

*March 14, 2018*

The Senate reconvened at 12:00 p.m., a quorum being present.

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

Let us pray.

God, our creator, who has given us this good land for our heritage, we humbly ask that we may always prove ourselves a people mindful of all our blessings. May we continue to bless our community with honorable industry, sound learning, and pure manners. Save us from violence, discord, and confusion; from pride and arrogance, and from every evil way. Defend our liberties and fashion into one united people, the multitudes brought to New Hampshire out of many nations and tongues. We thank you for noble men and women whom we have elected and entrusted with the authority of government. We thank you that they have heard the call to serve all the people of New Hampshire with their best selves. Give them the spirit of wisdom, that there may be justice and peace at home and that their obedience to the law we may show forth all that is good and honorable. In the time of prosperity fill our hearts with thankfulness. In the day of trouble give us courage to face the obstacles ahead. Amen

Senator French led the Pledge of Allegiance.

#### SPECIAL ORDER

Without objection, the following bills are special ordered to Thursday, March 15, 2018. Adopted.

#### COMMERCE

SB 318, amending the prohibitions on youth employment.

SB 423, relative to noncompete clauses for low-wage employees.

SB 553-FN, relative to mental health parity for workers' compensation.

#### EDUCATION

SB 525-FN, prohibiting the distribution of higher education and adult education financial assistance to any student who is not a legal resident.

#### REGULAR CALENDAR

#### EDUCATION

SB 568-FN, relative to criminal history record checks for school employees and certain volunteers.

Ought to Pass with Amendment, Vote 4-1. Senator Reagan for the committee.

Senate Education

March 6, 2018

2018-0965s

06/04

#### Amendment to SB 568-FN

Amend RSA 189:13-a, I as inserted by section 1 of the bill by replacing it with the following:

I.(a) The ~~[employing]~~ school administrative unit, school district, ~~[or]~~ chartered public school, **or public academy** shall complete a criminal history records check on every selected applicant for employment **or designated volunteer** in any position ~~[in]~~ **within** the school administrative unit, school district, ~~[or]~~ chartered public school, **or public academy** prior

to a final offer of employment **or the acceptance of volunteer services from a designated volunteer. A school administrative unit, school district, chartered public school, or public academy approved by the New Hampshire state board of education shall submit a criminal history records check on applicants for employment pursuant to this section to the division of state police.** [A public academy approved by the New Hampshire state board of education shall submit a criminal history records check on applicants for employment pursuant to this section to the division of state police.] The superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy may extend a conditional offer of employment to a selected applicant, with a final offer of employment subject to a successfully completed criminal history records check. No selected applicant may be extended a final offer of employment unless the school administrative unit, school district, chartered public school, or public academy has completed a criminal history records check. The school administrative unit, school district, chartered public school, or public academy shall not be held liable in any lawsuit alleging that the extension of a conditional or final offer of employment to an applicant, or the acceptance of volunteer services from a designated volunteer, with a criminal history was in any way negligent or deficient, if the school administrative unit, school district, chartered public school, or public academy fulfilled the requirements of this section.

(b) A nonpublic school may elect to require a criminal history records check on selected applicants for employment or selected volunteers. A nonpublic school that elects to conduct a criminal history records check shall comply with the procedures and requirements set forth in this section. **A school administrative unit, school district, chartered public school, or public academy approved by the New Hampshire state board of education shall submit a criminal history records check on applicants for employment pursuant to this section to the division of state police.**

(c) **If a selected applicant for employment has been credentialed within the previous 12 months and had a criminal background check completed pursuant to paragraph II-a, no such background check shall be required for employment by the school administrative unit, school district, chartered public school, or public academy.**

Amend RSA 189:13-a, V as inserted by section 1 of the bill by replacing it with the following:

V. Any person who has been charged pending disposition for or convicted of any violation or attempted violation of RSA 318-B:2, **controlled drug act**; 630:1, **capital murder**; 630:1-a, **first degree murder**; 630:1-b, **second degree murder**; 630:2, **manslaughter**; 631:1, **first degree assault**; 631:2, **second degree assault**; 631:2-b, **domestic violence**; 632-A:2, **aggravated felonious sexual assault**; 632-A:3, **felonious sexual assault**; 632-A:4, **sexual assault**; 633:1, **kidnapping**; 634:1, **arson**; 639:2, **incest**; 639:3, **endangering welfare of child or incompetent**; 645:1, II or III, **indecent exposure and lewdness**; 645:2, **prostitution and related offenses**; 649-A:3, **possession of child sexual abuse images**; 649-A:3-a, **distribution of child sexual abuse images**; 649-A:3-b, **manufacture of child sexual abuse images**; 649-B:3, **computer pornography**; or 649-B:4, **certain uses of computer services**; or any violation or any attempted violation of RSA 650:2, **obscenity**, 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 hired by a school administrative unit, school district, chartered public school, or public academy. The superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy may deny a selected applicant a final offer of employment if such person has been convicted of any crime, misdemeanor or felony, in addition to those listed above. The governing body of a school district, chartered public school, or public academy shall adopt a policy relative to hiring practices based on the results of the criminal history records check and report of misdemeanors and felonies received under paragraph II. Such policy may include language stating that any person who has been convicted of any misdemeanor, or any of a list of misdemeanors, may not be hired. Such policy may also include language stating that any person who has been convicted of any felony, or any of a list of felonies, shall not be hired.

Amend RSA 189:13-a, IX(a) as inserted by section 1 of the bill by replacing it with the following:

IX.(a) Substitute teachers and other educational staff, not otherwise addressed in this section, shall apply for a criminal history records check at the employing school administrative unit, school district, chartered public school, or public academy. The division of state police shall complete the criminal history records check, as established in paragraph II, and, upon completion, shall ~~issue a report to the applicant. The report shall be valid for 30 days from the date of issuance and shall constitute satisfactory proof of compliance with this section]~~ ***issue the applicant's record to the employing school district. The employing school district may, at the request of the substitute teachers or other educational staff not otherwise addressed in this section and for the same purpose as originally submitted, share the results with other school districts within 45 days of receiving said results.***

SENATOR REAGAN: Thank you, Mister President. At the request of the Department of Education this bill modifies the process of criminal background checks for school employees and designated volunteers. Although the committee amended the legislation the Committee Amendment itself had some unintended consequences. I ask you to vote down the Committee Amendment so that a subsequent amendment may be offered to correct these errors. Thank you, Mister President.

The question is on the adoption of the Committee Amendment. Failed. Senator Reagan offered a Floor Amendment.

Sen. Reagan, Dist 17  
March 8, 2018  
2018-1033s  
06/10

#### Floor Amendment to SB 568-FN

Amend RSA 189:13-a, I as inserted by section 1 of the bill by replacing it with the following:

I.(a) The ~~employing~~ school administrative unit, school district, ~~or~~ chartered public school, ***or public academy*** shall complete a criminal history records check on every selected applicant for employment ***or designated volunteer*** in any position ~~in~~ ***within*** the school administrative unit, school district, ~~or~~ chartered public school, ***or public***

***academy prior to a final offer of employment or the acceptance of volunteer services from a designated volunteer. A school administrative unit, school district, chartered public school, or public academy approved by the New Hampshire state board of education shall submit a criminal history records check on applicants for employment pursuant to this section to the division of state police.*** [A public academy approved by the New Hampshire state board of education shall submit a criminal history records check on applicants for employment pursuant to this section to the division of state police.] The superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy may extend a conditional offer of employment to a selected applicant, with a final offer of employment subject to a successfully completed criminal history records check. No selected applicant may be extended a final offer of employment unless the school administrative unit, school district, chartered public school, or public academy has completed a criminal history records check. The school administrative unit, school district, chartered public school, or public academy shall not be held liable in any lawsuit alleging that the extension of a conditional or final offer of employment to an applicant, or the acceptance of volunteer services from a designated volunteer, with a criminal history was in any way negligent or deficient, if the school administrative unit, school district, chartered public school, or public academy fulfilled the requirements of this section.

(b) A nonpublic school may elect to require a criminal history records check on selected applicants for employment or selected volunteers. A nonpublic school that elects to conduct a criminal history records check shall comply with the procedures and requirements set forth in this section. ***A school administrative unit, school district, chartered public school, or public academy approved by the New Hampshire state board of education shall submit a criminal history records check on applicants for employment pursuant to this section to the division of state police.***

(c) ***If a selected applicant for employment has been credentialed within the previous 12 months and had a criminal background check completed pursuant to paragraph II-a, no such background check shall be required for employment by the school administrative unit, school district, chartered public school, or public academy.***

Amend RSA 189:13-a, V as inserted by section 1 of the bill by replacing it with the following:

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 hired by a school administrative unit, school district, chartered public school, or public academy. The superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy may deny a selected applicant a final offer of employment if such person has been convicted of any crime, misdemeanor or felony, in addition to those listed above. The governing body of a school district, chartered public school, or public

academy shall adopt a policy relative to hiring practices based on the results of the criminal history records check and report of misdemeanors and felonies received under paragraph II. Such policy may include language stating that any person who has been convicted of any misdemeanor, or any of a list of misdemeanors, may not be hired. Such policy may also include language stating that any person who has been convicted of any felony, or any of a list of felonies, shall not be hired.

Amend RSA 189:13-a, IX(a) as inserted by section 1 of the bill by replacing it with the following:

IX.(a) Substitute teachers and other educational staff, not otherwise addressed in this section, shall apply for a criminal history records check at the employing school administrative unit, school district, chartered public school, or public academy. The division of state police shall complete the criminal history records check, as established in paragraph II, and, upon completion, shall ~~[issue a report to the applicant. The report shall be valid for 30 days from the date of issuance and shall constitute satisfactory proof of compliance with this section]~~ ***issue the applicant's record to the employing school district. The employing school district may, at the request of the substitute teachers or other educational staff not otherwise addressed in this section and for the same purpose as originally submitted, share the results with other school districts within 45 days of receiving said results.***

SENATOR REAGAN: This amendment removes newly added arrests and convictions that were originally added by the committee, including possession of cannabis, which has now been decriminalized. This was not the intent of the legislation and these issues should be worked out in a separate piece of legislation. This amendment gives us something very workable and necessary to Senate Bill 568.

(The Chair recognized Senator Soucy for a question of Senator Reagan.)

SENATOR SOUCY: Senator Reagan, you stated that this Floor Amendment removes the provisions about controlled substances. Does it remove other provisions that were in the original bill such as assault and domestic violence?

SENATOR REAGAN: It does remove several areas that were not originally criteria for the approval of the process.

SENATOR SOUCY: Thank you, Senator.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you, Mister President. Mister President, if you look at the Floor Amendment and compare it to the Committee Amendment in the calendar and the bill in chief, you can see that the Floor Amendment erases domestic violence as a possible background check mechanism with respect to this legislation. So, I think, while I understand the work of the committee, I think it may make sense to keep that in there, and for those reasons I would be opposed to the Floor Amendment. Thank you, Mister President.

(The Chair recognized Senator Daniels for a question of Senator Reagan.)

SENATOR DANIELS: Did I hear you correctly to say that this removes checks for marijuana because we have decriminalized it?

SENATOR REAGAN: In an over ambitious effort by the attorney at the Department of Education, things got added that should not have been added. So that's what we've done, and the amendment is to back those off.

SENATOR DANIELS: So, I take it that the answer is yes. I think that's what you said, but this is still in regard to the fact that marijuana is illegal federally. Is that correct?

SENATOR REAGAN: If you say so.

SENATOR DANIELS: Thank you.

(The Chair recognized Senator Watters.)

SENATOR WATTERS: Thank you, Mister President and colleagues. I wanted to first thank the Chair of Senate Education for several years of work on the background check issue. You know we had a tragic situation a few years ago which led to a lot of reexamination of what we're doing and what statutes are here. And I know that the Senator from District 17 has put a lot of work into this, and worked with the Department, as well. And as I speak to the amendment, I also want to note that there is an important overall change here let alone what is being done and which statutes are referenced as prohibiting employment; that the time of the background check is being moved up. Instead of being prior to certification it is now prior to the hiring, and that's an important change.

As to the issue of the statutes that are covered here, I agree with the Chair of Senate Education that we really did not have time to fully understand or go through the amendment which came out of the Department of Education. And I will say that some of the things that were proposed, you know, that we had first and second degree assault in there, there was arson, there was domestic violence. And I think those, you know, I think I would have preferred some of those still remain in it, but I also understood that for other members of the Education Committee upon further reflection looked like if we're going to actually have something in here that prevents someone from employment, we ought to look at that carefully. And I'm sure that we will be looking at that in the future, and so I do hope we will support the amendment. Thank you.

The question is on the adoption of the Floor Amendment.

Recess. Out of recess.

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

The following Senators voted Yes: Giuda.

The following Senators voted No: Woodburn, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

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

Senator Bradley moved to Lay on the Table SB 568-FN. Adopted.

#### ENERGY AND NATURAL RESOURCES

SB 446, relative to net energy metering limits for customer-generators. Ought to Pass with Amendment, Vote 5-0. Senator Bradley for the committee.

Energy and Natural Resources

March 6, 2018

2018-0972s

10/08

#### Amendment to SB 446

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

1 Net Energy Metering; Definition of Eligible Customer-generator. Amend RSA 362-A:1-a, II-b to read as follows:

II-b. "Eligible customer-generator" or "customer-generator" means an electric utility customer who owns, operates, or purchases power from an electrical generating facility either powered by renewable energy or which employs a heat led combined heat and power system, with a total peak generating capacity of up to and including ~~[one megawatt]~~ **5 megawatts, or from a qualifying facility larger than 5 megawatts but less than 25 megawatts if the facility's output allocated for net energy metering participation is limited to not more than 5 megawatts,** and that is located behind a retail meter on the customer's premises, is interconnected and operates in parallel with the electric grid, and is used to offset the customer's own electricity requirements. Incremental generation added to an existing generation facility, that does not itself qualify for net metering, shall qualify if such incremental generation meets the qualifications of this paragraph and is metered separately from the nonqualifying facility.

2 Net Energy Metering; Billing. Amend RSA 362-A:9, IV(b) to read as follows:

(b) For facilities with a total peak generating capacity of more than 100 kilowatts **and up to 5 megawatts**, the customer-generator shall pay all applicable charges on all kilowatt hours supplied to the customer over the electric distribution system ~~[-less a credit on default service charges]~~ equal to the metered energy generated by the customer-generator and fed into the electric distribution system over a billing period.

3 Net Energy Metering; Crediting. Amend RSA 362-A:9, V(b) to read as follows:

(b) Except as provided in paragraph VI, the customer-generator **with a total peak generating capacity of more than 1 megawatt and not exceeding 5 megawatts** may elect to be paid or credited by the electric distribution utility for its excess generation at rates ~~[that are equal to the utility's avoided costs for energy and capacity to provide default service as determined by the commission consistent with the requirements of the Public Utilities Regulatory Policy Act of 1978 (PURPA)]~~ **as determined by the public utilities commission. The public utilities commission shall initiate a proceeding to determine an interim rate as expeditiously as possible and issue its order within 6 months of the effective date of this paragraph at which time a customer generator could generate more than 1 megawatt and not exceed 5 megawatts. Projects that receive the interim rate shall be grandfathered for a period of 12 years from the time at which the project becomes operational. The PUC shall determine a final rate within 3 years based upon the results of the alternative net metering tariff proceedings in Docket DE-16-576. In developing such rates the commission shall consider costs and benefits of customer generated facilities, avoidance of unjust and unreasonable cost shifting, rate effects on all customers, timely recovery of lost revenue by the utility using an automatic rate adjustment mechanism and electric distribution utilities administrative processes required to implement such rates.** The commission shall determine reasonable conditions for such an election, including the frequency of payment and how often a customer-generator may choose this option versus the option in subparagraph (a).

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

2018-0972s

## AMENDED ANALYSIS

This bill increases the electric generating capacity of customer generators who may participate in net energy metering, and requires the public utilities commission to determine the rates for crediting the electric generation.

