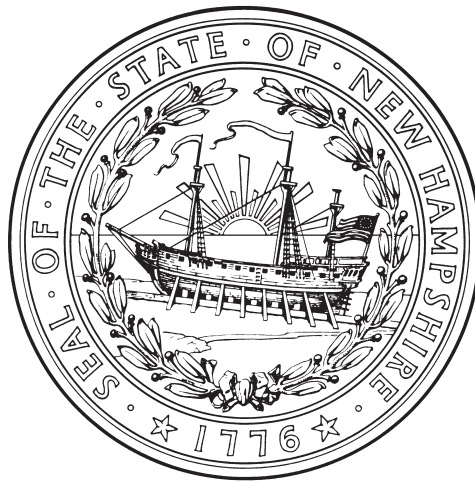


March 12, 2020
Nos. 6-7

STATE OF NEW HAMPSHIRE

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**Second Year of the 166th Session of the
New Hampshire General Court**

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – MARCH 11, 2020 SESSION
COMMENCEMENT – MARCH 12, 2020 SESSION**

SENATE JOURNAL 6 *(continued)*

March 11, 2020

INTRODUCTION OF LEGISLATION

Senator Feltes offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following legislation shall be by this Resolution read a first and second time by the therein listed title and referred to the therein designated committee. Adopted.

First and Second Reading and Referral

- HB 102, relative to municipal ordinances regulating single-use bags. (Election Law and Municipal Affairs)
- HB 143, relative to disqualification of members of local land use boards. (Election Law and Municipal Affairs)
- HB 201-FN, increasing penalties for buyers under the law regarding trafficking in persons. (Judiciary)
- HB 250, requiring reports by the board of dental examiners. (Health and Human Services)
- HB 251, establishing a committee to study criminal records check policies for nonpublic schools and private entities that receive public funds. (Education and Workforce Development)
- HB 274-FN, relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies. (Ways and Means)
- HB 308, establishing a condominium dispute resolution board. (Commerce)
- HB 311, relative to the authority of the state fire marshal to grant an exemption from fire code requirements to recovery houses. (Executive Departments and Administration)
- HB 317, relative to tinted windows on motor vehicles. (Transportation)
- HB 319-FN, authorizing Friends of Seabrook Rail Trail to issue decals for multi-use plates and establishing an oversight commission on multi-use decal plates. (Transportation)
- HB 327-FN-A, making an appropriation to the community college system to continue the math learning communities program in partnership with New Hampshire high schools. (Education and Workforce Development)
- HB 355, relative to regulation by the New Hampshire real estate commission. (Executive Departments and Administration)
- HB 363-FN, including the legislature as a public employer under the public employee labor relations act and relative to the duties of the joint committee on legislative facilities. (Executive Departments and Administration)
- HB 366, adding opioid addiction, misuse, and abuse to qualifying medical conditions under therapeutic use of cannabis. (Health and Human Services)
- HB 371, relative to the definition of pet vendor. (Energy and Natural Resources)
- HB 376, establishing a committee to study best practices for companion animal groomers. (Executive Departments and Administration)
- HB 377, relative to the best interests of the child under the child protection act. (Judiciary)
- HB 431, relative to election officers at additional polling places. (Election Law and Municipal Affairs)
- HB 461-FN, adding qualifying medical conditions to the therapeutic use of cannabis law. (Health and Human Services)
- HB 506-FN-LOCAL, relative to allowing employees time to vote in biennial general elections (Commerce)
- HB 513, relative to allowing the use of facility dogs for therapeutic purposes in proceedings involving children or certain other persons. (Judiciary)
- HB 532, relative to payment for earned but unused vacation or personal time. (Commerce)
- HB 559, relative to point of sale bags. (Commerce)
- HB 563-FN, relative to the fees for failing to register certain motor vehicles and establishing a commission to study the registration of trailers, semi-trailers, and other vehicles. (Transportation)
- HB 565-FN, establishing a committee to study supervised visitation centers. (Executive Departments and Administration)
- HB 578-FN, relative to services for the developmentally disabled. (Health and Human Services)
- HB 590-FN, relative to the authority of the New Hampshire attorney general to enforce certain consumer protection laws. (Commerce)
- HB 626-FN, relative to penalties for overtaking and passing a school bus. (Transportation)

HB 640-FN, establishing a public boat access donation program for operators of non-motorized boats and requiring the fish and game department to prepare a report relating to such program. (Energy and Natural Resources)

HB 647-FN, relative to lucky 7 tickets. (Ways and Means)

HB 661, relative to claims for medical monitoring. (Judiciary)

HB 667-FN, relative to testing private wells. (Executive Departments and Administration)

HB 685-FN, establishing a committee to study reimbursement for ambulance services by insurance carriers in New Hampshire. (Commerce)

HB 687-FN, relative to extreme risk protection orders. (Judiciary)

HB 690-FN, removing the work requirement of the New Hampshire granite advantage health care program. (Health and Human Services)

HB 721-FN-LOCAL, relative to special education in towns with no public schools. (Education and Workforce Development)

HB 731-FN, establishing a state minimum wage and providing for adjustments to the minimum wage. (Commerce)

HB 739, clarifying Medicaid spend-down requirements and requiring a report to the oversight committee on health and human services. (Health and Human Services)

HB 1101-FN, imposing a waiting period between the purchase and delivery of a firearm. (Judiciary)

HB 1106, relative to noncompete agreements for certain mental health professionals. (Executive Departments and Administration)

HB 1113-FN, relative to workers' compensation for heart and lung disease in firefighters. (Commerce)

HB 1123, relative to reporting a collision between a cat and a motor vehicle. (Transportation)

HB 1128, adding deaf or hard of hearing to the medical conditions that may be indicated on a driver's license or nondriver's identification. (Transportation)

HB 1135, naming a portion of route 49 in honor of Specialist Marc P. Decoteau. (Transportation)

HB 1141-FN, establishing the crime of unsolicited disclosure of an intimate image. (Judiciary)

HB 1142-FN, allowing the New Hampshire Masons to issue decals for motor vehicle plates. (Transportation)

HB 1161-FN, relative to electronic filings of meals and rooms tax returns and interest on payments of state taxes. (Ways and Means)

HB 1168, commemorating the first labor strike in the United States by women. (Executive Departments and Administration)

HB 1180, relative to certain assets in a divorce proceeding. (Judiciary)

HB 1182, establishing a commission to study road usage by non-traditional motor vehicles. (Transportation)

HB 1185, establishing a committee to study forms of apprenticeship programs currently in place in New Hampshire. (Education and Workforce Development)

HB 1222, adding a member to the aviation users advisory board. (Executive Departments and Administration)

HB 1230, relative to credit for reinsurance. (Commerce)

HB 1237-FN, establishing a committee to study the requirements of reporting by utility companies of information required for valuation of certain utility property for purposes of RSA 72. (Energy and Natural Resources)

HB 1246, relative to reporting of health care associated infections. (Health and Human Services)

HB 1259, relative to the rulemaking authority of the department of information technology. (Executive Departments and Administration)

HB 1264, extending the commission on the seacoast cancer cluster investigation. (Health and Human Services)

HB 1271-FN, relative to 911 immunity relative to possession of drugs. (Judiciary)

HB 1281-FN, requiring insurance coverage for epinephrine auto-injectors. (Commerce)

HB 1284-FN, relative to organizations authorized to issue decals for multi-use decal number plates. (Transportation)

HB 1288, relative to the form of a candidate's name on the official ballot in nonpartisan town elections. (Election Law and Municipal Affairs)

HB 1293, relative to the city of Manchester employees' contributory retirement system. (Executive Departments and Administration)

HB 1298, adding the New Hampshire Motorcyclists' Rights Organization to the traffic safety commission. (Transportation)

HB 1304-FN, requiring workers' compensation to cover prophylactic treatment for critical exposure. (Commerce)

HB 1324, exempting rentals of shared facilities from requirements under the real estate practice act. (Executive Departments and Administration)

HB 1348, relative to guardianship by grandparents. (Judiciary)

HB 1351, relative to immunity from arrest or prosecution for certain alcoholic beverage violations for a person under 21 years of age who reports a situation involving risk of alcohol overdose. (Judiciary)

HB 1355, establishing a committee to study energy efficiency programs. (Energy and Natural Resources)
HB 1357, relative to the distribution of campaign materials inside a polling place. (Election Law and Municipal Affairs)
HB 1363, relative to motorist service signs on limited access highways. (Transportation)
HB 1371, proclaiming March 2 Reading in New Hampshire Day. (Education and Workforce Development)
HB 1375, relative to cancellations of commercial insurance policies. (Commerce)
HB 1377, making a technical correction and a clarification in the law governing death benefits for emergency medical technicians and rescue squad members. (Executive Departments and Administration)
HB 1378, establishing a committee to study oversight authority and timelines for processing and retaining sexual assault evidence collection kits. (Judiciary)
HB 1379-FN, requiring a background check for commercial firearms sales. (Judiciary)
HB 1393, relative to the election of Grafton county commissioners. (Election Law and Municipal Affairs)
HB 1406, relative to the property tax exemptions for solar and wind-powered energy systems. (Energy and Natural Resources)
HB 1409, relative to the use of special license plates. (Transportation)
HB 1416, authorizing certification for the microblading of eyebrows. (Executive Departments and Administration)
HB 1420, relative to the use of force at New Hampshire national guard facilities. (Executive Departments and Administration)
HB 1431, relative to motorcycle auxiliary lamping. (Transportation)
HB 1442, relative to the Gunstock area commission and ski resort. (Energy and Natural Resources)
HB 1453, establishing a commission to study the implementation of enhanced automation of traffic lights. (Transportation)
HB 1454, relative to credit for alternative, extended learning, and work-based programs. (Education and Workforce Development)
HB 1458, allowing for mailing of driver's license suspension notices by first class mail. (Transportation)
HB 1523, authorizing the American Radio Relay League to issue decals for multi-use plates. (Transportation)
HB 1544, relative to the department of employment security job training program. (Commerce)
HB 1555-FN-LOCAL, establishing a committee to study increasing wages, educational opportunities, and the corresponding impact on recidivism among prisoners incarcerated in a state correctional facility who work at or under the supervision of such facility (Executive Departments and Administration)
HB 1561-FN, allowing a county to exempt its chief administrative officer from compulsory participation in the retirement system. (Executive Departments and Administration)
HB 1569-FN, requiring the department of environmental services to maintain a public registry of where certain fire suppressants have been used. (Energy and Natural Resources)
HB 1598-FN, relative to prosecutions for interference with freedom. (Judiciary)
HB 1605-FN, requiring children under the age of 2 years be restrained in a motor vehicle. (Transportation)
HB 1611-FN, relative to incarceration under a suspended sentence. (Judiciary)
HB 1625-FN, reducing the penalty for certain first offense drug possession charges. (Judiciary)
HB 1641-FN, reducing the criminal penalty for certain controlled drugs. (Judiciary)
HB 1648-FN, relative to the home cultivation of cannabis plants and the possession of certain cannabis-infused products. (Judiciary)
HB 1656-FN, relative to an act granting immunity from prosecution for prostitution for reporting a sexual assault. (Judiciary)
HB 1679-FN-A, relative to meals on wheels. (Finance)
HB 1700-FN, relative to the licensure of nonresident aliens temporarily residing in New Hampshire. (Transportation)
HB 1706, establishing a committee to study the solid waste practices of state agencies. (Energy and Natural Resources)
HB 1707-FN, expanding the family-centered early supports and services (FCESS) program to children under the age of 3 who are born substance-exposed. (Health and Human Services)
HB 1714, relative to ratification of amendments to the state building code and state fire code. (Executive Departments and Administration)
Out of Recess. Call the Senate to Order.

MOTION TO ADJOURN FROM LATE SESSION

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

Adopted. Adjournment from the Late Session.

SENATE JOURNAL 7

March 12, 2020

The Senate reconvened at 10:00 a.m., a quorum being present.

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

Let us pray.

Dear God, we give thanks for our government and its leaders. Help them to be men and women acting justly and righteously, that we may lead a quiet and peaceable life in all goodness and honesty. Give our leaders wise and understanding hearts, and let knowledge be pleasant to them. Guide them in making wise and just choices. Guard over them with understanding, keeping them out of danger. Make their hearts and ears attentive to wise counsel, doing what is right for the people they serve. Give us upright, just, and fair men and women, that our state will be secure and prosperous. Help them to do justice, love kindness and walk with humility. Let all of us who enjoy the fruits of liberty and justice, having seen their example, pitch in and do our part to make our country and state, a better place to live. Amen.

Senator Gray led the Pledge of Allegiance.

INTRODUCTION OF PAGES

Senator Feltes introduced Emma Beaujouan and Jennie Durgin from Concord High School, serving as Senate Pages for the day.

MOTION OF RECONSIDERATION

Senator Feltes, having voted on the prevailing side, moved to reconsider the following action taken by the body on SB 688-FN, relative to the pricing of generic prescription drugs.: The vote on Third Reading and Final Passage, Rescind Third Reading, and the vote on Ought to Pass with Amendment. Adopted.

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

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

The following Senators voted Yes: Starr, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D'Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

INTRODUCTION OF GUESTS

Senator Feltes introduced a 4th grade class from Broken Ground School in Concord, visiting in the gallery.

SPECIAL ORDER

Without objection, the following bill is special ordered to the beginning of the Committee on Education and Workforce Development. Adopted.

EDUCATION AND WORKFORCE DEVELOPMENT

SB 727-FN-LOCAL, relative to Holocaust and genocide studies legislation and establishing a commission to study genocide education.

SPECIAL ORDER

Without objection, the following bills are special ordered to Thursday, March 19, 2020. Adopted.

ENERGY AND NATURAL RESOURCES

SB 629-FN, establishing the solid waste reduction management fund and establishing a solid waste disposal surcharge.

JUDICIARY

SB 732-FN, prohibiting the sharing of location data.

REGULAR CALENDAR

EDUCATION AND WORKFORCE DEVELOPMENT

SB 727-FN-L, relative to Holocaust and genocide studies legislation.

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

Education and Workforce Development

March 3, 2020

2020-1021s

06/04

Amendment to SB 727-FN-LOCAL

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

AN ACT relative to Holocaust and genocide studies legislation and establishing a commission to study genocide education.

