenses that are the responsibility of any other agency pursuant to RSA 169-C or this chapter.

18 Guardians and Conservators; Right to Counsel. Amend RSA 464-A:6, I to read as follows:

I. The right to legal counsel for any person for whom a temporary guardian or guardianship of the person and estate, or person, or estate, is sought shall be absolute and unconditional. If the proposed ward does not have his or her own counsel, the court shall appoint counsel for the proposed ward immediately upon the filing of a petition for guardianship of the person and estate, or the person, or estate. The judicial council shall pay the cost of such appointment, including counsel and investigative, expert, or other services and expenses necessary to provide adequate representation, from funds appropriated for indigent defense pursuant to RSA 604-A. Prior to obtaining investigative, expert, and other services necessary to provide adequate representation, counsel shall apply to the court and, upon finding that such services are necessary and that the person is financially unable to obtain them, the court shall authorize counsel to obtain the necessary services on behalf of the person for whom temporary guardian or guardianship of the person and estate, or person or estate, is sought.

19 Adequate Representation for Indigent Defendants in Criminal Cases; Neglected or Abused Children. Amend RSA 604-A:1-a to read as follows:

604-A:1-a Neglected or Abused Children. In cases involving a neglected or abused child, when a guardian ad litem is appointed for the child as provided in RSA 169-C:10, the cost of such appointment shall be paid from funds appropriated for indigent defense pursuant to this chapter. In cases involving a neglected or abused child, when an attorney is appointed to represent a parent determined to be indigent pursuant to RSA 169-C:10, II, at the preliminary hearing or a hearing pursuant to RSA 169-C:6-a, III, whichever occurs earlier, the cost of such appointment, including counsel and investigative, expert, or other services and expenses, shall be paid from funds appropriated for indigent defense pursuant to this chapter. Counsel shall petition the court for investigative, expert, or other services necessary to provide adequate representation. If the court finds that such services are necessary and that the parent is financially unable to obtain them, the court shall authorize counsel to obtain the necessary services on behalf of the parent. Services authorized under this section shall be in addition to payment for expenses provided under RSA 169-C or RSA 170-C.

20 Police Standards and Training Council; Penalty Assessment. Amend RSA 106-L:10, I to read as follows:

I. Every court shall levy a penalty assessment of \$2 or 24 percent, whichever is greater, on each fine or penalty imposed by the court for a criminal offense *or violation*, including any fine or penalty for a violation of RSA title XXI or any municipal ordinance, except for a violation of a municipal ordinance relating to motor vehicles unlawfully left or parked. Notwithstanding any law or rule to the contrary, the penalty assessment shall be levied in addition to the amount of the fine or penalty imposed by the court.

21 New Paragraphs; Department of Information Technology; Duties of Commissioner. Amend RSA 21-R:4 by inserting after paragraph XX the following new paragraphs:

XXI. Designating the New Hampshire cyber integration center to receive and coordinate cybersecurity incident reports from political subdivisions.

XXII. Publishing recommended minimum cybersecurity standards for political subdivisions, to be updated semi-annually.

22 New Paragraph; Department of Information Technology; Definitions. Amend RSA 21-R:1 by inserting after paragraph I the following new paragraph:

I-a. "Cybersecurity incident" means an occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information the system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.

23 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.

24 Department of Safety; Bureau of Emergency Medical Services. Amend RSA 21-P:12-b, II(g) to read as follows:

(g) Establish a data collection and analysis capability that provides for the evaluation of the emergency medical and trauma services system and for modifications to the system based on identified gaps and shortfalls in the delivery of emergency medical and trauma services. ~~[The data and resulting analysis shall be provided to the bodies established under this chapter]~~ ***Any emergency medical and trauma services data or analysis collected or maintained by the division may be provided to any state or federal agency or to any third party entity contracted to work on behalf of a federal or state entity***, provided that such use does not violate the confidentiality of recipients of emergency medical care. The provisions of RSA 153-A:35 shall be followed with regard to other uses of this data for research and evaluation purposes, and for protecting the confidentiality of data in those uses. All analyses shall be public documents, provided that the identity of the recipients of emergency medical care are protected from disclosure either directly or indirectly.

25 New Subparagraph; Bureau of Emergency Medical Services. Amend RSA 21-P:12-b, II by inserting after subparagraph (n) the following new subparagraph:

(o) Notwithstanding subparagraph II(g), the division is hereby authorized to enter to execute all documents and perform all other acts necessary to participate in the National Emergency Medical Services Information System or any similar data collection, sharing, or analysis system, provided that the data provided to any such system does not violate the confidentiality of recipients of emergency medical care. The commissioner shall review and approve any such authorization prior to sharing any data.

26 Emergency Medical and Trauma Services; Protected Health Information. Amend RSA 153-A:35 to read as follows:

153-A:35 Protected Health Information; Privacy Committee Established.

I. All protected health information possessed by the department shall be considered confidential, except that the commissioner, or designee, may provide emergency medical and trauma services record information to ~~[institutions and individuals]~~ ***any person or entity*** outside of the department who demonstrate a need for such information for the purpose of conducting health-related research ***or analysis and other uses for evaluation not provided for under RSA 21-P:12-b, II(g)***. Any such release shall be conditioned upon the understanding that once the health-related research is complete that all information provided shall be returned to the department or be destroyed and no copies shall be kept. All releases of information shall be consistent with the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA) and regulations promulgated thereunder by the United States Department of Health and Human Services 45 C.F.R. part 160 and part 164. This shall include the requirement that all proposed releases of emergency medical and trauma services records information to institutions and individuals outside the department for the purposes of health-related research be reviewed and approved by the privacy committee, established in paragraph II, and the commissioner, under this section before the requested information is released.

II. There is hereby established a privacy committee which shall review and approve requests for the use of emergency medical and trauma services records data for the purposes of research ***or analysis*** and other uses for evaluation not provided for under RSA 21-P:12-b, II(g). The privacy committee shall consist of 7 members who shall include the director, or designee, 4 members of the emergency medical and trauma services coordinating board, appointed by the chair of the board, and 2 persons who are not affiliated with the department and who are not part of the immediate family of a person who is affiliated with the department, appointed by the commissioner.

III. The committee shall review and approve requests for the use of emergency medical and trauma services records data for the purposes of research ***or analysis*** and other uses for evaluation not provided under RSA 21-P:12-b, II(g). Emergency medical and trauma services records data or copies of such records that directly or indirectly identify individuals shall be made available for health-related research purposes upon receipt and approval of a written application to the committee. No emergency medical and trauma services records shall be released until the request has been reviewed and approved by the privacy committee and authorized by the commissioner, or designee.

IV. The committee may consult with any person or entity the committee deems relevant to the work of the committee. Such individuals may only offer advice and guidance and shall not participate in the decision as to whether to approve the release of any records under this section ~~[for the purposes of health-related research]~~.

27 New Paragraph; Victims' Assistance Fund; Claimant Eligibility. Amend RSA 21-M:8-h by inserting after paragraph IV the following new paragraph:

IV-a. If the commission determines the claimant is ineligible for compensation, in whole or in part, the claimant may petition the attorney general for a rehearing pursuant to RSA 541:3. The attorney general, or designee, shall review the complete record before the commission and may affirm or reverse, in whole or in part, the commission's decision. An appeal of the attorney general's decision may be taken directly to the supreme court pursuant to RSA 541:6.

28 Insurance Company Licenses. Amend RSA 402:12, I to read as follows:

I. On compliance with the foregoing conditions and if the company is found upon examination made by or under the direction of the commissioner to *(a)* have complied with the laws of the state applicable to it; *(b) have been consistent with the NAIC's Uniform Certificate of Authority Application process and standards; and (c) have complied with any other terms or documentation the commissioner may require*, a license to transact the kind of business specified in the license shall be issued until June 14 thereafter. Annually thereafter, on June 14, such license may be renewed so long as the company shall comply with the requirements of the law and the commissioner shall regard it as safe, reliable, and entitled to confidence, *so long as its application is consistent with the standards set forth by state law and NAIC guidelines* and so long as the company continues to conduct a meaningful insurance business, as determined by the commissioner, within New Hampshire.

29 Insurance Company Licenses; Foreign Insurance Companies and Agents. Amend RSA 405:12, I to read as follows:

I. If the foregoing provisions are complied with and the commissioner is satisfied that the company *(a)* has the requisite capital and assets [~~and~~]; *(b)* is a safe, reliable company, entitled to confidence; *and (c) is consistent with the NAIC's Uniform Certificate of Authority Application process and standards*, [~~he~~] *the commissioner* shall grant a license to it to do insurance business by authorized agents within the state, subject to the laws of the state, until June 14 thereafter. Annually thereafter, on June 14, such license may be renewed so long as the company shall comply with the requirements of the law, *NAIC guidelines*, and the commissioner shall regard it as safe, reliable and entitled to confidence, and so long as the company continues to conduct a meaningful insurance business, as determined by the commissioner, within New Hampshire.

30 New Subparagraph; Department of Revenue Administration; Confidentiality of Department Records. Amend RSA 21-J:14, V(d) by inserting after subparagraph (9) the following new subparagraph:

(10) An officer or employee of the insurance department, pursuant to an agreement for exchange of information between the department and the insurance department, for the purposes of sharing information received by the department from insurance companies that claim a business enterprise tax credit, pursuant to RSA 400-A:34-a, and only to the extent necessary, for the administration and collection of tax premiums by the insurance department. The information disclosed pursuant to such exchange agreement shall not include records, files, returns, or information disclosed to officers or employees of the department by any other state, pursuant to a compact for the exchange of information between the department and any other state, unless permitted by such state or compact. Officers or employees of the insurance department, having in their custody or control any confidential taxpayer information obtained from the department pursuant to the exchange agreement authorized under this subparagraph, shall be subject to the provisions of RSA 21-J:14.

31 National Guard Enlistment Incentive Program. The subdivision heading before RSA 160-B:60 is repealed and reenacted to read as follows:

#### National Guard Enlistment Incentive Program

32 National Guard Enlistment Incentive Program. RSA 110-B:60-62 are repealed and reenacted to read as follows:

110-B:60 New Hampshire National Guard Enlistment Incentive Program Established. For the purpose of encouraging enlistment in the national guard there is hereby established a New Hampshire national guard enlistment incentive program. This program authorizes a cash incentive up to \$500 to current members of the New Hampshire national guard in the pay grades of E-1 to O-3 or any former member of the New Hampshire national guard for each new or prior service recruit that they bring into the New Hampshire national guard.

110-B:61 Revenue for Enlistment Incentive Program.

I. There is hereby established a fund to be known as national guard enlistment incentive program fund. Any appropriations received shall be deposited in the fund. Moneys in the fund and any interest earned on the fund shall be used for the purpose of encouraging enlistment in the national guard and shall not be used for any other purpose. The adjutant general shall oversee expenditures from the fund. The moneys in the fund shall be nonlapsing.

II. In addition to any moneys appropriated, the New Hampshire national guard enlistment incentive program fund may consist of an annual appropriation, as determined by the general court, to be awarded in accordance with written policies promulgated by the adjutant general under RSA 110-B:62.

110-B:62 Oversight and Administration. The adjutant general shall adopt rules pursuant to RSA 541-A relative to the administration of the enlistment incentive program and relative to its execution by the New Hampshire Army and Air National Guard recruiting offices in coordination with the department of military affairs and veterans services.