SENATOR BRADLEY: Thank you, Mister President. I move Senate Bill 446 Ought to Pass with Amendment. The bill increases the electric generation capacity of customer generators who may participate in net metering and requires the Public Utilities Commission to determine the rates for crediting electric generation. The bill, as amended, increases the electric generation capacity of customer generators who may participate in net metering from the current cap of 1 megawatt to 5 megawatts. The bill also requires the PUC to initiate a proceeding to determine an interim rate for customer generators with a generating capacity between 1 megawatt to 5 megawatts, and a final rate developed within three years for those customer generators. The PUC would have to consider several different things such as costs and benefits of customer generated facilities, avoidance of cost shifting, rate impact on customers, and the effect on electric utilities. The Senate Energy and Natural Resources Committee asks for your support for the motion of Ought to Pass with Amendment. I will introduce a technical Floor Amendment after the vote on this amendment. Thank you, Mister President.

The question is on the adoption of the Committee Amendment. Adopted. Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3  
March 7, 2018  
2018-1021s  
10/03

## Floor Amendment to SB 446

Amend the bill by replacing section 2 with the following:

2 Net Energy Metering; Billing. Amend RSA 362-A:9, IV(b) to read as follows:

(b) For facilities with a total peak generating capacity of more than 100 kilowatts **and up to one megawatt**, the customer-generator shall pay all applicable charges on all kilowatt hours supplied to the customer over the electric distribution system, less a credit on default service charges equal to the metered energy generated by the customer-generator and fed into the electric distribution system over a billing period.

SENATOR BRADLEY: Thank you. In the drafting of the amendment the word “and up to one megawatt” was deleted to leave in place the current law for net metering between 100 kilowatt, the small roof top systems, and up to, which is what we now have, one megawatt. So that the provisions of what we just voted on would apply from one megawatt to five megawatt, a technical fix. Thank you.

(The Chair recognized Senator Sanborn for a question of Senator Bradley.)

SENATOR SANBORN: Thanks for taking the question, and I apologize because in the absence of what you would say this would be a huge policy change, so I missed part of what you said. I just wanted clarification on it. Did the committee have discussions, and was going from 100 kilowatts to 1 megawatt—that was discussed and voted on, or was it missed?

SENATOR BRADLEY: No, no there was never a proposed change in the net metering policy from 100 kilowatts to 1 megawatt. What happened in the drafting is language was left out and put the new provisions onto what has been and is law from 100 kilowatt to 1 megawatt. This Floor Amendment restores the existing law and allows the new above 1 megawatt generation.

SENATOR SANBORN: Perfect. Thank you very much. Thank you, Mister President.

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

SB 463-FN, establishing an architectural paint can recycling program. Inexpedient to Legislate, Vote 3-1. Senator Gannon for the committee.

SENATOR GANNON: Thank you, Mister President. I move Senate Bill 463-FN Inexpedient to Legislate. The legislation would establish an architectural paint can recycling program. Although the program would establish a safe way to dispose of paint, the fees associated with the program, the potential cost to the consumer, in addition many concerns from the Department of Environmental Services to its implementation of the program, caused apprehension for the committee members to move this bill forward. There was also discussion amongst committee members that there were presently in the area, in the cities and towns that exist, there are drop off centers for excess paint. The ED&A Committee voted 4-0 Inexpedient to Legislate and asks for your support in their recommendation. Thank you, Mister President.

The question is on the adoption of the motion of Inexpedient to Legislate.

A roll call was requested by Senator Sanborn, seconded by Senator Avarð.

The following Senators voted Yes: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Daniels, Avarð, Lasky, Carson, Feltes, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators voted No: Kahn.

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

#### FINANCE

SB 540-FN, relative to funding full day kindergarten.

Ought to Pass with Amendment, Vote 6-0. Senator Daniels for the committee.

Senate Finance

March 6, 2018

2018-0980s

06/10

#### Amendment to SB 540-FN

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

1 Definitions; Average Daily Membership in Attendance. Amend RSA 198:38, I(a) to read as follows:

I.(a) "Average daily membership in attendance" or "ADMA" means the average daily membership in attendance, as defined in RSA 189:1-d, III, of pupils in kindergarten through grade 12, in the determination

year, provided that no kindergarten pupil shall count as more than 1/2 day attendance per school year ***except in school districts where the kindergarten pupil is attending a full-day school district operated kindergarten program.*** ADMA shall only include pupils who are legal residents of New Hampshire pursuant to RSA 193:12 and educated at school district expense which may include public academies or out-of-district placements, ***or in the case of kindergarten programs only during fiscal years 2019 and 2020, a combination of school district expense and private payments.*** For the purpose of calculating funding for municipalities, the ADMA shall not include pupils attending chartered public schools, but shall include pupils attending a charter conversion school approved by the school district in which the pupil resides.

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

2018-0980s

#### AMENDED ANALYSIS

This bill modifies the definition of “average daily membership in attendance” to include full-day kindergarten and provide for certain private payments.

SENATOR DANIELS: I move Senate Bill 540 Ought to Pass with Amendment. This bill sought to eliminate the proration provision relative to keno revenue for the additional kindergarten grant under RSA 198:48-c, which applies to fiscal year 2020 and each year thereafter. The amendment to SB 540 addresses kindergarten and parent-pay towns and modifies the definition of “average daily membership in attendance” to address kindergarten pupils attending a full-day school district-operated kindergarten program in parent-pay towns. The amendment also allows parent-pay towns to participate in the program and accept the \$1,100 entitlement from the state for the first two years, being fiscal year ‘19 and ‘20, which they cannot do now. After those two years, it restricts the program to only towns that do not have parent-pay. The committee unanimously recommends passage of Senate Bill 540 as amended and asks for your support. Thank you, Mister President.

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

Senator Feltes offered a Floor Amendment.

Sen. Feltes, Dist 15

Sen. Woodburn, Dist 1

Sen. Watters, Dist 4

Sen. Hennessey, Dist 5

Sen. Kahn, Dist 10

Sen. Lasky, Dist 13

Sen. Cavanaugh, Dist 16

Sen. Soucy, Dist 18

Sen. D’Allesandro, Dist 20

Sen. Fuller Clark, Dist 21

March 8, 2018

2018-1034s

06/10

#### Floor Amendment to SB 540-FN

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Kindergarten Grants. Amend RSA 198:48-c, III(a) to read as follows:

III.(a) For fiscal year 2020 and each fiscal year thereafter, in addition to any funds received pursuant to RSA 198:40-a, the department of education shall distribute a total kindergarten grant, pursuant to RSA 198:40-a, for the remaining 1/2 of each average daily membership not counted under RSA 198:40-a to each school district or chartered public school that operates an approved full-day kindergarten program. ~~[If the amount of revenue raised through keno is insufficient to fully fund the distribution of grants under this section, the revenue shall be prorated proportionally based on entitlement among the districts entitled to a grant. The prorated portion of this grant shall not be less than the per pupil amount disbursed under paragraph I(b).]~~

2018-1034s

### AMENDED ANALYSIS

This bill modifies the definition of “average daily membership in attendance” to include full-day kindergarten and provide for certain private payments. This bill also deletes the requirement that revenue distributed to districts entitled to kindergarten grants be prorated if revenue raised through keno is insufficient to fully fund the grants.

SENATOR FELTES: Thank you, Mister President. This amendment reinstates the base bill. What happened in the committee is the base bill was erased, and then the information or the language that the Chair of Senate Finance just talked about was added. So, this adds back in the base bill. What this does not do, it does not repeal keno; it does not use general education trust funds in this budget. Here's what it does do: it works with the existing language that was passed last year in Senate Bill 191, which said that in fiscal year 2020 kindergarteners should be treated the same, but then capped whether or not kindergarteners were treated the same based on keno revenue. So, in other words, it gets rid of the keno cap on kindergarten support so that in 2020 we actually treat kindergarteners the same as any other student. Thank you very much, Mister President.

(The Chair recognized Senator Woodburn.)

SENATOR WOODBURN: Thank you, Mister President. I rise in support of the amendment. Politics makes strange bedfellows sometimes but marrying a good idea—kindergarten—with another idea—keno—and taking that funding and mixing the two together is a bad idea. It picks the pocket of our poorest people in our poorest communities. Keno dollars raised in Berlin should not, as they are today, be sent to places like Bedford. In New Hampshire we are famous for our frugality, but we have to understand when we look up the scales of justice here, are we doing justice to everyone, or are we hurting poor people? Are we hurting middle class people? Are we preying on the gambling instincts of people to pay for those in wealthier communities? The gap between rich and poor in New Hampshire is growing fast, and we need to be doing more. We're going to spend part of today focusing on our most vulnerable children and helping them where we have turned a blind eye. But this bill, this bill will hopefully set things straight, put the scales of justice back in a way that we decouple this money. Whether you call it an annulment or a divorce it doesn't matter, but we've got to break these two apart and let's do the right thing and let's get this thing separated and let's move forward. Thank you, Mister President.

(The Chair recognized Senator Daniels.)

SENATOR DANIELS: Thank you, Mister President. I rise in opposition to the amendment. I agree with the previous speaker that we ought to divorce this amendment from what we just passed. This amendment significantly raises the cost. Something that should be done, was considered in Finance. We chose, instead, to unanimously go with the amendment. Coming back some other time we can talk about that, but for right now it significantly raises the amount that's being put out there for kindergarten and I stand opposed to that. Thank you, Mister President.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. Hmm, keno cap. Hmm, keno cap. Keno cap. Let me put it this way: no keno, no kindergarten in the North Country, in Manchester, anywhere. Now I'm having a hard time remembering, you know, it must be early onset Alzheimer's. I just, I don't get it. When we do bipartisan work around here protecting the kids and then we don't do it? I don't know what the purpose of this is. Funding kindergarten—I don't like keno, but the art of the possible is what's helping kids in New Hampshire. And while we all voted, as I recall, for different pieces of legislation—I remember Senator Watters and I worked on this at great length. Our friends across the other side of the wall—it was keno or nothing. That's where the art of the possible comes in. Let's not try to undo the progress that we're making for kids in New Hampshire. Let's not undo the fact that every town gets a chance to vote on whether they want keno or not, so why? Thank you, Mister President.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you, Mister President. Why? Well, it's important to treat kindergarteners the same as any other student. The fortunes of kindergarteners shouldn't rise or fall based on any revenue source, let alone keno revenue. This doesn't delete keno, as has been suggested by the Majority Leader. It doesn't. It just decouples keno from kindergarteners. That's it. No keno, no kindergarten support, well that doesn't change under this bill. All this says is in 2020 let's actually treat kindergarteners the same. That's the policy in the bill that was passed last year. But, keno is not going to generate the revenues to treat kindergarteners the same. It's just not. And whether it's keno, or a cigarette tax, or any other revenue source, tying one grade, in this case kindergarteners, specifically to that revenue source is simply bad public policy and likely unconstitutional. So, all this does is delink the two, so that in 2020 our communities can actually rely upon the fact that kindergarteners will be treated the same. In 2020 our schools can plan appropriately, that's why. Thank you, Mister President.

(The Chair recognized Senator Fuller Clark for a question of Senator Feltes.)

SENATOR FULLER CLARK: Senator Feltes, would you explain what will happen in 2020 if keno doesn't raise the projected dollars that are needed to cover the full cost of kindergarten? Will that gap have to be filled by local communities?

SENATOR FELTES: Thank you very much for the question, Senator Fuller Clark. If a local community chooses to have full day kindergarten that gap will have to be filled by that local community if keno doesn't raise enough, and it's not projected to raise enough. That's why it's a keno cap on kindergarten support.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I rise in opposition to this amendment. With all due respect to the Senator from District 15, he is no better prognosticator as to the outcome of the keno revenues, which according to the Lottery Commission are doing extremely well in those towns that have chosen to adopt it. So if a town chooses not to, there may be a consequence. We've changed the argument from the sky is falling to the sky might fall. And let's just take the opportunity to perhaps lasso some more taxpayer dollars into possibilities that we have no way of knowing. The sky is not falling and I'm telling you that if it does it will be a choice made by the communities as to whether they choose to engage or not. When they see the success of the program as reported by the Lottery Commission, they may choose to change their minds. This is a local community choice to participate or not. And the consequences of choices belong to those who make them. I speak against this amendment. Thank you, Mister President.

(The Chair recognized Senator Woodburn for a question of Senator Giuda.)

SENATOR WOODBURN: Thank you, Senator Giuda, for taking my question. You mentioned the consequences of those communities that chose not to adopt keno. Could you explain those consequences that they have?

SENATOR GIUDA: Certainly. If the community doesn't have the keno to support kindergarten, then the community will raise the funds to; or, this legislature will make a decision to perhaps change that law. We just implemented this. We haven't given it a possibility of a chance to start playing out. So, if it doesn't work I have every confidence that this body and the one across that wall will do whatever's necessary to take care of our kids. What we don't need is prognosticators with no validity, then saying that we must implement a solution for a problem we don't even know we have. Thank you, Mister President.

(The Chair recognized Senator Avard for a question of Senator Feltes.)

SENATOR AVARD: When this vote for the keno came up, I thought we voted for this unanimously. You had mentioned that it could potentially be unconstitutional. Do I understand you correctly that you voted for something that could potentially be unconstitutional?

SENATOR FELTES: Thank you for the question, Senator Avard. I voted for kindergarten all throughout the legislative process. You're right, there was a vote that was 22-1 for full adequacy for full day kindergarten, which is what this bill and amendment does. I voted no on the unconstitutional keno cap coming out of a committee of conference where things went a little sideways.

SENATOR AVARD: No further questions, thank you.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Revisionist history is something. Nothing went sideways. We funded kindergarten, and it was a bipartisan vote. Yes, a bipartisan vote. And to my friend who is an attorney, nothing is unconstitutional until judges declare it unconstitutional. We could all opine, but until it's declared unconstitutional it's just keno funding kindergarten, which is a good thing because we're actually funding kindergarten. I agree with my friend from District 2—I was trying to remember the town. I'm really getting early onset.

SENATOR GIUDA: If I might—the newest keno addition to the kindergarten funding scheme as of town meeting yesterday. Thank you, Mister President, I apologize.

SENATOR BRADLEY: There you go! That's why he's got the orange shirt. Now I've lost my train of thought. I think what we should do is vote down this amendment and know, that as our friend from District 2 said, if somehow we don't meet the revenues—and I'm glad to hear that the Lottery Commission thinks we're doing quite well and we're likely going to meet the revenues—this legislature is going to do the right thing by our kids. I know that because I served with all of you and we're going to do that. Thank you.

(The Chair recognized Senator Soucy.)

SENATOR SOUCY: Thank you, Mister President. Mister President, I rise in support of this amendment, and I do so representing a community that has had kindergarten for decades. Manchester made that decision long, long, long ago and Manchester has always supported having kindergarten full time throughout the city. We did have some hard times, but that's moving on.

I would also note that I have, separate from this issue in the past, always supported keno. I think it is fun. And if you look at the list of the revenue that's being generated from keno—top five locations: number one Somersworth; two through five, not only Manchester, District 18 Manchester. People in my district love keno. It's doing great.

So, I personally support both, but I don't think that communities should have to make a judgment or second guess whether they can afford to expand kindergarten based on whether or not people are eating at restaurants in Manchester and playing keno. I think they're two separate issues, as I said; have a long history of supporting both, and will continue to do so. I think that separating these issues is the right thing to do. I think we should have full day kindergarten available in every community in this state, and this is a step towards continuing to advance that goal. Thank you, Mister President.

(The Chair recognized Senator Kahn.)

SENATOR KAHN: Thank you, Mister President. So, I rise in support of the amendment offered by the Senator from District 15. And I want to thank him for bringing this forward because the debate that we had this last June set a, and the bill that we passed, it set a floor for the funding of kindergarten. It set a float, which said that it could float upward if revenues were sufficient. But for some of us who voted in favor of that, it had a flaw; and the flaw was, you take it this way, or we don't get it any way at all. And it felt like we introduced something at the end of some negotiation and that we needed to come back and have this vote; a vote that separated full day kindergarten funding from whether keno was going to be legal as a revenue source in New Hampshire. They can both stand as has already been said. I'm glad that we've got this opportunity. It gives me an opportunity to clarify what my vote in favor was this last June. I'm going to vote in favor of this amendment. Thank you, Mister President.