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

1 Findings and Purpose. The general court finds that intolerance, bigotry, antisemitism, and national, ethnic, racial, and religious hatred and discrimination are incompatible with the fundamental principles of democracy, and that such ideologies and practices, when unchallenged, can lead to genocide. Recognizing that democratic institutions and values are not automatically sustained, but need active civic responsibility and engagement, the general court finds that it is necessary, as part of an adequate education, to ensure that students are taught the historical facts about the Holocaust and other genocides and how intolerance, bigotry, antisemitism, and national, ethnic, racial, and religious hatred and discrimination have evolved in the past, and can evolve, into genocide and mass violence. The general court further finds that through education about the Holocaust and other forms of genocide, their causes, the consequences of intolerance, bigotry, antisemitism, and hate, and the lessons to be drawn for the present, students will understand the fragility of democracy, the importance of democratic principles, and the power of individual choices in preventing genocide.

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

IV. Knowledge of civics and government, economics, geography, [and] history, **and Holocaust and genocide education** to enable them to participate in the democratic process and to make informed choices as responsible citizens.

3 New Paragraphs; Adequate Public Education; Definitions. Amend RSA 193-E:3-a by inserting after paragraph II the following new paragraphs:

II-a. "Genocide" means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; or forcibly transferring children of the group to another group.

II-b. "Holocaust" means the systematic, bureaucratic, state-sponsored persecution and murder of approximately 6,000,000 Jews by the Nazi regime and its collaborators.

II-c. "Holocaust and genocide education" means studies on the Holocaust, genocide, and other acts of mass violence.

4 New Subparagraph; Instruction in National and State History and Government; Genocide Education. Amend RSA 189:11, I by inserting after subparagraph (i) the following new subparagraph:

(j) How intolerance, bigotry, antisemitism, and national, ethnic, racial, or religious hatred and discrimination have evolved in the past, and can evolve, into genocide and mass violence, such as the Holocaust, and how to prevent the evolution of such practices.

5 New Hampshire Genocide Awareness Month. Amend RSA 4:13-t to read as follows:

4:13-t New Hampshire Genocide Awareness Month. The governor shall annually proclaim the month of April as New Hampshire Genocide Awareness Month and shall urge cities and towns throughout the state to observe this month in an appropriate manner commemorating the victims of genocides and educating the public about the ~~[evils of genocide and commemorating victims of genocide]~~ **importance of preventing intolerance, bigotry, antisemitism, and national, ethnic, racial, and religious hatred and genocide against any group of people.**

6 State Board of Education; Rulemaking. Following the receipt of the preliminary report of the commission on Holocaust and genocide education, established in RSA 193-E:2-f, the state board of education shall initiate rulemaking, pursuant to RSA 541-A, relative to the recommendations of the commission.

7 New Section; Commission on Holocaust and Genocide Education. Amend RSA 193-E by inserting after section 2-e the following new section:

193-E:2-f Commission on Holocaust and Genocide Education.

I. There is established a commission to study best practices for teaching students how intolerance, bigotry, antisemitism, and national, ethnic, racial, or religious hatred and discrimination have evolved in the past, and can evolve into mass violence and genocide, such as the Holocaust.

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

- (a) One member of the senate, appointed by the president of the senate.
- (b) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) The commissioner of education, or designee.
- (d) One high school teacher, appointed by the governor.
- (e) One middle school teacher, appointed by the governor.
- (f) One school administrator, appointed by the New Hampshire School Administrators Association.
- (g) One school curriculum coordinator, appointed by NEA-NH.
- (h) The Roman Catholic bishop of Manchester, or designee.
- (i) A representative of the New Hampshire Council of Churches, appointed by the council.
- (j) A representative of the Keene state college Cohen Center for Holocaust and Genocide Studies, appointed by the college president.
- (k) Two members appointed by the Jewish Federation of New Hampshire, one of whom shall be a religious leader.
- (l) Two survivors or direct descendants of a survivor of either the Holocaust or another genocide, one appointed by the president of the senate and one appointed by the speaker of the house of representatives.
- (m) A representative appointed by the Anti-Defamation League, New England region.

III. The commission shall:

- (a) Recommend model school district policies for Holocaust and genocide education.
- (b) Recommend to the state board of education rules for fulfilling the Holocaust and genocide education requirement.
- (c) Identify best practices for teaching Holocaust and genocide education and the appropriate number of hours of instruction at multiple grade levels.
- (d) Identify existing teaching materials and curriculum as well as strategies and content for providing and enhancing genocide education to students.
- (e) Identify in-service education opportunities for educators.
- (f) Promote, within the schools and the general population of the state, implementation of Holocaust and genocide education.

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

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

VI. Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the chairpersons of

the senate and house committees with jurisdiction over education, the senate clerk, the house clerk, the state board of education, the governor, and the state library. A preliminary report shall be submitted on or before January 1, 2021. An annual report shall be submitted on or before November 1, 2021 and each year thereafter. The commission shall monitor the implementation by grade, curriculum, and hours of instruction. A final report shall be submitted on or before November 1, 2024.

8 Repeal. RSA 193-E:2-f, relative to the commission on genocide education, is repealed.

9 Effective Date.

I. Sections 1-6 of this act shall take effect 60 days after its passage.

II. Section 8 of this act shall take effect November 1, 2024.

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

2020-1021s

AMENDED ANALYSIS

This bill requires Holocaust and genocide prevention education to be included in the criteria for an adequate education.

This bill also establishes a commission on Holocaust and genocide education.

SENATOR KAHN: Thank you, Madam President. I move Senate Bill 727-FN-LOCAL Ought to Pass with Amendment. This bill as amended adds four words to New Hampshire's criteria for an adequate education. Those four words are "Holocaust and genocide education." The amended standard in the RSA 193-2 would then read, an adequate education shall provide all students with the opportunity to acquire knowledge of civics and government, economics, geography, history and Holocaust and genocide education, to enable students to participate in the democratic process and to make informed choices as responsible citizens. Like other curriculum standards, school districts shall determine how the standard is addressed by the school. And curriculum guidance would be provided in rules developed by the Board of Education, pursuant to RSA 541-A.

A new commission on holocaust and genocide education by January 1st of 2021 shall provide recommendations on school district policies, education rules, best practices, and existing teaching materials and curriculum strategies. Annual reports from the commission regarding implementation would be provided annually through 2024. The bill also amends the existing statute establishing New Hampshire's Genocide Awareness Month in the month of April in existing statute. The amendment revises somewhat the roles of cities and towns throughout the state to educate the public by, "the change about the evils of genocide and commemorating with, I'm sorry, that the current states about the evils of genocide and commemorating victims of genocide," replacing it with new wording about the importance of preventing intolerance, bigotry, anti-Semitism and national ethnic, racial and religious hatred and genocide against any group of people. The Education and Workforce Development Committee asks for your support on the motion of Ought to Pass with Amendment. Thank you, Madam President. I'd like to speak to the bill.

(The Chair recognized Senator Kahn.)

SENATOR KAHN: Thank you, Madam President. I want to offer to my colleagues in the senate some introductions of some people that have worked very hard with me on this legislation. First, I'd like to introduce Kati Preston, a survivor of the Holocaust from Hungary and Transylvania, and a resident of North Barnstead. I'll refer more to Kati in a moment. Next to her is Tom White, the Director of Educational Outreach for the Keene State College Cohen Center for Holocaust and Genocide Studies. Jenna Bisbee, assistant to Kati Preston, a resident of Concord. Also residents of Concord, Babette Kahn-Rittenmeyer and her daughter Marin, who Babette being the staff member locally for the Lantos Foundation. Dina Chaitowitz a resident of Windham and active member of the Jewish Federation of New Hampshire. And Laurie Medrick a resident of Hampstead whose parents and family were victims or survivors from Poland during the Holocaust. Welcome. Thank you, colleagues.

If I may continue. Seventy-five years after the liberation from Auschwitz, of those who survived, two-thirds of millennials don't know what Auschwitz is and 25 percent of millennials have never heard of the Holocaust. When the survivors are gone, how will we impart the student's historical facts about the Holocaust and other

genocides and how intolerance, bigotry, anti-Semitism, and national ethnic racial and religious hatred and discrimination, and efforts that dehumanize and demonize any part of communities, how they have evolved in the past and today still evolve into genocide and mass violence. Senate Bill 727 addresses this concern.

We've had testimony. The testimony is rich on this bill. Testimony for the Hungarian-Jewish survivor Kati Preston, who was hidden and saved by a Hungarian farming family. She has spoken in seventy-seven different high schools in New Hampshire and most recently with the Governor in Nashua South High School. The Holocaust she says, is the same as every other genocide. It is a human tragedy. Everyone that hurts, hurts the same. Kati states that schools can afford this. They can download teaching materials for free, from many different organizations. We had testimony from a Rwandan genocide survivor. Yves Gakunole, a resident of Keene. Yves is a survivor of the Rwandan genocide that was fourteen years old when it began, who testified the younger generation needs to understand how discrimination, racism, intolerance and bigotry can destroy a nation in the blink of an eye.

Testimony from the Cohen Center for Holocaust and Genocide Studies at Keene State College where the motto is, "To Remember and to Teach." The outreach coordinator Tom White presents in New Hampshire high schools both to teacher workshops and in classrooms and leads teachers' institutes in the state. Tom reminded us of the time in April 1945; General Eisenhower, Bradley, and Patton witnessed the evil of the Orduf-Nord Concentration camp just liberated by the Fourth Armored Division. They were overwhelmed. Patton vomited. Eisenhower then stated, "we are told the American soldier does not know what he is fighting for. Now at least, he will know what he is fighting against."

As Keene State College historian Paul Vincent, a Fulbright Fellow who has taught in Poland frequently leads discussions with students on why, why in Germany? Why the Jews? Why not fight back? Provocative questions that guide students to understand human behavior in different roles; the victims, the perpetrators, and the bystanders.

Bob Dunn delivered testimony on behalf of, The Most Reverend Peter Libasci, Bishop of Manchester Diocese. The letter cites the words of Pope Francis, who in a November address remarked on the barbaric resurgence of anti-Semitism in the world. Genocide, I'm quoting, "Genocide has a foothold in the world today in Sudan, the Congo, Myanmar, Syria, and Iraq." The Bishop states, "It's clear. The lessons of the Holocaust have not been heeded around the world."

Reverend Jason Wells, the Executive Director of the Council of Churches, spoke on the need to bring holocaust and genocide education into broader venues and prevent future silence and complicity in the face of evil.

We heard from the Jewish Federation in New Hampshire, their President, Sarit Itenberg, that thirty New Hampshire incidents of anti-Semitism were reported to the Anti-Defamation League between 2017 and '19. And they included our communities in Manchester, Jaffrey, Portsmouth, Concord, and Keene. A high school senior testified as one of the few Jewish students at Bedford High School, she's been the subject and witnessed Jewish, I'm sorry, Holocaust jokes and anti-Semitic comments since middle school and through high school. In eighth grade during a home economics cooking class as student laughingly told her, she belonged in an oven. In high school she saw a laptop with a swastika as its wallpaper. Recently as a senior walking down the hallway she was told to go to a Jewish concentration camp. Finally, she heard boys gleefully exclaim while playing a video game with others, I killed you like a Jew. She doesn't believe that her fellow students are evil. She believes that they have not received sufficient education to learn that the Holocaust is nothing to laugh at. The only class she took in high school that mentioned the Holocaust was in history and it was not more than a page in a textbook and a five minute discussion in class, she said. She stated, "no student regardless of his or her background and heritage deserves to be subjected to mindless prejudice."

And Laurie Medrick of Hampstead related the stories of her Polish-Jewish family members, saved by Christian Poles and others in her family who perished in Poland, some of the 6 million European Jews murdered by Nazi Germany. Laurie reminded us of the quote, "those who do not learn history are doomed to repeat it." And both Laurie and Robert Trestan of the New England, the regional director for Anti-Defamation League cited the vast availability of curriculum guides and teaching materials from the Anti-Defamation League, U.S. Holocaust, Memorial Museum and the Keene State College Cohen Center.

We can't rely on survivors of the Holocaust like Kati Preston, or Annette Lantos, of Concord, or Steven Lewy of Manchester to be the guest speakers on the Holocaust and genocide forever. Schools need a systematic approach to incorporating the Holocaust and genocide studies into the curriculum standards in their schools. New Hampshire would join fourteen other states that have holocaust or holocaust and genocide education standards. This bill is not designed to match those of other states but to fit into New Hampshire's criteria for an adequate education and

to let each school district determine how it can best address the standard. This bill adds but four words to New Hampshire's criteria for an adequate education. And the goal of this standard, this standard currently, is imparting knowledge to students to enable them to participate in the democratic process and to make informed choices as responsible citizens. Holocaust and genocide education is a fitting part of the school's curriculum that enables students to participate in democratic process and make informed choices as responsible citizens.

In 2010 I traveled to Auschwitz. Probably should have left that paragraph out. I may just do that... I traveled with Keene State with the faculty and students. I stood on the grounds of the crematorium where my father's aunt and uncle died, after twelve years of persecution, forced labor, starvation and inhuman living conditions. They wrote my dad two weeks before the Russian army overtook the camp where 1 million people were murdered. Auschwitz was one of thousands of concentration camps across Europe.

In the twelfth century a rabbi in Spain known as Maimonides gave us powerful words that give meaning to our action today. "If I am not for me, who am I? If I am only for me, what am I? If not now when?" I ask my colleagues to vote Ought to Pass on Senate Bill 727 and Madam President, I ask for a roll call on the vote. Thank you very much.

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

(The Chair recognized Senator Fuller Clark.)

SENATOR FULLER CLARK: Thank you very much, Madam President. I rise in support of Senate Bill 727. This issue of the need for holocaust and genocide education was first brought to my attention last summer when I met with a seventeen-year old student who pointed out the fact that so many of her classmates had no knowledge or understanding of what had transpired. And her fear that as time went on, that any knowledge or understanding of these horrific events would be lost too, and we would lose the opportunity to inform the next generation. I took this issue to Senator Kahn and I simply rise here to thank you very much for your outstanding leadership in moving this bill forward, and just wanted to share my thanks to you for actually seeing this bill come to fruition. Thank you.

(The Chair recognized Senator Birdsell.)