33 New Subparagraph; National Guard Enlistment Incentive Program Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (364) the following new subparagraph:

(365) Moneys deposited in the national guard enlistment incentive program fund established in RSA 110-B:61.

34 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:55, I to read as follows:

I. Fines may be paid to a military court or to an officer executing its process. The amount of any fine imposed may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due them, until said fine is liquidated; or the same may be collected with lawful costs of collection, as in the case of executions issued in action founded upon torts. ~~[Fines shall be paid over to the state treasurer and credited to the New Hampshire national guard recruitment and retention scholarship fund under RSA 110-B:60.]~~

35 Reference to National Guard Scholarship Fund Removed. Amend RSA 110-B:29 to read as follows:

110-B:29 Use of Armories or Other National Guard Facilities.

~~[E.] All New Hampshire national guard facilities shall be primarily for the military duty, instruction, and training of the national and state guard and for the storage and maintenance of military property. Other use of national guard facilities may be authorized by the adjutant general and shall be governed by rules and regulations promulgated under this section.~~

~~[H. Rental fees for the use of national guard facilities shall be fixed by the adjutant general and shall be declared as revenue and paid to the adjutant general subject to the provisions of RSA 110-B:61.]~~

36 Repeal. RSA 110-B:63, relative to the national guard scholarship program, is repealed.

37 Effective Date.

I. Sections 1-11 of this act shall take effect January 1, 2022.

II. Sections 13-30 of this act shall take effect 60 days after its passage.

III. Sections 31-36 of this act shall take effect July 1, 2021.

IV. The remainder of this act shall take effect upon its passage.

2021-1784s

#### AMENDED ANALYSIS

This bill:

I. Requires that sealed minutes in nonpublic sessions under the right-to-know law may be unsealed if in the opinion of a majority of members voting in nonpublic session determine that circumstances have changed. The minutes sealed pursuant to RSA 91-A:3, II(d) would become public after one year.

II. Provides for the appointment of counsel for a minor in a juvenile delinquency proceeding.

III. Provides for recovery of unauthorized payments by the state, as requested by the department of health and human services.

IV. Provides for alternative dispute resolution.

V. Permits judicial referees to issue orders in non-contested probate matters.

VI. Permits a supreme court justice to sit as a circuit court judge.

VII. Provides for payment of costs for services other than counsel for indigent parties.

VIII. Requires a penalty assessment on violations.

IX. Provides for cybersecurity incident reporting and recommended cybersecurity standards for political subdivisions.

X. Provides for emergency medical and trauma services data.

XI. Provides for the appeal of a claim denied by the victims' assistance commission.

XII. Provides for insurance company licenses.

XIII. Establishes the New Hampshire National Guard enlistment incentive program.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

#### TRANSPORTATION

HB 224, relative to tinted windows on motor vehicles.

Ought to Pass, Vote 5-0. Senator Ricciardi for the committee.

Senator Carson offered a Floor Amendment.

Sen. Carson, Dist 14

May 26, 2021

2021-1782s

11/04

#### Floor Amendment to HB 224

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

AN ACT relative to tinted windows on motor vehicles, relative to civil liability for damage to highways, and relative to employer access to motor vehicle records.

Amend the bill by replacing all after section 3 with the following:

4 Liability for Obstruction or Injury to Highway; Civil Liability. Amend RSA 236:39 to read as follows:

236:39 Civil Liability.

*I. If any person, without authority, shall place any obstruction in a highway, or cause any defect, insufficiency, or want of repair of a highway which renders it unsuitable for public travel, he or she shall be **strictly** liable to the state for all damages to the highway, including **full and current** replacement costs of protective barriers, **and any structure or device that is part of the highway or turnpike system**, when maintained by the state, or to the municipality for all damages to a highway, including **full and current** replacement costs of protective barriers **and any structure or device that is part of the highway**, when maintained by the municipality, and for all damages and costs which the state or municipality shall be compelled to pay to any person injured by such obstruction, defect, insufficiency, or want of repair as established through an appropriate contribution claim or under the rules of joint and several liability.*

***II. "Full and current replacement cost" as used in this section means actual or reasonable estimates of labor, including contracted labor; material, equipment, and overhead. Such costs shall not be reduced for depreciation.***

5 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.

#### 6 Effective Date.

I. Sections 1-4 of this act shall take effect 60 days after its passage.

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

2021-1782s

#### AMENDED ANALYSIS

This bill allows for after market tinting of side windows, clarifies civil liability applicable to obstruction or injury to highways, and clarifies the circumstances under which employers may access motor vehicle records.

Recess. Out of recess.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

#### MOTION TO REMOVE FROM THE TABLE

Senator Carson moved to remove HB 485 from the Table. Adopted.

#### JUDICIARY

HB 485, relative to informed consent to search a motor vehicle and amending the statutory requirements for a search warrant; relative to prohibiting certain uses of laser pointing devices, and relative to various civil actions and criminal liability.

The pending motion is Ought to Pass with Amendment.

Senator Carson offered a Floor Amendment.

Sen. Carson, Dist 14

May 26, 2021

2021-1778s

05/08

#### Floor Amendment to HB 485

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; relative to prohibiting certain uses of laser pointing devices, and relative to various civil actions and criminal liability.

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

1 New Section; Search Warrants; Informed Consent Exception for Motor Vehicles. Amend RSA 595-A by inserting after section 9 the following new section:

595-A:10 Informed Consent Exception for Motor Vehicles.

I. A law enforcement officer may legally conduct a search of a motor vehicle without a warrant under this chapter if the law enforcement officer expressly informs the operator of the motor vehicle that:

- (a) The operator has the right to refuse to consent to a search;
- (b) Any refusal to consent to a search shall not constitute a basis either for probable cause to arrest the operator or reasonable suspicion to detain the operator;
- (c) The operator cannot be charged with any crime or violation for refusing to consent to a search; and
- (d) The operator cannot be further detained for refusing to consent to a search.

II. If the operator of a motor vehicle refuses to consent to a search, the law enforcement officer shall cease any further questioning concerning consent to a search.

III. A law enforcement officer shall document any consent to search either by the signature of the motor vehicle operator on a consent-to-search form providing notice of the provisions of paragraphs I and II at the time of the consent, or by means of a video and sound recording of the consent at the time of the consent. Such form or video and sound recording shall be retained until any criminal charge resulting from the consent to search is fully resolved.

IV. Any act of a law enforcement officer which violates a provision of this section shall result in the inadmissibility in any criminal proceeding of any evidence of obtained by the law enforcement officer.

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 Assault and Related Offenses; Conduct Involving Laser Pointing Devices. RSA 631:3-a is repealed and reenacted to read as follows:

631:3-a Conduct Involving Laser Pointing Devices.

I. As used in this section:

(a) “Government” means the federal government, the state government or any political subdivision thereof, or a state or municipal agency or department, including any employee or agent.

(b) “Person” means any individual, partnership, limited liability company, corporation, or any other organization, including a for-profit and not-for-profit entity, but excluding government.

II.(a) Any person in direct or remote control of a laser pointing device who knowingly shines the beam of a laser pointing device at an occupied motor vehicle, off highway recreational vehicle, snowmobile, vessel, window, or structure, or at a person shall be guilty of a violation and the laser pointing device shall be seized and forfeited upon conviction.

(b) Any person in direct or remote control of a laser pointing device who knowingly shines the beam of a laser pointing device at an occupied aircraft shall be guilty of a misdemeanor and the laser pointing device shall be seized and forfeited upon conviction.

III. Any person in direct or remote control of a laser pointing device who knowingly shines the beam of a laser pointing device at a law enforcement officer or law enforcement vehicle, off highway recreational vehicle, or snowmobile shall be guilty of a class A misdemeanor and the laser pointing device shall be seized and forfeited upon conviction.

IV. This section shall not prohibit aiming a beam of a laser pointing device at a motor vehicle, aircraft, vessel, window, structure, or at a person by any of the following:

(a) An authorized person in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations.

(b) The government or persons authorized by the government, including defense and aerospace contractors, engaged in research, development, operations, testing, or training.

(c) An individual using a laser emergency signaling device to send an emergency distress signal, in an organized meeting or training class by the instructor or speaker, the use of medical lasers by qualified medical personnel, sporting use related only to calibrate distance without violating the prohibitions set forth in paragraph III, agricultural use, use related to land surveying, construction lasers used by construction personnel in the course of their work or other use of lasers for lawful business purposes, or lawful laser devices utilized by law enforcement personnel in the performance of their official duties.

(d) Vehicle sensors, including those used for navigational aids, and research, development, test, evaluation, and operation of autonomous vehicles, as permitted by law.

4 New Hampshire Aeronautics Act; Prohibitions. Amend RSA 422:28, XIV to read as follows:

XIV. [~~For any person to purposely or knowingly shine the beam of a laser pointing device at an aircraft that is in flight or in the process of takeoff, landing, or taxiing~~] ***For any person in direct or remote control of a laser pointing device to knowingly shine the beam of a laser pointing device at an aircraft that is in flight or in the process of takeoff, landing, or taxiing, except as permitted under RSA 631:3-a, IV.***

5 Notaries Public. Amend RSA 455:3 to read as follows:

455:3 Powers.

***I.*** Every notary public, in addition to the usual powers of the office, shall have the same powers as a justice of the peace in relation to depositions and the acknowledgment of deeds and other instruments and the administering of oaths.

***II.*** All [~~acknowledgments made~~] ***notarial acts performed*** by a notary public ***with respect to a record*** shall be either under an ***embossed*** official seal or shall carry the legible imprint of an ***electronic or rubber*** official [~~rubber~~] stamp stating the name of the notary, the words “notary public, New Hampshire” and the expiration date of the notary public’s commission.

***III. As used in this section:***

***(a) “Electronic” has the same meaning given in RSA 456-B:1, VI;***

***(b) “Notarial Act” has the same meaning given in RSA 456-B:1, I;***

***(c) “Official stamp” has the same meaning given in RSA 456-B:1, IX; and***

*(d) "Record" has the same meaning given in RSA 456-B:1, XI.*

6 New Paragraph; Notarial Fees. Amend RSA 455:11 by inserting after paragraph II the following new paragraph:

III. For performing notarial acts for a remotely located individual under RSA 456-B:6-a, a notary public shall be entitled to a fee of \$25 per act.

7 Uniform Law on Notarial Acts; Definitions. Amend RSA 456-B:1 to read as follows:

456-B:1 Definitions.

I. "Notarial act" means ~~[any act that a notary public]~~ ***an act, whether performed with respect to a tangible or electronic record, that a notarial officer*** is authorized to perform ***under the law of this state***, and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

II. "Acknowledgment" means a declaration by ~~[a person]~~ ***an individual before a notarial officer*** that the ~~[person has executed an instrument]~~ ***individual has signed a record*** for the purposes stated therein and, if ~~[the instrument is executed]~~ ***the record is signed*** in a representative capacity, that the ~~[person]~~ ***individual*** signed the ~~[instrument]~~ ***record*** with proper authority and ~~[executed]~~ ***signed*** it as the act of the ~~[person]~~ ***individual*** or entity ~~[represented and]~~ identified therein.