(The Chair recognized Senator Fuller Clark for a question of Senator Woodburn.)

SENATOR FULLER CLARK: Thank you, Senator Woodburn, for taking my question. It's my understanding that if the money is not there to make up the difference between the state's share and keno, that every community will be impacted regardless of whether or not they adopted keno. Is that correct?

SENATOR WOODBURN: That's correct. Thank you for the question, Senator Fuller Clark; and by the way, happy birthday to you today. You're absolutely correct. If it's worth doing, it's worth paying for, and it's worth not sticking our most vulnerable people to pay the bill. That's the important thing.

(The Chair recognized Senator Hennessey.)

SENATOR HENNESSEY: Thank you, Mister President. I rise in favor of this amendment, and I'm kind of amused by the argument that this was first unanimous, which it wasn't because I voted against putting keno and kindergarten together. And, I think it's really wrong to use that felonious argument to say that we were presented with Sophie's choice, and you're calling it a bipartisan vote. I was able, I'm lucky enough to be from a district where most of the towns in my district can have full day kindergarten without the need for keno. So great! So my district is going to be advantaged by the fact that other people's districts are going to have to pay by having keno. And it does have a significant cost when you look at social costs and other kinds of costs. So, I personally am not in favor of keno although, to be honest, I'm not an expert on it. But I am actually an expert on a lot of things education related. There is no way that it makes any sense for keno to be associated with kindergarten. Kindergarten is essential. We know that. There are tons of studies saying so. So don't tell me that this is a bipartisan vote and everybody's switching their vote. The fact is, you presented them with an untenable situation. Thank you.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I truly enjoy the political chicanery going on in this chamber right now. Before there was ever keno, kindergarten was funded by those communities that chose to, by whatever means they chose to fund it. So keno was not a detriment; it is an addition for those communities that have already funded it in full themselves. If we don't believe in gambling to support education, why do we send the lottery proceeds to education? Thank you, Mister President.

The question is on the adoption of the Floor Amendment.

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

The following Senators voted Yes: Woodburn, Watters, Hennessey, Kahn, Lasky, Feltes, Cavanaugh, Soucy, D'Allesandro, Fuller Clark.

The following Senators voted No: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Innis, Morse.

Roll Call, Yeas: 10 - Nays: 14. Failed.

Senator Watters offered a Floor Amendment.

Sen. Watters, Dist 4

Sen. Woodburn, Dist 1

March 14, 2018

2018-1101s

06/04

#### Floor Amendment to SB 540-FN

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

AN ACT relative to the counting of kindergarteners for "average daily membership in attendance" and relative to the operation of keno games in unincorporated places.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Paragraph; Keno; Local Option. Amend RSA 284:51 by inserting after paragraph IV the following new paragraph:

IV-a. An unincorporated place may allow the operation of keno games by majority vote of the county delegation.

2018-1101s

#### AMENDED ANALYSIS

This bill modifies the definition of “average daily membership in attendance” to include full-day kindergarten and provide for certain private payments.

This bill also provides that unincorporated places may permit the operation of keno games by a majority vote of the county delegation.

SENATOR WATTERS: Thank you, Mister President. In light of our previous debate I guess I'll quote Aristotle who said, in so many words, it is what it is, and it turns out we do need a fix to Senate Bill 191 regarding the way in which keno is authorized. It was brought to my attention by a North Country Representative that unincorporated places had no mechanism whereby a governing body could hold a process in having an election to approve keno funding. So what this does is that it says for the unincorporated places that the operation of keno games may be allowed by a majority vote of the county delegation. This is what the drafting attorneys thought would be the appropriate identification of authority that could undertake this. So I hope that people will support this fix so I guess it's a bar and restaurant up in the North Country who wants to have keno will be able to have a mechanism for doing that. Thank you, Mister President.

(The Chair recognized Senator Woodburn.)

SENATOR WOODBURN: Thank you, Mister President. I just wanted to rise in support and thank the Senator from Dover for bringing this forward. As the Senator for twenty-three of the twenty-five unincorporated towns, and particularly the unincorporated town of Millsfield, we appreciate being included. Thank you.

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.

#### HEALTH AND HUMAN SERVICES

SB 475, relative to testing for Lyme disease.

Ought to Pass with Amendment, Vote 4-1. Senator Bradley for the committee.

Health and Human Services

March 6, 2018

2018-0978s

01/03

#### Amendment to SB 475

Amend RSA 141-K:2, I as inserted by section 2 of the bill by replacing it with the following:

I. Every health care provider who orders a laboratory test for the presence of Lyme disease shall provide to the patient or his or her legal representative the following written information:

*“Your health care provider has ordered a laboratory test for the presence of Lyme disease for you. Current laboratory testing for Lyme disease can be problematic and standard laboratory tests often result in false negative and false positive results. If you are tested for Lyme disease, and the results are negative, this does not necessarily mean you do not have Lyme disease. If you continue to experience symptoms, you should contact your health care provider and inquire about the appropriateness of retesting or additional treatment.”*

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

3 Repeal. RSA 141-K, relative to Lyme disease, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 2023.

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

2018-0978s

#### AMENDED ANALYSIS

This bill requires health care providers to provide certain information to persons being tested for Lyme disease for 5 years.

SENATOR BRADLEY: Thank you very much. What this bill does is require any provider that does and orders a laboratory test for the presence of Lyme disease to provide a written notification that the test for Lyme disease may not be conclusive. I apologize, Senator Gray was supposed to read this, but I was called on. It was our friend Senator Daniels' bill; and I have to say about Senator Daniels, he has long led the fight to make sure that Lyme patients have access to antibiotics on a longer term basis than were being prescribed, and is somebody that has worked long and hard on Lyme disease. This notification is absolutely reasonable. Thank you.

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

(The Chair recognized Senator Daniels.)

SENATOR DANIELS: Thank you, Mister President. I believe that there was an amendment, a floor amendment that was supposed to be brought forward, and I don't have it. Okay, thank you.

(The Chair recognized Senator Hennessey.)

SENATOR HENNESSEY: I would like to explain why I was the one in committee who voted no. And it's not because I don't highly value the Senator from District 11's work on Lyme disease, but I did hear from many physicians who said that they are already doing this exact same thing verbally, and that it just adds an enormous and expensive burden to them to have to also put it in writing. So, they felt we were legislating what doctors communicate to their patients. Thank you.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: I'm going to yield to my colleague for a motion, but I find it appropriate because there was some confusion about a floor amendment. So I'm going to yield to Senator Daniels.

Senator Daniels moved to Lay on the Table SB 475. Adopted.

SB 546-FN, relative to purchasing alliances.

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

Health and Human Services  
March 6, 2018  
2018-0986s  
01/04

Amendment to SB 546-FN

Amend the bill by replacing section 2 with the following:

2 Purchasing Alliances; Qualified Purchasing Alliance. Amend the introductory paragraph and paragraph I of RSA 420-M:13 to read as follows: A purchasing alliance that has a minimum of [3,000] **250** enrollees may elect to obtain certification from the commissioner as a qualified purchasing alliance. To obtain certification, a purchasing alliance shall demonstrate:

I. Either that membership in the alliance is open to all employers without discrimination or that the alliance has established membership criteria that limit membership in the alliance to ~~[employers that are]~~ members of ~~[or affiliated with]~~ an association, trade group, or other entity that has been in existence for at least 10 years and was established and maintained for purposes other than the provision of health coverage; and

SENATOR AVARD: Thank you, Mister President. I move Senate Bill 546 as Ought to Pass with Amendment. The purpose of this bill is to ensure health care coverage purchases, through a qualified purchasing alliance, will be considered large group coverage. Currently the state of New Hampshire has the highest cost of health care insurance in the country. With our current system, even if someone has insurance, the deductibles and copays may be too expensive for them to even use it. What this bill does is allow people in the state of New Hampshire to group together into associations to purchase health care insurance. With this method people will be able to access larger group markets and would receive better coverage for less money. The Committee Amendment changes the number required to form an association making more industries eligible for lower cost of insurance. The Health and Human Services Committee asks for your support in the motion of Ought to Pass with Amendment, and thank you, Mister President.

The question is on the adoption of the Committee Amendment. Adopted.  
(The Chair recognized Senator Fuller Clark.)

SENATOR FULLER CLARK: Thank you very much, Mister President. I rise in opposition to this legislation to create purchasing alliances in New Hampshire. It is true that we do have three large purchasing alliances that have been in place for many, many years. They have membership of over 1,000 members. With the amendment we lowered the number of individuals that were needed to qualify and set up a purchasing alliance to 250. If you were to look at the history of purchasing alliances around the country in other states, more often than not they have failed. They have failed because one, they haven't been able to provide the necessary health coverage that is necessary; and secondly, they have destabilized the small group market and made the cost for health insurance in the small group market continue to escalate in its cost going forward. So while this seems like it's a very good idea in principle, in reality it hasn't worked; it promises individuals a new way to get health insurance, which in many cases did not provide them with the coverage that they need; or, in other instances, the purchase alliance never gets off the ground

because with a membership as small as 250 they aren't having enough consumers, if you wish, to be able to make a purchasing alliance viable. Thank you, Mister President.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. Thank you for giving me the opportunity to chat today, and while I respect the comments made from my friend on her birthday with her beautiful blue jacket, which is a wonderful color, I have to respectfully disagree. We can't forget the fact that today, if you're an employer with 50 employees, 50 employees, not 250 but just 50 employees; you can self-fund your own insurance policy. Whether or not you should or not, and whether or not it makes sense financially from the risk of usage, we can have that debate. But today the law allows companies as small as 50 employees to go out and be treated as a large company.

The challenge we have here today isn't really whether or not it should be 50 or 250, it's the fact that this body cannot forget, and must recognize, that we have the singular highest cost of health insurance in America. This state continues to have the highest cost of health insurance in America. And why is that? Because this body keeps passing laws to do it with our friends on the other side and signed by governor after governor after governor. A large driver of why our insurance is so expensive in this state, highest in the country—you'll hear me say it a hundred times today—is based upon laws that our legislature keeps passing to restrict the ability to bring free market principles to health insurance. Virtually every other state in America has a more flexible health insurance than we do.

We know today there are things called captives. We know today there are other states that are providing for the ability to band together to let small companies and individuals buy their market. Why can't we, why can't we recognize and allow small business owners to band together like large business owners? Are we just saying we're anti-business, Mister President? Are we just saying that the big companies are just better looking people so they get advantages that us small guys don't get? Just because someone has 250, or 300, or 500, or 5,000 employees, why do we have laws on the books that say they can have an advantage that small companies cannot?

I think the Senator from District 3, he has been with me every single year as we have tried to pass insurance across state lines. I can buy my life insurance across state lines. I can buy my car insurance across state lines. I can buy my home owner insurance across state lines. In fact, every single insurance we can get we can buy across state lines except health insurance here in New Hampshire.

As a small business owner there's more restrictions on small business owners of which, let me remind the body, I think there are 76,000 small business owners in the state of New Hampshire today with Lord knows how many employees, that with the power of this legislature we are specifically prohibiting their ability to try to find lower cost insurance for no reason that I've ever been able to see that demonstrates.

What this bill does, frankly, is marry up from actions that we're seeing at the federal level, Mister President, and I look forward to having more conversations when this bill goes to the House because there are two more guidance's that are supposed to come out from Washington D.C. because even in Washington D.C., where nothing is happening, they've

come out and said we should be doing this. They are sending out guidance that says we recognize nationally that it's time to stop punishing small business owners. If they want to come together as a group, if they want to band together, if they want to try to find a way to lower their costs of insurance why are we stopping their ability to do that?

Now in conclusion, Mister President, we have to remember that we allow this to happen in our state today. We allow this to happen but, again, some would suggest only for the beautiful people. Mister President, maybe you and I aren't just beautiful enough today; because we let the auto dealers do it; we let the bankers do it; we let the truckers do it; and they are beautiful, wonderful people. But I don't think they're any more beautiful than my good friend from District number 16. Because when his son owns a business, shouldn't he be allowed to try and find more affordable health care? This is a basic concept of fairness that today we are actually saying you guys can, but no one else should be allowed to.

Let's vote today, we should all vote today. This should be a 24-0 roll call, Mister President. And, for the record, Mister President, as a small business owner I feel compelled to talk about our byzantine ethics laws that are punishing the small business community, but I'm clearly still participating. Look, we have got to start doing something to make access to health insurance more affordable. This bill is a great step to do that. I commend and thank the Chair and the members of the Health and Human Services Committee to start this process so we can move it along, and this is where we will see real honest to God benefits for the small business community if they so decide to do so.

And, truly finally, Mister President, I happen to operate in a business with 4,500 licensees; the largest singular employer in the state of New Hampshire—not my company but our industry. It also happens to be the single industry with the least amount of health insurance coverage; part time workers, young people, small companies struggling to make it work every single day. Why can't they band together to buy insurance? That's what this vote is about. Do you believe people have the right to band together to provide insurance to their companies at a lower rate? I would ask the body to vote yes and, again, I'm asking for a roll call, Mister President.

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

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

The following Senators voted Yes: Giuda, Bradley, Gray, French, Ward, Sanborn, Daniels, Avard, Carson, Reagan, Birdsell, Gannon, Innis, Morse.

The following Senators voted No: Woodburn, Watters, Hennessey, Kahn, Lasky, Feltes, Cavanaugh, Soucy, D'Allesandro, Fuller Clark.

Roll Call, Yeas: 14 - Nays: 10. Adopted, bill ordered to Third Reading.

SB 581-FN, relative to pharmacy benefit managers under the managed care law.

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

Health and Human Services

March 6, 2018

2018-0976s

01/08

Amendment to SB 581-FN

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

AN ACT relative to compounding of drugs.

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

1 Pharmacists and Pharmacies; Definitions. Amend RSA 318:1, III-a to read as follows:

III-a. "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug or device as a result of a practitioner's prescription drug order or initiative based on the pharmacist-patient-prescriber relationship in the course of professional practice or, for the purpose of, or as an incident, to research, teaching, or chemical analysis, but not selling or dispensing. "Compounding" also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns. "Compounding" shall not include the reconstitution of powdered formulations before dispensing or the addition of flavoring. ***"Compounding" shall not include the simple addition of flavoring, nor shall it include the preparation of a single dose of a non-hazardous commercially available drug or licensed biologic for immediate administration to an individual patient when done in accordance with the manufacturer's approved labeling or instructions consistent with that labeling.***

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

2018-0976s

#### AMENDED ANALYSIS

This bill amends the definition of compounding for the purposes of the law regulating pharmacists and pharmacies until July 1, 2020.

SENATOR AVARD: Thank you, Mister President. I move Senate Bill 581-FN as Ought to Pass with Amendment. This bill, as amended, would clarify the definition of compounding for the use of medical or medication preparation, and would not include the simple addition of flavoring, nor shall it include the preparation of a single dose of a non-hazardous chemically available drug, or licensed biologic, for immediate administration to an individual patient when done in accordance to the manufacturer's approved labeling, instruction consistent with that labeling. It is important that this exemption exists in order to ensure the patients across the state to continue to have access to affordable treatment for many different medical conditions. The Health and Human Services Committee asks for your support of the motion of Ought to Pass with Amendment for Senate Bill SB 581-FN, and thank you, Mister President.

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.

SB 582-FN, relative to caseload standards for child protective service workers in the department of health and human services. Ought to Pass with Amendment, Vote 5-0. Senator Avard for the committee.

Health and Human Services

March 6, 2018

2018-0990s

01/05

Amendment to SB 582-FN

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

AN ACT authorizing an assessment to determine appropriate caseload and workload standards for the division for children, youth and families; establishing additional child protection services positions in the division for children, youth and families; relative to foster care and adoption programs and services; and making appropriations therefor.