SENATOR BIRDSSELL: Thank you, Madam President. I just want to say, I do support the Ought to Pass on this. As I have spoken before, last year I believe, on the anniversary of the release of the prisoners of Dachau. My father was one of the first soldiers to go into the camp of Dachau once they released it. He never spoke about the horrors that he saw in Dachau. He actually, when we were stationed over in Germany, my father refused to go into Dachau when my mother went to take a tour of it. And as teenagers, he had given us numerous opportunities to ask questions, my sister and myself. As teenagers do, we don't listen, and we don't pay attention and we didn't ask questions. And that's why in Memorial Day observances I have spoken to people to talk to them and make sure that they get the, the veterans get their experiences out so that there is a history and a record of what has happened because now, looking back at trying to find out what happened in Dachau. There's two or three different stories. Now we have no idea of what actually happened. So, with that I want to say I fully support the Ought to Pass and I hope that everyone can support it. Thank you, Madam President.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Madam President. I had the privilege of flying the world for a career. And I had the privilege of flying to Munich. And from Munich I went to visit Auschwitz. For those that believe that evil does not exist, when you walk through the gate, a chill, a physical chill descends. Because evil does exist. And thank you Senator Kahn for bringing this forward. Because if we don't teach our children, evil will return. Thank you, Madam President.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Madam President. You know history's a great teacher, and the fact of the matter is we don't pay enough attention to history. My wife's uncle was a colonel in the OSS. He was with the first group that found the concentration camps. The OSS was under the radar screen in those days, wasn't even considered part of the armed forces. It was the original part of the CIA. So, he visited, or he was there with the first group of American soldiers who found a concentration camp. You know but history tells us that these atrocities occurred not only in the second world war but long before. You know, we had them in the reformation, we had them in the period of the renaissance, but we didn't learn. And if you don't study history and pay attention to history, we won't learn. History's the best teacher because history has a habit of repeating itself. So, let's learn from what happened in the past and let it not happen you know, in the

future. And indeed, discrimination has been part and parcel really of the American experience, I hate to say it that, but it's true. Many, many denominations were treated very, very poorly. And I think of my family, when they came to this country, and how they were treated. How I was treated as a kid, being an Italian kid in an Irish neighborhood where the old story was guineas get out of here, we don't want to tolerate you, go to your own school, go to your own church. So, let's remember the lesson. Bring it forward and think of the great sacrifices people have made for justice, equality and the good things. So, Senator Kahn bringing this forward I think gives us all a lesson, and that lesson is let's learn from the past and not commit the errors, atrocities and mistakes of the past. Thank you, Madam President.

(The Chair recognized Senator Fuller Clark for a question of the Senate President.)

SENATOR FULLER CLARK: Is it possible that the remarks that were made in relationship to this bill be printed in the permanent journal?

PRESIDENT SOUCY: Yes, they will be printed in the permanent journal.

(The Chair recognized Senator Hennessey.)

SENATOR HENNESSEY: Thank you. When my daughter was in middle school we were living in Massachusetts and we went to, I went with her as a, and her chorale group, to Czechoslovakia. At the time it was Czechoslovakia. Where we visited Terezin, where many children were held hostage and the children wrote, I urge people to look this up because the children wrote remarkable poetry and did incredible drawings on the walls in Terezin. And I just want to say that there is a beautiful song that my children sang at Terezin. The children that we took from Needham Massachusetts. And the title is, and all of the song is based on the children's poetry. The title is "*I Never Saw Another Butterfly*." And I urge you all to look it up and remember the children as well. Thank you, Madam President.

(The Chair recognized Senator Dietsch.)

SENATOR DIETSCH: Yes, I want to rise. I am from Ohio and when I grew up, we could scout around the Indian mounds that surrounded my town. And we would find remnants of a people who were very much mistreated. And so, I think I support this bill because I think it will help us look at our own past as well as that that's happened across the ocean and I look forward to it. And I also wanted to share a comment that as much less depth than what we've been discussing, but I found incredibly interesting. Which was from one of the teachers, who stated that after going through a Holocaust course, one of the students, who was not a good student, who had not been attending to homework at all, suddenly started going to after school study hall and mentoring. And when asked why, this student said I just realized how many opportunities I have, and they had nothing.

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

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

The following Senators voted Yes: Starr, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D'Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

SB 683-FN, establishing a New Hampshire innovation program in the department of business and economic affairs and making an annual appropriation therefor.

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

Education and Workforce Development

March 3, 2020

2020-1048s

05/04

Amendment to SB 683-FN

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

AN ACT establishing a committee to study how to strengthen New Hampshire's innovation economy by addressing gaps in early stage capital for research and development intensive start-up companies.

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

1 Committee Established. There is established a committee to study how to strengthen New Hampshire's innovation economy by addressing gaps in early stage capital for research and development intensive start-up companies.

2 Membership and Compensation.

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

(a) Two members 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.

3 Duties.

I. The committee shall research the following:

(a) The amount of federal research funds coming to New Hampshire.

(b) The number of research and development intensive businesses that start up and stay in New Hampshire.

(c) How New Hampshire is currently supporting research and development start-up business development.

(d) How other states address the need for early stage capital for research and development intensive start-ups.

(e) The return on investment for states with programs to address this need.

(f) The current perception of New Hampshire as a place to grow a research and development intensive business.

(g) Why supporting research and development start-ups with funding resources, versus only technical assistance, is important for our economy, jobs, business development, increasing federal funding, and attracting and retaining young people in New Hampshire.

(h) How much funding over what period of time would be necessary to have an impact.

II. The committee shall:

(a) Consult with the department of business and economic affairs, the New Hampshire business finance authority, and the New Hampshire Research and Industry Council of the New Hampshire Established Program to Stimulate Competitive Research (NH EPSCoR) relative to the committee's objectives.

(b) Solicit information and testimony from any individual or entity the committee deems relevant to its study.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named 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.

5 Report. 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, 2020.

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

2020-1048s

AMENDED ANALYSIS

This bill establishes a committee to study how to strengthen New Hampshire's innovation economy by addressing gaps in early stage capital for research and development intensive start-up companies.

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

Senator Dietsch offered a Floor Amendment.

Sen. Dietsch, Dist 9
 March 12, 2020
 2020-1203s
 05/10

Floor Amendment to SB 683-FN

Amend subparagraph I(a) as inserted by section 2 of the bill by replacing it with the following:

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

Amend the bill by replacing section 4 with the following:

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the 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.

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).

SB 726-FN, relative to programs to aid veterans' access to employment, entrepreneurship, housing, health care and college degrees.

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

Education and Workforce Development
 March 3, 2020
 2020-1042s
 01/04

Amendment to SB 726-FN

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

AN ACT relative to programs to aid veterans' access to employment, housing, health care, and college degrees.

Amend RSA 126-A:81, I as inserted by section 2 of the bill by replacing it with the following:

I. In this act, "veteran" means veterans as defined in 15 U.S.C. section 632(q)(2) and (3).

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

3 Report Required. On or before April 1, 2021, the commissioner of the department of health and human services shall produce a report of the findings, including the impact that Medicaid expansion has had to date for the veterans and their families, recommendations and any additional legislative action or budget actions required relative to RSA 126-A:81, II as inserted by section 2 of this act to the president of the senate, the speaker of the house of representatives, the governor, and the chairpersons of the senate and house committees having jurisdiction over public health issues.

4 Business Finance Authority; Capital Access Program. Amend RSA 162-A:12, II to read as follows:

II. The amount of the authority's contribution to a CAP fund shall not exceed 10 percent of the principal amount of the CAP loans to be secured by the CAP fund. As a condition of the authority making a contribution to a CAP fund, the authority may require the borrower or the participating state bank or state credit union to make a contribution to the CAP fund and may impose such other conditions or requirements as the authority may deem necessary or desirable; ***provided that no veteran-owned business borrower shall be required to pay a fee or contribution into the CAP fund.*** All moneys contributed to a CAP fund shall be held in the name of the authority. Investment earnings on the CAP fund shall be credited to the fund, and such earnings shall be periodically paid to the authority unless the CAP participation agreement otherwise provides.

5 New Sections; Department of Employment Security; Workforce Needs Projections for Veterans; Training and Apprentice Programs. Amend RSA 282-A by inserting after section 117-a the following new sections:

282-A:117-b Workforce Needs Projections for Veterans; Report. The commissioner shall produce a monthly, written report, which shall also be published on the department's public Internet site, detailing the state's workforce needs projections, by industry, job type, geography, and needed credential. The report shall include

comparisons of projected workforce needs with existing workforce needs and availability of in-demand fields in this state and shall highlight, on a county-by-county basis, the industries, job types, and credentials which are most in demand in the state. The report shall also identify and map, on a county-by-county basis, those in-demand positions and credentials that are best suited to the skills, experience, and credentials possessed by veterans. The commissioner shall forward the report every month to all appropriate military placement offices, recruitment centers, education centers, nonprofit programs, and any other state or local agency working to connect veterans with jobs.

282-A:117-c Training and Apprentice Programs for Veterans; Report. The adjutant general in cooperation with the commissioners of the departments of labor and employment security shall annually review and submit a report detailing all apprentice, training, and other vocational programs in this state focused on providing job training and placement to returning military service members and veterans. The annual report shall evaluate the costs and results of such programs and propose legislation to expand or revise such programs, an estimate of the benefits to the state to be gained from program expansion, and recommendations for sources of funding. The initial report shall be submitted to the president of the senate, the speaker of the house of representatives, the chairpersons of the senate and house committees with jurisdiction in veterans issues and in professional licensing issues, the senate clerk, the house clerk, and the governor within 60 days of the effective date of this section.

6 New Sections; Department of Military Affairs and Veterans Services; Programs and Report Added. Amend RSA 110-B by inserting after section 73 the following new sections:

110-B:73-a Military Skills Test Waiver Program. The adjutant general shall take necessary steps to increase veterans' awareness of and participation in the Federal Motor Carrier Safety Administration's Military Skills Test Waiver Program. The adjutant general shall include information about the program and a link to the program's website on department's public Internet site and shall coordinate with military placement and training programs to disseminate information on the program to veterans with relevant experience newly locating in New Hampshire.

110-B:73-b Acceptance of Military Training and Experience in Professional Licensing; Report. The adjutant general and the executive director of the office of professional licensure and certification shall jointly conduct a review of all state licenses for which military veterans may have relevant training or experience and identify any steps that can be taken without further legislation; develop recommendations and proposed legislation designed to increase the acceptance of military training and experience toward professional licensing; and submit a report to the president of the senate, the speaker of the house of representatives, the chairpersons of the senate and house committees with jurisdiction in veterans issues and in professional licensing issues, the senate clerk, the house clerk, and the governor within one year of the effective date of this section, and annually thereafter.

110-B:73-c End Veterans Homelessness Program.

I. The adjutant general, in conjunction with providers of services for veterans experiencing homelessness in New Hampshire, shall establish a program to end veterans homelessness in 3 years. The term "end veterans homelessness" shall have the same meaning as in the most recently released report by the United States Interagency Council on Homelessness.

II. In coordination with local, state, and federal government agencies and nonprofits, and in consultation with states and cities that have achieved an end to veterans homelessness in accordance with the above criteria, the adjutant general shall develop and implement strategies including but not limited to:

(a) Coordinating a community outreach and a common assessment tool to identify veterans experiencing homelessness and assessing the types and severity of risk and vulnerability being faced by veterans experiencing homelessness.

(b) Developing a comprehensive listing of the names of veterans who are experiencing homelessness, prioritized based on degree of vulnerability.

(c) Sharing data between all relevant veterans' service providers, state agencies, nonprofit organizations, and VA medical centers.

(d) Increasing coordination and streamlining processes for appropriate veterans' housing placements.

(e) Connecting veterans experiencing homelessness to health, mental health, employment, entrepreneurship, and training resources through the services described under RSA 126-A:81, RSA 126-A:82, RSA 162-A:9-b, RSA 282-A:117-b, RSA 282-A:117-c, RSA 110-B:73-a, RSA 110-B:73-b, RSA 153-A:20, XXV, RSA 187-A:20-d, RSA 188-F:16-b, RSA 326-B:9, XIII, and RSA 328-D:10, I(j).

(f) A commitment to the principles of Housing First, as developed by the United States Interagency Council on Homelessness.

(g) Identifying and applying for funding, as needed from private, foundation, and other partners.

7 New Paragraph; Emergency Medical Care Providers; Rulemaking. Amend RSA 153-A:20 by inserting after paragraph XXIV the following new paragraph:

XXV. Implementing strategies and procedures necessary to increase the acceptance of military training and experience towards licensure for military veterans seeking to be licensed as an emergency medical care provider.

8 New Section; State College and University System; Credit for Military Experience and Training. Amend RSA 187-A by inserting after section 20-c the following new section:

187-A:20-d Academic Credit and Course Registration for Veterans.

I. A veteran who enrolls as a student at an institution within the university system shall be granted maximum credits allowed by the institution's required accreditation standards or state licensure requirements towards his or her degree for the completion of courses that were part of such veteran's military training or service if the such courses meet the standards of the American Council on Education, or its equivalent, for the awarding of academic credits. No fee, tuition, or other charge shall be assessed against a veteran who qualifies for such credit pursuant to this section.

II.(a) Institutions within the state university system that offer an early course registration period shall also offer early course registration to students who are veterans or national guard members.

(b) A student who is called to active duty in the armed forces of the United States, after having attended regularly for 85 percent of the length of the course as determined by the academic calendar of class or having completed 85 percent of the term's work, shall be given an opportunity to complete necessary course work within 12 months utilizing the Internet or United States Postal Service correspondence or other available communication methods for each course in which such student is earning a grade of C or better in the term the student is called to active duty service.

(c) Students called to active duty in the armed forces of the United States shall have their tuition refunded or credited, whichever is deemed appropriate by the institution based on how the term was paid for, without credits awarded.

(d) A veteran with no previous college experience shall be permitted to file an admission application and enroll in the current open registration period pending completion of their application and provision of supporting documents.

(e) Within 12 months of return from active duty, a veteran may register for courses after normal registration period ends without late fees or other penalties until the latest allowable registration date.

III. The board of trustees shall establish policies necessary to implement this section.

9 New Section; Community College System of New Hampshire; Academic Credit and Course Registration for Veterans. Amend RSA 188-F by inserting after section 16-a the following new section:

188-F:16-b Academic Credit and Course Registration for Veterans and Active Duty Services Members.