III. "Verification upon oath or affirmation" means a declaration that a statement is true made by ~~[a person]~~ ***an individual*** upon oath or affirmation.

IV. "In a representative capacity" means ***acting as***:

(a) ~~[For and on behalf of a corporation, partnership, trust, or other entity, as]~~ An authorized officer, agent, partner, trustee, or other representative ***for a person other than an individual***;

(b) ~~[As]~~ A public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(c) ~~[As]~~ An ***agent or*** attorney in fact for a principal; or

(d) In any other capacity as an authorized representative of another.

V. "Notarial officer" means a notary public, justice of the peace, or other officer authorized to perform notarial acts.

VI. "***Electronic***" means ***relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.***

VII. "***Electronic signature***" means ***an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.***

VIII. "***Notary public***" means ***an individual appointed to perform a notarial act by the governor and executive council.***

IX. "***Official stamp***" means ***an official seal of office consisting of a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.***

X. "***Person***" means ***an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.***

XI. "***Record***" means ***information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.***

XII. "***Sign***" means, ***with present intent to authenticate or adopt a record***:

(a) ***To execute or adopt a tangible symbol; or***

(b) ***To attach to or logically associate with the record an electronic symbol, sound, or process.***

**XIII. “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.**

**XIV. “Stamping device” means:**

**(a) A physical device capable of affixing to or embossing on a tangible record an official stamp; or**

**(b) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.**

**XV. “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.**

8 Uniform Law on Notarial Acts; Notarial Acts. Amend RSA 456-B:2 to read as follows:

456-B:2 Notarial Acts.

I. In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the [person] **individual** appearing before the officer and making the acknowledgment [is the person whose true] **has the identity claimed and that the** signature [is] on the instrument **is the signature of the individual.**

II. In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the [person] **individual** appearing before the officer and making the verification [is the person whose true] **has the identity claimed and that the** signature [is] on the statement verified **is the signature of the individual.**

III. In witnessing or attesting a signature the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the [signature is that of the person] **individual** appearing before the officer and [named therein] **signing the record has the identity claimed.**

IV. In certifying or attesting a copy of a [document] **record** or other item **that was copied**, the notarial officer must determine that the proffered copy is a full, true, and accurate transcription or reproduction of [that which was copied] **the record or item.**

V. In making or noting a protest of a negotiable instrument the notarial officer must determine the matters set forth in RSA 382-A:3-505.

VI. ~~[A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person is personally known to the notarial officer, is identified upon the oath or affirmation of a credible witness personally known to the notarial officer, or is identified on the basis of identification documents.]~~ **A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.**

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.

9 New Sections; Personal Appearance Required; Identification of Individual. Amend RSA 456-B by inserting after section 2 the following new sections:

456-B:2-a Personal Appearance Required. If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

456-B:2-b Identification of Individual.

I. A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

II. A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(a) By means of:

(1) A passport, driver's license, or government issued nondriver identification card, which is current and unexpired; or

(2) Another form of government identification issued to an individual, which is current and unexpired, contains the signature or a photograph of the individual, and is satisfactory to the officer; or

(b) By a verification upon oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license, or government issued nondriver identification card, which is current and unexpired.

III. A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

10 Notarial Acts. Amend RSA 456-B:3, III to read as follows:

III. The signature, **embossed** official seal or the legible imprint of an **electronic or rubber** official [~~rubber~~] stamp stating the name of the notary, and the words "notary public, New Hampshire" and the expiration date of the notary public's commission of a person performing a notarial act or for a justice of the peace the name of the justice and the expiration date of his or her commission typed, printed, or stamped on the document are prima facie evidence that the signature is genuine and that the person holds the designated title.

11 New Section; Notarial Act Performed for Remotely Located Individual. Amend RSA 456-B by inserting after section 6 the following new section:

456-B:6-a Notarial Act Performed for Remotely Located Individual.

I. In this section:

(a) "Communication technology" means an electronic device or process that:

(1) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(2) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(b) "Foreign state" means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

(c) "Identity proofing" means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

(d) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

(e) "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act under paragraph III.

II. A remotely located individual may comply with RSA 456-B:2-a, and any other requirement under the law of this state to appear before or be in the presence of a notary public at the time of a notarial act, by using communication technology to appear before a notary public.

III. A notary public located in this state may perform a notarial act using communication technology for a remotely located individual if:

(a) The notary public:

(1) Has personal knowledge under RSA 456-B:2-b, I, of the identity of the individual;

(2) Has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under RSA 456-B:2-b, II, or this section; or

(3) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least 2 different types of identity proofing;

(b) The notary public is able reasonably to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(c) The notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act; and

(d) For a remotely located individual located outside the United States:

(1) The record:

(A) Is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

(B) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(2) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

IV. If a notarial act is performed under this section, the certificate of notarial act required by RSA 456-B:7 and the short-form certificate provided in RSA 456-B:8 must indicate that the notarial act was performed using communication technology.

V. A short-form certificate provided in RSA 456-B:8 for a notarial act subject to this section is sufficient if it:

(a) Complies with rules adopted under subparagraph VIII(a); or

(b) Is in the form provided in RSA 456-B:8 and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

VI. A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public shall retain the audio-visual recording created under subparagraph III(c) or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subparagraph VIII(d), the recording must be retained for a period of at least 10 years after the recording is made.

VII. Before a notary public performs the notary public's initial notarial act under this section, the notary public must notify the secretary of state that the notary public will be performing notarial acts with respect to remotely located individuals and identify the technologies the notary public intends to use. If the secretary of state has established standards under paragraph VIII and RSA 456-B:8-b, IV, for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

VIII. In addition to adopting rules under RSA 456-B:8-b, IV, the secretary of state may adopt rules under RSA 541-A regarding performance of a notarial act under this section. The rules may:

(a) Prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(b) Establish standards for communication technology and identity proofing;

(c) Establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and

(d) Establish standards and a period for the retention of an audio-visual recording created under subparagraph III(c).

IX. Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the secretary of state must consider:

(a) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the National Association of Secretaries of State;

(b) Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and

(c) The views of governmental officials and entities and other interested persons.

X. Unless the secretary of state has adopted a rule establishing standards for identity proofing under subparagraph VIII(b), a notary public shall comply with the credential analysis and authentication provisions of the Standards for Remote Online Notarization (Version 1) adopted by The Mortgage Industry Standards Maintenance Organization on August 28, 2019. Compliance with this paragraph satisfies the requirement of using at least 2 different types of identity proofing when performing a notarial act for a remotely located individual under this section.

12 New Sections; Official Stamp; Stamping Device; Notification Regarding Performance of Notarial Act on Electronic Record; Selection of Technology; Rules; Journal; Validity of Notarial Acts; Relation to Electronic Signatures in Global and National Commerce Act. Amend RSA 456-B by inserting after section 8 the following new sections:

456-B:8-a Official Stamp; Stamping Device.

I. The electronic or rubber official stamp of a notary public shall:

(a) Include the information required by RSA 455:3; and

(b) Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

II. A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

III. If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the secretary of state on discovering that the device is lost or stolen.

456-B:8-b Notification Regarding Performance of Notarial Act on Electronic Record; Selection of Technology; Rules.

I. A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

II. Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the secretary of state has established standards for approval of technology, the technology shall conform to the standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology.

III. The secretary of state may adopt rules under RSA 541-A to implement this chapter. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification.

IV. Unless the secretary of state has adopted a rule establishing standards for tamper-evident technology, a notary public shall attach or logically associate the notary public's official stamp to an electronic record by use of a digital certificate complying with the X.509 standard adopted by the International Telecommunication Union or a similar industry-standard technology.

456-B:8-c Journal.

I. A notary public shall maintain a journal in which the notary public chronicles all notarial acts the notary public performs with respect to a remotely located individual under RSA 456-B:6-a. The notary public shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

II. A journal may be created on a tangible medium or in an electronic format. A notary public shall maintain only one journal at a time to chronicle all notarial acts performed regarding tangible records and one or more journals to chronicle all notarial acts performed regarding electronic records. If a journal is maintained on a tangible medium, it shall be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it shall be in a permanent, tamper-evident electronic format complying with the rules of the secretary of state.

III. An entry in a journal shall be made contemporaneously with performance of the notarial act and contain the following information:

- (a) The date and time of the notarial act;
- (b) A description of the record, if any, and type of notarial act;
- (c) The full name and address of each individual for whom the notarial act is performed;
- (d) If identity of the individual is based on personal knowledge, a statement to that effect;
- (e) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of the identification credential; and
- (f) The fee, if any, charged by the notary public.

IV. If the journal of a notary public is lost, the notary public loses access to the journal, or the journal is stolen, the notary public promptly shall notify the secretary of state upon discovering the journal is lost, access is lost, or the journal is stolen.

V. On resignation from, or the revocation or suspension of, the commission of a notary public, the notary public shall retain the journal in accordance with paragraph I and inform the secretary of state where the journal is located.

VI. Instead of retaining a journal as provided in paragraphs I and V, a current or former notary public may transmit the journal to a repository approved by the secretary of state.

VII. Upon the death or adjudication of incompetency of a current or former notary public, the personal representative or guardian of the notary public shall retain the journal as provided in paragraphs I or V or transmit the journal to a repository approved by the secretary of state.

456-B:8-d Validity of Notarial Acts. The failure of a notarial officer to perform a duty or meet a requirement specified in this chapter or RSA 455 does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this chapter or RSA 455 does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this chapter or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

456-B:8-e Relation to Electronic Signatures in Global and National Commerce Act. This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

13 New Paragraph; Short Forms. Amend RSA 456-B:8 by inserting after paragraph V the following new paragraph:

VI. For certifying a tangible copy of an electronic record:

State of \_\_\_\_\_

(County) of \_\_\_\_\_

I certify that this record is a true and correct copy of an electronic record printed by me or under my supervision.

Dated \_\_\_\_\_

\_\_\_\_\_  
(Signature of notarial officer)

(Seal, if any)

Title (and Rank)

[My commission expires: \_\_\_\_\_]

14 New Chapter; Uniform Real Property Electronic Recording Act. Amend RSA by inserting after chapter 478 the following new chapter:

#### CHAPTER 478-A

#### UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

478-A:1 Short Title. This chapter may be cited as the Uniform Real Property Electronic Recording Act.

478-A:2 Definitions. In this chapter:

I. "Document" means information that is:

(a) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(b) Eligible to be recorded in the land records maintained by the register of deeds.

II. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

III. "Electronic document" means a document that is received by the register of deeds in an electronic form.

IV. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

V. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

VI. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

478-A:3 Validity of Electronic Documents; Recordation of Electronic Documents in Tangible Form.

I. If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this section.

II. If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

III. A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

IV. A register of deeds shall accept for recording a tangible copy of an electronic document containing a notarial certificate as satisfying any requirement that a document accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic document. A notarial certificate in the form provided in RSA 456-B:8, VI, satisfies the requirement of this paragraph.

## 478-A:4 Recording of Documents.

I. In this section, “paper document” means a document that is received by the register of deeds in a form that is not electronic.