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

1 Department of Health and Human Services; Division for Children, Youth and Families; Assessment to Determine Appropriate Caseload and Workload Standards for Child Protection Staff. The commissioner of the department of health and human services shall conduct an assessment to determine appropriate caseload and/or workload standards for the department's division for children, youth and families' child protection staff that are consistent with the goals of the agency's practice model and that will enable the agency to fulfill its statutory mission to protect children from abuse and neglect. In conducting the assessment, the department may solicit information from experts, community stakeholders, and national leaders, and shall consider caseload trends and the impact of caseloads and workloads on recruitment and retention and the supervision and training of department staff. On or before January 1, 2019, the department shall report the findings of its assessment, along with the department's recommendations for establishing and maintaining appropriate caseload and/or workload standards and the department's estimate of the cost to implement those recommendations, to the house health, human services and elderly affairs committee and senate health and human services committee and the house and senate finance committees.

2 Department of Health and Human Services; Appropriation; Assessment. For the fiscal year ending June 30, 2019, the sum of \$100,000 is hereby appropriated to the department of health and human services for the purpose of conducting the assessment under section 1 of this act. This appropriation is in addition to any other funds appropriated to the department. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Department of Health and Human Services; Division for Children Youth and Families; Classified Positions Established. The following classified positions are hereby established in the department of health and human services, division for children, youth and families:

I. Thirteen child protection social worker I positions, at labor grade 18.

II. Two supervisor IV positions, at labor grade 25.

4 Department of Health and Human Services; Appropriation; Positions. For the fiscal year ending June 30, 2019, the sum of \$1,100,000 is hereby appropriated to the department of health and human services for the purpose of funding the positions established in section 3 of this act. This appropriation is in addition to any other funds appropriated to the department. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

5 Department of Health and Human Services; Appropriation; Foster Care and Adoption Programs and Services. The sum of \$1,100,000 for the fiscal year ending June 30, 2019, is hereby appropriated to the department of health and human services for the purpose of funding foster care and adoption programs and services pursuant to RSA 170-G:3. This appropriation is in addition to any other funds appropriated to the department. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

6 Department of Health and Human Services; Transfer of Funds; Foster Care Rate Increases. The department of health and human services may transfer up to \$429,000 of existing general fund appropriations in the fiscal year ending June 30, 2019, from account 05-95-47-470010-7948, Medicaid Care Management, to account 05-95-42-421010-2958, Child Family Services, for the purpose of funding foster care rate increases. This transfer shall not require prior approval of the fiscal committee of the general court, nor shall fiscal committee approval be required for the department to accept any federal matching funds for the purposes of this section.

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

2018-0990s

### AMENDED ANALYSIS

This bill:

I. Directs the department of health and human services to conduct an assessment to determine appropriate caseload and workload standards for child protection staff and makes an appropriation for such purpose.

II. Makes appropriations to the department of health and human services for additional child protection staff, and for foster care and adoption programs and services.

III. Authorizes the department of health and human services to transfer certain funds for the purpose of funding foster care rate increases.

SENATOR AVARD: Thank you, Mister President. I move Senate Bill 582-FN-A as Ought to Pass with Amendment. This bill authorizes and funds new positions in the Division of Child, Youth and Families. This bill also makes appropriation for the Division to hire a consultant to assess what proper caseloads should be and how the Division can best utilize their staff. Child protective service workers currently have very large caseloads that prevent them from giving enough attention to the families that they're trying serve. What this bill does is it makes an effort to ease the caseload for workers, this way families will have more opportunities to build a relationship with the service workers in this state. This represents a necessary step in supporting New Hampshire families. The Health and Human Services Committee asks for your support in the motion of Ought to Pass with Amendment on Senate Bill SB 582-FN. Thank you, Mister President.

The question is on the adoption of the Committee Amendment. Adopted. (The Chair recognized Senator Hennessey.)

SENATOR HENNESSEY: Thank you, Mister President. I rise in support of 582-FN because it is a start and it is badly needed, and kudos to the Senator from District 14 for putting it forward. Our case workers are spread much too thin. We heard from them in committee and it is harder and harder for them to develop relationships with their clients and, therefore, to affect change. Not only are their caseloads seriously out of control, but the paperwork has become seriously out of control. We heard that case workers are often working every day of the week until 11 p.m. in order to get work done and they're still behind.

The national average, last we heard, in New Hampshire for a number of cases was twenty-four to twenty-five. The national average is twelve. Twenty-five years ago, in New Hampshire our average was twelve. Those who work in the field and the current DCYF director were in support

of this bill and emphasized we must spend the money required to turn this trajectory around—each year more and more families and children not being helped. The Department states that complying with caseload standards established by the bill would necessarily mean hiring fifty-four new assessment workers, sixteen new family service workers, and ten supervisors. The last budget included twenty, total, and they've hired thirteen. I continue to be astounded by this body's willingness to trade business taxes for the support needed for our most vulnerable children; even those born, through no fault of their own to those with substance misuse disorders, with neonatal abstinence syndrome, and those born into families with significant challenges requiring the support of DCYF. This bill should pass, but we owe our citizens more. While some believe we should all aspire to be billionaires, where you start matters. Where you start defines who you are today. Thank you, Mister President.

(The Chair recognized Senator Cavanaugh.)

SENATOR CAVANAUGH: Thank you, Mister President. I rise in support of this, as well. I don't live far from the Sununu Center and I've spoken with people that work there, I've received e-mails. And I just wanted to read the end of one that I got. They're overwhelmed, the workers there, and at the end of the e-mail it said. "We need help. Please help." May this encourage us all to help them and let them know that we do hear them. Thank you, Mister President.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. I want to thank all the members of the Health and Human Services Committee that worked long and hard on this bill and the next two bills. I also want to thank our friend from Londonderry who has been a leader for years on trying to correct some of the systemic problems that have come as a result of the problems I think that we've all seen regarding children. I also want to thank all the members of the Finance Committee, in the House as well, and the Governor for leading the charge in the budget to hire twenty child protection social workers. Those positions, I believe, are completely filled. There is some turnover; this is a difficult job for everybody to do. This legislation continues that by adding thirteen more child protection social workers and two supervisors, as well as a needed rate increase for foster parents. Now this is a continuation of what we did, all of us, in the budget last year. Again, starting with Governor Sununu, who called for an upgrade to DCYF as a top priority; this continues to place DCYF and improving that situation as a top priority. I, again, thank Senator Morse for his leadership and others for recognizing the problem that we have. Thank you.

(The Chair recognized Senator Fuller Clark.)

SENATOR FULLER CLARK: Yes, thank you very much, Mister President. I rise in support of this legislation and clearly it is needed when you look at the ratio that we're currently dealing with of twenty-five to twenty-six to even thirty cases being carried by one caseload worker. I would like to point out at the same time, though; I'm always concerned that we don't quite do enough. We heard that actually what was needed was fifty-four assessment workers, sixteen family service workers, and ten new supervisors. So while we're moving forward, I just worry that we're not moving forward quickly enough to be able to address the tremendous demand for these services at DCYF and elsewhere. Thank you.

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 Sanborn.

The following Senators voted Yes: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Carson, Feltes, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Gannon, Innis, Morse.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to the Committee on Finance (Rule 4-5).

SB 590-FN-A, making a supplemental appropriation to the state loan repayment program, relative to emergency involuntary admissions, and relative to the child protection act and making appropriations therefor. Ought to Pass with Amendment, Vote 5-0. Senator Bradley for the committee.

Health and Human Services  
March 6, 2018  
2018-0991s  
05/01

#### Amendment to SB 590-FN-A

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

AN ACT making a supplemental appropriation to the state loan repayment program and relative to emergency involuntary admissions, the child protection act, and the developmental disabilities wait list and making appropriations therefor.

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

1 New Paragraph; Mental Health Services System; Definitions. Amend RSA 135-C:2 by inserting after paragraph XV the following new paragraph:

XV-a. "Transitional housing program services" means a residential program that provides housing and support services to persons with serious and persistent mental illness through a contract with the department of health and human services.

2 Involuntary Emergency Admissions; Examination. Amend RSA 135-C:28, I to read as follows:

I. The involuntary emergency admission of a person shall be to the state mental health services system under the supervision of the commissioner. The admission may be ordered upon the certificate of a physician or APRN, as defined in RSA 135-C:2, II-a, who is approved by either a designated receiving facility or a community mental health program approved by the commissioner, provided that within 3 days of the completion of the petition the physician or APRN has conducted, or has caused to be conducted, a physical examination if indicated and circumstances permit, and a mental examination. The physician or APRN must find that the person to be admitted meets the criteria of RSA 135-C:27. The certificate shall state the time and, in detail, the nature of the examinations conducted. The certificate shall also state a specific act or actions the physician or APRN has actually observed or which have been reported to him or her by the petitioner or a reliable witness who shall be identified in the certificate, and which in the physician's or APRN's opinion satisfy the criteria set forth in RSA 135-C:27. The physician or

APRN shall ~~[identify in the certificate the facility in the state mental health services system to which the person shall be admitted]~~ **inform the person of the specific designated receiving facility in the mental health services system that he or she will be transported to upon the facility location being identified.** The admission shall be made to the facility which can best provide the degree of security and treatment required by the person and shall be consistent with the placement principles set forth in RSA 135-C:15. As used in RSA 135-C:27-33, "petitioner" means any individual, including a physician or APRN completing a certificate, who has requested that a physician or APRN conduct or who has conducted an examination for purposes of involuntary emergency admission. Every certificate shall be accompanied by a written petition signed by a petitioner.

3 Nonemergency Involuntary Admissions; Conditions of Conditional Discharge. Amend RSA 135-C:50, III to read as follows:

III. During the term of conditional discharge, the person conditionally discharged shall be provided with continuing treatment on an outpatient basis by a community mental health program approved by the commissioner **or by transitional housing services.**

4 Nonemergency Involuntary Admissions; Revocation of Conditional Discharge. Amend the introductory paragraph of RSA 135-C:51, I to read as follows:

I. If a psychiatrist or APRN, as defined in RSA 135-C:2, II-a, at a community mental health program **or transitional housing services** providing continuing treatment on an outpatient basis to a person conditionally discharged pursuant to RSA 135-C:50, reasonably believes that:

5 Nonemergency Involuntary Admissions; Revocation of Conditional Discharge. Amend RSA 135-C:51, III to read as follows:

III. If the psychiatrist or APRN, following the examination the psychiatrist or APRN conducted or caused to be conducted of the person, finds that the person either has violated a condition of the discharge or is in such a mental condition as a result of mental illness as to create a potentially serious likelihood of danger to himself or herself or to others, he or she may temporarily revoke the conditional discharge. If the conditional discharge is temporarily revoked, the psychiatrist, or APRN, or designee, shall prepare, offer to and explain to the person a written notice, if it can be done safely without significant possibility of bodily harm, giving the reasons for the revocation and to ~~[identify the receiving facility to which the person is to be delivered]~~ **inform the person of the specific designated receiving facility in the mental health services system that he or she will be transported to upon the facility location being identified.** If this cannot be done safely, a description of the circumstances indicating such risk shall be placed in the file.

6 Guardians and Conservators; General Powers and Duties of Guardian of the Person. Amend RSA 464-A:25, I(a) to read as follows:

(a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the guardian shall be entitled to custody of the ward and may establish the ward's place of abode within or without this state. Admission to a state institution **or other designated receiving facility** shall be in accordance with the following:

(1) A guardian may admit a ward to a state institution **or other designated receiving facility** with prior approval of the probate court if, following notice and hearing, the court finds beyond a reasonable

doubt that the placement is in the ward's best interest and is the least restrictive placement available. Authorization for such admission shall not be time limited unless the court so orders. Authority to admit a ward to a state institution **or other designated receiving facility** with prior approval under this subparagraph shall not be subject to the limitations contained in RSA 464-A:25, I(a)(2) through (7).

(2) A guardian may admit a ward to a state institution **or other designated receiving facility** without prior approval of the probate court upon written certification by a physician licensed in the state of New Hampshire, or, in the case of placement in New Hampshire hospital **or other designated receiving facility**, by a psychiatrist licensed in the state of New Hampshire, or an advanced practice registered nurse, as defined in RSA 135-C:2, II-a, that the placement is in the ward's best interest and is the least restrictive placement available. Within 36 hours, excluding days when the court is closed, of such an admission of a ward to a state institution **or other designated receiving facility**, the guardian shall submit to the Merrimack county probate court notice of the admission and the reasons therefor, together with a copy of the certificate by the physician, psychiatrist, or advanced practice registered nurse.

(3) The Merrimack county probate court shall review the guardian's notice within 48 hours of the filing of the notice, excluding days when the court is closed, to determine whether the notice on its face appears to establish that the placement is in the ward's best interest and is the least restrictive placement available. If the court concludes that the notice is insufficient, the court shall order the immediate release of the ward from the state institution **or other designated receiving facility**. If the court concludes that the notice is sufficient, counsel for the ward shall be appointed no later than 48 hours following the court's review of the guardian's notice, excluding days when the court is closed. Notice of the appointment shall be transmitted to the ward, to the guardian, and to counsel. Counsel's notice shall be transmitted in writing and electronically or in another manner which is likely to give actual notice of the appointment to counsel at the earliest practicable time. For purposes of proceedings regarding admissions to state institutions **or other designated receiving facilities** without prior court approval, the ward shall have the right to legal counsel in the same manner as provided in RSA 464-A:6. The court shall also provide the ward a notice stating that the ward has the right to appointed counsel, the right to oppose the admission by the guardian, and the right to a hearing and to present evidence at that hearing.

(4) Counsel for a ward admitted to a state institution **or other designated receiving facility** who has been appointed pursuant to subparagraph (3) shall deliver a written report to the court within 5 days of his or her appointment which shall declare whether the ward requests a hearing on the propriety of the admission. Unless the ward waives a hearing, counsel's report shall include a request for a hearing on behalf of the ward. A copy of counsel's report shall be sent to the ward and to the guardian. If the court does not receive a written report from counsel within 5 days of counsel's appointment, the court shall order appropriate relief, including but not limited to substitution of counsel, an order to show cause, or scheduling of a hearing on the propriety of the admission without awaiting a report from counsel.

(5) Upon receipt of a request for a hearing, the court shall schedule a hearing on the admission to a state institution **or other designated receiving facility** without prior approval of the probate court, at

which the guardian shall have the burden of proving, beyond a reasonable doubt, that the placement is in the ward's best interest and is the least restrictive placement available. The hearing shall be held within 10 days, excluding days when the court is closed, from the date that the request is received.

(6) A guardian may not admit a ward to a state institution **or other designated receiving facility** for more than 60 days for any single admission or more than 90 days in any 12-month period upon certification of a physician or psychiatrist, or an advanced practice registered nurse, as defined in RSA 135-C:2, II-a, without filing a petition requesting approval of the probate court.

(7) At any time, the ward or counsel for the ward may request a hearing on the admission to a state institution **or other designated receiving facility** without prior approval of the probate court, at which the guardian shall have the burden of proving, beyond a reasonable doubt, that the placement is in the ward's best interest and is the least restrictive placement available. The hearing shall be held within 15 days, excluding days when the court is closed, from the date that the hearing is requested.