I. A veteran who enrolls as a student at an institution within the community college system shall be granted academic credit for the completion of courses that were part of such veteran's military training or service if the such courses meet the standards of the American Council on Education, or its equivalent, for the awarding of academic credits and are applicable to the veteran's program of study. No fee, tuition, or other charge shall be assessed against a veteran who qualifies for such credit pursuant to this section. Nothing in this paragraph shall be construed to alter established curriculum, program, or degree requirements.

II.(a) Institutions within the community college system that offer an early course registration period shall also offer early course registration to students who are veterans or national guard members.

(b) A student who is called to active duty in the armed forces of the United States, after having completed 85 percent of the term's work, shall be given a reasonable opportunity to attain full credit for each course in which he or she has attained a grade of C or better prior to being called to active duty. A reasonable opportunity may include the opportunity to accelerate completion of course work prior to reporting for active duty or complete coursework within a reasonable time after return from active duty.

(c) Students called to active duty in the armed forces of the United States who do not meet the institution's attendance requirements sufficient, as a request of such service, to earn a grade shall be entitled to a full refund of tuition and fees.

(d) A veteran shall be permitted to file an admission application up to the end of the regular course registration period, and shall be permitted to begin classes pending completion of their application and provision of supporting documents. Nothing in this subparagraph shall be construed to alter established admissions, course prerequisites, curriculum, programs or degree requirements.

(e) Within 12 months of return from active duty, a veteran may register for courses after normal registration period ends without late fees or other penalties. This subparagraph shall not be construed to require extension of registration period beyond the normal add/drop deadline.

III. The board of trustees shall establish policies necessary to implement this section.

10 New Paragraph; Nurse Practice Act; Rulemaking. Amend RSA 326-B:9 by inserting after paragraph XII the following new paragraph:

XIII. The implementation of strategies and procedures necessary to increase the acceptance of military training and experience towards licensure for military veterans seeking to be licensed as a nurse.

11 Physician Assistant; Rulemaking. Amend RSA 328-D:10, I(j) to read as follows:

(j) ***The implementation of strategies and procedures necessary to increase the acceptance of military training and experience towards licensure for military veterans seeking to be licensed as a physician assistant.***

(k) Except as provided in paragraph II, any other matter which is consistent with the legislative intent of this chapter and which is necessary to the administration of this chapter.

12 Recognition of Military Training and Experience; Reports. The adjutant general, the commissioner of the department of safety, the executive director of the office of professional licensure and certification, and the licensing authorities for nursing under RSA 326-B, physician assistants under RSA 328-D, and emergency medical care providers under RSA 153-A:11, shall jointly conduct a review of all licensing procedures for each profession listed in this section and develop recommendations and proposed legislation designed to increase the recognition of military training and experience toward licensing in such professions, and shall submit a report to the president of the senate, the speaker of the house of representatives, the chairpersons of the senate and house committees with jurisdiction in veterans issues and in professional licensing issues, the senate clerk, the house clerk, and the governor within one year of the effective date of this section.

13 Applicability. Sections 2, 3 and 6 of this act shall take effect when the department of military affairs and veterans services receives sufficient funding for 3 positions required to carry out the purposes of those sections as certified by the adjutant general to the director of legislative services and the secretary of state.

14 Effective Date.

I. Sections 2, 3, and 6 of this act shall take effect as provided in section 13 of this act.

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

2020-1042s

AMENDED ANALYSIS

This bill

I. Requires the commissioner of the department of health and human services to develop and operate a veteran health navigator training program for the existing veterans service officers under the department of military affairs and veterans services to provide veterans and their families increased access to health care and mental health services.

II. Requires the commissioner of the department of employment security to publish a monthly workforce needs assessment report for veterans.

III. Requires the adjutant general to take steps to increase veterans' awareness of the military skills test waiver program; increase acceptance of military training and experience towards the licensing requirements in certain occupations and professions; and establish an end veterans homelessness program.

IV. Requires the university system and community college system of New Hampshire to award college credit for military training courses completed and to increase flexibility in application and course registration procedures for veterans.

V. Requires the adjutant general to review expanded training and apprenticeship programs for providing job training for veterans and to submit a report detailing the findings.

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

Senator Morgan offered a Floor Amendment.

Sen. Morgan, Dist 23

March 10, 2020

2020-1172s

01/04

Floor Amendment to SB 726-FN

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

AN ACT relative to programs to aid veterans' access to employment, housing, health care, and college degrees.

Amend RSA 126-A:81, I as inserted by section 2 of the bill by replacing it with the following:

I. In this subdivision, "veteran" means veteran as defined in 38 U.S.C. section 101(2).

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

3 Report Required. On or before April 1, 2021, the commissioner of the department of health and human services shall produce a report of the findings, including the impact that Medicaid expansion has had to date for the veterans and their families, recommendations and any additional legislative action or budget actions required relative to RSA 126-A:81, II as inserted by section 2 of this act to the president of the senate, the speaker of the house of representatives, the governor, and the chairpersons of the senate and house committees having jurisdiction over public health issues. For the purposes of this section, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

4 Business Finance Authority; Capital Access Program. Amend RSA 162-A:12, II to read as follows:

II. The amount of the authority's contribution to a CAP fund shall not exceed 10 percent of the principal amount of the CAP loans to be secured by the CAP fund. As a condition of the authority making a contribution to a CAP fund, the authority may require the borrower or the participating state bank or state credit union to make a contribution to the CAP fund and may impose such other conditions or requirements as the authority may deem necessary or desirable; ***provided that no veteran-owned business borrower shall be required to pay a fee or contribution into the CAP fund.*** All moneys contributed to a CAP fund shall be held in the name of the authority. Investment earnings on the CAP fund shall be credited to the fund, and such earnings shall be periodically paid to the authority unless the CAP participation agreement otherwise provides. ***For the purposes of this paragraph, "veteran" means veteran as defined in 38 U.S.C. section 101(2).***

5 New Sections; Department of Employment Security; Workforce Needs Projections for Veterans; Training and Apprentice Programs. Amend RSA 282-A by inserting after section 117-a the following new sections:

282-A:117-b Workforce Needs Projections for Veterans; Report. The commissioner shall produce a monthly, written report, which shall also be published on the department's public Internet site, detailing the state's workforce needs projections, by industry, job type, geography, and needed credential. The report shall include comparisons of projected workforce needs with existing workforce needs and availability of in-demand fields in this state and shall highlight, on a county-by-county basis, the industries, job types, and credentials which are most in demand in the state. The report shall also identify and map, on a county-by-county basis, those in-demand positions and credentials that are best suited to the skills, experience, and credentials possessed by veterans. The commissioner shall forward the report every month to all appropriate military placement offices, recruitment centers, education centers, nonprofit programs, and any other state or local agency working to connect veterans with jobs. For the purposes of this section, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

282-A:117-c Training and Apprentice Programs for Veterans; Report. The adjutant general in cooperation with the commissioners of the departments of labor and employment security shall annually review and submit a report detailing all apprentice, training, and other vocational programs in this state focused on providing job

training and placement to returning military service members and veterans. The annual report shall evaluate the costs and results of such programs and propose legislation to expand or revise such programs, an estimate of the benefits to the state to be gained from program expansion, and recommendations for sources of funding. The initial report shall be submitted to the president of the senate, the speaker of the house of representatives, the chairpersons of the senate and house committees with jurisdiction in veterans issues and in professional licensing issues, the senate clerk, the house clerk, and the governor within 60 days of the effective date of this section. For the purposes of this section, “veterans” means veterans as defined in 38 U.S.C. section 101(2).

6 New Sections; Department of Military Affairs and Veterans Services; Programs and Report Added. Amend RSA 110-B by inserting after section 73 the following new sections:

110-B:73-a Military Skills Test Waiver Program. The adjutant general shall take necessary steps to increase veterans’ awareness of and participation in the Federal Motor Carrier Safety Administration’s Military Skills Test Waiver Program. The adjutant general shall include information about the program and a link to the program’s website on department’s public Internet site and shall coordinate with military placement and training programs to disseminate information on the program to veterans with relevant experience newly locating in New Hampshire. For the purposes of this section, “veterans” means veterans as defined in 38 U.S.C. section 101(2).

110-B:73-b Acceptance of Military Training and Experience in Professional Licensing; Report. The adjutant general and the executive director of the office of professional licensure and certification shall jointly conduct a review of all state licenses for which military veterans may have relevant training or experience and identify any steps that can be taken without further legislation; develop recommendations and proposed legislation designed to increase the acceptance of military training and experience toward professional licensing; and submit a report to the president of the senate, the speaker of the house of representatives, the chairpersons of the senate and house committees with jurisdiction in veterans issues and in professional licensing issues, the senate clerk, the house clerk, and the governor within one year of the effective date of this section, and annually thereafter. For the purposes of this section, “veterans” means veterans as defined in 38 U.S.C. section 101(2).

110-B:73-c End Veterans Homelessness Program.

I. The adjutant general, in conjunction with providers of services for veterans experiencing homelessness in New Hampshire, shall establish a program to end veterans homelessness in 3 years. The term “end veterans homelessness” shall have the same meaning as in the most recently released report by the United States Interagency Council on Homelessness. For the purposes of this section, “veterans” means veterans as defined in 38 U.S.C. section 101(2).

II. In coordination with local, state, and federal government agencies and nonprofits, and in consultation with states and cities that have achieved an end to veterans homelessness in accordance with the above criteria, the adjutant general shall develop and implement strategies including but not limited to:

(a) Coordinating a community outreach and a common assessment tool to identify veterans experiencing homelessness and assessing the types and severity of risk and vulnerability being faced by veterans experiencing homelessness.

(b) Developing a comprehensive listing of the names of veterans who are experiencing homelessness, prioritized based on degree of vulnerability.

(c) Sharing data between all relevant veterans’ service providers, state agencies, nonprofit organizations, and VA medical centers.

(d) Increasing coordination and streamlining processes for appropriate veterans’ housing placements.

(e) Connecting veterans experiencing homelessness to health, mental health, employment, entrepreneurship, and training resources through the services described under RSA 126-A:81, RSA 126-A:82, RSA 162-A:9-b, RSA 282-A:117-b, RSA 282-A:117-c, RSA 110-B:73-a, RSA 110-B:73-b, RSA 153-A:20, XXV, RSA 187-A:20-d, RSA 188-F:16-b, RSA 326-B:9, XIII, and RSA 328-D:10, I(j).

(f) A commitment to the principles of Housing First, as developed by the United States Interagency Council on Homelessness.

(g) Identifying and applying for funding, as needed from private, foundation, and other partners.

7 New Paragraph; Emergency Medical Care Providers; Rulemaking. Amend RSA 153-A:20 by inserting after paragraph XXIV the following new paragraph:

XXV. Implementing strategies and procedures necessary to increase the acceptance of military training and experience towards licensure for military veterans seeking to be licensed as an emergency medical care provider. For the purposes of this subparagraph, “veterans” means veterans as defined in 38 U.S.C. section 101(2).

8 New Section; State College and University System; Credit for Military Experience and Training. Amend RSA 187-A by inserting after section 20-c the following new section:

187-A:20-d Academic Credit and Course Registration for Veterans.

I. A veteran who enrolls as a student at an institution within the university system shall be granted maximum credits allowed by the institution’s required accreditation standards or state licensure requirements towards his or her degree for the completion of courses that were part of such veteran’s military training or service if the such courses meet the standards of the American Council on Education, or its equivalent, for the awarding of academic credits. No fee, tuition, or other charge shall be assessed against a veteran who qualifies for such credit pursuant to this section. For the purposes of this section, “veteran” means veteran as defined in 38 U.S.C. section 101(2).

II.(a) Institutions within the state university system that offer an early course registration period shall also offer early course registration to students who are veterans or national guard members.

(b) A student who is called to active duty in the armed forces of the United States, after having attended regularly for 85 percent of the length of the course as determined by the academic calendar of class or having completed 85 percent of the term’s work, shall be given an opportunity to complete necessary course work within 12 months utilizing the Internet or United States Postal Service correspondence or other available communication methods for each course in which such student is earning a grade of C or better in the term the student is called to active duty service.

(c) Students called to active duty in the armed forces of the United States shall have their tuition refunded or credited, whichever is deemed appropriate by the institution based on how the term was paid for, without credits awarded.

(d) A veteran with no previous college experience shall be permitted to file an admission application and enroll in the current open registration period pending completion of their application and provision of supporting documents.

(e) Within 12 months of return from active duty, a veteran may register for courses after normal registration period ends without late fees or other penalties until the latest allowable registration date.

III. The board of trustees shall establish policies necessary to implement this section.

9 New Section; Community College System of New Hampshire; Academic Credit and Course Registration for Veterans. Amend RSA 188-F by inserting after section 16-a the following new section:

188-F:16-b Academic Credit and Course Registration for Veterans and Active Duty Services Members.

I. A veteran who enrolls as a student at an institution within the community college system shall be granted academic credit for the completion of courses that were part of such veteran’s military training or service if the such courses meet the standards of the American Council on Education, or its equivalent, for the awarding of academic credits and are applicable to the veteran’s program of study. No fee, tuition, or other charge shall be assessed against a veteran who qualifies for such credit pursuant to this section. Nothing in this paragraph shall be construed to alter established curriculum, program, or degree requirements. For the purposes of this section, “veteran” means veteran as defined in 38 U.S.C. section 101(2).

II.(a) Institutions within the community college system that offer an early course registration period shall also offer early course registration to students who are veterans or national guard members.

(b) A student who is called to active duty in the armed forces of the United States, after having completed 85 percent of the term’s work, shall be given a reasonable opportunity to attain full credit for each course in which he or she has attained a grade of C or better prior to being called to active duty. A reasonable opportunity may include the opportunity to accelerate completion of course work prior to reporting for active duty or complete coursework within a reasonable time after return from active duty.

(c) Students called to active duty in the armed forces of the United States shall have their tuition refunded or credited, whichever is deemed appropriate by the institution based on how the term was paid for, without credits awarded.

(d) A veteran shall be permitted to file an admission application up to the end of the regular course registration period, and shall be permitted to begin classes pending completion of their application and provision of supporting documents. Nothing in this subparagraph shall be construed to alter established admissions, course prerequisites, curriculum, programs or degree requirements.