## II. A register of deeds:

- (a) May receive, index, store, archive, and transmit electronic documents;
- (b) May provide for access to, and for search and retrieval of, documents and information by electronic means;
- (c) Shall, if accepting electronic documents for recording, continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;
- (d) May convert paper documents accepted for recording into electronic form;
- (e) May convert into electronic form information recorded before the register of deeds began to record electronic documents;
- (f) May accept electronically any fee or tax that the register of deeds is authorized to collect; and
- (g) May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes.

478-A:5 Uniformity of Application and Construction. In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

478-A:6 Relation to Electronic Signatures in Global and National Commerce Act. This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

15 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~~.

16 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:

17 New Chapter; Structured Settlement Protection. Amend RSA by inserting after chapter 408-F the following new chapter:

## CHAPTER 408-G

## STRUCTURED SETTLEMENT PROTECTION

408-G:1 Definitions. In this chapter:

I. “Annuity issuer” means an insurer that has issued a contract to fund periodic payments under a structured settlement.

II. “Assignee” means a party acquiring or proposing to acquire structured settlement payment rights from a transferee of such rights.

III. “Dependents” include a payee’s spouse and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony.

IV. "Discounted present value" means the present value of future payments determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service.

V. "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration.

VI. "Independent professional advice" means advice of an attorney, certified public accountant, actuary or other licensed professional adviser.

VII. "Interested parties" means, with respect to any structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party to such structured settlement that has continuing rights or obligations to receive or make payments under such structured settlement.

VIII. "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed pursuant to this chapter.

IX. "Payee" means an individual who is receiving tax free payments under a structured settlement and proposes to make a transfer of payment rights thereunder.

X. "Periodic payments" includes both recurring payments and scheduled future lump sum payments.

XI. "Qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of United States Internal Revenue Code, 26 U.S.C. section 130, as amended.

XII. "Settled claim" means the original tort claim resolved by a structured settlement.

XIII. "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim.

XIV. "Structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

XV. "Structured settlement obligor" means, with respect to any structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

XVI. "Structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, where:

(a) The payee resides in this state; or

(b) The structured settlement agreement was approved by a court in this state.

XVII. "Terms of the structured settlement" include, with respect to any structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement and any order or other approval of any court or other government authority that authorized or approved such structured settlement;

XVIII. "Transfer" means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration; provided that the term "transfer" shall not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights.

XIX. "Transfer agreement" means the agreement providing for a transfer of structured settlement payment rights.

XX. "Transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorneys fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions, and other payments to a broker or other intermediary; "transfer expenses" do not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer.

XXI. "Transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

408-G:2 Required Disclosure to Payee. Not less than 3 days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than 14 points, setting forth the following:

I. The amounts and due dates of the structured settlement payments to be transferred.

II. The aggregate amount of such payments.

III. The discounted present value of the payments to be transferred, which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities and the amount of the Applicable Federal Rate used in calculating such discounted present value.

IV. The gross advance amount.

V. An itemized listing of all applicable transfer expenses, other than attorneys' fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such fees and disbursements.

VI. The effective annual interest rate, which must be disclosed in a statement in the following form: "On the basis of the net amount that you will receive from us and the amounts and timing of the structured settlement payments that you are transferring to us, you will, in effect be paying interest to us at a rate of \_\_\_\_\_ percent per year."

VII. The net advance amount.

VIII. The amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee.

IX. That the payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee.

X. That the payee has the right to seek and receive independent professional advice regarding the proposed transfer and should consider doing so before agreeing to transfer any structured settlement payment rights.

408-G:3 Approval of Transfers of Structured Settlement Payment Rights. No direct or indirect transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee or assignee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by such court that:

I. The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents; and

II. The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly waived in writing the opportunity to seek and receive such advice; and

III. The transfer does not contravene any applicable statute or the order of any court or other government authority.

408-G:4 Effects of Transfer of Structured Settlement Payment Rights. Following a transfer of structured settlement payment rights under this chapter:

I. The structured settlement obligor and the annuity issuer may rely on the court order approving the transfer in redirecting periodic payments to an assignee or transferee in accordance with the order approving the transfer and shall, as to all parties except the transferee or an assignee designated by the transferee, be discharged and released from any and all liability for the redirected payments; and such discharge and release shall not be affected by the failure of any party to the transfer to comply with this chapter or with the court order approving the transfer;

II. The transferee shall be liable to the structured settlement obligor and the annuity issuer:

(a) If the transfer contravenes the terms of the structured settlement, for any taxes incurred by the structured settlement obligor or annuity issuer as a consequence of the transfer; and

(b) For any other liabilities or costs, including reasonable costs and attorneys' fees, arising from compliance by the structured settlement obligor or annuity issuer with the court order approving the transfer or from the failure of any party to the transfer to comply with this chapter;

III. Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between 2 or more transferees or assignees; and

IV. Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this chapter.

#### 408-G:5 Procedure For Approval of Transfers.

I. An application under this chapter for approval of a transfer of structured settlement payment rights shall be made by the transferee and shall be brought in the superior court in the county in which the payee resides, except that if the payee does not reside in this state, the application may be brought in the court in this state that approved the structured settlement agreement.

II. A timely hearing shall be held on an application for approval of a transfer of structured settlement payment rights. The payee shall appear in person at the hearing unless the court determines that good cause exists to excuse the payee from appearing in person.

III. Not less than 20 days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under RSA 408-G:3, the transferee shall file with the court and serve on all interested parties, including a parent or other guardian or authorized legal representative of any interested party who is not legally competent, a notice of the proposed transfer and the application for its authorization, including with such notice:

(a) A copy of the transferee's application.

(b) A copy of the transfer agreement.

(c) A copy of the disclosure statement required under RSA 408-G:2.

(d) The payee's name, age, and county of residence and the number and ages of each of the payee's dependents.

(e) A summary of:

(1) Any prior transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate to an assignee, within the 4 years preceding the date of the transfer agreement and any proposed transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate, applications for approval of which were denied within the 2 years preceding the date of the transfer agreement; and

(2) Any prior transfers by the payee to any person or entity other than the transferee or an affiliate or an assignee of the transferee or an affiliate within the 3 years preceding the date of the transfer agreement and any prior proposed transfers by the payee to any person or entity other than the transferee or an affiliate or an assignee of a transferee or affiliate, applications for approval of which were denied within the one year preceding the date of the current transfer agreement, to the extent that the transfers or proposed transfers have been disclosed to the transferee by the payee in writing or otherwise are actually known to the transferee.

(f) Notification that any interested party is entitled to support, oppose or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or by participating in the hearing.

(g) Notification of the time and place of the hearing and notification of the manner in which and the date by which written responses to the application must be filed, which date shall be not less than 5 days prior to the hearing, in order to be considered by the court.

#### 408-G:6 General Provisions; Construction.

I. The provisions of this chapter shall not be waived by any payee.

II. Any transfer agreement entered into on or after the effective date of this chapter by a payee who resides in this state shall provide that disputes under such transfer agreement, including any claim that the

payee has breached the agreement, shall be determined in and under the laws of this state. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

III. No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for periodically confirming the payee's survival, and giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

IV. If the payee cancels a transfer agreement, or if the transfer agreement otherwise terminates, after an application for approval of a transfer of structured settlement payment rights has been filed and before it has been granted or denied, the transferee shall promptly request dismissal of the application.

V. No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of such transfer to satisfy the conditions of this chapter.

VI. Nothing contained in this chapter shall be construed to authorize any transfer of structured settlement payment rights in contravention of any applicable law or to imply that any transfer under a transfer agreement entered into prior to the effective date of this chapter is valid or invalid.

VII. Compliance with the requirements set forth in RSA 408-G:2 and fulfillment of the conditions set forth in RSA 408-G:3 shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for, or any liability arising from, non-compliance with such requirements or failure to fulfill such conditions.

18 Applicability. RSA 408-G as inserted by section 17 of this act shall apply to any transfer of structured settlement payment rights under a transfer agreement entered into on or after the 30th day after the effective date of section 17 of this act.

19 New Chapter; New Hampshire Collaborative Law Act. Amend RSA by inserting after chapter 490-I the following new chapter:

#### CHAPTER 490-J

##### NEW HAMPSHIRE COLLABORATIVE LAW ACT

490-J:1 Short Title. This chapter may be cited as the New Hampshire collaborative law act.

490-J:2 Definitions. In this chapter:

I. "Collaborative law communication" means a statement, whether oral or in a document, that:

- (a) Is made as part of a collaborative law process;
- (b) Occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded; and
- (c) Is not otherwise privileged pursuant to the attorney client relationship.

II. "Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.

III. "Collaborative law process" means a procedure intended to resolve a collaborative matter without intervention by a court in which persons:

- (a) Sign a collaborative law participation agreement; and
- (b) Are represented by collaborative lawyers.

IV. "Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.

V. "Collaborative matter" means an issue for resolution which is described in a collaborative law participation agreement and arises under the law of this state, including, but not limited to:

- (a) Marriage, divorce, annulment, legal separation, and property distribution;

- (b) Parental rights and responsibilities;
- (c) Grandparent rights;
- (d) Alimony, maintenance, and child support;
- (e) Parentage;
- (f) Premarital and post-marital agreements; and
- (g) Any modifications of any orders arising out of the matters set forth in subparagraphs (a)-(f).

VI. "Court" means a body acting in an adjudicative capacity which has jurisdiction to render a decision affecting a party's interests in a matter.

VII. "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

VIII. "Law firm" means lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, association or legal services organization.

IX. "Neutral participant" means a person, other than a party and a party's collaborative lawyer, that participates in a collaborative law process.

X. "Party" means a person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

XI. "Proceeding" means a judicial or other adjudicative process.

XII. "Prospective party" means a person who discusses with a prospective collaborative lawyer the possibility of signing a collaborative law participation agreement.

XIII. "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

XIV. "Sign" means with present intent to authenticate or adopt a document by electronic or non-electronic signature.

490-J:3 Applicability. This chapter applies to a collaborative law participation agreement that meets the requirements of RSA 490-J:4 signed on or after the effective date of the chapter.

#### 490-J:4 Collaborative Law Participation Agreement; Requirements.

I. A collaborative law participation agreement shall:

- (a) Be in writing;
- (b) Be signed by the parties;
- (c) State the parties' intention to resolve a collaborative matter through a collaborative law process under this chapter;
- (d) Describe the nature and scope of the matter;
- (e) Contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process; and
- (f) Disqualify the collaborative lawyer from representing a party in a case filed with a court involving one or more of the same parties in the same or a related matter, except for the filing needed to seek the court's approval of an agreement reached in the collaborative case or in pending cases while stayed pursuant to RSA 490-J:6, I.

II. Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with this chapter or current law.

#### 490-J:5 Beginning and Concluding Collaborative Law Process.

I. A collaborative law process begins when the parties sign a collaborative law participation agreement.

II. A court shall not order a party to participate in a collaborative law process over that party's objection.

III. A collaborative law process is concluded by a:

- (a) Resolution of a collaborative matter as evidenced by a signed agreement;
- (b) Resolution of a part of the collaborative matter, evidenced by a signed agreement, in which the parties agree that the remaining parts of the matter will not be resolved in the process; or
- (c) Termination of the process.