7 Child Protection Act; Duties of the Department of Health and Human Services. Amend RSA 169-C:34, II-a to read as follows:

II-a. The department may issue a confidential letter of concern to a person or persons responsible for the safety and welfare of the child that although there is insufficient evidence to substantiate a finding of abuse or neglect or of unfounded but with reasonable concern, the department encourages the person or persons responsible for the safety and welfare of the child to seek family support services and provide contact information to obtain such services. ***Upon initiating an assessment, the department may offer the family ameliorative services to reduce risk and address child safety concerns.***

8 Child Protection Act; Duties of the Department of Health and Human Services. Amend RSA 169-C:34, V and V-a to read as follows:

V. Notwithstanding any other provision of law to the contrary, the department may~~], pursuant to a voluntary service plan that is developed and provided for a minor and the minor's family by the department,~~ offer voluntary services to families without making a determination of the person or persons ~~[apparently]~~ responsible for the abuse or neglect. The department shall adopt rules, pursuant to RSA 541-A, relative to the provision of voluntary services under this paragraph. ***The costs of voluntary services provided by the department under this paragraph shall not be subject to reimbursement under RSA 169-C:27.***

V-a. Notwithstanding any other provision of law to the contrary, the department may~~], pursuant to a voluntary service plan that is developed and provided for the child by the department,~~ offer voluntary services to any child who prior to his or her eighteenth birthday was found to be neglected or abused, who was in legal custody of the department as of his or her eighteenth birthday, and who is less than 21 years of age. ***The costs of voluntary services provided by the department under this paragraph shall not be subject to reimbursement under RSA 169-C:27.***

9 Child Protection Act; Liability of Expenses and Hearing on Liability. Amend RSA 169-C:27, I(a) to read as follows:

(a) Whenever an order creating liability for expenses is issued by the court under this chapter ~~[or whenever a voluntary service plan is developed and provided for a minor and the minor's family by the depart-~~

ment], any expenses incurred for services, placements, and programs the providers of which are certified pursuant to RSA 170-G:4, XVIII, shall be payable by the department of health and human services.

10 Appropriation. The sum of \$1,500,000 dollars for the fiscal year ending June 30, 2019, is hereby appropriated to the department of health and human services for the purposes of funding voluntary services provided to children, youth and families under RSA 169-C. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

11 New Paragraph; Services for Children, Youth and Families; Incentive Funds. Amend RSA 170-G:4 by inserting after paragraph XIX the following new paragraph:

XX. Encourage cities, towns and counties to develop and maintain prevention programs, court diversion programs and alternatives to out of home placement for children, youth and families through the transfer of funds to cities, town and counties which have or are developing such programs. The transfer of funds shall be in such amounts as are appropriated by the general court for this purpose. The method of distribution shall be based on rules adopted by the commissioner pursuant to RSA 541-A. For the purposes of this paragraph, prevention programs shall include programs or activities for the prevention of child abuse and neglect as well as programs or activities for the prevention of children in need of services (CHINS) and delinquent behaviors.

12 Appropriation. The sum of \$1,500,000 dollars for the fiscal year ending June 30, 2019, is hereby appropriated to the department of health and human services for the purpose of funding community-based prevention programs and services pursuant to RSA 170-G:4, XX. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

13 Supplemental Appropriation; State Loan Repayment Program. In addition to any other sums appropriated to accounting unit 05, 95, 90, 901010, 7965, line 073, grants-non-federal, there is hereby appropriated the sum of \$1,100,000 for the fiscal year ending June 30, 2019 for the state loan repayment program. The department may exceed this amount if new federal funds become available to the program. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

14 New Section; Protection for Maternity and Infancy. Amend RSA 132 by inserting after section 10-d the following new section:

132:10-e Home Visiting Program. The New Hampshire home visiting program shall be available to Medicaid eligible families without restriction.

15 New Section; Rescission of Involuntary Admission. Amend RSA 135-C by inserting after section 29 the following new section:

135-C:29-a Rescission of Involuntary Admission.

I. Following completion of an involuntary emergency admission certificate under RSA 135-C:28 and before custody of the person is accepted by a law enforcement officer pursuant to RSA 135-C:29, the certificate may be rescinded and the person who is the subject of the certificate released in any of the following circumstances:

(a) A mobile crisis team under contract with the department of health and human services accepts transfer of the person's care.

(b) An assertive community treatment team operated by a community mental health program accepts transfer of the person's care.

(c) A community-based provider accepts transfer of the person's care.

II. Following completion of an involuntary emergency admission certificate under RSA 135-C:28 and before custody of the person is accepted by a law enforcement officer pursuant to RSA 135-C:29, the certificate shall be rescinded and the person who is the subject of the certificate released if the physician or APRN who completed the certificate, or any other physician or APRN authorized to complete such certificates, finds that the person no longer meets the criteria of RSA 135-C:27.

III. No civil action shall be maintained against a person who rescinds an involuntary admission pursuant to paragraph I or II, provided that the person is acting in good faith within the limits of his or her authority.

16 Appropriation; Department of Health and Human Services; Division for Children, Youth and Families; Attorneys. The sum of \$310,000 for the biennium ending June 30, 2019, is hereby appropriated to the department of health and human services for the purpose of hiring 3 attorneys for the division for children, youth and families. This sum is in addition to any other funds appropriated to the department. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

17 Appropriation; Department of Health and Human Services; Developmental Disabilities Wait List. The sum of \$1,162,135 for the fiscal year ending June 30, 2018, is hereby appropriated to the department of health and human services for the purposes of funding the developmental disabilities wait list. This sum is in addition to any other funds appropriated to the department. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

18 10-Year Plan for Mental Health Services. Amend 2017, 112:2, III to read as follows:

III. The commissioner of the department of health and human services shall submit the plan to the speaker of the house of representatives, the president of the senate, and the governor on or before ~~[July 1, 2018]~~ **October 15, 2018**. The department shall provide interim reports to the oversight committee on health and human services, established under RSA 126-A:13, on or before October 1, 2017 and on or before March 1, 2018. Thereafter, the department shall report quarterly to the health and human services oversight committee providing an update on the progress of the development and implementation of the plan.

19 Department of Health and Human Services; Behavioral Health Crisis Treatment Center. Amend 2017, 156:188 to read as follows:

156:188 ~~[Mobile Crisis Teams and Apartments]~~ **Behavioral Health Crisis Treatment Center**. The commissioner of the department of health and human services shall issue a request for proposals (RFP) for a ~~[mobile crisis team and apartments]~~ **behavioral health crisis treatment center** from qualified vendors. The RFP for the ~~[mobile crisis team and apartments]~~ **treatment center** shall be issued no later than June 30, 2017 and operational no later than ~~[January]~~ **July 1, 2018**. Any new ~~[mobile crisis teams]~~ **behavioral health crisis treatment center** shall be established in **a geographic [locations] location** that ~~[have]~~ **has** high rates of admissions to and discharges from New Hampshire hospital.

20 Department of Health and Human Services; Mobile Crisis Teams and Apartments. The commissioner of the department of health and human services shall issue a request for proposals (RFP) for qualified vendors to establish an additional mobile crisis team and apartments. The RFP for the mobile crisis team and apartments shall be issued contingent upon available funding for the biennium ending June 30, 2019. Before

issuing the RFP, the commissioner shall present to the fiscal committee of the general court, established under RSA 14:30-a, the source of the funds to be used to support the new mobile crisis team and apartments.

21 Designated Receiving Facilities; Residential Beds. The section heading and paragraph I of 2017, 156:186 are repealed and reenacted to read as follows:

156:186 Supported Housing; Residential Beds.

I. The commissioner of the department of health and human services shall contract with programs that enable individuals with serious mental illness to attain and maintain integrated, affordable, supported housing. The department shall use funding not to exceed \$500,000 from existing appropriations for the biennium ending June 30, 2019.

22 Effective Date.

I. Sections 7-12 of this act shall take effect July 1, 2018.

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

2018-0991s

### AMENDED ANALYSIS

This bill:

I. Clarifies admission to receiving facilities and other services for persons who are involuntarily committed under RSA 135-C.

II. Makes a supplemental appropriation to the state loan repayment program.

III. Clarifies the determination of unfounded but with reasonable concern for possible abuse and neglect under the child protection law, and enables the department of health and human services to offer voluntary services to the family.

IV. Makes appropriations for voluntary services and community-based prevention programs under the child protection act.

V. Provides that the New Hampshire home visiting program shall be available to Medicaid eligible families.

VI. Makes an appropriation to the department of health and human services to hire additional attorneys.

VII. Makes an appropriation to the department of health and human services for the purpose of funding the developmental disabilities wait list.

VIII. Requires the commissioner of the department of health and human services to issue requests for proposals for a behavioral health crisis treatment center and, contingent upon available funding, an additional mobile crisis team and apartments.

SENATOR BRADLEY: Thank you, Mister President. I refer all the members to page 13 of the calendar, as the Committee Amendment replaces the bill.

The first 6 sections were recommended by a working group led by Lucy Hodder to ensure that mental health patients have transparency of placement and transitional housing.

Section 7-9, as we debated the last bill, deal with the Division of Children, Youth and Families, and it allows us to offer services for unfounded complaints that have a reasonable level of concern. This is designed to ensure that there are no barriers to families to be able to take advantage of the voluntary services.

Section 10 is the appropriation to fund that.

Section 11 creates opportunities for cities and towns to fund prevention programs similar to the voluntary services.

Section 12 is an appropriation to fund section 11.

Section 13 makes an additional appropriation to the student loan repayment program. I think we all know that we have a severe shortage of health care workers in New Hampshire whether it's workers at hospitals, at mental health clinics, at designated receiving facilities; this will help us attract workers to New Hampshire by helping repay student loans.

Section 14 would expand the home visitation program for pregnant women eligible for Medicaid. UNH has completed a study at the Carsey Institute which documents the rise of what's known as neonatal abstinence syndrome; babies being born addicted to drugs. This will help prevent that addiction.

Section 15 was brought to the committee by the Disability Rights Coalition as well as NAMI of New Hampshire. It deals with rescission of involuntary commitment order. It states that in order for involuntary commitment to be rescinded for individuals they have to be eligible to be released to a mobile crisis unit, an ACT team, or another community behavioral health provider that will accept and is capable of providing patient care. This will help, I think dramatically, in reducing the wait time that people experience in the emergency room, and as long as the provisions of this bill are adhered to there is protection for the provider if they've acted in good faith under the scope of their authority.

Section 16 continues the work of our friend from Londonderry's bill, Senate Bill 582 and 592 a top priority for the Attorney General's Office is the hiring of new attorneys for DCYF. If you recall in House Bill 400 we moved the lead attorney from DCYF to the AGs office for better supervision.

Section 17 at the request of our friend from Salem, the Senate President, appropriates \$1.16 million to the Department of Health and Human Services to fund the DD Waitlist for 2018. Section 18 moves up the due date for the mental health report for October to October 15<sup>th</sup>.

And Sections 19-21 alter the purpose of already appropriated funds to the Department to allow the Commissioner of DHHS to open a behavioral health crisis treatment center; and then if funds are available, an additional mobile crisis unit. There's been a problem in terms of actually getting answers to the RFP for the mobile crisis unit that was funded in House Bill 400 in the budget last year.

Those are all the moving components of the bill, and I urge the body to adopt the amendment.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you very much, Mister President. Mister President, I rise in support of the Committee Amendment and the bill. I want to thank Senator Bradley and Senator Carson for all their leadership on child protection issues. We served together on the independent committee to review the independent audit report of DCYF, and their leadership on these bills has been very valuable.

Specifically, I want to support section 10, 11, 12, 13 and 14, 16 and 17. I'll start from the back.

The DD Waitlist: we didn't fund it where we should have funded it in the budget, and I appreciate the Senate President's leadership on this to get some money in section 17 to help fill a gap that was in the budget, with respect to our DD Waitlist.

Section 16: we fund, in this amendment, three of the six attorneys that have been recommended. I would prefer that we fund all six, but at least we're making some headway in funding some of the attorneys that are needed in child protection.

Section 14: as Senator Bradley noted, is so critical to deal with an emerging issue over the last few years, as indicated in the Carsey report and amongst people in the field, dealing with neonatal abstinence syndrome and dealing with providing in-home services to folks, pregnant women without restriction in terms of Medicaid.

Section 13: we talk about attracting retaining workforce needed to do the job. That's what section 13 is all about.

But particularly I want to talk about sections 10-12. Section 10 finally reinstates the voucher services program for at risk children, youth and families.

Section 11 and 12 is prevention as well. The thing that we didn't do in the budget, that we should've done in my view, is more prevention; more prevention of the future mistreatment of our children. The independent audit report, Mister President, released in December of 2016, recommendation number 10 on page 15 was to reinstate voluntary services. That was in the report, the final report in December of 2016. Governor Sununu's budget did not fund it; that was a mistake. We tried adding it in the budget process and it was voted down; that was a mistake. We've seen based on a report from a child advocate that that mistake led to some real consequences.

But today we have an opportunity, in a bipartisan way, to fix it moving forward. Prevention of the future mistreatment of our kids—there's nothing more important. Let's vote for this amendment and let's vote for this bill. Thank you, Mister President.

(The Chair recognized Senator Kahn for a question of Senator Bradley.)

SENATOR KAHN: I want to thank my colleague from District 3 and the sponsor of this bill, which I am very supportive of. But I wanted to understand the DD Waitlist further. My recall of this is that we funded in the budget like 200 plus additional people in need of disability services, adult disability services, that there was about 150 people that would be waitlisted. So there are two questions. One is how far are we going with this appropriation in filling the needs of the waitlist? And the second is if this is for 2018 what are the issues that we're going to face for 2019?

SENATOR BRADLEY: I'm not as familiar with the particulars of the DD Waitlist as other people might be. But I do know that we've historically had a problem. I recall that there was a \$20 million lapse under the prior Governor's budget. I can't remember which budget it was in. I think it was two budgets ago that triggered a significant increase in the DD Waitlist because that \$20 million, which was meant to fund the full range of services for all the people that were eligible, was lapsed back. It was a problem and we've been playing, as best I understand it, catch up ever since then. My understanding further was that when we adopted the budget in June in 2017 and we fully anticipated funding the DD Waitlist with, as I recall, it was about \$59 million of new

funds going into the DD program. What this will do, if I understand it correctly, is make sure that for fiscal year '18 we have maintained that commitment to fully fund the waitlist. I suspect that this bill, like the prior bill, will go to the Finance Committee where these numbers can be further scrubbed. But I think that under the leadership of the Senate President, who has made funding the DD Waitlist his top single priority, if I've heard him correctly, for a long time and has fought to make sure that the DD Waitlist is funded even though \$20 million was lapsed out of it a couple of years ago. I think that we can trust the Senate President to make sure that we've done everything possible on the DD Waitlist.

SENATOR KAHN: Thank you.

(The Chair recognized Senator Hennessey.)

President Pro Tempore Carson presiding.

SENATOR HENNESSEY: Thank you, Mister President. I, too, rise in support of Senate Bill 590-FN-A as amended, this bill and of the amendment. This bill was written to address the needs of our mental health crisis, as we all know, and the expanded needs of DCYF, and the lack of required funding in the latest Governor's budget. Agreeing with the Senator from District 15, the funding for voluntary services is absolutely critical to support families and to prevent founded reports of abuse and neglect. Mister Ribsam very succinctly said to our committee that the current system is designed to react versus protect.

We heard about the need to support the state loan repayment program, whose initials I rather like because they call it "slurp," which is used for attracting workers. It was described as one of the most effective programs for recruiting and retaining providers. Currently we have twenty-two qualified clinicians who are actually on the waitlist and as the waitlist for SLRP funds grows the likelihood that these valuable people stay in New Hampshire is diminished. With SLRP support, clinicians stay for at least three years, which the Department finds extremely helpful. All the money in the line item for SLRP for this budget has been spent, and we heard that there are 275 vacancies in the community mental health system. We're not meeting the needs of our population, but this bill and this amendment are a beginning. Again, we are not meeting the requirements based on the audit. Realizing this bill falls under not letting perfect be the enemy of good we can do better. We can move from barely good enough to meeting minimum standards. Thank you, Miss President.

(The Chair recognized Senator Fuller Clark for a question of Senator Bradley.)

SENATOR FULLER CLARK: Senator Bradley, one of the concerns we've heard over and over again is the number of individuals that are waiting in the emergency rooms of our hospitals; sometimes as many as fifty people a day. And I'm wondering if you could speak to what degree this legislation, which I certainly favor and rise in support of the amendment, will begin to address that problem.

SENATOR BRADLEY: As you recall, last year in the debate about House Bill 400 and how House Bill 400 got incorporated into the budget, we spent I believe it was about \$22 million of general fund appropriations to alleviate the mental health crisis. We went to a lot of different initiatives. Unfortunately, the money that was allocated to increasing the number of DRF beds, designated receiving facility beds, we currently have 44, there were no takers, even though it was a rather generous appropria-

tion. Commissioner Meyers pushed hard to get people to respond to the request for proposal, but there were no responses. Myself and the Senate President met with a couple of entities that we thought might want to. It gets back to one of the appropriations that's in this bill for the loan repayment to try to encourage more health care workers to come into New Hampshire.