(e) Upon return from active duty, a veteran may register for courses after normal registration period ends without late fees or other penalties. This subparagraph shall not be construed to require extension of registration period beyond the normal add/drop deadline.

III. The board of trustees shall establish policies necessary to implement this section.

10 New Paragraph; Nurse Practice Act; Rulemaking. Amend RSA 326-B:9 by inserting after paragraph XII the following new paragraph:

XIII. The implementation of strategies and procedures necessary to increase the acceptance of military training and experience towards licensure for military veterans seeking to be licensed as a nurse. For the purposes of this subparagraph, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

11 Physician Assistant; Rulemaking. Amend RSA 328-D:10, I(j) to read as follows:

(j) *The implementation of strategies and procedures necessary to increase the acceptance of military training and experience towards licensure for military veterans seeking to be licensed as a physician assistant. For the purposes of this subparagraph, "veterans" means veterans as defined in 38 U.S.C. section 101(2).*

(k) Except as provided in paragraph II, any other matter which is consistent with the legislative intent of this chapter and which is necessary to the administration of this chapter.

12 Recognition of Military Training and Experience; Reports. The adjutant general, the commissioner of the department of safety, the executive director of the office of professional licensure and certification, and the licensing authorities for nursing under RSA 326-B, physician assistants under RSA 328-D, and emergency medical care providers under RSA 153-A:11, shall jointly conduct a review of all licensing procedures for each profession listed in this section and develop recommendations and proposed legislation designed to increase the recognition of military training and experience toward licensing in such professions, and shall submit a report to the president of the senate, the speaker of the house of representatives, the chairpersons of the senate and house committees with jurisdiction in veterans issues and in professional licensing issues, the senate clerk, the house clerk, and the governor within one year of the effective date of this section. For the purposes of this subparagraph, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

13 Applicability. Sections 2, 3 and 6 of this act shall take effect when the department of military affairs and veterans services receives sufficient funding for 3 positions required to carry out the purposes of those sections as certified by the adjutant general to the director of legislative services and the secretary of state.

14 Effective Date.

I. Sections 2, 3, and 6 of this act shall take effect as provided in section 13 of this act.

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

2020-1172s

AMENDED ANALYSIS

This bill

I. Requires the commissioner of the department of health and human services to develop and operate a veteran health navigator training program for the existing veterans service officers under the department of military affairs and veterans services to provide veterans and their families with increased access to health care and mental health services.

II. Requires the commissioner of the department of employment security to publish a monthly workforce needs assessment report for veterans.

III. Requires the adjutant general to take steps to increase veterans' awareness of the military skills test waiver program; increase acceptance of military training and experience towards the licensing requirements

in certain occupations and professions; and establish an end veterans homelessness program.

IV. Requires the university system and community college system of New Hampshire to award college credit for military training courses completed and to increase flexibility in application and course registration procedures for veterans.

V. Requires the adjutant general to review expanded training and apprenticeship programs for providing job training for veterans and to submit a report detailing the findings.

Recess. Out of recess.

SPECIAL ORDER

Without objection, SB 726-FN special ordered to the end of the Committee on Energy and Natural Resources. Adopted.

ELECTION LAW AND MUNICIPAL AFFAIRS

SB 476, relative to parking restrictions at public access to public waters.
Interim Study, Vote 5-0. Senator Sherman for the committee.

The question is on the adoption of the motion of Interim Study. Adopted.

SB 586-FN, relative to certain expenditures by candidates and candidate committees.
Ought to Pass with Amendment, Vote 3-2. Senator Sherman for the committee.

Election Law and Municipal Affairs

March 4, 2020

2020-1087s

11/06

Amendment to SB 586-FN

Amend RSA 664:7 as inserted by section 2 of the bill by replacing it with the following:

664:7 Reporting by Candidates. Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who has expenditures exceeding \$500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6, II, II-a, III, IV, and V, excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries. ***Each candidate with expenditures totaling more than \$1,000 to himself or herself or to his or her immediate family shall also submit back-up receipts, which shall be retained for the duration of the subsequent reporting period.***

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

Senator Levesque offered a Floor Amendment.

Sen. Levesque, Dist 12

March 11, 2020

2020-1191s

05/01

Floor Amendment to SB 586-FN

Amend RSA 664:7 as inserted by section 2 of the bill by replacing it with the following:

664:7 Reporting by Candidates. Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who has expenditures exceeding \$500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6, II, II-a, III, IV, and V, excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries. ***Each candidate with expenditures totaling more than \$1,000 to himself or herself or to his or her immediate family shall retain back-up receipts for 90 days after the final reporting period.***

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.

A roll call was requested by Senator Levesque, seconded by Senator Rosenwald.

Recess. Out of recess.

The following Senators voted Yes: Starr, Bradley, Watters, Hennessey, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, D'Allesandro, Fuller Clark, Morgan, Sherman, Soucy.

The following Senators voted No: Giuda, Gray, French, Birdsell, Morse.

Roll Call, Yeas: 19 - Nays: 5. Adopted, bill ordered to Third Reading.

ANNOUNCEMENTS

PRESIDENT SOUCY: And at this time, just to remind everyone again, there is ongoing cleaning and disinfecting going on in the building. You do have Purell in all of the drawers, and there is a great deal of information on DHHS website, in case any of you have questions or concerns that we can't address here.

Recess. Out of recess.

SB 631-FN, authorizing online voter registration.

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

Election Law and Municipal Affairs

March 4, 2020

2020-1090s

11/04

Amendment to SB 631-FN

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

1 New Section; Online Voter Registration. Amend RSA 654 by inserting after section 7-c the following new section:

654:7-d Online Voter Registration.

I. Beginning January 1, 2022, a person may register to vote by submitting an online voter registration application in accordance with this section.

II. The secretary of state shall establish a secure Internet website to permit an applicant to:

(a) Submit an online voter registration form.

(b) Submit information necessary to establish an applicant's qualifications to vote, pursuant to RSA 654:12.

(c) Swear to the oath required by RSA 654:7.

III. The secretary of state shall establish appropriate technological security measures, including use of a unique identifier for each applicant, to prevent unauthorized persons from altering a voter's registration information.

IV.(a) No person without an identification issued by the New Hampshire department of safety, division of motor vehicles shall be able to register through the online voter registration system.

(b) The department of safety, division of motor vehicles shall provide the online voter registration application system all information necessary to effectuate the provisions of this section.

(c) The online voter registration application form shall require a valid electronic mail address for the voter in order to complete the online voter registration application.

(d) The online voter registration application system shall include a disclaimer to the applicant of possible criminal liability pursuant to paragraph XI.

V.(a) The online voter registration application system shall compare the New Hampshire driver's license number or New Hampshire nondriver's picture identification number submitted pursuant to this section with information maintained by the department of safety, division of motor vehicles, to confirm that the name and date of birth on the application are consistent with the records of the department of safety, division of motor vehicles.

(b) If the applicant's name and date of birth are consistent with the records of the department of safety, division of motor vehicles, the online voter registration application system shall transmit, using the statewide centralized voter registration database maintained pursuant to RSA 654:45, the applicant's submission, including the digital signature of the applicant, to the appropriate supervisors of the checklist to add the applicant's name to the checklist. The applicant's digital signature shall satisfy the signature requirement of RSA 654:7, IV. The applicant shall be required to submit an original signature

to the supervisors of the checklist prior to voting in the first election after registering online. An online registrant shall not be eligible to receive an absentee ballot until his or her original signature is on file with the supervisors of the checklist.

(c) If the applicant's name, citizenship, legal and/or physical mailing addresses, and date of birth cannot be verified by the records of the department of safety, division of motor vehicles, or the applicant indicated that he or she has not been issued a New Hampshire driver's license or New Hampshire nondriver's picture identification card, the online voter registration application system shall notify the applicant by electronic mail that his or her online voter registration was ineffective and inform the applicant of alternative methods of registration.

VI. Upon submission of a completed online voter registration application, the website shall generate an electronic confirmation that the supervisors of the checklist have received the application and shall provide instructions regarding the ability of an applicant to check the status of the application. Once the supervisors of the checklist have added the applicant to the checklist, the applicant shall be notified by electronic mail, including information about where the applicant is registered to vote.

VII. Except as otherwise provided in this section, the supervisor of elections shall process the application pursuant to RSA 654:13.

VIII. If a person submits an application pursuant to the provisions of this section after the 10th day before an election, the applicant shall not be added to the checklist until the day after the election. The supervisors of the checklist may contact such applicant, either by telephone or mail, in order to inform the applicant of the effect of the late-received application and the ability of the person to register in person on election day.

IX. The online voter registration system shall conform to nationally accepted standards for accessibility for individuals with disabilities such as section 508 of the Rehabilitation Act of 1973, section 255 of the Communications Act, and the Web Content Accessibility Guidelines of the World Wide Web Consortium to ensure equal access to voters with disabilities.

X. With the exception of the requirement that no person without an identification issued by the New Hampshire department of safety, division of motor vehicles shall be able to register, no legal distinction shall be made between online registration under this section and registration in person, by mail, or other methods provided by general law.

XI. A person using the online voter registration application system to register to vote using any name other than his or her own shall be considered to have violated RSA 659:34.

2 Centralized Voter Registration Database. Amend RSA 654:45, I to read as follows:

I. The secretary of state is authorized to plan, develop, equip, establish, site, and maintain a statewide centralized voter registration database and communications system, hereinafter referred to as the voter database, connecting users throughout the state. The voter database shall include the current information on the voter registration forms, ***including those submitted pursuant to RSA 654:7-d***, the accepted absentee ballot applications, the voter checklists, and voter actions as recorded on the marked checklist maintained by each city, ward, and town in the state.

3 Funding of Implementation. The department of state shall fund the implementation of this act with grants received pursuant to the 2018 Help America Vote Act Election Security Award and section 101 of the Help America Vote Act of 2002, Public Law 107-252.

4 Effective Date. This act shall take effect January 1, 2021.

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

Senator Hennessey moved to call the question.

A roll call was requested by Senator Levesque, seconded by Senator Rosenwald.

Senators Levesque and Rosenwald withdrew their request for a roll call.

Without objection, Senator Hennessey moved to call the question. Adopted.

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

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

The following Senators voted Yes: Watters, Hennessey, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Feltes, Cavanaugh, D'Allesandro, Fuller Clark, Morgan, Sherman, Soucy.

The following Senators voted No: Starr, Giuda, Bradley, Gray, French, Ward, Carson, Reagan, Birdsell, Morse.
Roll Call, Yeas: 14 - Nays: 10. Adopted, bill ordered to Third Reading.

SB 694-FN-A, relative to minimal cybersecurity standards for municipalities and making appropriations therefor.
Ought to Pass with Amendment, Vote 4-1. Senator Morgan for the committee.

Election Law and Municipal Affairs

March 4, 2020

2020-1091s

06/10

Amendment to SB 694-FN-A

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

AN ACT relative to recommended minimum cybersecurity standards for municipalities and making an appropriation therefor.

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

1 New Paragraph; Department of Information Technology; Duties of Commissioner. Amend RSA 21-R:4 by inserting after paragraph XX the following new paragraph:

XXI. Recommending minimum cybersecurity standards for political subdivisions, based on CIS controls, as established and maintained by the Center for Internet Security. The department shall:

(a) Publish recommended minimum cybersecurity standards for political subdivisions, to be updated annually.

(b) Designate the New Hampshire cyber integration center to coordinate incident response of cybersecurity incident reports from political subdivisions.

2 New Paragraph; Department of Information Technology; Definitions. Amend RSA 21-R:1 by inserting after paragraph II the following new paragraph:

III. "Cybersecurity incident" means an occurrence that actually or potentially:

(a) Jeopardizes the confidentiality, integrity, or availability of an information system;

(b) Jeopardizes the information the system processes, stores, or transmits; or

(c) Constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.

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

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

4 Department of Information Technology; Appropriation. The sum of \$1 for the fiscal year ending June 30, 2021 is hereby appropriated to the department of information technology. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

2020-1091s

AMENDED ANALYSIS

This bill:

I. Requires the department of information technology to recommend minimum cybersecurity standards for political subdivisions.

II. Requires political subdivisions to report cybersecurity incidents to the New Hampshire cyber integration center.

III. Makes an appropriation to the department of information technology.

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).

SB 695-FN, relative to sharing voter registration information.

Ought to Pass, Vote 3-2. Senator Levesque for the committee.

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

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

The following Senators voted Yes: Watters, Hennessey, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Feltes, Cavanaugh, D'Allesandro, Fuller Clark, Morgan, Sherman, Soucy.

The following Senators voted No: Starr, Giuda, Bradley, Gray, French, Ward, Carson, Reagan, Birdsell, Morse.

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

ENERGY AND NATURAL RESOURCES

SB 462-FN, relative to state energy management.

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

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

SB 588-FN, relative to wanton waste of an animal and prohibiting wildlife killing contests.

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

Energy and Natural Resources

March 4, 2020

2020-1069s

04/10

Amendment to SB 588-FN

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

AN ACT relative to wanton waste of an animal and relative to contests for taking fur-bearing animals.

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

1 New Paragraph; General Provisions as to Fish and Game; Definitions. Amend RSA 207:1 by inserting after paragraph XXIX the following new paragraph:

XXIX-a. Wanton Waste: The act of intentionally leaving a wounded or killed animal in the field or forest without making a reasonable effort to retrieve and render it for consumption or use. This definition shall not apply to animals that are diseased, and thus unfit for consumption or use, or grossly mutilated, and thus rendered unfit for consumption or use, nor to animals on privately owned property taken in the defense of person or property under RSA 207:26 or RSA 207:30.

2 New Section; General Provisions as to Fish and Game; Wanton Waste. Amend RSA 207 by inserting after section 3-e the following new section:

207:3-f Wanton Waste.

I. No person shall commit wanton waste of a wild bird or wild animal that has been wounded or killed by that person while hunting. This section shall not apply to animals that are diseased, and thus unfit for consumption or use, or grossly mutilated, and thus rendered unfit for consumption or use. Any person who violates this section shall be guilty of a violation.