IV. A collaborative law process terminates:

- (a) When a party gives written notice to other parties that the process is ended.
- (b) Except as otherwise provided by paragraph VII, when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.
- (c) When a party:
  - (1) Files a petition or other pleading related to a collaborative matter without the agreement of all parties; or
  - (2) In a pending proceeding related to the matter:
    - (A) Initiates a pleading, motion, order to show cause, or request for a conference with the court; or
    - (B) Requests that the proceeding be put on the court's active docket; or
    - (C) The matter is no longer stayed.

V. A party's collaborative lawyer shall give prompt written notice to all other parties if the lawyer has been discharged or withdraws as counsel.

VI. A party may terminate a collaborative law process with or without cause.

VII. Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues, if within 30 days or within a time agreed to by the team in writing:

- (a) The unrepresented party engages a successor collaborative lawyer; and
- (b) The parties consent in writing to continue the process by reaffirming the collaborative law participation agreement, and the successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative process.

VIII. A collaborative law process shall not conclude if the parties jointly request the court to approve a settlement of the collaborative matter or any part thereof.

IX. A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

490-J:6 Cases Already Filed in Court.

I. Parties who have already initiated a proceeding by filing a petition with the court may jointly request the court to stay future action in the matter so the parties may engage in a collaborative process for resolution of the matter. Before signing a participation agreement, the parties shall file an assented to motion to stay the proceedings with the court. The case shall not proceed with the collaborative process unless the stay is granted by the court. An extension of the stay may be requested of the court by written agreement to continue the collaborative process.

II. Either party can initiate a filing with the court to remove the stay and proceed with a litigated solution in the matter at any time.

III. Any unilateral filing with the court terminates the collaborative case. The case shall be returned to the active docket.

IV. A court shall provide parties notice and an opportunity to be heard before dismissing a case in which a notice of collaborative process is filed.

490-J:7 Emergency Order. During a collaborative law process, a court may issue emergency orders to protect the health, safety, welfare, or interest of a party; however, filing for such an order terminates the pending collaborative law process. Nothing in this section prohibits parties from exploring a return to the collaborative process after the issues that gave rise to the emergency order have been resolved and process outlined in RSA 490-J:13, III have been followed.

#### 490-J:8 Approval of Agreement by Court.

I. The terms of a collaborative law participation agreement shall be considered a binding contract and shall be enforceable by the trial court.

II. Any agreements signed by the parties during the collaborative process are binding upon the parties in the same manner as they are in other family law proceedings. The trial court fully retains all rights and duties to ensure that the agreements reached are fair and reasonable to all before being approved by the court.

III. Agreements reached during the collaborative process which are not signed by all parties shall not be binding and shall be considered part of settlement discussions only.

#### 490-J:9 Disqualification of Collaborative Lawyer and Lawyers in Associated Law Firm.

I. Except as otherwise provided in paragraph III, a collaborative lawyer is disqualified from appearing before a court to represent a party in a proceeding related to a collaborative matter, including related matters filed by third parties.

II. Except as otherwise provided in paragraph III, RSA 490-J:10, and RSA 490-J:11, a lawyer in a law firm with which the collaborative lawyer is associated is disqualified from appearing before a court to represent a party in a proceeding related to a collaborative matter if the collaborative lawyer is disqualified from doing so under paragraph I.

III. A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party:

(a) To ask a court to approve an agreement resulting from the collaborative law process; or

(b) To seek or defend an emergency order to protect the health, safety, welfare, or interest of a party, a minor child, family or household member as defined in RSA 173-B:1, X, if a successor lawyer is not immediately available to represent that party and only until the person is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare, or interest of the person.

490-J:10 Disclosure of Information. During the collaborative law process, on the request of another party, a party shall make timely, full, candid, and informal disclosure of information related to a collaborative matter without formal discovery. A party also shall update promptly previously disclosed information that has materially changed. The parties may define the scope of disclosure during the collaborative law process.

490-J:11 Standards of Professional Responsibility and Mandatory Reporting Not Affected. This chapter does not affect:

I. The professional responsibility obligations and standards applicable to a lawyer or other licensed professional; or

II. The obligation of a person to report abuse or neglect, abandonment, or exploitation of an adult or child under New Hampshire law.

490-J:12 Appropriateness of Collaborative Law Process. Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall:

I. Assess with the prospective party factors the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter;

II. Provide the prospective party with information that the lawyer reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or neutral evaluation; and

III. Advise the prospective party that:

(a) After signing an agreement if a party initiates a proceeding or seeks court intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates;

(b) Participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without cause; and

(c) The collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated may not appear before a court to represent a party in a proceeding related to the collaborative matter, except as authorized by RSA 490-J:9, III.

#### 490-J:13 Domestic Violence.

I. Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall make reasonable inquiry whether the prospective party has a history of a coercive or violent relationship with another prospective party.

II. Throughout the collaborative law process, a collaborative lawyer reasonably and continuously shall assess whether the party the collaborative lawyer represents has a history of a coercive or violent relationship with another party.

III. If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of a coercive or violent relationship with another party or prospective party, the lawyer may not begin or continue the collaborative law process unless both parties, after individual consultation with their attorneys, represent to their individual attorney that he/she has no current concern for his/her safety or coercion and both wish to proceed with the collaborative process.

490-J:14 Confidentiality of Collaborative Law Communication. A collaborative law communication is confidential except as agreed by the parties in a signed document, or under the circumstances set forth in RSA 490-J:15, IV.

#### 490-J:15 Privilege Against Disclosure for Collaborative Law Communication.

I. Except as set forth in this section, a collaborative law communication is privileged, is not subject to discovery, and is not admissible into evidence. Accordingly, a party or a party's lawyer or a neutral participant may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication.

II. Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

#### III. Waiver of Privilege.

(a) The privilege may be waived wholly or in part in a document or orally during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a neutral participant, it is also expressly waived by the neutral participant.

(b) A party who discloses a collaborative law communication for which the privilege has not been waived under subparagraph (a) shall be deemed to have waived the privilege, but only to the extent necessary to permit any other party to respond to the unauthorized disclosure.

#### IV. There is no privilege under this chapter for a collaborative law communication that is:

(a) A threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(b) In an agreement resulting from the collaborative law process, evidenced by a document signed by all parties to the agreement;

(c) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process; or

(d) Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult.

V. There is no privilege under this chapter if a court finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting the privilege and the collaborative law communication is sought or offered in:

(a) A court proceeding involving a felony; or

(b) A proceeding seeking rescission or clarification of an agreement arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

VI. If a collaborative law communication is subject to an exception under paragraph IV or V, only the part of the communication necessary for the application of the exception may be disclosed or admitted.

VII. Disclosure or admission of evidence excepted from the privilege under paragraph IV or V does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

490-J:16 Authority of Court in Case of Noncompliance. Notwithstanding a failure to comply with RSA 490-J:4, RSA 490-J:12, or RSA 490-J:13, a court may enforce an agreement, apply the disqualification provisions of RSA 490-J:9, or apply a privilege under RSA 490-J:15 when the court concludes that the parties intended to enter into a collaborative law participation agreement and to participate in a collaborative law process. Such a conclusion shall be based upon the following findings:

I. The parties signed a document indicating an intent to enter into a collaborative law participation agreement;

II. The parties reasonably believed they were participating in a collaborative law process; and

III. The interests of justice require finding that the parties were participating in collaborative law process.

20 Administrators and Their Appointment; Subdivision Heading Amended. Amend the subdivision heading preceding RSA 553:32 to read as follows:

~~[Administration of Small Estates]~~ ***Waiver of Administration***

21 Waiver of Administration. RSA 553:32, I-II are repealed and reenacted to read as follows:

I.(a) Notwithstanding any provision of law, there shall be no requirement for an inventory of the estate, no requirement for a bond, and no requirement for an accounting for assets in any of the following circumstances:

(1) Whenever a decedent dies testate and an individual is named in the will as the sole beneficiary of the decedent's estate and is appointed to serve as administrator.

(2) Whenever a decedent dies testate and all individuals named in the will as beneficiaries of the decedent's estate are appointed to serve as co-administrators or any appropriate person is appointed to serve as administrator with the assent of all such beneficiaries.

(3) Whenever a decedent dies testate, a trust is named in the will as the sole beneficiary of the estate, and any appropriate person, including one or more trustees of such trust, is appointed to serve as administrator with the assent of all such trustees.

(4) Whenever a decedent dies intestate and an individual, including a surviving spouse, is the sole heir of the decedent's estate and is appointed to serve as administrator.

(5) Whenever a decedent dies intestate and all heirs of the decedent's estate, including a surviving spouse, if any, are appointed to serve as co-administrators or any appropriate person is appointed to serve as administrator with the assent of all such heirs.

(6) Whenever, in the discretion of the court, the court determines it is appropriate under the circumstances.

(b) Administration of the estate shall be completed upon the administrator's filing, and the probate court's approval, of an affidavit of administration. Such filing shall occur not less than 6 months and no more than one year after the date of appointment of the administrator. Upon motion of the administrator, for good cause shown, the court may extend the one year deadline for filing the affidavit of administration. The affidavit of administration shall state that to the best of the knowledge and belief of the administrator there are no outstanding debts or obligations attributable to the decedent's estate and shall list all real estate owned by the decedent at the time of death, including the location, book, and page.

(c) If the administrator fails to file the affidavit of administration within the time prescribed in subparagraph (b), including any extensions granted, the court may take appropriate action in the discretion of the court, including, but not limited to, issuing a notice of default, a show cause order, or requiring full administration of the estate.

II.(a) Any interested person may petition for a full administration of the estate at any time from the original grant of administration to the filing of the affidavit of administration, and such petition may be granted by the probate court for good cause shown.

(b) Where full administration is granted subsequent to an original grant of administration under this section, the deadlines for filing an inventory in RSA 554:1, RSA 554:26-a, and RSA 553:13, I(a), and for filing an account of administration in RSA 554:26-a, shall run from the date of the grant of full administration. All other deadlines, including but not limited to the deadline to request proof in solemn form in RSA 552:7, the notice to legatees and heirs at law in RSA 552:15, the publication of notice of appointment in RSA 553:16, the requirement

that an estate be open for at least 6 months before a motion for summary administration may be filed in RSA 553:33, II, for petitioning to distribute assets of an insolvent estate in RSA 554:19-b, the deadline for waiver or release of the will and homestead rights and election of statutory rights by a surviving spouse in RSA 560:10 and RSA 560:14, and deadlines relating to suits in RSA 556, shall run from the original grant of administration.

22 Distribution Upon Intestacy. Amend RSA 561:1, I(e) to read as follows:

(e) If there are surviving issue of the decedent one or more of whom are not issue of the surviving spouse, the first \$100,000, plus 1/2 of the **balance of the** intestate estate.