What will help is the provision that was brought to us by the Disability Rights Coalition; that as long as somebody is in an emergency room situation and they are certified that they can go to a community provider, whether it's an ACT team, a mobile crisis unit, or some other community provider, they can be transferred per this language, and the emergency room and the hospitals, as long as everything is done appropriately, will be resolved from civil liability. I happen to think that in listening to our friends, who have long advocated—Disability Rights Coalition; and the Alliance Against Mental Illness, NAMI; they think this is a vitally important provision. So while it doesn't cost any money, it should alleviate the problem and get people into the appropriate level of treatment in the communities where they don't have to be housed in the emergency rooms. So, I think that while this bill focuses in many regards on DCYF, there are important provisions for mental health in it, too.

SENATOR FULLER CLARK: Thank you. I do have a follow-up question, and that is if we're able to transfer those individuals to local health care centers, and you say it doesn't cost any money, in actuality those local health care centers are going to have to pick up the cost of those individuals and how is that being paid for?

SENATOR BRADLEY: So, there is a provision in the bill, as you well know, that would allow the Commissioner, instead of creating that fourth mobile crisis unit, if you look at sections 19 and 20, to create a behavioral health crisis treatment center, basically a walk-in clinic, and transfer the funds to be able to do that. There are takers for that. The fourth mobile crisis unit, while the Commissioner put out RFPs, there were no takers. That's unfortunate. Again, it gets back to the lack of health care workers, which we're trying to address by the repayment provision. But, section 20, if there are funds available, and if the Fiscal Committee approves and there's a successful RFP for a fourth mobile crisis unit, then we can proceed in that arena. So I think it's a reasonable compromise based on the fact that even though we appropriated an awful lot of money for both a mobile crisis unit and DRF beds there were no takers. So, this allows us to create a walk-in center that will help. We already have three mobile crisis units, so if somebody is transferred out of an ER situation to a mobile crisis unit there is capacity there, there are ACT teams. So I believe that, I believe it's section 15 in the bill is going to be very important to helping curtail the number of people that are involuntarily committed in ERs across New Hampshire.

SENATOR FULLER CLARK: Thank you very much, I appreciate your comprehensive answer. It is a need that we clearly have to confront.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Madam President. I rise in support of the amendment, but I ask my colleagues to be vigilant in reading this amendment. Read it carefully. And also note that in almost every item, funds not otherwise appropriated the source of revenue. Okay, think about that. Secondly, the reallocation of dollars is a significant part of this piece of legislation. You're going to reallocate money to the Depart-

ment of Health and Human Services. Those are key elements—funds not otherwise appropriated; and reallocation of money within the existing appropriation. Now I think what we need from HHS is accountability on this issue so you won't have a \$20 million lapse, which is distasteful to all of us; we don't like that. We work hard to appropriate, we expect the entity to spend the money for which the appropriation was given. So, I know this will go to Finance. I think there's a lot of responsibility on Finance to look at these items. But clearly, understand what this amendment says. Digest it. I think it's very, very important. This is a key element. This is what we are here for. This is the largest department in state government. They provide the most in services to the people of the state of New Hampshire. It's a good amendment, it's a solid amendment, I applaud the work of everybody who went sled length to put this together, but indeed, there are key words in this element that we all should recognize. And when you reallocate within the entity there better be a report on how that reallocation took place, where the money was not spent so that the money could be spent in another appropriate area. Thank you, Madam President.

(The Chair recognized Senator Woodburn.)

SENATOR WOODBURN: Thank you, Madam President. I rise in support of the amendment and the underlying bill, and I'm grateful for every single investment that we are making here, and I think it's time, it's time to make these investments. I am also grateful to the two members of our Democratic caucus on Finance who have been fighting for these investments for a long period of time. You know much of the fights that we have here and disagreements that we have here are about how far and how fast we go in terms of investments, in terms of policy. And I think this is one of those opportunities to stop and pause and take a look at where we were and where we're going, and also to look at, obviously, the big issue we always deal with here is money. New Hampshire's famous for our frugality, and we did something really great last week we passed Medicaid expansion, we accessed federal dollars to be able to provide health care to our hard working citizens. But when it comes to our dollars, we're pretty frugal, we're pretty short sighted, we're pretty cheap. And this budget process indicates that and I'm glad we're correcting it here today.

I want to limit my conversations to the voluntary services in DCYF because there's nothing that we do, nothing that we do in government to protect our most vulnerable children; and by underfunding, we have left children unprotected. And it broke all of our hearts to read the story in Derry where a dad called eight times—not one, not two, not three, not four, not five, not six, not seven—eight times. And you know the answer that he got: you're not in need of services, you're not that bad. And the end of that story is tragic. But where we are today, where we are today, we are going in the right direction. But let's not pat ourselves on the back; let's commit ourselves to protecting children.

Now I want to speak for a moment, because I spent the last week talking to people who do this. Not people who sit in offices and write reports, not people who sit in committee meetings and hear testimony, but people who take those phone calls. And I want each of you to put yourself in their position; put yourself in the social worker, and the DCYF who takes that call and says no you don't meet the standard. We, the wealthiest state in the country, cannot help you. What they told me, these people who do it, is they said it's an impossible situation. You know what's going

to happen, they told me. They know what's going to happen. And we saw the worst case scenario. They see the daily grind of kids living in toxic environments, and what the long term impacts are on those kids. And we were talking about kids addicted or affected by drugs—Coos County, my home county, I was a teacher there. The pregnant women in Coos County today, 50 percent affected are on drugs. Hopefully those get cleaned up, hopefully they'll be great moms and great dads and great family structures, but they're up against some real tough challenges. And we know about ACEs, and if you don't you ought to learn about them: Adverse Childhood Experiences. There's toxic environments that poisons kid's childhoods, and we have an opportunity to, not only our own selfish interest, save money; good and smart investments. The links are clear between these toxic environments and their mental health, their physical health, and where they end up. Okay? I also had the unfortunate situation of having 50 percent of the incarcerated men in the state of New Hampshire in my district, my constituents. And there is a common link in a lot of these, and we need to begin to realize that, and we need to begin to act on it.

Being frugal is not something to be proud of when it comes to protecting kids. Slowing down the abuse of kids is not something to be proud of. We need to have an absolute commitment to protecting our children, providing them opportunity, creating a system that understands the value, and the purpose, and the opportunity that every kid can live to their dreams. I have a chair in my office; it's a chair I found on the side of the road. It was all broken up and we had it fixed; a big, beautiful chair and they did it at the state prison. And I was talking to the teacher that runs the program there and I said how do you do it? How do you do it? These guys are working with things who could kill you in a second, how do you do it? And he says I got all the leverage in the world, they live for their craft, they live to make these beautiful products. And I said, my gosh, if we only invested in these kids before they became adulthood they would be making beautiful things with their hands and they would be living their dreams every day. But we need to make investments in children, we absolutely do. Thank you for this investment, let's not stop here. Let's keep going. Thank you.

(The Chair recognized Senator Kahn.)

SENATOR KAHN: Thank you, Madam President. I rise, again, but this time to definitely say that I am supportive of this. I raised the question to our colleague and the sponsor of the bill because I think it's important that relative to developmental disabilities that we answer very clearly to that community where we are relative to waitlists, and where we think we're going to be. So, it's in full support of where we're going, and hopefully we're staying on that path down the road. And I appreciated your answer.

I, also, briefly to say voluntary services is crucial. Here's a quick story, I hope. School district counselor, a classroom infected with fleas. One student was in the custody of a mom, that custody was taken away from the mom for a short period of time through a DCYF case. The grandmother, who assumed custody, allowed the child to have further visitations. So, while the classroom was getting cleaned up the lice issue was being taken care of, the child went back into the home where the mother was for visitations that lasted overnight and the child came back to school with lice. The way that the case was finalized is that the child went back full time to custody with the mom. And the child, as a result, missed a lot of

school during that school year. Her classmates were traumatized; it just set up what the counselors felt was an untenable situation for them to have to deal with. These voluntary services, they say, would have been the kind of delivery that would have mitigated the reoccurrence and the kind of trauma, the kind of school loss that this child experienced and that her classmates experienced.

And, so, I'm fully supportive of this. I think this together with 582 put us on a track to try to fill some voids in the state that are crucial for our child welfare. Thank you.

(The Chair recognized Senator Morse.)

SENATOR MORSE: Thank you, Madam Chair. I rise to talk about our Senate. There is no doubt this Senate has paid more attention to the disabled community, to mental health, to DCYF, to making New Hampshire better. You know the question was asked what are we doing with these three pieces of legislation financially and where are we headed. It's \$5.5 million plus or minus. I can answer Senator D'Allesandro's question. On a \$12 billion budget we're making \$5.5 million in changes. We're certainly taking a few things that haven't happened, and I'm as disappointed as anyone. I certainly call constantly. I get notified twice a day about how many people are in hospitals that have mental illness. I certainly watch the number all the time. I don't find it to be acceptable. But there's money sitting there from DRF beds that we need to adapt to.

On the disabled community it wasn't the Senate that fell short. The Senate put the money in the budget. In committee of conference we negotiated with the House and got a budget that was acceptable to everyone. That million dollars that's in there now will get us through 2018. Based on projections it's 8 million more in 2019. I figured we'd take a step and move forward right now.

But I don't want to do with the Senate is to go back to 2011. When I arrived here and became Finance Chair and it was appropriated \$11.5 billion budget, and under Governor Lynch he had to live to 10.7 billion. Because he let the legislature make decisions that they couldn't afford, and then he went and adapted to it like a good governor. That's not the way to govern. And from there we raided everything—the fidelity funds. Every one of us wants to increase scholarships—gone. We used them for general funds. We bought a section of highway so we could take the money out of the turnpike fund. We actually took school bond money that we used to make sure that we built in our local communities. We bonded 135 million, we took the money out of the rooms and meals tax, and we still haven't paid off that full bond today. Those were the decisions that were made under the last governor. I won't support that. I made sure that we had it to fill in the rainy day fund. We're not there yet. It needs another 50 million to be to the point I believe is acceptable. I made sure the Senate lived within its means working with the Finance team.

And as we talk about the 5 million that's being appropriated today, don't think that the Governor and I and the Speaker are not aware of those people that are sitting in hospital beds, those children that aren't being treated. The difference today is the management is on the street going and visiting these places and asking questions. Just like was suggested, because that's what we do. But I will not do as a governor, as the government—someday—is lead us down a path that we are going to overspend and basically have taxation to solve the problem. Eighty-five taxes and fees; I'll never forget the debates that were happening for governor back

then. Eighty-five increases in taxes and fees in order to balance a budget coming out of the mess that we were put into. That's not where New Hampshire's headed today. We're leading, and that's the way we should be; and I applaud the Senate for leading; and I applaud the Governor for leading because he's certainly taken the bull by the horn and making sure that we're making changes in the state of New Hampshire. And as I hear things to the contrary it gets me aggravated because we've all agreed in this Senate to work together, and that includes the Governor, as far as I'm concerned.

There is no doubt we are making an effort to make sure children are taken care of. There's no doubt that we think that the disabled community should be taken care of. And as we work on the system, we should be questioning commissioners. There's no doubt in my mind we appropriated money that we thought was going to be spent to solve a problem. And as we discuss problems today—there's another budget coming. And to suggest that we're led by the Governor to reduce business taxes, the reality of this Senate is that we thought reducing business taxes would drive the economy to fill all those buckets. And guess what? We're winning. New Hampshire is the place to build your business right now. People are looking at us. Our business taxes are ahead. I certainly am looking to make sure the year ends that way.

But as I went through the authorization to spend what's in these three bills, I certainly looked at where we are, I looked at some of the problems that we certainly face this current year and I said there is no way we are overspending what we have coming in. I find it totally unacceptable. What I do find acceptable is that this Senate's willing to debate the problems of this state and make sure we look to find ways to solve them. And the one thing that I love about our government is that we take our time to do it right. Now I know some people think that's not quick enough, but you know when I left here after session on voting on that budget, I certainly was the first one to go down to my region tent and I certainly went in and asked them if they were able to make appropriations to cover the waiting list at that point in time. They said Senator we don't understand why you're here. We have thirteen people, for those of you that follow it, there's a class A, B and C. They're Cs. Is that acceptable to me? No. But the reality was they managed their system. And it wasn't until lobbyists got involved, to start to come up here and say we're failing, we're doing everything wrong; this Governor's not doing his job; that I got back involved again. And I certainly called the Commissioner over; I called the person responsible in his department over; I went through report after report. There is no doubt that I think we can do it better, but we certainly aren't failing. New Hampshire cares about its people and I want you to understand more than anything when people say we're frugal, we're frugal for a reason. We make people prove that what we're voting for is the right thing to do, not just appropriating money. Thank you, Madam President.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: You know it's interesting that we seem to be debating the history of voluntary services, and I think the history of DCYF. And there are not any of us that shouldn't look in the mirror. The last time voluntary services were funded was in 2011. There were budgets that were voted in this room 24-0 after a lot of give and take, 24-0 in 2013 and in the substitute bill in 2015 after the veto did not fund voluntary services. Each and every one of us needs to look in the

mirror and fix the problem today without trying to assign blame. In the '16-'17 budget, or the budget that we're in currently, we've increased the child protection service workers significantly. They had been level funded for those same budgets that all 24 of us voted for. Look in the mirror before trying to assign blame and do our jobs and fix the problem. So what 590 does: I credit your leadership, I credit your leadership, I credit Senator Morse's leadership and, quite frankly, all of us had the opportunity to lead now. Blame doesn't get us anywhere and the kids in this state expect better. We can afford to do this, and we should do it. And we should learn from the fact that we haven't done it for several budget cycles. Those last two budgets in '13 and '15 let's not forget; we all voted for. Thank you, Madam President.

(The Chair recognized Senator Feltes.)

SENATOR FELTES: Thank you very much, Madam President. I remember seeing a speech by Joe Biden at UNH Law where he talked about his first experience on the Senate floor, the U.S. Senate floor. He talked about listening to a speech from Senator Helms. Senator Helms is arguing against the ADA based on tenth amendment grounds, local control, and he was so fired up about Senator Helms' speech he went in and talked with the then Majority Leader Mike Mansfield and said I can't believe this guy, Senator Helms, the way he's talking about people with disabilities. And Mike Mansfield said would it change your mind about Senator Helms if you knew that he and Dottie, his wife, saw an ad in a paper about a child with severe and pervasive disabilities who needed a home and they adopted that child. And Senator Biden said—and this is his story—Senator Biden said yeah, it would definitely change my mind. And so Senator Mansfield said you know what? That's a prime example of you never question people's motives. You never question what's in their head. You don't know what Senator Helms is thinking. You don't know what his motives are. I don't think anybody's motive here today is to try to assign blame. That's not why we're here. We're here recognizing that mistakes were made. An independent audit report released December of 2016, which Senator Bradley, Senator Carson, myself on the committee recognized that there's more work to do. There's more work to do. It's okay to look at history, to learn from it, to learn from our mistakes. There's nothing wrong with that, especially when we're talking about child protection. Everybody cares about our children. We have an opportunity to learn from the mistake, and I think we can do it. I'm hopeful about what this will do. I take the Senate President's remarks and will take a look at it and see if we build up to where we need to go with Senator Carson and Senator Bradley looking at this audit—make sure that we meet that. Make sure that we meet it together and we protect all of our children. The Senate Minority Leader, Senator Woodburn, mentioned it's the most important thing we can do as a government is protect our children. Thank you, Madam President.

The question is on the adoption of the Committee Amendment.

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

The following Senators voted Yes: Woodburn, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Sanborn, Kahn, Daniels, Avard, Lasky, Feltes, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Fuller Clark, Morse, Gannon, Innis, Carson.