II. This section shall not abridge enforcement actions taken pursuant to RSA 212-A, RSA 207:5, or RSA 211:1. This section shall not apply to wildlife conservation officers, licensed trappers for removal of nuisance animals, persons acting under a pre-damage kill permit, persons acting under a depredation permit, persons acting for scientific purposes under a scientific permit, or persons acting pursuant to RSA 207:22-c, III or RSA 206:26.

III. The executive director shall adopt rules, pursuant to RSA 541-A, regarding the applicability of this section to hunting and fishing in the state.

3 New Section; Fur-Bearing Animals; Contests to Take Fur-Bearing Animals. Amend RSA 210 by inserting after section 23 the following new section:

210:23-a Contests to Take Fur-Bearing Animals. No later than January 1, 2021, the executive director shall adopt rules, pursuant to RSA 541-A, governing the organization, promotion, solicitation of participation in, or participation in, any contest that is created specifically for participants to take a fur-bearing animal.

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

2020-1069s

AMENDED ANALYSIS

This bill prohibits wanton waste of an animal and requires the executive director of the fish and game department to adopt rules governing fur-bearing animal taking contests.

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

Senator Watters offered a Floor Amendment.

Sen. Watters, Dist 4
March 10, 2020
2020-1159s
04/11

Floor Amendment to SB 588-FN

Amend the bill by replacing section 3 with the following:

3 New Section; Fur-Bearing Animals; Contests to Take Fur-Bearing Animals. Amend RSA 210 by inserting after section 23 the following new section:

210:23-a Contests to Take Fur-Bearing Animals. No later than April 1, 2021, the executive director shall adopt rules, pursuant to RSA 541-A, governing the definition of a contest for the taking of a fur-bearing animal, and the organization, promotion, solicitation of participation in, or participation in, any contest that is created specifically for participants to take a fur-bearing animal.

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.

SB 591, establishing a statewide solid waste disposal reduction goal.
Ought to Pass with Amendment, Vote 4-0. Senator Watters for the committee.

Energy and Natural Resources
March 3, 2020
2020-1039s
08/10

Amendment to SB 591

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2020-1039s

AMENDED ANALYSIS

This bill establishes a statewide solid waste disposal reduction goal.

This bill also revises requirements relative to the state solid waste plan.

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 626-FN, removing the fee to file certain administrative petitions with the site evaluation committee. Ought to Pass with Amendment, Vote 4-0. Senator Fuller Clark for the committee.

Energy and Natural Resources
March 3, 2020
2020-1031s
06/10

Amendment to SB 626-FN

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

AN ACT decreasing the fee to file a petition for a declaratory ruling with the site evaluation committee.

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

1 Site Evaluation Committee; Filing Fees. Amend RSA 162-H:8-a, II(d) to read as follows:

(d) Filing fees for administrative proceedings:

(1) Petition for committee jurisdiction: \$10,500.

(2) Petition for declaratory ruling: [~~\$10,500, or \$3,000 if heard by a 3-member subcommittee~~] **\$250.**

(3) Certificate transfer of ownership: \$10,500, or \$3,000 if heard by a 3-member subcommittee.

(4) Request for exemption: \$10,500, or \$3,000 if heard by a 3-member subcommittee.

(5) Request to modify a certificate: \$10,500, or \$3,000 if heard by a 3-member subcommittee.

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

2020-1031s

AMENDED ANALYSIS

This bill decreases the filing fee for petitions for a declaratory ruling in energy facility siting administrative proceedings.

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 692-FN, relative to certain costs of the public utilities commission for participation in regional activities. Ought to Pass with Amendment, Vote 4-0. Senator Feltes for the committee.

Energy and Natural Resources
March 3, 2020
2020-1038s
10/04

Amendment to SB 692-FN

Amend RSA 374-F:8 as inserted by section 2 of the bill by replacing it with the following:

374-F:8 Participation in Regional Activities. The commission shall advocate for New Hampshire interests before the Federal Energy Regulatory Commission and other regional and federal bodies. The commission shall participate in the activities of the New England Conference of Public Utility Commissioners, the National Association of Regulatory Utility Commissioners, and the New England States Committee on Electricity, or other similar organizations, and work with the New England Independent System Operator and NEPOOL to advance the interests of New Hampshire with respect to wholesale electric issues, including policy goals relating to fuel diversity, renewable energy, and energy efficiency, and to assure nondiscriminatory open access to a safe, adequate, and reliable transmission system at just and reasonable prices. The commission shall advocate against proposed regional or federal rules or policies that are inconsistent with the policies, rules, or laws of New Hampshire. In its participation in regional activities, the commission shall consider how other states' policies will impact New Hampshire rates and work to prevent or minimize any rate impact the commission determines to be unjust or unreasonable, ***including, but not limited to, unjust or unreasonable returns on equity. The commission shall directly assess gas and electric distribution utilities the costs and expenses of fulfilling its duties under this section, including the costs and expenses***

of assistants hired by the commission, based on the annual revenues of the utilities in the same manner as issued in assessing the annual operating expenses of the commission, or as appropriate and equitable on a case by case basis. Such costs and expenses shall not include any part of the salaries of the commissioners or of employees of the commission, or the commission's membership fees for the New England Conference of Public Utility Commissioners and the National Association of Regulatory Utility Commissioners. The commission may make and the utilities shall pay such assessments monthly, quarterly, or annually at the commission's election. The commission shall by order establish rate recovery mechanisms for any public utility assessment imposed pursuant to this section. Such rate recovery mechanisms shall adjust at least annually to recover any change in a utility's assessment.

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.

EDUCATION AND WORKFORCE DEVELOPMENT

SB 726-FN, relative to programs to aid veterans' access to employment, entrepreneurship, housing, health care and college degrees.

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

Senator Morgan withdrew Floor Amendment 2020-1172s.

Senator Morgan offered a Floor Amendment.

Sen. Morgan, Dist 23

March 12, 2020

2020-1209s

01/04

Floor Amendment to SB 726-FN

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

AN ACT relative to programs to aid veterans' access to employment, housing, health care, and college degrees.

Amend RSA 126-A:81, I as inserted by section 2 of the bill by replacing it with the following:

I. In this subdivision, "veteran" means veteran as defined in 38 U.S.C. section 101(2).

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

3 Report Required. On or before April 1, 2021, the commissioner of the department of health and human services shall produce a report of the findings, including the impact that Medicaid expansion has had to date for the veterans and their families, recommendations and any additional legislative action or budget actions required relative to RSA 126-A:81, II as inserted by section 2 of this act to the president of the senate, the speaker of the house of representatives, the governor, and the chairpersons of the senate and house committees having jurisdiction over public health issues. For the purposes of this section, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

4 Business Finance Authority; Capital Access Program. Amend RSA 162-A:12, II to read as follows:

II. The amount of the authority's contribution to a CAP fund shall not exceed 10 percent of the principal amount of the CAP loans to be secured by the CAP fund. As a condition of the authority making a contribution to a CAP fund, the authority may require the borrower or the participating state bank or state credit union to make a contribution to the CAP fund and may impose such other conditions or requirements as the authority may deem necessary or desirable; ***provided that no veteran-owned business borrower shall be required to pay a fee or contribution into the CAP fund.*** All moneys contributed to a CAP fund shall be held in the name of the authority. Investment earnings on the CAP fund shall be credited to the fund, and such earnings shall be periodically paid to the authority unless the CAP participation agreement otherwise provides. ***For the purposes of this paragraph, "veteran" means veteran as defined in 38 U.S.C. section 101(2).***

5 New Sections; Department of Employment Security; Workforce Needs Projections for Veterans; Training and Apprentice Programs. Amend RSA 282-A by inserting after section 117-a the following new sections:

282-A:117-b Workforce Needs Projections for Veterans; Report. The commissioner shall produce a monthly, written report, which shall also be published on the department's public Internet site, detailing the state's workforce needs projections, by industry, job type, geography, and needed credential. The report shall include comparisons of projected workforce needs with existing workforce needs and availability of in-demand fields in this state and shall highlight, on a county-by-county basis, the industries, job types, and credentials which are most in demand in the state. The report shall also identify and map, on a county-by-county basis, those in-demand positions and credentials that are best suited to the skills, experience, and credentials possessed by veterans. The commissioner shall forward the report every month to all appropriate military placement offices, recruitment centers, education centers, nonprofit programs, and any other state or local agency working to connect veterans with jobs. For the purposes of this section, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

282-A:117-c Training and Apprentice Programs for Veterans; Report. The adjutant general in cooperation with the commissioners of the departments of labor and employment security shall annually review and submit a report detailing all apprentice, training, and other vocational programs in this state focused on providing job training and placement to returning military service members and veterans. The annual report shall evaluate the costs and results of such programs and propose legislation to expand or revise such programs, an estimate of the benefits to the state to be gained from program expansion, and recommendations for sources of funding. The initial report shall be submitted to the president of the senate, the speaker of the house of representatives, the chairpersons of the senate and house committees with jurisdiction in veterans issues and in professional licensing issues, the senate clerk, the house clerk, and the governor within 60 days of the effective date of this section. For the purposes of this section, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

6 New Sections; Department of Military Affairs and Veterans Services; Programs and Report Added. Amend RSA 110-B by inserting after section 73 the following new sections:

110-B:73-a Military Skills Test Waiver Program. The adjutant general shall take necessary steps to increase veterans' awareness of and participation in the Federal Motor Carrier Safety Administration's Military Skills Test Waiver Program. The adjutant general shall include information about the program and a link to the program's website on department's public Internet site and shall coordinate with military placement and training programs to disseminate information on the program to veterans with relevant experience newly locating in New Hampshire. For the purposes of this section, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

110-B:73-b Acceptance of Military Training and Experience in Professional Licensing; Report. The adjutant general and the executive director of the office of professional licensure and certification shall jointly conduct a review of all state licenses for which military veterans may have relevant training or experience and identify any steps that can be taken without further legislation; develop recommendations and proposed legislation designed to increase the acceptance of military training and experience toward professional licensing; and submit a report to the president of the senate, the speaker of the house of representatives, the chairpersons of the senate and house committees with jurisdiction in veterans issues and in professional licensing issues, the senate clerk, the house clerk, and the governor within one year of the effective date of this section, and annually thereafter. For the purposes of this section, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

110-B:73-c End Veterans Homelessness Program.

I. The adjutant general, in conjunction with providers of services for veterans experiencing homelessness in New Hampshire, shall establish a program to end veterans homelessness in 3 years. The term "end veterans homelessness" shall have the same meaning as in the most recently released report by the United States Interagency Council on Homelessness. For the purposes of this section, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

II. In coordination with local, state, and federal government agencies and nonprofits, and in consultation with states and cities that have achieved an end to veterans homelessness in accordance with the above criteria, the adjutant general shall develop and implement strategies including but not limited to:

(a) Coordinating a community outreach and a common assessment tool to identify veterans experiencing homelessness and assessing the types and severity of risk and vulnerability being faced by veterans experiencing homelessness.

(b) Developing a comprehensive listing of the names of veterans who are experiencing homelessness, prioritized based on degree of vulnerability.

(c) Sharing data between all relevant veterans' service providers, state agencies, nonprofit organizations, and VA medical centers.

(d) Increasing coordination and streamlining processes for appropriate veterans' housing placements.

(e) Connecting veterans experiencing homelessness to health, mental health, employment, entrepreneurship, and training resources through the services described under RSA 126-A:81, RSA 126-A:82, RSA 162-A:9-b, RSA 282-A:117-b, RSA 282-A:117-c, RSA 110-B:73-a, RSA 110-B:73-b, RSA 153-A:20, XXV, RSA 187-A:20-d, RSA 188-F:16-b, RSA 326-B:9, XIII, and RSA 328-D:10, I(j).

(f) A commitment to the principles of Housing First, as developed by the United States Interagency Council on Homelessness.

(g) Identifying and applying for funding, as needed from private, foundation, and other partners.

7 New Paragraph; Emergency Medical Care Providers; Rulemaking. Amend RSA 153-A:20 by inserting after paragraph XXIV the following new paragraph:

XXV. Implementing strategies and procedures necessary to increase the acceptance of military training and experience towards licensure for military veterans seeking to be licensed as an emergency medical care provider. For the purposes of this subparagraph, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

8 New Section; State College and University System; Credit for Military Experience and Training. Amend RSA 187-A by inserting after section 20-c the following new section:

187-A:20-d Academic Credit and Course Registration for Veterans.

I. A veteran who enrolls as a student at an institution within the university system shall be granted maximum credits allowed by the institution's required accreditation standards or state licensure requirements towards his or her degree for the completion of courses that were part of such veteran's military training or service if the such courses meet the standards of the American Council on Education, or its equivalent, for the awarding of academic credits. No fee, tuition, or other charge shall be assessed against a veteran who qualifies for such credit pursuant to this section. For the purposes of this section, "veteran" means veteran as defined in 38 U.S.C. section 101(2).

II.(a) Institutions within the state university system that offer an early course registration period shall also offer early course registration to students who are veterans or national guard members.

(b) A student who is called to active duty in the armed forces of the United States, after having attended regularly for 85 percent of the length of the course as determined by the academic calendar of class or having completed 85 percent of the term's work, shall be given an opportunity to complete necessary course work within 12 months utilizing the Internet or United States Postal Service correspondence or other available communication methods for each course in which such student is earning a grade of C or better in the term the student is called to active duty service.

(c) Students called to active duty in the armed forces of the United States shall have their tuition refunded or credited, whichever is deemed appropriate by the institution based on how the term was paid for, without credits awarded.

(d) A veteran with no previous college experience shall be permitted to file an admission application and enroll in the current open registration period pending completion of their application and provision of supporting documents.

(e) Within 12 months of return from active duty, a veteran may register for courses after normal registration period ends without late fees or other penalties until the latest allowable registration date.

III. The board of trustees shall establish policies necessary to implement this section.

9 New Section; Community College System of New Hampshire; Academic Credit and Course Registration for Veterans. Amend RSA 188-F by inserting after section 16-a the following new section:

188-F:16-b Academic Credit and Course Registration for Veterans and Active Duty Services Members.

I. A veteran who enrolls as a student at an institution within the community college system shall be granted academic credit for the completion of courses that were part of such veteran's military training or service if the such courses meet the standards of the American Council on Education, or its equivalent, for the awarding of academic credits and are applicable to the veteran's program of study. No fee, tuition, or other charge shall be assessed against a veteran who qualifies for such credit pursuant to this section. Nothing in this paragraph shall be construed to alter established curriculum, program, or degree requirements. For the purposes of this section, "veteran" means veteran as defined in 38 U.S.C. section 101(2).