23 Uniform Power of Attorney Act; Agent's Authority and Agent's Acceptance or Declination. Amend RSA 564-E:113(a) to read as follows:

(a) A person designated as agent under a general power of attorney shall have no authority to act as agent unless, at any time prior to exercising the power granted under the general power of attorney and not necessarily at the time the general power of attorney is signed by the principal, the person has signed (other than by electronic signature) and affixed to the general power of attorney an acknowledgment in substantially the following form:

I, \_\_\_\_\_, have read the attached power of attorney and am the person identified as the agent for the principal. I hereby acknowledge that when I act as agent, I am given power under the power of attorney to make decisions about money, property, or both belonging to the principal, and to spend the principal's money, property, or both on the principal's behalf, in accordance with the terms of the power of attorney. When acting as agent, I have duties (called "fiduciary duties") to act in **accordance with the principal's reasonable expectations to the extent actually known by me and, otherwise, in** the principal's best interest, to act in good faith, and to act only within the scope of authority granted in the power of attorney, as well as other duties imposed by law to the extent not provided otherwise in the power of attorney. As an agent, I am not entitled to use the money or property for my own benefit or to make gifts to myself or others unless the power of attorney specifically gives me the authority to do so. As an agent, my authority under the power of attorney will end when the principal dies and I will not have authority to manage or dispose of any property or administer the estate of the principal. If I violate a fiduciary duty under the power of attorney, I may be liable for damages and may be subject to criminal prosecution. If there is anything about the power of attorney, or my duties under it, that I do not understand, I understand that I should seek professional advice.

24 Uniform Powers of Attorney Act; Authority That Requires Specific Grant. Amend RSA 564-E:201(a)(8) to read as follows:

(8) exercise authority over the content of electronic communications sent or received by the principal **pursuant to RSA 554-A:9.**

25 Uniform Power of Attorney Act; Gifts. Amend RSA 564-E:217(a) to read as follows:

(a) In this section, [~~a "gift" for the benefit of a person~~] **"gift"** includes, without limitation, a gift **for the benefit of a person, including without limitation, a gift** to a trust, **a gift to** an account under the Uniform Transfers to Minors Act, and a **gift to a** tuition savings account or prepaid tuition plan as defined under Internal Revenue Code section 529, 26 U.S.C. section 529, as amended.

26 Uniform Power of Attorney Act; Statutory Form Power of Attorney. Amend RSA 564-E:301 to read as follows:

564-E:301 Statutory Form Power of Attorney.

A document substantially in the following form may be used to create a power of attorney that is in compliance with the provisions of this chapter. **It is not required that a document be substantially in the following form in order to create a power of attorney that is in compliance with the provisions of this chapter:**

NEW HAMPSHIRE

STATUTORY POWER OF ATTORNEY

INFORMATION CONCERNING THE POWER OF ATTORNEY

THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS DOCUMENT YOU SHOULD KNOW THESE IMPORTANT FACTS:

Notice to the Principal: As the "Principal," you are using this Power of Attorney to grant power to another person (called the "Agent") to make decisions, including, but not limited to, decisions concerning your money, property, or both, and to use your money, property, or both on your behalf. If this Power of Attorney does not

limit the powers that you give to your Agent, your Agent will have broad and sweeping powers to sell or otherwise dispose of your property, and to spend your money without advance notice to you or approval by you. Unless you have expressly provided otherwise in this Power of Attorney, your Agent will have these powers before you become incapacitated, and unless you have expressly provided otherwise in this Power of Attorney, your Agent will continue to have these powers after you become incapacitated. You have the right to retain this Power of Attorney and to release it later or to request that another person retain this Power of Attorney on your behalf and release it only if one or more conditions specified in advance by you are satisfied. You have the right to revoke or take back this Power of Attorney at any time, so long as you are of sound mind. If there is anything about this Power of Attorney that you do not understand, you should seek professional advice.

Principal's Signature:

Date:

### 1. DESIGNATION OF AGENT

I, (Name of Principal), of (Address of Principal), name the following person as my agent:

Name of Agent:

Agent's Address:

### 2. DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name the following person as my successor agent:

Name of Successor Agent:

Successor Agent's Address:

If my successor agent is unable or unwilling to act for me, I name the following person as my second successor agent:

Name of Second Successor Agent:

Second Successor Agent's Address:

### 3. REVOCATION OF EXISTING POWERS OF ATTORNEY

(Initial the following statement if it is your choice.)

\_\_\_\_\_ This Power of Attorney revokes all existing powers of attorney, ***except for powers of attorney relating to health care***, previously executed by me.

### 4. GRANT OF GENERAL AUTHORITY

(Initial beside your choice of A or B, but not both.)

\_\_\_\_\_ A. I grant my agent general authority to act for me in all matters, including, without limitation, all of the subjects enumerated in B below.

\_\_\_\_\_ B. I grant my agent general authority over the following subjects [~~as defined in the following sections of the Uniform Power of Attorney Act~~]:

(Initial each subject you want to include in the agent's general authority.)

\_\_\_\_\_ Real Property as defined in RSA 564-E:204

\_\_\_\_\_ Tangible Personal Property as defined in RSA 564-E:205

\_\_\_\_\_ Stocks and Bonds as defined in RSA 564-E:206

\_\_\_\_\_ Commodities and Options as defined in RSA 564-E:207

\_\_\_\_\_ Banks and Other Financial Institutions as defined in RSA 564-E:208

\_\_\_\_\_ Operation of Entity or Business as defined in RSA 564-E:209

\_\_\_\_\_ Insurance and Annuities as defined in RSA 564-E:210

\_\_\_\_\_ Estates, Trusts and Other Beneficial Interests as defined in RSA 564-E:211

\_\_\_\_\_ Claims and Litigation as defined in RSA 564-E:212

\_\_\_\_ Personal and Family Maintenance as defined in RSA 564-E:213

\_\_\_\_ Benefits from Governmental Programs or Civil or Military Service as defined in RSA 564-E:214

\_\_\_\_ Retirement Plans as defined in RSA 564-E:215

\_\_\_\_ Taxes as defined in RSA 564-E:216

\_\_\_\_ Digital Assets **as defined in RSA 554-A:2(10)**

#### 5. GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

(Initial each subject you want to include in the agent's authority. CAUTION: As to some of the following subjects, granting your agent authority will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death.)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

\_\_\_\_ Create, amend, revoke, or terminate an inter vivos trust

***(If you have granted your agent the authority to create, amend, revoke, or terminate an inter vivos trust, then initial the following statement if it is your choice.)***

\_\_\_\_ ***My agent may create, amend, revoke, or terminate an inter vivos trust to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.***

\_\_\_\_ Make a gift, subject to the limitations of RSA 564-E:217 [~~of the Uniform Power of Attorney Act~~]

(If you have granted your agent the authority to make a gift, then as to each of the following statements, initial beside it if it is your choice.)

\_\_\_\_ My agent may make a gift, even if it will leave me without sufficient assets or income to provide for my care without relying on Medicaid, other public assistance or charity.

\_\_\_\_ My agent may make a gift to himself or herself and to any individual to whom my agent owes a legal obligation of support.

\_\_\_\_ Create or change rights of survivorship

***(If you have granted your agent the authority to create or change rights of survivorship, then initial the following statement if it is your choice.)***

\_\_\_\_ ***My agent may create or change rights of survivorship to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.***

\_\_\_\_ Create or change a beneficiary designation

***(If you have granted your agent the authority to create or change a beneficiary designation, then initial the following statement if it is your choice.)***

\_\_\_\_ ***My agent may create or change a beneficiary designation to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.***

\_\_\_\_ ***Reject, renounce, disclaim, release, or consent to a reduction in or modification of my share in, or a payment to me from, an estate, trust, or other beneficial interest, to benefit my agent or any individual to whom my agent owes a legal obligation of support***

\_\_\_\_ Delegate authority granted under this Power of Attorney to another person

\_\_\_\_ Waive my right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

***(If you have granted your agent the authority to waive your right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan, then initial the following statement if it is your choice.)***

\_\_\_\_ ***My agent may waive my right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan, to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.***

\_\_\_\_ Exercise the fiduciary power(s) that I have the authority to delegate as specified in the “Special Instructions” in Paragraph [7] **6** of this Power of Attorney

\_\_\_\_ Exercise authority over the content of electronic communication sent or received by me ***pursuant to RSA 554-A:9***

\_\_\_\_ Exercise authority with respect to intellectual property, including, without limitation, copyrights, contracts for payment of royalties, and trademarks

~~[6.] LIMITATION ON AGENT’S AUTHORITY (OTHER THAN GIFTING)~~

~~(If an agent (including successor agent) named in this Power of Attorney is someone other than an ancestor of yours, your spouse, or a descendant of yours, you must initial the following statement if it is your choice that such agent have the following authority. An agent who is an ancestor of yours, your spouse, or a descendant of yours already has the following authority under New Hampshire law.)~~

~~\_\_\_\_ My agent may exercise authority under this Power of Attorney to create in my agent, or in an individual to whom my agent owes a legal obligation of support, an interest in my property by any manner (other than a gift), including, without limitation, by right of survivorship, beneficiary designation, or disclaimer.~~

~~7.] 6. SPECIAL INSTRUCTIONS (OPTIONAL)~~

~~(Here you may include special instructions. You may leave this Paragraph blank. You may attach additional pages as necessary.)~~

~~[8.] 7. EFFECTIVE DATE AND AUTHORITY OF AGENT~~

~~This Power of Attorney is effective immediately unless I have stated otherwise in the Special Instructions in Paragraph [7] **6** of this Power of Attorney. An agent (including successor agent) named in this Power of Attorney will have no authority to act as my agent until he or she has signed and affixed to this Power of Attorney an acknowledgment that is substantially the same as the Acknowledgment at the end of this Power of Attorney.~~

~~[9.] 8. GOVERNING LAW~~

~~This Power of Attorney shall be governed by the laws of the State of New Hampshire.~~

~~[10.] 9. RELIANCE ON THIS POWER OF ATTORNEY~~

~~Any person, including my agent, may rely upon this Power of Attorney if it is acknowledged before a notary public or other individual authorized to take acknowledgments (or a copy of the acknowledged Power of Attorney), unless that person knows it is void, invalid, or terminated.~~

**SIGNATURE AND ACKNOWLEDGMENT**

(You must date and sign this Power of Attorney. If you are physically unable to sign, it may be signed by someone else writing your name, in your presence and at your express direction. This Power of Attorney must be acknowledged before a notary public or other individual authorized by law to take acknowledgments.)

Principal’s Signature:

Principal’s Printed Name:

Principal’s Address:

Date:

STATE OF NEW HAMPSHIRE

COUNTY OF \_\_\_\_\_

The foregoing Power of Attorney was acknowledged before me on \_\_\_\_\_, by \_\_\_\_\_, known to me or satisfactorily proven to be the person named herein

Signature of Notarial Officer:

Title (and Rank):

My commission expires:

## AGENT ACKNOWLEDGMENT

Notice to Agent: You will have no authority to act as agent under this Power of Attorney until you sign and affix this acknowledgment to the Power of Attorney.

I, \_\_\_\_\_, have read the attached power of attorney and am the person identified as the agent for the principal. I hereby acknowledge that when I act as agent I am given power under the power of attorney to make decisions about money, property, or both belonging to the principal, and to spend the principal's money, property, or both on the principal's behalf, in accordance with the terms of the power of attorney. When acting as agent, I have duties (called "fiduciary duties") to act in **accordance with the principal's reasonable expectations to the extent actually known by me and, otherwise, in** the principal's best interest, to act in good faith, and to act only within the scope of authority granted in the power of attorney, as well as other duties imposed by law to the extent not provided otherwise in the power of attorney. As an agent, I am not entitled to use the money or property for my own benefit or to make gifts to myself or others unless the power of attorney specifically gives me the authority to do so. As an agent, my authority under the power of attorney will end when the principal dies and I will not have authority to manage or dispose of any property or administer the estate of the principal. If I violate a fiduciary duty under the power of attorney, I may be liable for damages and may be subject to criminal prosecution. If there is anything about this power of attorney, or my duties under it, that I do not understand, I understand that I should seek professional advice.