The following Senators voted No: (None)

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

Senator Reagan offered a Floor Amendment.

Sen. Reagan, Dist 17

March 12, 2018

2018-1061s

05/01

#### Floor Amendment to SB 590-FN-A

Amend the bill by inserting after section 21 the following and renumbering the original section 22 to read as 23:

22 New Section; Guardianship of Minors and Estates of Minors; Guardianship of Minors in Foster Care and Consent for Medical Treatment. Amend RSA 463 by inserting after section 12 the following new section:

463:12-a Guardianship of Minors in Foster Care and Consent for Medical Treatment. For any guardianship granted to the department of health and human services for a minor in foster care, or for any minor in the legal custody of the department receiving foster care services, the department's authority to consent to medical treatment for the minor may be established by, but not limited to, any of the following:

I. A duly executed "Authorization for Medical Treatment" signed by the minor's parent or guardian;

II. For the provision of ordinary medical care, including behavioral, mental health, or developmental health services, a copy of that portion of the court order transferring legal custody of the minor to the department under RSA 169-C; or

III. A copy of the letter of guardianship issued to the department that authorizes the department to consent to medical or other treatment of the minor.

2018-1061s

#### AMENDED ANALYSIS

This bill:

I. Clarifies admission to receiving facilities and other services for persons who are involuntarily committed under RSA 135-C.

II. Makes a supplemental appropriation to the state loan repayment program.

III. Clarifies the determination of unfounded but with reasonable concern for possible abuse and neglect under the child protection law, and enables the department of health and human services to offer voluntary services to the family.

IV. Makes appropriations for voluntary services and community-based prevention programs under the child protection act.

V. Provides that the New Hampshire home visiting program shall be available to Medicaid eligible families.

VI. Makes an appropriation to the department of health and human services to hire additional attorneys.

VII. Makes an appropriation to the department of health and human services for the purpose of funding the developmental disabilities wait list.

VIII. Requires the commissioner of the department of health and human services to issue requests for proposals for a behavioral health crisis treatment center and, contingent upon available funding, an additional mobile crisis team and apartments.

IX. Clarifies the department of health and human services' authority to consent to medical treatment for a minor in foster care.

SENATOR REAGAN: Thank you, Madam President. I rise to introduce amendment 1061 and wish to speak to the amendment. The problem with children in foster care who need medical treatment, the problem was that only the parents were allowed to give permission. The foster parents weren't allowed, the Department wasn't allowed, and sometimes it was difficult to find the parents to get permission. So what this new section does, it allows the Department to authorize medical treatment for children in foster care. So it solves a major problem and a major investigation problem at the Department of Health and Human Services.

(The Chair recognized Senator Bradley.)

SENATOR BRADLEY: Thank you very much. This is the first time I've seen the amendment. I think it makes sense. I'm going to vote with my good friend from District 17. The only request would be to when the Finance Committee takes up this bill to check with the Department of Health and Human Services, that's all I would ask. Thank you.

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 the Committee on Finance (Rule 4-5).

(The Chair recognized Senator Morse.)

SENATOR MORSE: Thank you, Madam President. While I'm down here I just want to make it perfectly clear that Salem became a donor community once again by voting for keno yesterday.

President Morse presiding.

#### PARLIAMENTARY INQUIRY

(The Chair recognized Senator Bradley for a parliamentary inquiry.)

SENATOR BRADLEY: When would be the appropriate time to correct an incorrect amendment analysis on Senate Bill 581? We've already voted for it. I apologize for not having stood up and corrected the record, and it slipped my mind as we were getting into the debate on 582.

PRESIDENT MORSE: Senator, why don't you state your concern and then I'll rule.

SENATOR BRADLEY: There was an amended analysis on the Committee Amendment of Senate Bill 581 that it would only last for a two year provision. That amended analysis was false, and I want to make sure that the record reflects that that amended analysis on that Committee Amendment is incorrect. Thank you.

PRESIDENT MORSE: Senator Bradley, the Clerk says that she can fix that.

SENATOR BRADLEY: Well, thank you.

#### TECHNICAL AND ADMINISTRATIVE CORRECTIONS

Without objection, the Clerk is authorized to make technical and administrative corrections which are necessary to reflect the intent of the Senate on SB 581-FN. Adopted.

Please note: The Clerk was instructed to correct the amended analysis.

SB 592-FN-A, relative to the child welfare system.

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

Health and Human Services  
March 6, 2018  
2018-0992s  
10/01

Amendment to SB 592-FN-A

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

1 Child Protection Act; Liability For Expenses; Voluntary Services Excluded. Amend RSA 169-C:27, I(a) and (b) to read as follows:

I.(a) Whenever an order creating liability for expenses is issued by the court under this chapter ~~[or whenever a voluntary service plan is developed and provided for a minor and the minor's family by the department]~~, any expenses incurred for services, placements, and programs the providers of which are certified pursuant to RSA 170-G:4, XVIII, shall be payable by the department of health and human services.

(b) Subparagraph (a) shall not apply to:

(1) Expenses incurred for special education and related services~~;~~  
~~or to~~;

(2) Expenses incurred for evaluation, care, and treatment of the child at the New Hampshire hospital; ~~[or to]~~

(3) Expenses incurred for the cost of accompanied transportation; **or**

**(4) Expenses incurred for voluntary services provided to a minor or the minor's family pursuant to RSA 169-C:34, II-a, RSA 169-C:34, V, or RSA 169-C:34, V-a.**

2 TANF Funded Initiative; Home Visiting Services. The department of health and human services shall use allowable Temporary Assistance to Needy Families (TANF) funds to expand home visiting services through family resource centers. A priority shall be placed on providing home visiting services to families to whom the department has issued a letter of concern pursuant to RSA 169-C:34, II-a, cases reported by the department of health and human services as unfounded but with reasonable concern, as defined in RSA 169-C:3, XXIX, and TANF recipients who, as parents of children under 12 months old, are exempt from TANF work requirements.

3 TANF Funded Initiative; Family Resource Centers of Quality Specialist. The department of health and human services shall use allowable TANF funds to contract with a family resource center of quality specialist. The role of the specialist shall be to provide technical assistance to family resource centers throughout the state and aid the centers in establishing and achieving the high quality standards necessary for national certification. The person selected by the department shall be qualified by reason of education and experience to assume the responsibilities of a family resource centers of quality specialist.

4 TANF Funded Initiative; Child Care Services. The department of health and human services shall use allowable TANF funds to expand child care services to eligible recipients. Priority shall be given to foster families, families with voluntary service plans through the department of health and human services, and families with individual service plans through family resource centers.

5 Department of Health and Human Services; Supplemental Appropriation.

I. The sum necessary to fund the following positions, which may be either state employee or contract positions, is hereby appropriated to the department of health and human services for the biennium ending June 30, 2019:

(a) Eight child protective services workers, who shall be designated resource workers.

(b) Two licensed alcohol and drug counselors, who shall contract with the department.

II. The appropriation in paragraph I shall be in addition to any other funds appropriated to the department for the biennium ending June 30, 2019. The governor is authorized to draw a warrant for such amount from any money in the treasury not otherwise appropriated.

6 Family Drug Court; Study Committee Established. There is established a committee to study the development of a family drug court in New Hampshire.

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

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

(b) Three members of the house of representatives, 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 study family drug court models and the feasibility of establishing a family drug court in New Hampshire. The specialized court, with jurisdiction over child protection cases that involve substance use by the child's parents or guardians, would provide a coordinated and collaborative approach to reducing child maltreatment by treating parents' underlying substance use disorders. The committee shall solicit information and testimony from any individual or agency the committee deems relevant to its study, including licensed alcohol and drug counselors, family law attorneys, representatives of the department of health and human services, and representatives of the district court family division.

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

V. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2018.

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

2018-0992s

#### AMENDED ANALYSIS

This bill:

I. Waives reimbursement for voluntary services under the child protection act.

II. Establishes a home visiting services initiative.

III. Directs the department of health and human services to contract with a family resource center of quality specialist.

IV. Expands certain child care services.

V. Makes an appropriation to the department of health and human services for additional child protective services workers and licensed alcohol and drug counselors.

VI. Establishes a committee to study family drug court models.

SENATOR GRAY: Thank you, Mister President. I move Senate Bill 592-FN-A as Ought to Pass with Amendment. This bill authorizes and provides funding for additional positions at the Division of Children, Youth and Families. This bill also establishes a committee to study the development of a family drug court in New Hampshire. We must do more in our state to provide upstream resources to ensure that children are safe and taken care of at home. It is imperative that this action is taken to ensure that families have the resources they need long before DCYF is contacted. The bill expands child services in a comprehensive way. It uses a supplemental appropriation to the Department of Health and Human Services to fund the various positions, as well as establish additional resources to not just change, but transform the Division. The Health and Human Services Committee asks for your support for a motion of Ought to Pass as Amended on Senate Bill 592-FN-A. Thank you.

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 the Committee on Finance (Rule 4-5).

#### MOTION TO REMOVE FROM THE TABLE

Senator Daniels moved to remove SB 475 from the Table. Adopted.

#### HEALTH AND HUMAN SERVICES

SB 475, relative to testing for Lyme disease.

The pending motion is Ought to Pass with Amendment.

(The Chair recognized Senator Daniels.)

SENATOR DANIELS: Thank you, Mister President. As so many bills are going around, I was in error. The floor amendment I was thinking about was on a different bill yet to be addressed. So, I appreciate the unanimous support on the passage of the amendment and would ask for the same unanimous support on the passing of the bill as amended. Thank you, Mister President.

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

#### JUDICIARY

SB 388, relative to satellite dispensaries for therapeutic cannabis. Ought to Pass with Amendment, Vote 5-0. Senator Carson for the committee.

Senate Judiciary

March 6, 2018

2018-0952s

01/04

#### Amendment to SB 388

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

AN ACT relative to dispensary locations for therapeutic cannabis.

Amend the bill by replacing sections 1 and 2 with the following:

1 New Paragraph; Use of Cannabis for Therapeutic Purposes; Departmental Rules. Amend RSA 126-X:6 by inserting after paragraph III the following new paragraph:

IV. The department may adopt rules regarding the establishment of a second dispensary location by the alternative treatment center described in RSA 126-X:7, X including, but not limited to, fees, operational requirements, and geographic location.

2 New Paragraph; Use of Cannabis for Therapeutic Purposes; Dispensary Locations. Amend RSA 126-X:7 by inserting after paragraph IX the following new paragraph:

X. If the department determines that having additional locations for the dispensing of therapeutic cannabis is necessary to adequately and effectively meet the needs of qualifying patients and designated caregivers, the department may authorize the alternative treatment center allowed to operate in the geographic area that includes Carroll, Coos, and Grafton counties, not including the town of Hanover and the city of Lebanon in Grafton county, to establish a second dispensary location within that same geographic area. A second dispensary location shall only be established in a geographic location approved by the department, shall be limited solely to the dispensing of cannabis and educational efforts, and shall not be used for cultivation or other activities relative to the production of cannabis. A second dispensary location shall be subject to rules adopted by the department under RSA 126-X:6, III, and any additional rules adopted by the department relative to a second dispensary location under RSA 126-X:6, IV, and all applicable provisions of this chapter relative to alternative treatment centers including, but not limited to, compliance with local zoning laws. The department shall, in conjunction with the local governing body of the town or city where the second dispensary location would be located, solicit input from qualifying patients, designated caregivers, and residents of the town or city in which the second dispensary location would be located.

2018-0952s

#### AMENDED ANALYSIS

This bill authorizes the department of health and human services to establish a second dispensary location in the geographic area that includes Carroll, Coos, and Grafton counties, for therapeutic cannabis.

SENATOR CARSON: Thank you, Mister President. I move Senate Bill 388 Ought to Pass with Amendment. This bill as amended allows the Department of Health and Human Services to establish an additional location for an alternative treatment center within the geographic area of Carroll, Coos, and Grafton counties. The committee heard testimony regarding the multi-hour drive times that some individuals in the North Country are faced with in order to retrieve their cannabis medications. By allowing for an additional location in that geographic area, some of the overly onerous driving times will be reduced, lessening the burden on individuals who have already been approved by the Department for medicinal cannabis. Therefore, the Judiciary Committee asks for your support in the motion of Ought to Pass with Amendment on Senate Bill 388. Thank you, Mister President.

The question is on the adoption of the Committee Amendment. Adopted. Senator Kahn offered a Floor Amendment.

Sen. Kahn, Dist 10  
Sen. Reagan, Dist 17  
March 13, 2018  
2018-1086s  
01/04

#### Floor Amendment to SB 388

Amend the bill by replacing sections 1 and 2 with the following:

1 New Paragraph; Use of Cannabis for Therapeutic Purposes; Departmental Rules. Amend RSA 126-X:6 by inserting after paragraph III the following new paragraph:

IV. The department may adopt rules regarding the establishment of a second dispensary location by the alternative treatment centers described in RSA 126-X:7, X including, but not limited to, fees, operational requirements, and geographic location.

2 New Paragraph; Use of Cannabis for Therapeutic Purposes; Dispensary Locations. Amend RSA 126-X:7 by inserting after paragraph IX the following new paragraph:

X. If the department determines that having additional locations for the dispensing of therapeutic cannabis is necessary to adequately and effectively meet the needs of qualifying patients and designated caregivers, the department may authorize the alternative treatment center allowed to operate in the geographic area that includes Carroll, Coos, and Grafton counties, not including the town of Hanover and the city of Lebanon in Grafton county, to establish a second dispensary location within that same geographic area. In addition, the department may authorize the alternative treatment center allowed to operate in the geographic area that includes Cheshire and Sullivan counties and the town of Hanover and the city of Lebanon in Grafton county to establish a second dispensary location within that same geographic area. A second dispensary location shall only be established in a geographic location approved by the department, shall be limited solely to the dispensing of cannabis and educational efforts, and shall not be used for cultivation or other activities relative to the production of cannabis. A second dispensary location shall be subject to rules adopted by the department under RSA 126-X:6, III, and any additional rules adopted by the department relative to a second dispensary location under RSA 126-X:6, IV, and all applicable provisions of this chapter relative to alternative treatment centers including, but not limited to, compliance with local zoning laws. The department shall, in conjunction with the local governing body of the town or city where the second dispensary location would be located, solicit input from qualifying patients, designated caregivers, and residents of the town or city in which the second dispensary location would be located.

2018-1086s

#### AMENDED ANALYSIS

This bill authorizes the department of health and human services to establish a second dispensary location in the geographic area that includes Carroll, Coos, and Grafton counties, for therapeutic cannabis. This bill also authorizes the department of health and human services to establish a second dispensary location in the geographic area that includes Cheshire and Sullivan counties.

SENATOR KAHN: Thank you, Mister President. This amendment is fairly straight forward. You look at lines 15-18 and the intent of this amendment is to provide for a second alternative dispensary unit in District 4, I'm sorry, in District 3. We just acted on District 4. And for all of you who can see, better than half of New Hampshire. But what we did when we created the four dispensary units is we created two in Grafton County, in Plymouth, and in Lebanon, and then we created two others and they're in Dover and in Manchester. So, the action that we've just taken enables the District 4 dispensary that is in Plymouth to locate a second location someplace else in District 4, and that makes good sense. The drive

times no doubt are two hours, maybe some more in some other areas. But if I just do as the crow flies...where is our colleague from District 1 because now, I know where Millsfield is. It actually is so small on this map I couldn't quite make it out. But Millsfield is essentially as far from Plymouth as Hinsdale is from Lebanon.

And I want to remind you of the story that I told on the floor last year. It was a letter that I received from Hinsdale. Mike is the dad writing the letter on behalf of his son, a twenty something year old, who had a skin disease, a nerve ending disease that caused the child to need on a regular basis a medical marijuana prescription, or treatment. He could not get sufficient product. He would drive from Hinsdale the two hours to Lebanon. He would not be able to pick up enough of the treatment in order to fill it out, and he'd return two hours later, and he felt why is this? Why have we created medical marijuana dispensaries and then make it so unfeasible for people to try to access what they are prescribed—I know it's not the right word, but let me use it—prescribed to access?