II.(a) Institutions within the community college system that offer an early course registration period shall also offer early course registration to students who are veterans or national guard members.

(b) A student who is called to active duty in the armed forces of the United States, after having completed 85 percent of the term's work, shall be given a reasonable opportunity to attain full credit for each course in which he or she has attained a grade of C or better prior to being called to active duty. A reasonable opportunity may include the opportunity to accelerate completion of course work prior to reporting for active duty or complete coursework within a reasonable time after return from active duty.

(c) Students called to active duty in the armed forces of the United States shall have their tuition refunded or credited, whichever is deemed appropriate by the institution based on how the term was paid for, without credits awarded.

(d) A veteran shall be permitted to file an admission application up to the end of the regular course registration period, and shall be permitted to begin classes pending completion of their application and provision of supporting documents. Nothing in this subparagraph shall be construed to alter established admissions, course prerequisites, curriculum, programs or degree requirements.

(e) Within 12 months of return from active duty, a veteran may register for courses after normal registration period ends without late fees or other penalties. This subparagraph shall not be construed to require extension of registration period beyond the normal add/drop deadline.

III. The board of trustees shall establish policies necessary to implement this section.

10 New Paragraph; Nurse Practice Act; Rulemaking. Amend RSA 326-B:9 by inserting after paragraph XII the following new paragraph:

XIII. The implementation of strategies and procedures necessary to increase the acceptance of military training and experience towards licensure for military veterans seeking to be licensed as a nurse. For the purposes of this subparagraph, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

11 Physician Assistant; Rulemaking. Amend RSA 328-D:10, I(j) to read as follows:

(j) ***The implementation of strategies and procedures necessary to increase the acceptance of military training and experience towards licensure for military veterans seeking to be licensed as a physician assistant. For the purposes of this subparagraph, "veterans" means veterans as defined in 38 U.S.C. section 101(2).***

(k) Except as provided in paragraph II, any other matter which is consistent with the legislative intent of this chapter and which is necessary to the administration of this chapter.

12 Recognition of Military Training and Experience; Reports. The adjutant general, the commissioner of the department of safety, the executive director of the office of professional licensure and certification, and the licensing authorities for nursing under RSA 326-B, physician assistants under RSA 328-D, and emergency medical care providers under RSA 153-A:11, shall jointly conduct a review of all licensing procedures for each profession listed in this section and develop recommendations and proposed legislation designed to increase the recognition of military training and experience toward licensing in such professions, and shall submit a report to the president of the senate, the speaker of the house of representatives, the chairpersons of the senate and house committees with jurisdiction in veterans issues and in professional licensing issues, the senate clerk, the house clerk, and the governor within one year of the effective date of this section. For the purposes of this subparagraph, "veterans" means veterans as defined in 38 U.S.C. section 101(2).

13 Applicability. Sections 2, 3 and 6 of this act shall take effect when the department of military affairs and veterans services receives sufficient funding for 3 positions required to carry out the purposes of those sections as certified by the adjutant general to the director of legislative services and the secretary of state.

14 Effective Date.

I. Sections 2, 3, and 6 of this act shall take effect as provided in section 13 of this act.

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

2020-1209s

AMENDED ANALYSIS

This bill

I. Requires the commissioner of the department of health and human services to develop and operate a veteran health navigator training program for the existing veterans service officers under the department of military affairs and veterans services to provide veterans and their families with increased access to health care and mental health services.

II. Requires the commissioner of the department of employment security to publish a monthly workforce needs assessment report for veterans.

III. Requires the adjutant general to take steps to increase veterans' awareness of the military skills test waiver program; increase acceptance of military training and experience towards the licensing requirements in certain occupations and professions; and establish an end veterans homelessness program.

IV. Requires the university system and community college system of New Hampshire to award college credit for military training courses completed and to increase flexibility in application and course registration procedures for veterans.

V. Requires the adjutant general to review expanded training and apprenticeship programs for providing job training for veterans and to submit a report detailing the findings.

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.

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

The following Senators voted Yes: Starr, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D'Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 637-FN, relative to fraud and errors in records of the retirement system.

Inexpedient to Legislate, Vote 4-1. Senator Cavanaugh for the committee.

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

FINANCE

SB 730-FN-L, establishing the granite state paid family leave plan.

Interim Study, Vote 4-1. Senator D'Allesandro for the committee.

The question is on the adoption of the motion of Interim Study.

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

The following Senators voted Yes: Watters, Hennessey, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Feltes, Cavanaugh, D'Allesandro, Fuller Clark, Morgan, Sherman, Soucy.

The following Senators voted No: Starr, Giuda, Bradley, Gray, French, Ward, Carson, Reagan, Birdsell, Morse.

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

HB 712-FN, relative to a family and medical leave insurance program.

Ought to Pass, Vote 4-1. Senator Feltes for the committee.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3
March 11, 2020
2020-1197s
06/04

Floor Amendment to HB 712-FN

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

AN ACT establishing the granite state paid family leave plan.

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

1 New Subdivision; Granite State Paid Family Leave Plan. Amend RSA 21-I by inserting after section 95 the following new subdivision:

Granite State Paid Family Leave Plan

21-I:96 Granite State Paid Family Leave Plan. There is hereby established the granite state paid family leave plan, which shall be implemented under this subdivision and as provided in RSA 282-B and RSA 77-E.

21-I:97 Purpose and Policy. The purpose of this subdivision is to leverage the purchasing power and economies of scale available to the state when it is acting as purchaser on behalf of state employees and to align this purchasing initiative with a business tax incentive in order to make available to all other public and private employers in the state, on a voluntary basis, advantageously priced family and medical leave insurance (FMLI) wage replacement benefits. By purchasing FMLI coverage for state employees through the medium of commercial insurance, by linking that contract with a contract to make the same coverage available state-wide, by acting as premium aggregator for individuals whose employers do not sponsor such coverage, and by introducing a new business tax incentive, the state will position itself to create a market for advantageously priced FMLI benefits. It is the intent of this subdivision to significantly increase the number of employees in the state who receive FMLI wage replacement benefits. The social benefits of increasing the rate of FMLI coverage include attracting and retaining workers, including younger workers, to the state, enabling parents to bond with biological, adopted, or foster children, helping to meet the needs of an aging population, promoting workplace stability, and enhancing worker retention and productivity. While many larger employers provide paid FMLI benefits through self-insurance, this is not feasible for most mid-sized and smaller businesses. The general court therefore finds that it is in the public interest for the state to strategically use its purchasing power and tax expenditure authority to establish a marketplace in the state for advantageously priced FMLI wage replacement benefits.

21-I:98 Definitions. In this subdivision:

I. "Child" has the same meaning as "son or daughter" in 29 U.S.C. section 2611(12).

II. "Commissioner" means the commissioner of the department of administrative services.

III. "Department" means the department of administrative services.

IV. "Family and medical leave" means leave from work because of:

(a) The birth of a child of the employee, within the past 12 months;

(b) The placement of a child with the employee for adoption or fostering within the past 12 months;

(c) A serious health condition of a family member;

(d) A serious health condition of the employee that is not related to employment; or

(e) Any qualifying exigency arising from foreign deployment with the armed forces, or to care for a service member with a serious injury or illness as permitted under the federal Family and Medical Leave Act, 29 U.S.C. section 2612(a)(1)(E) and 29 C.F.R. section 825.126(a)(1)-(8), as they existed on October 19, 2017, for family members as defined in paragraph VI.

V. "Family and Medical Leave Act" means the federal Family and Medical Leave Act of 1993, Pub.L. 103-3, 29 U.S.C. section 2601 et seq.

VI. "Family member" means a "child" as defined in paragraph I, a biological, adoptive, or foster parent, stepparent, or legal guardian of the child or the child's spouse or domestic partner, a biological, adoptive, or foster grandparent or step grandparent, or a spouse or domestic partner.

VII. "FMLI" means family and medical leave insurance providing wage replacement benefits under specified conditions.

VIII. "Serious health condition" means any illness covered by the Family and Medical Leave Act including treatment for addiction as prescribed by a treating clinician, consistent with American Society of Addiction Medicine criteria, as well as treatment for a mental health condition, consistent with American Psychiatric Association criteria.

IX. "State rate" means the per employee premium amount that is charged by the successful bidder for the state contract for FMLI coverage for state government employees as provided in this subdivision. The state rate shall be expressed as a percentage of wages.

21-I:99 Contracting and Administrative Authority.

I. The commissioner may solicit information about, seek proposals for, negotiate, enter into, and administer group insurance contracts with duly authorized accident and life insurance carriers as necessary and appropriate to provide to qualifying state employees, at state expense and at no cost to such employees, an FMLI plan of wage replacement as described in this subdivision. The provision of this coverage shall be considered a matter of legislatively established public policy that is designed to benefit all employers and employees in the state and that is "confined exclusively to the public employer by statute" as provided in RSA 273-A:1, XI and shall not be subject to collective bargaining. Nothing in this subdivision shall be construed to invalidate any portion of a collective bargaining agreement entered into by the state.

II. The state shall provide to all permanent state employees wage replacement coverage for qualified leave, which shall be available for the same types of leave as protected under the Family and Medical Leave Act. This shall include leave because of:

- (a) The birth of a child of the employee, within the past 12 months; or
- (b) The placement of a child with the employee for adoption, legal guardianship, or fostering, within the past 12 months; or
- (c) A serious health condition of a family member; or
- (d) A serious health condition of the employee that isn't related to employment; or
- (e) Any qualifying exigency arising from the foreign deployment with the armed forces, or to care for a service member with a serious injury or illness as permitted under the federal Family and Medical Leave Act, 29 U.S.C. section 2612(a)(1).

III. Subject to any changes authorized under RSA 21-I:103, the wage replacement benefits under this FMLI plan shall be structured as follows:

- (a) Eligible employees shall receive 60 percent of their average weekly wage.
- (b) The maximum duration of wage replacement shall be 6 weeks per year, with no minimum duration required.
- (c) Wages used to determine the 60 percent FMLI coverage shall be capped at the amount of the Social Security taxable wage maximum as amended from time to time.

IV. Except as provided in RSA 21-I:100, III regarding individual pool coverage, the commissioner shall establish, through his or her discretionary authority in administering the request for information and the request for proposals process, the following additional elements of the benefit structure consistent with the purposes and policy of this subdivision:

- (a) The base period by which the average weekly wage shall be determined.
- (b) The tenure requirement, expressed in terms of months of work, before an employee is eligible to be covered provided, however, that no tenure requirement shall apply to an employee who has already met the requirement and then changes jobs.
- (c) A waiting period or elimination period provided, however, that a waiting or elimination period shall not be a required element of the benefit structure, and the commissioner shall have authority to implement a plan with no such requirement.

21-I:100 State Employee Coverage Linked to Coverage Offerings for Other Employers and for Individual Employees. The commissioner shall include in the request for proposals for FMLI benefits for state employees a requirement that the winning bidder shall, as a condition of the state contract, also offer the same FMLI coverage to other public employers, private employers, and individual employees on the following terms:

I. Private and public non-state employers shall receive a rate that is derived from the state rate through the application of rating factors that are actuarially justified and specified in the bid response.

II. Employers who choose to sponsor coverage for their employees shall contract directly with the winning bidder.

III. Employers who already sponsor short term disability coverage for their employees shall have the option of sponsoring FMLI coverage that does not include coverage for the employee's own medical condition and that is priced accordingly.

IV. Individuals who work for employers who choose not to offer FMLI coverage under this subdivision or who fail to meet minimum participation requirements and who do not offer an FMLI benefit that is at least equivalent to the granite state paid family leave plan shall have the opportunity to contract indirectly with the winning bidder through the purchasing pool for family and medical leave insurance authorized under RSA 282-B and administered by the department of employment security. The pool may be experience rated. Coverage through the pool shall include a 7 month waiting period, a one week elimination period, and a 60 day annual open enrollment period as established by the commissioner in the procurement process. For an employee who is already covered for short term disabilities, coverage through the pool shall include the option to purchase FMLI coverage that excludes the employee's own medical condition and that is priced accordingly. Premiums for individual pool coverage shall not exceed \$5 per subscriber per week.

V. The commissioner shall establish, through his or her discretionary authority in administering the request for information and the request for proposals process, the following additional elements of the benefit structure and plan administration specifically for employees of sponsoring non-state employers consistent with the purposes and policy of this subdivision:

- (a) The minimum participation requirement.
- (b) The parameters for open enrollment periods.
- (c) Procedures for contributory plans, partially contributory plans, and non-contributory plans.
- (d) Procedures for payroll deduction and premium remittance.

21-I:101 Conditions of Non-State Employer Participation. Participation in the plan by non-state employers shall be voluntary. In addition, non-state employers may choose to provide FMLI at no cost to their employees or on a contributory or partially contributory basis.

21-I:102 Procurement Process. The commissioner may issue a request for information or a request for proposals to secure FMLI coverage for all eligible employees of the state of New Hampshire and to make advantageously priced coverage available to all other private and public employers in the state as provided in this subdivision. The department and the department of employment security shall jointly evaluate the proposals received in response to the request for proposals. The department shall contract with an insurance carrier or carriers to provide FMLI coverage. The contract with the winning bidder shall be subject to governor and council approval. The selected insurance carrier shall be licensed by the state of New Hampshire and in good standing. The selected insurance carrier shall be subject to all applicable insurance laws and regulations of the state of New Hampshire, and the rates and forms for the FMLI contracts shall be filed for approval with the insurance commissioner.

21-I:103 Commissioner Discretion to Adjust Initial FMLI Benefit Structure. In exercising authority under this subdivision to contract for FMLI coverage for state employees and also for the availability of advantageously priced FMLI coverage for employees of all non-state employers, the commissioner shall have discretionary authority in initiating this program to make changes to the benefit structure of the FMLI plan under RSA 21-I:99, III and may retain a consulting actuary or other benefit advisors in support of this discretionary determination. This discretionary authority shall be exercised in consideration of the stated purposes and policy goals of this subdivision and of the counsels of the FMLI advisory board established in RSA 21-I:104. Any such changes made under this paragraph shall be subject to approval by the governor and council and the legislative fiscal committee prior to implementation and shall be offered by the legislative fiscal committee as an amendment to this subdivision in the next regular session of the general court.