Agent's Signature:

Date:

27 Applicability.

I. Section 21 of this act shall apply to all petitions for estate administration filed on or after July 1, 2021 regardless of the date of the decedent's death.

II. Section 22 of this act shall apply to decedents dying on or after July 1, 2021.

III. Section 23 of this act shall apply to general powers of attorney executed on or after July 1, 2021.

28 Findings. The general court finds:

I. Through the development of thoughtful, innovative laws, New Hampshire has become one of the best legal environments for trusts, trust companies, fiduciaries, and fiduciary services.

II. This legal environment attracts individuals and families to the state and the revised uniform disclaimer of property interests act further reinforces the state's long tradition of protecting settlor intent and further facilitates the administrations of trusts and estates.

III. The revised uniform disclaimer of property interests act replaces New Hampshire's existing and obsolete uniform disclaimer of property interests act by removing the 9-month time limit for disclaimers, expanding the prior definition of "disclaimer" to include a broader range of property, providing further instructions for when a disclaimer is delivered and under what circumstances it becomes effective, clarifying the result of refusing property or powers through a disclaimer, creating rules for several types of disclaimers that have not been explicitly addressed in the prior act, providing rules for the disclaimer of powers held in a fiduciary capacity, specifically allowing a partial disclaimer of an interest in property, and clarifying that the disclaimed interest passes without direction by the disclaimant.

29 Uniform Disclaimer of Property Interests Act. RSA 563-B is repealed and reenacted to read as follows:

CHAPTER 563-B

UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT

Article 1

Short Title

563-B:1 Short Title. This chapter may be cited as the "Uniform Disclaimer of Property Interests Act."

Article 2

Application

563-B:2 Application. This chapter applies to disclaimers of any interest in or power over property, whenever created.

## Article 3

## Definitions

563-B:3 Definitions. For purpose of this chapter, the following definitions shall apply:

(a) “Disclaimant” means the person to whom a disclaimed interest or power would have passed had the disclaimer not been made.

(b) “Disclaimed interest” means the interest that would have passed to the disclaimant had the disclaimer not been made.

(c) “Disclaimer” means the refusal to accept an interest in or power over property.

(d) “Fiduciary” means a personal representative, administrator, trustee, agent acting under a power of attorney, or other person authorized to act as a fiduciary with respect to the property of another person.

(e) “Jointly held property” means property held in the name of 2 or more persons under an arrangement in which all holders have concurrent interests and under which the last surviving holder is entitled to the whole of the property.

(f) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(g) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, recognized by federal law or formally acknowledged by a state.

(h) “Trust” means:

(1) An express trust, charitable or noncharitable, with additions thereto, whenever and however created as defined in RSA 564-A:1; and

(2) A trust created pursuant to a statute, judgment, or decree which requires the trust to be administered in the manner of an express trust.

## Article 4

## Power to Disclaim; General Requirements; When Irrevocable

563-B:4 Power to Disclaim; General requirements; When Irrevocable.

(a) Power to Disclaim.

(1) A person may disclaim, in whole or part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

(2) Except to the extent a fiduciary’s right to disclaim is expressly restricted or limited by this chapter, another statute of this state, or by the instrument creating the fiduciary relationship, a fiduciary may disclaim, in whole or part, any interest in or power over property, including a power of appointment, whether acting in a personal or representative capacity. A fiduciary may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim, or an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

(b) General Requirements.

(1) To be effective, a disclaimer must be in a writing or other record, declare the disclaimer, describe the interest or power disclaimed, be signed by the person making the disclaimer, and be delivered or filed in the manner provided in Article 12. In this Article:

(A) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(B) “Signed” means, with present intent to authenticate or adopt a record, to;

- (i) Execute or adopt a tangible symbol; or
- (ii) Attach to or logically associate with the record an electronic sound, symbol, or process.

(2) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property.

(c) When Irrevocable.

(1) A disclaimer becomes irrevocable when it is delivered or filed pursuant to Article 10 or when it becomes effective as provided in Articles 5 through 9, whichever occurs later.

(2) A disclaimer made under this chapter is not a transfer, assignment, or release.

#### Article 5

##### Disclaimer of Interest in Property

###### 563-B:5 Disclaimer of Interest in Property.

(a) In this section:

(1) "Future interest" means an interest that takes effect in possession or enjoyment, if at all, later than the time of its creation.

(2) "Time of distribution" means the time when a disclaimed interest would have taken effect in possession or enjoyment.

(b) Except for a disclaimer governed by Article 6 or 7, the following rules apply to a disclaimer of an interest in property:

(1) The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable, or, if the interest arose under the law of intestate succession, as of the time of the intestate's death.

(2) The disclaimed interest passes according to any provision in the instrument creating the interest providing for the disposition of the interest, should it be disclaimed, or of disclaimed interests in general.

(3) If the instrument does not contain a provision described in paragraph (2), the following rules apply:

(A) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.

(B) If the disclaimant is an individual, except as otherwise provided in subparagraphs (C) and (D), the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution.

(C) If by law or under the instrument, the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive the time of distribution.

(D) If the disclaimed interest would pass to the disclaimant's estate had the disclaimant died before the time of distribution, the disclaimed interest instead passes by representation to the descendants of the disclaimant who survive the time of distribution. If no descendant of the disclaimant survives the time of distribution, the disclaimed interest passes to those persons, including the state but excluding the disclaimant, and in such shares as would succeed to the transferor's intestate estate under the intestate succession law of the transferor's domicile had the transferor died at the time of distribution. However, if the transferor's surviving spouse is living but is remarried at the time of distribution, the transferor is deemed to have died unmarried at the time of distribution.

(4) Upon the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution, but a future interest held by the disclaimant is not accelerated in possession or enjoyment.

#### Article 6

##### Disclaimer of Rights of Survivorship in Jointly Held Property

###### 563-B:6 Disclaimer of Rights of Survivorship in Jointly Held Property.

(a) Upon the death of a holder of jointly held property, a surviving holder may disclaim, in whole or part, the greater of:

(1) A fractional share of the property determined by dividing the number one by the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates; or

(2) all of the property except that part of the value of the entire interest attributable to the contribution furnished by the disclaimant.

(b) A disclaimer under subsection (a) takes effect as of the death of the holder of jointly held property to whose death the disclaimer relates.

(c) An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

#### Article 7

##### Disclaimer of Interest by Trustee

563-B:7 Disclaimer of Interest by Trustee. If a trustee disclaims an interest in property that otherwise would have become trust property, the interest does not become trust property.

#### Article 8

##### Disclaimer of Power of Appointment or Other Power Not Held in a Fiduciary Capacity

563-B:8 Disclaimer of Power of Appointment or Other Power Not Held in a Fiduciary Capacity. If a holder disclaims a power of appointment or other power not held in a fiduciary capacity, the following rules apply:

(a) If the holder has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(b) If the holder has exercised the power and the disclaimer is of a power other than a presently exercisable general power of appointment, the disclaimer takes effect immediately after the last exercise of the power.

(c) The instrument creating the power is construed as if the power expired when the disclaimer became effective.

#### Article 9

##### Disclaimer by Appointee, Object, or Taker in Default of Exercise of Power of Appointment

563-B:9 Disclaimer by Appointee, Object, or Taker in Default of Exercise of Power of Appointment.

(a) A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.

(b) A disclaimer of an interest in property by an object or taker in default of an exercise of a power of appointment takes effect as of the time the instrument creating the power becomes irrevocable.

#### Article 10

##### Disclaimer of Power Held in Fiduciary Capacity

563-B:10 Disclaimer of Power Held in Fiduciary Capacity.

(a) If a fiduciary disclaims a power held in a fiduciary capacity which has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(b) If a fiduciary disclaims a power held in a fiduciary capacity which has been exercised, the disclaimer takes effect immediately after the last exercise of the power.

(c) A disclaimer under this section is effective as to another fiduciary if the disclaimer so provides and the fiduciary disclaiming has the authority to bind the estate, trust, or other person for whom the fiduciary is acting.

#### Article 11

##### Delivery or Filing

563-B:11 Delivery or Filing.

(a) In this section, "beneficiary designation" means an instrument, other than an instrument creating a trust, naming the beneficiary of:

- (1) An annuity or insurance policy;
- (2) An account with a designation for payment on death;
- (3) A security registered in beneficiary form;
- (4) A pension, profit-sharing, retirement, or other employment-related benefit plan; or
- (5) Any other non-probate transfer at death.

(b) Subject to subsections (c) through (1), delivery of a disclaimer may be effected by personal delivery, first-class mail, or any other method likely to result in its receipt.

(c) In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

(1) A disclaimer must be delivered to the administrator of the decedent's estate; or

(2) If no administrator is then serving, it must be filed with a court having jurisdiction to appoint the administrator.

(d) In the case of an interest in a testamentary trust:

(1) A disclaimer must be delivered to the trustee then serving, or if no trustee is then serving, to the administrator of the decedent's estate; or

(2) If no administrator is then serving, it must be filed with a court having jurisdiction to enforce the trust.

(e) In the case of an interest in an inter vivos trust:

(1) A disclaimer must be delivered to the trustee then serving;

(2) If no trustee is then serving, it must be filed with a court having jurisdiction to enforce the trust; or

(3) If the disclaimer is made before the time the instrument creating the trust becomes irrevocable, it must be delivered to the settlor of a revocable trust or the transferor of the interest.

(f) In the case of an interest created by a beneficiary designation which is disclaimed before the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation.

(g) In the case of an interest created by a beneficiary designation which is disclaimed after the designation becomes irrevocable:

(1) The disclaimer of an interest in personal property must be delivered to the person obligated to distribute the interest; and

(2) An attested copy of the disclaimer of an interest in real property must be recorded in the office of registry of deeds of the county where the real property that is the subject of the disclaimer is located.

(h) In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

(i) In the case of a disclaimer by an object or taker in default of exercise of a power of appointment at any time after the power was created:

(1) The disclaimer must be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power; or

(2) If no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

(j) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment:

(1) The disclaimer must be delivered to the holder, the administrator of the holder's estate, or to the fiduciary under the instrument that created the power; or

(2) If no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

(k) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in subsection (c), (d), or (e), as if the power disclaimed were an interest in property.

(l) In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.

(m) Notwithstanding any right to disclaim an interest in property as provided for in this chapter, a person who has been devised real estate by testamentary instrument, or inherited under the laws of intestacy, may waive his or her rights to the property pursuant to RSA 554:18-b.

#### Article 12

##### When Disclaimer Barred or Limited

###### 563-B:12 When Disclaimer Barred or Limited.

(a) A disclaimer is barred by a written waiver of the right to disclaim.

(b) A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:

(1) The disclaimant accepts the interest sought to be disclaimed;

(2) The disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so; or

(3) A judicial sale of the interest sought to be disclaimed occurs.

(c) A disclaimer, in whole or part, of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.

(d) A disclaimer, in whole or part, of the future exercise of a power not held in a fiduciary capacity is not barred by its previous exercise unless the power is exercisable in favor of the disclaimant.