I received another call from another town in my district; also two hours away from Lebanon. A person who said it's not just that I have to drive the two hours, it's awfully expensive. And when I got the third call the person said it's cheaper for me to buy it off the streets than to drive two hours and purchase something that we have legitimized and tried to create in our state.

I've had the conversation with my colleague from District 14. I know that this is not an amendment that maybe is viewed timely by everybody, but I also followed up as suggested with the Department of Health and Human Services. To create an alternative dispensary is likely a process that takes a year. So, it's not a matter of wait a year and file another bill; this is wait two years. And this is setting up constituents in Sullivan and Cheshire County equal distance to Lebanon as we've just passed for the North Country to Plymouth. Setting up a situation where people are left with the illegal act in order to acquire something that we've prescribed for them to access. Why is it illegal? One; it's cheaper, more accessible to buy a product, less trouble to buy a product off the streets in the black market that's illegal. They shouldn't be doing that. And it's also going to be illegal when they start traveling to Bernardston thirty minutes away from the Southern tier of my area to purchase product and then bring it back across the state line. I don't think that these citizens in this state who have been prescribed medical marijuana should wait for us to act on this another year. So, I offer this amendment; I think its timing is right, and I hope that the body will approve this and approve the bill. Thank you, Mister President.

(The Chair recognized Senator Sanborn for a question of Senator Kahn.)

SENATOR SANBORN: Senator, thank you for taking my question. I'm just trying to understand, I'm not sure if you have the answer. If not, maybe Senator Reagan will pop up in your defense. But if we have four locations today, we're debating a fifth, and you have introduced a sixth, are they all separate ownership or common ownership? And, obviously, my concern at some level is, are we creating some sort of a monopoly of distribution of the product. So is the requirement from HHS that they're separate ownership at every medical facility?

SENATOR KAHN: I can't answer that, and I'm sure if I do anything incorrect, I'd ask that somebody offer the correction. But I was told that, and the way that this is structured is that this is authorizing those

four dispensaries, and in this case two of them, to have an alternative, one single alternative location that they would be responsible for. So that's the way that this would be established in the three counties to the North, and that's the way it would be established in the two counties to the South.

SENATOR SANBORN: So if my understanding is correct there will still be four separately, independently owned medical marijuana dispensaries of which two of them will each have two locations.

SENATOR KAHN: They have the opportunity to set up an alternative location.

SENATOR SANBORN: Thank you, I appreciate that.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you, Mister President. First of all before I begin, in answer to the Senator from District 9s question, one company owns three locations. So, if you were to put a satellite location somewhere in the Keene area as well as in the North Country, that would mean that one company would own five locations as opposed to the one, then there would just be another one. So there is a big possibility in creating a monopoly for one company. And that was one thing that I was extremely concerned about and that's why only one was brought forward for the North Country.

Mister President, I rise objecting to amendment 1086s. This bill, as it came to us in the committee, was very confusing. If you were to read the testimony that we were given, we were confused. What are you asking for? Because they were talking about having satellite locations, but these satellite locations are doing the same thing as the bigger alternative treatment centers are doing. So, without putting a lot of time trying to define what a satellite location is actually going to do, I sat down with Mister Holt, from the Department of Health and Human Services, and we had a really great discussion about this.

Now I know most of you know I do not support medical marijuana, but you can see the need here for the people in the North Country. We did not have testimony as to any other location; it was only the North Country. And, quite frankly, they're located in the geographic area number 4, which is just about the whole northern part of the state, and it makes complete sense to have another alternative treatment center in the North Country to make it easier for people who live there to access their medication.

Now those of us that live in the southern tier, we're used to a drug store on every corner. We don't even think twice about it. How many drug stores are in your communities?

We were very, very careful when this legislation was being crafted. We had to be. Because don't forget, we've got the overarching Federal Government standing over us telling us this is illegal; you cannot be doing that. We are doing this in defiance of federal law, and we have to be very, very, very careful about what we're doing. This was part of the conversation that I had with Mister Holt, and we decided we will do this on a case by case method. The North Country makes a compelling case; those folks have to drive an incredible amount of time to access their medication. And, don't forget, we can't send it to them through the mail because it's illegal. So, we don't really have a lot of alternatives.

If there is going to be a discussion about having an additional dispensary down in the Keene area—and by the way, the other dispensary is

not located in Manchester, but it's located in Merrimack—that needs to be a separate issue with a separate discussion. You're really going to have to come in and talk about why you need to have another location in that area that's going to broach geographic area 3 as well as geographic area 4.

So, Mister President, I stand in opposition to Floor Amendment 1086s, and I would ask the body to join me in saying no. Thank you very much, Mister President.

(The Chair recognized Senator Hennessey.)

SENATOR HENNESSEY: Thank you, Mister President. I rise in favor of...I support the amendment 1086s, and the reason I do is I wanted to say that I wished that everyone in this room had heard the testimony we heard in Health and Human Services regarding medical marijuana. In a time of a massive opioid crisis we heard from many people who found that the medical use of marijuana actually reduced or eliminated their addiction to opioids. Now you're just hearing it from me. I wish you had heard it from the mouths of the people who are experiencing this. It was profound. And this is the right time to think about how to make it available to anyone who is in that kind of crisis. I did, in the committee, bring up a couple of times the fact that I felt that Keene was in a similar situation and was very far from Lebanon, which I assume is the closest dispensary. You know, there have been an awful lot of elevated voices today, and I'm trying not to elevate mine, I don't have any desire to elevate mine. But I do feel that we all need to think about all of our citizens; that this should not be about the one that maybe was lobbied enough to show up. I had a pretty unusual experience recently with hearing about something that's illegal but we're not enforcing in New Hampshire, as well. So let's not have double standards about where we're going to enforce and we're not going to enforce. Thank you, Mister President.

(The Chair recognized Senator Giuda for a question of Senator Carson.)

SENATOR GIUDA: Thank you, Senator. I'm not familiar with but have always supported medical marijuana. What is the basis for the districts? I hear there are four districts in the state, and what's the basis for establishing those?

SENATOR CARSON: Thank you for the question. If I remember correctly, because this was a few years ago, the state was divided into geographic district because you wanted to make sure that there was an even distribution of these clinics. We had decided that there would only be four, and it was to ensure placement in appropriate areas around the state, so they didn't all cluster in Manchester, or in Concord, or out at the seacoast. So that was the process that was set up.

SENATOR GIUDA: In that discussion of establishing the districts was there any consideration given to the amount of time that it might take a person who needed this to get to the particular location that was selected within that district? Now was equity of time looked at, or was there some other metric?

SENATOR CARSON: Senator, I can't answer that question because I was not part of that discussion when that was put together. But I would like to point out to you that the gentlemen that came that represented Temescal Wellness—they have locations in both Dover and in Lebanon—in his testimony he did not speak to the need for an additional site in Keene, and he only addressed the needs of the North Country.

(The Chair recognized Senator Kahn.)

SENATOR KAHN: Thank you, Mister President. I'm certainly not advocating on behalf of just Keene. I just want to make that clear. It's something I haven't even tested on people in Keene except to say don't you think that Western New Hampshire is not well served by having a single location in Lebanon? And that is a unanimous sentiment. And to my colleague in Senate District 12, it was a day I was in Hinsdale, started my day there; there was a funeral I needed to go to over in Bedford. I said no problem I'll be there in a little over an hour. Oh my God, I traveled Route 119 over to Route 101; it took an hour and forty minutes to get to Bedford, let alone to get to Merrimack. I would have preferred to go to Lebanon at that point.

So I just have to...what compels me...if these were things that happened immediately, if people could set these up with all the regulations that we've set up; if these could be set up in the year that we create this—but it doesn't happen that way. It takes a long time. We set up strict guidelines. So I just can't put this...it's hard for me to accept that we would act on one and not on another and put this off so that it would be three years before we address this, leaving this illegal path for people to acquire something cheaper. And I can't be accepting of that without at least advocating on behalf of the citizens of Western New Hampshire. Thank you, Mister President.

(The Chair recognized Senator Sanborn.)

SENATOR SANBORN: Thank you, Mister President. Mister President, I rise with cautious optimism and cautious support and ask the body to consider the amendment because I happen to agree with my good friend from Keene that forcing people to travel long distances is difficult. But he brings up another point that I think is equally important that this body needs to consider in the future. He talks about the fact that people are finding it necessary to go buy marijuana, weed, dope on the street because of the inconvenience of having to drive two and a half to three hours. The truth is my concern continues to be that of a government imposed monopoly. You know we know today that they're charging \$450 or \$600 or \$800 an ounce, in some cases; across the country look at what's being charged. And an ounce on the street in the black market is \$130 to \$230. So just a government regulation itself, not just an addition to the travel, is showing what getting government involved in products actually does to people. So while I am supportive of people having access, and as the Senator probably doesn't know I've been involved in this bill since the day it came out, I think with Senator Forsythe. I think this body needs to be concerned long term as to whether or not we're establishing a monopoly with a single or just a couple of players and allowing that monopoly to charge what some would consider be a significantly over market prices for a product. Thank you, Mister President.

(The Chair recognized Senator Carson.)

SENATOR CARSON: Thank you, Mister President, and thank you for recognizing me to speak again. I'd like to remind everybody about the process that these companies go through. They have to get a local yes; the locals have to decide yes, we will allow this into our community. And Temescal Wellness, the company that's located in geographic area 3, they made the business decision to try to locate in Lebanon. I would hope that as a business they looked at that entire district about where they could be located that would better serve all the people within that district.

They chose Lebanon and the city of Lebanon accepted them. The people of Lebanon accepted them. Mister President, I don't want to open the door to having 10, 15, 20 of these satellites everywhere, or these new clinics everywhere; that is not the intent of the program that was passed. That is why this is being done on a case to case basis. A decision was made about that process and how long it was going to take that was done a few years ago, and it has worked. We are opening the door and we are saying okay, we realize there's a problem in one area; that is what we had in front of us; and we decided okay this makes sense, put another dispensary up in that area to serve that population. We need to be very, very, very careful. Either that, Mister President, somebody file a bill and study the whole thing all over again and come up with an alternative method. This is working. This is working. Thank you very much, Mister President.

(The Chair recognized Senator Hennessey for a question of Senator Sanborn.)

SENATOR HENNESSEY: I'm just curious—a couple things, two issues in one question. First of all, I'm interested in your calculations around a monopoly because my understanding is that we have three out of four that are owned by the same person right now, which is 75 percent. And if we end up with four out of six don't we have 66 percent?

SENATOR SANBORN: Senator, thank you for the question. And I think the statement was five and one, and if you remember my response was a monopoly or darn near close to it. As obviously we also need to look at the proportion of the population, not just the single location themselves. But five out of six would be very close, and it would be my concern if we're walking the path of having too few distributors for the people we have, which could lead to price fixing.

SENATOR HENNESSEY: I guess we heard something different because I heard that we would then, with the addition of the one that would be in Keene, would be four out of six would be owned by Temescal.

SENATOR SANBORN: And that would be my apologies. I thought it would be five and one.

SENATOR HENNESSEY: Thank you.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Mister President. I rise in support of this amendment. A business person is not going to look at what's best; he's going to look at where the concentration is of expectation of purchases. We have a policy that's been passed by the state that says we're going to distribute medical marijuana to people, and by restricting these facilities to distances we're in fact working against the espoused policy of the state. For someone to have to travel three hours is de facto, overriding the policy that we've set as state law. It is already and accepted and approved that the medical marijuana is a valuable and viable part of treatment for people, veterans, others who have cancers, eye problems, glaucoma, all of these things. So, we're not going to debate a policy, but we're doing that by saying we can't spread out the number of distribution centers. We are de facto working against the established policy of the state, and so for that reason and for the reason that we owe these people who have been given, okay, the right to purchase a righteous opportunity to be able to purchase, and to fail to do so actually is overruling the policy you've set as a state. I would ask you to pass this amendment, and I thank you, Mister President.

PRESIDENT MORSE: I just want to remind the Senators that committee work started six minutes ago.

(The Chair recognized Senator Lasky.)

SENATOR LASKY: Thank you, Mister President. I will try to be brief. I am in favor of medical marijuana. I was when it first came through; I forget whether I was in the House or the Senate when the bill came through. It was, as you can imagine, a difficult job to do. And a committee met for many years after that to establish the right parameters and make it palatable to everyone and get the best possible working of this bill for people that are in need of medical marijuana. If any of you, and I urge you to go to one of these dispensaries. It's not a, you know, okay give me your nickel and I'll give you a nickel bag, and, you know, whatever. It is run by extremely qualified people who are like physicians. They know—and I was totally impressed, and I've been to one in Colorado, and been to the one here—that they know what they're doing. Every patient is treated as a patient and it is a singular thing. These are not easy to just say whether it's a dispensary or just somebody giving it out. It's not just done willy-nilly. I urge you to—I'd like to see more, but it takes time and it has taken time to get to this stage, and I believe that, you know, again, as much as I'd like to see them probably, you know, in every city or town, I think we need to go slowly.

The other issue is these can't be run by just anyone. So, it's a very specialized field. It's a very specific field and as, again, as much as I think the Senator from District 10 has some valuable concerns, as do every one of us who have people that are on medical marijuana. But I do believe that the committee has looked at it, and the Chairman has spent a good deal of time talking with the right people about getting this, if we move forward, getting it done right. So I urge you to vote down this amendment and vote for the committee. Thank you.

(The Chair recognized Senator Innis.)

SENATOR INNIS: Very quickly, a retort to the Senator from District 2 and his comment, but I would also caution the Senate that each of these, because of their locational constraints, are effectively monopolies; and with a monopoly comes pricing power and control of supply. And I think the Senate should be very mindful of that going forward. Thank you, Mister President.

The question is on the adoption of the Floor Amendment.

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

The following Senators voted Yes: Giuda, Watters, Hennessey, Sanborn, Kahn, Feltes, Cavanaugh, Reagan, Soucy, D'Allesandro, Fuller Clark, Innis.

The following Senators voted No: Woodburn, Bradley, Gray, French, Ward, Daniels, Avard, Lasky, Carson, Birdsell, Gannon, Morse.

Roll Call, Yeas: 12 - Nays: 12. Failed.

The question is on the adoption of the motion of Ought to Pass with Amendment. Adopted, bill ordered to the Committee on Finance (Rule 4-5).

#### SPECIAL ORDER

Without objection, the following bills are special ordered to Thursday, March 15, 2018. Adopted.

**JUDICIARY**

SB 499, relative to the applicability of certain DWI prohibitions.  
HB 287, establishing a committee to study decriminalizing sex work.

(The Chair recognized Senator Gray.)

SENATOR GRAY: Mister President, I would ask that House Bill 1278 be special ordered for one additional week to resolve an issue. The Farmington selectmen won't meet until after that date, the 15<sup>th</sup>.

**SPECIAL ORDER**

Without objection, the following bill is special ordered to Thursday, March 22, 2018. Adopted.

**TRANSPORTATION**

HB 1278, naming the rest area in Colebrook after Frederick W. King, Sr.

**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****LIST OF RULE 6-25'S FOR THE DAY**

Senator Sanborn: SB 318, SB 388, SB 423, SB 446, SB 463-FN, SB 475, SB 499, SB 525-FN, SB 540-FN, SB 546-FN, SB 553-FN, SB 568-FN, SB 581-FN, SB 582-FN, SB 590-FN-A, SB 592-FN-A, HB 287, HB 1278  
Senator Soucy: SB 553-FN

**LATE SESSION****Third Reading and Final Passage**

SB 446, relative to net energy metering limits for customer-generators.  
SB 475, relative to testing for Lyme disease.

SB 540-FN, relative to the counting of kindergarteners for "average daily membership in attendance" and relative to the operation of keno games in unincorporated places.

SB 546-FN, relative to purchasing alliances.

SB 581-FN, relative to compounding of drugs.

**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, 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.

**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:

SB 215-FN, permitting the university system of New Hampshire and the community college system of New Hampshire to participate in the state health insurance plan.