(e) A disclaimer is barred or limited to the extent that it would impair the ability of the department of health and human services to recover pursuant to Title XIX of the Social Security Act or RSA 126-A, 135, 135-C, 130-A, 143, 143-A, 161, 161-B, 161-C, 161-E, 161-F, 161-H, 161-I, 165, 166, 167, 168-A, 169-B, 169-C, 169-D, 169-F, 170-A, 170-B, 170-E, 170-G, 171-B, 172, or 173-B.

(f) A disclaimer is barred or limited if so provided by law other than this chapter.

(g) A disclaimer of a power over property which is barred by this section is ineffective. A disclaimer of an interest in property which is barred by this section takes effect as a transfer of the interest disclaimed to the persons who would have taken the interest under this chapter had the disclaimer not been barred.

#### Article 13

##### Tax Qualified Disclaimer

563-B:13 Tax Qualified Disclaimer. Notwithstanding any other provision of this chapter, if as a result of a disclaimer or transfer the disclaimed or transferred interest is treated pursuant to the provisions of Title 26 of the United States Code, as now or hereafter amended, or any successor statute thereto, and the regulations promulgated thereunder, as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under this chapter.

#### Article 14

##### Recording of Disclaimer

563-B:14 Recording of Disclaimer. If an instrument transferring an interest in or power over property subject to a disclaimer is required or permitted by law to be filed, recorded, or registered, the disclaimer may be so filed, recorded, or registered. Except as otherwise provided in Article 11(g)(2), failure to file, record, or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

#### Article 15

##### Application to Existing Relationships

563-B:15 Application to Existing Relationships. Except as otherwise provided in Article 12, an interest in or power over property existing on the effective date of this chapter as to which the time for delivering or filing a disclaimer under law superseded by this chapter has not expired may be disclaimed after the effective date of this chapter.

## Article 16

## Supplemented by Other Law

## 563-B:16 Supplemented by Other Law.

(a) Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

(b) This chapter does not limit any right of a person to waive, release, disclaim, or renounce an interest in or power over property under a law other than this chapter.

## Article 17

## Uniformity of Application and Construction

563-B:17 Uniformity of Application and Construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

30 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.***

31 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.

32 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 H, 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.***

33 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.

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

35 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.

36 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.

37 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.

38 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.

39 Mental Health Intervention Training; Appropriation. The sum of \$210,000 for the biennium ending June 30, 2023, is hereby appropriated to the police standards and training council for the purposes of funding mental health intervention training programs. The appropriations shall be in addition to any other funds appropriated to the police standards and training council. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

40 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.

41 Effective Date.

I. RSA 456-B:2, VII as inserted by section 8 of this act and section 15 of this act shall take effect upon its passage.

II. The remainder of sections 5-15 of this act shall take effect 180 days after its passage.

III. Sections 20-27, and section 39 of this act shall take effect July 1, 2021.

IV. Sections 28, 29, 34-38, and 40 of this act shall take effect upon its passage.

V. Sections 3, 4, and 30-33 shall take effect January 1, 2022.

VI. The remainder of this act shall take effect 60 days after its passage.

2021-1778s

AMENDED ANALYSIS

This bill adopts legislation relative to:

I. 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.

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.

The question is on the adoption of the Floor Amendment. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to Third Reading.

SUSPENSION OF THE RULES

Senator Bradley moved that the Senate suspend all rules necessary to permit consideration at the present time of HCR 5, supporting democracy and human rights in Hungary, Poland, and Hong Kong and supporting democracy in Taiwan. Adopted by the necessary 2/3 vote.

INTRODUCTION OF LEGISLATION

Senator Bradley move to introduce HCR 5 and resolved, that in accordance with the list in the possession of the Senate Clerk, HCR 5 shall be by this resolution read a first and second time by the therein listed title. Adopted.

First and Second Reading

HCR 5, supporting democracy and human rights in Hungary, Poland, and Hong Kong and supporting democracy in Taiwan.

Senator Bradley moved Ought to Pass.

The question is on the adoption of the motion of Ought to Pass. Adopted, bill ordered to Third Reading.

#### 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.

Adopted. Adjournment from the Early Session.

#### LATE SESSION ANNOUNCEMENTS

(The Chair recognized Senator Ricciardi.)

SENATOR RICCIARDI: Thank you, Mister President. I rise to ask Unanimous Consent for Personal Privilege in order to express my deep sorrow over the loss of my friend and our colleague, Representative Dave Danielson. You knew him for his work in this building, but I had known him for twenty years as one of the most dedicated and energetic residents of Bedford. He was a mentor to many. His many years on town council, he always said when it came to the budget, we're here to take care of the people on a fixed and the low income people and don't ever forget it. He was passionate about many things but one thing about Dave was, he didn't just talk the talk, he walked the walk.

He was a proud graduate of Bishop Brady, of Saint A's, and of Rivier University. Dave served for twenty-one years in New Hampshire National Guard, and an instructor at New Hampshire Military Academy, and a recipient of the Army Achievement Medal. He taught at Southern New Hampshire University, and he worked in sales and marketing for many years for Digital Equipment, and later for New Hampshire Fire Academy. But it was as a volunteer that Dave made our town and our state so much better. He was an active member through his church, through the Rotary Club, delivering the eucharist at the State Prison. Dave spent his entire life serving others. That included politics, serving on the town council, the planning board, and five terms in this very room, representing Bedford in the New Hampshire House.

I could spend the next hour detailing the awards and honors that Dave earned over a lifetime of service. But I will just say to Mary, his wife of fifty-one years and his family, that Dave was loved and will be missed. You should know that my prayers and the warm wishes of everyone at the State House go out to you and your family. Thank you, Mister President.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. I ask for Unanimous Consent. First of all, I want to say thank you to you, Mister President, for allowing me to do this virtually, and to all of my colleagues in the Senate, and to all of the supporting people in the Senate Office, Annie, and Tammy, and everyone who's been so generous with their time in helping me. As most of you know, I had a slight medical problem that had to be taken care of immediately and as a result of that, I'm here at home.

But what I wanted to talk about today is I feel like I'm one of the most blessed men in the world. As a youngster, my home burnt down when I was about four years of age, and I was saved, my life was saved by a fireman. They took me out of the house along with my brothers and my family. We were living on the third floor of an apartment building in East Boston, Massachusetts. So, that was a great lifesaving thing for me.

The second this is I was in Connecticut four years ago and needed emergency surgery for a significant problem that would have caused my death had it not been done. So, I'm very, very lucky in that respect. But I want to say to all of you, that the luckiest thing that's ever happened to me was sixty years ago when I married Pat Morganstern at Saint Rachel's Church in Manchester, New Hampshire. We met as freshmen at the University of New Hampshire. Dated through our college years and got married in my senior year. No one has been more supportive of me and my life, and as many of you know, it's not easy. But sixty years ago, we got married and here we are today on our sixtieth wedding anniversary and I'm laid up to some extent and I can't give her the kinds of things she truly deserves. And I just want to make one quote, because I heard about this today and I just thought it was very moving. "We can't all do great things, but we can do small things with great love," and that's a quote from Mother Teresa, and let me repeat that; "but we can do small things with great love." And it's with great love that we have been together for this sixty plus years, and I can't be more thankful. And thank you Chuck Morse, for your friendship and for all the courtesies that you've extended to me and many, many thanks to all of my colleagues. Thank you, Mister President.

PRESIDENT MORSE: No offense, Senator D, but your wife wants you to rest so why don't you listen to her. Without objection, all personal privileges and unanimous consent shall be entered into the permanent *Journal of the Senate*. (Rule 2-16 and Rule 2-17). Adopted.

#### ANNOUNCEMENTS

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: I rise to Unanimous Consent. Harkening to your comment about my airline flight, I'd just like to share with the body. I was privileged to share Rogers Johnson's, former State Rep's, last moments with him by telephone. And the reason for my flight today is that I promised him just before he passed, that I would stand in his stead to the graduation of his son Jeremy from the United States Naval Academy, which happens to be my alma mater. And so, I carry I'm sure, with each of you, and with everyone that's served in this body in the Senate or in the House, our best wishes for Portia and to Jeremy for a wonderful future. And that God Bless you Rogers Johnson, we'll see you on the other side. Thank you, Mister President.

Without objection, Without objection, Senator Giuda's remarks shall be entered into the permanent *Journal of the Senate*. (Rule 2-16 and Rule 2-17). Adopted.

#### LATE SESSION

##### Third Reading and Final Passage

HB 98, relative to the date of the state primary election.

HB 108-FN-LOCAL, relative to minutes and decisions in nonpublic sessions; an exemption for items falling within the attorney-client privilege or the attorney work product doctrine under the right-to-know law; and remote access to public meetings under the right-to-know law.

HB 143, relative to an electronic prescription drug program and establishing licensure and requirements for licensed social workers, licensed social work associates, and social work conditional licenses.

HB 179-FN, relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.

HB 180, increasing the penalty for buyers under the law regarding trafficking in persons.

HB 186, relative to certain legislative study commissions and committees.

HB 195, adding display of a firearm as an exception to reckless conduct.

HB 220, relative to medical freedom in immunizations and establishing a committee to examine the policy of medical intervention including immunizations.

HB 224, relative to tinted windows on motor vehicles, relative to civil liability for damage to highways, and relative to employer access to motor vehicle records.

HB 236, creating a statute of limitation on civil actions relative to damage caused by perfluoroalkyl and polyfluoroalkyl substances.

HB 271, relative to standards for per and polyfluoroalkyl substances (PFAS) in drinking water and ambient groundwater.

HB 278, relative to the use of unused district facilities by chartered public schools.

HB 291, relative to the analysis of requests for absentee ballot information by the attorney general.

HB 334, relative to prohibitions on carrying a loaded firearm on an OHRV or snowmobile and relative to the procedure for conducting firearm background checks.

HB 391, establishing a commission to review and make recommendations on campaign finance laws.

HB 417, relative to the powers of the governor during a declared state of emergency.

HB 485, relative to informed consent to search a motor vehicle and amending the statutory requirements for a search warrant; relative to prohibiting certain uses of laser pointing devices, and relative to various civil actions and criminal liability.

HB 509, relative to portraits and memorial objects in the state house, legislative office building, and Upham Walker house.

HB 542, relative to the protection of religious liberty.

HB 566, (Second New Title) relative to the discussion of disclosure of the minutes from a nonpublic session under the right-to-know law.

HB 567, permitting certain military personnel, emergency medical technicians, and paramedics to apply for licensure as a nursing assistant.

HB 605-FN, relative to the therapeutic cannabis program.

HB 606, exempting services provided without remuneration from license requirements for barbering, cosmetology, and esthetics.

HB 610-FN, requiring certain licensing and reporting functions be conducted through the Nationwide Multistate Licensing System and Registry, relative to background investigations of trust officers, to certain filing fees, assessments, and interest rates, and to the transmission of consumer complaints by the banking department, requiring employers to provide certain workplace accommodations for employees, and establishing the New Hampshire housing and conservation planning program.

HCR 5, supporting democracy and human rights in Hungary, Poland, and Hong Kong and supporting democracy in Taiwan.

#### 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.

Adopted. The Senate is in recess to the Call of the Chair.