21-I:104 Family and Medical Leave Insurance Advisory Board. There is hereby established the family and medical leave insurance advisory board, which shall be administratively attached to the department, and which shall hereinafter be called the FMLI advisory board. The FMLI advisory board shall consist of 9 members to be appointed, with the exception of the legislative members, by the governor. Three of the appointees shall be persons who, because of their vocations, employment, or affiliations, shall represent employers; 3 shall be persons who, because of the vocations, employment, or affiliations, shall represent employees; one shall be a senator appointed by the senate president; one shall be a representative appointed by the speaker of the house of representatives; the remaining appointee, who shall be appointed as chairman, shall be a person whose training and experience qualify her or him to successfully resolve the problems of FMLI procurement, eligibility, benefit design, and program administration. The advisory board shall meet no later than 45 days after each calendar quarter and aid the commissioner in formulating policies and discussing problems related to the implementation and administration of this subdivision and RSA 282-B and in assuring impartiality and freedom from political influence in the solution of such problems. Advisory board meetings shall provide opportunity for public comment.

21-I:105 Report and Outreach.

I. Working in coordination with the commissioner of administrative services as provided in RSA 282-B:6, I, the department shall produce, on an annual basis, a summary report on the granite state paid family leave plan. This report shall be made public and delivered to the governor, the senate president, and the speaker of the house of representatives. It shall include, but not be limited to, a description of progress in carrying out the processes contemplated under this subdivision, progress in improving the rate of FMLI coverage of employees in the state, and recommendations for more fully achieving the purposes and policy goals of this subdivision.

II. Working in coordination with the department of employment security as provided in RSA 282-B:6, II, the department shall develop and implement an outreach program to ensure that employers who might benefit from sponsoring FMLI coverage for their employees and individuals who may be eligible to receive FMLI coverage under this subdivision are made aware of this program. Outreach information shall explain in an easy to understand format, eligibility requirements, benefit structures, and the process for accessing coverage, enrolling individuals, and qualifying for the business tax credit provided for in RSA 77-E:3-d.

21-I:106 Rulemaking. The commissioner may adopt rules, pursuant to RSA 541-A, as deemed necessary for the implementation of this chapter.

21-I:107 Appropriation and Funding Transfer. The state treasurer shall transfer funds from the general fund to the department of administrative services for payment of the administrative and implementation costs associated with this chapter.

21-I:108 Program Start-up. The request for proposals for FMLI coverage as described in this subdivision shall be issued no later than September 30, 2020. The FMLI coverage shall be in place for state government employees and available for purchase by other public and private employers and individuals by July 1, 2021.

2 Insurance; Allocation of State Premium Tax. Amend RSA 400-A:32, III to read as follows:

III.(a) Except as provided in [subparagraph] **subparagraphs** (b) **and** (c), the taxes imposed in paragraphs I and II of this section shall be promptly forwarded by the commissioner to the state treasurer for deposit to the general fund.

(b) Taxes imposed attributable to premiums written for medical and other medical related services for the newly eligible Medicaid population as provided for under RSA 126-AA shall be deposited into the New Hampshire granite advantage health care trust fund established in RSA 126-AA:3. The commissioner shall notify the state treasurer of sums for deposit into the New Hampshire granite advantage health care trust fund no later than 30 days after receipt of said taxes. The moneys in the trust fund may be used for the administration of the New Hampshire granite advantage health care program, established in RSA 126-AA.

(c) Taxes imposed on premiums written by duly authorized insurance companies for family and medical leave insurance written in connection with the administration of RSA 21-I:96 through RSA 21-I:108 or RSA 282-B shall be deposited into the FMLI premium stabilization trust fund established in RSA 282-B:5. The commissioner shall notify the state treasurer of sums for deposit into the FMLI premium stabilization trust fund no later than 30 days after receipt of said taxes.

3 New Chapter; Purchasing Pool for Family and Medical Leave Insurance. Amend RSA by inserting after chapter 282-A the following new chapter:

CHAPTER 282-B

PURCHASING POOL FOR FAMILY AND MEDICAL LEAVE INSURANCE

282-B:1 Purpose. The purpose of this chapter is to establish a group purchasing mechanism whereby individuals who work for employers who do not to offer either family and medical leave insurance (FMLI) coverage under the granite state paid family leave plan as authorized under RSA 21-I:96 through RSA 21-I:108 or an FMLI benefit that is at least equivalent to such coverage will have the opportunity to purchase granite state paid family leave plan coverage through a mechanism established by the state in conjunction with the state government employee FMLI plan.

282-B:2 Definitions. In this chapter:

I. "Child" has the same meaning as "son or daughter" in 29 U.S.C. section 2611(12).

II. "Commissioner" means the commissioner of the department of employment security.

III. "Department" means the department of employment security.

IV. "Employer" has the same definition as relevant provisions of RSA 282-A:8, except as provided in RSA 282-A:9.

V. "Employment" means wages paid for services by an employer that is covered by this chapter.

VI. "Family and medical leave" means leave from work because of:

(a) The birth of a child of the employee, within the past 12 months;

(b) The placement of a child with the employee for adoption or fostering within the past 12 months;

(c) A serious health condition of a family member;

(d) A serious health condition of the employee that is not related to employment; or

(e) Any qualifying exigency arising from foreign deployment with the armed forces, or to care for a service member with a serious injury or illness as permitted under the federal Family and Medical Leave Act, 29 U.S.C. section 2612(a)(1)(E) and 29 C.F.R. section 825.126(a)(1) through (8), as they existed on October 19, 2017, for family members as defined in paragraph VIII.

VII. "Family and Medical Leave Act" means the federal Family and Medical Leave Act of 1993, Pub.L. 103-3, 29 U.S.C. section 2601 et seq.

VIII. "Family member" means a child, a biological, adoptive, or foster parent, stepparent, or legal guardian of the child or the child's spouse or domestic partner, a biological, adoptive, or foster grandparent or step grandparent, or a spouse or domestic partner.

IX. "FMLI" means family and medical leave insurance providing wage replacement benefits under specified conditions.

X. "Individual Pool" means the pooled purchasing mechanism established in this chapter for the purpose of providing individual employees of employers who do not sponsor qualifying FMLI coverage the option to purchase such coverage on an individual basis.

XI. "Serious health condition" means any illness covered by the federal family and medical leave act including treatment for addiction as prescribed by a treating clinician, consistent with American Society of Addiction Medicine criteria, as well as treatment for a mental health condition, consistent with American Psychiatric Association criteria.

282-B:3 Employer and Employee Rights and Responsibilities.

I. Individuals who are employed by private employers who do not to offer either FMLI coverage under the granite state paid family leave plan under RSA 21-I:96 - RSA 21-I:108 or an FMLI benefit that is at least equivalent to such coverage will have the opportunity to purchase granite state paid family leave plan coverage through the individual pool. The individual pool shall operate by payroll deduction whereby premiums are paid into an FMLI premium fund administered by the department as provided in this chapter and established in coordination with the commissioner of administrative services under RSA 21-I:96 through RSA 21-I:108.

II. Individuals opting into the individual pool shall be required to make their premium remittances by payroll deduction. All private employers who have employees who have individually opted into this pooled purchasing mechanism shall remit FMLI premium payments to the department in a manner as directed by the commissioner.

282-B:4 FMLI Premium Fund Established. There is established the FMLI premium fund for deposits of insurance premium payments paid pursuant to RSA 282-B:3 and for remittance of such premiums to the FMLI carrier or carriers participating in the twin state voluntary leave plan. The department shall develop standard enrollment procedures in coordination with participating carriers and shall transmit enrollment and eligibility information to such carriers on a timely basis. The department shall establish procedures and mechanisms for the billing and collection of premiums from employers. The department shall specify in contracts with participating carriers how all premiums shall be transmitted and the frequency of that transmission and how penalties and grace periods on late payments of premiums shall be calculated. The department may contract with qualified, independent vendors for the services necessary to carry out some or all of the duties under this paragraph.

282-B:5 FMLI Premium Stabilization Trust Fund Established.

I. There is established the FMLI premium stabilization trust fund which shall be held and accounted for separately from all other funds. Interest, dividends, and other earnings of the fund shall be added to the fund. Deposits into the fund shall be limited exclusively to:

(a) Premium taxes imposed on premiums written by duly authorized insurance companies for family and medical leave insurance written in connection with the administration of RSA 21-I:96 through RSA 21-I:108 or RSA 282-B as provided in RSA 400-A:32, III(c); and

(b) Gifts, grants, and donations. The moneys in the fund shall not be subject to any state taxes and shall not be subject to any federal taxes to the extent allowed by applicable federal law.

II. The moneys in the fund shall constitute a premium stabilization reserve and shall be used exclusively for the purpose of assuring that the premiums charged to participants in the individual pool remain stable from year to year and do not exceed 5 dollars per subscriber per week. The fund shall be administered by the commissioner, who shall be authorized to make such periodic payments to participating FMLI carriers as are necessary to meet the purposes of this paragraph. The department is authorized to contract with qualified, independent vendors for the services necessary to carry out some or all of the duties under this paragraph.

282-B:6 Report and Outreach.

I. Working in coordination with the commissioner of administrative services as provided in RSA 21-I:105, I the department shall produce, on an annual basis, a summary report on the granite state paid family leave plan. The report shall be made public and delivered to the governor, the senate president, and the speaker of the house of representatives. It shall include but not be limited to, a description of progress in implementing the provisions of this chapter, payments into and out of the fund, the number of employees in the state participating in the purchasing mechanism, and recommendations for improvement of the program and for further increasing the rate at which New Hampshire employees have FMLI coverage.

II. Working in coordination with the department of administrative services as provided in RSA 21-I:105, II the department shall develop and implement an outreach program to ensure that individuals who may be eligible to receive FMLI benefits under this chapter or under RSA 21-I:96 through RSA 21-I:108 are made aware of these benefits. Outreach information shall explain in an easy to understand format, eligibility requirements, benefit structures, and the process for accessing coverage and enrolling.

282-B:7 Rulemaking. The commissioner may adopt rules, pursuant to RSA 541-A, as deemed necessary for the implementation of this chapter.

282-B:8 Appropriation and Funding Transfer. The state treasurer shall transfer funds from the general fund to the department of employment security for payment of the administrative and implementation costs associated with this chapter.

282-B:9 Implementation. The individual pool shall be operational and available for use by individuals on a timetable that is sufficient to ensure that FMLI coverage shall be available for purchase by July 1, 2021.

4 New Section; Family Medical Leave Insurance; Discrimination in the Workplace. Amend RSA 275 by inserting after section 37-b the following new section:

275:37-c Family and Medical Leave Insurance. If an employer sponsors family and medical leave insurance pursuant to the provisions of RSA 21-I:96 through RSA 21-I:108, any employee of that employer who

takes family or medical leave and accesses wage replacement benefits under such family and medical leave insurance coverage shall be restored to the position she or he held prior to such leave or to an equivalent position by her or his employer consistent with the job restoration provisions of the federal Family and Medical Leave Act of 1993, Pub.L. 103-3, 29 U.S.C. section 2601 et seq. Such employers shall continue to provide health insurance to employees during the leave. However, employees shall remain responsible for any employee-shared costs associated with the health insurance benefits. No employer shall discriminate or retaliate against any employee for accessing family or medical leave wage replacement benefits. However, employers of employees participating in the granite state paid family leave plan may require that paid leave taken under this program be taken concurrently or otherwise coordinated with leave allowed under the terms of a collective bargaining agreement or other established employer policy or the Family and Medical Leave Act, as applicable.

5 New Subparagraphs; Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (358) the following new subparagraphs:

(359) Moneys deposited in the FMLI premium fund established in RSA 282-B:4.

(360) Moneys deposited in the FMLI premium stabilization trust fund established in RSA 282-B:5.

6 New Section; Granite State Paid Family Leave Plan Tax Credit. Amend RSA 77-E by inserting after section 3-d the following new section:

77-E:3-e Granite State Paid Family Leave Plan Tax Credit. There shall be a tax credit allowed against the tax due under this chapter in an amount equal to 50 percent of the premium paid by a sponsoring employer for family and medical leave insurance coverage offered to employees pursuant to RSA 21-I:100 for the taxable period in which the premium is paid.

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

2020-1197s

AMENDED ANALYSIS

This bill establishes the granite state paid family leave plan.

Without objection, Senator Morgan moved to call the question. Adopted.

The question is on the adoption of the Floor Amendment.

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

The following Senators voted Yes: Starr, Giuda, Bradley, Gray, French, Ward, Carson, Reagan, Birdsell, Morse.

The following Senators voted No: Watters, Hennessey, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Feltes, Cavanaugh, D'Allesandro, Fuller Clark, Morgan, Sherman, Soucy.

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

Recess. Out of recess.

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

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

Senator Bradley moved to Lay on the Table.

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

The following Senators voted Yes: Starr, Giuda, Bradley, Gray, French, Ward, Carson, Reagan, Birdsell, Morse.

The following Senators voted No: Watters, Hennessey, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Feltes, Cavanaugh, D'Allesandro, Fuller Clark, Morgan, Sherman, Soucy.

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

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

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

The following Senators voted Yes: Watters, Hennessey, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Feltes, Cavanaugh, D'Allesandro, Fuller Clark, Morgan, Sherman, Soucy.

The following Senators voted No: Starr, Giuda, Bradley, Gray, French, Ward, Carson, Reagan, Birdsell, Morse.

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

HEALTH AND HUMAN SERVICES

SB 672, relative to behavioral health services for children and certain revisions to notifications of discharge for individuals found incompetent to stand trial and nonemergency involuntary admissions revocation of conditional discharge.

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

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

SB 698, relative to the Interstate Compact on Child Placement.

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

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

SB 699, relative to the interstate compact on child placement 2009.

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

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

Senator Morgan moved to Lay on the Table. Adopted.

SB 702, relative to contracting requirements for certain providers of child welfare services with the department of health and human services.

Ought to Pass with Amendment, Vote 4-0. Senator Sherman for the committee.

Health and Human Services

March 4, 2020

2020-1073s

05/04

Amendment to SB 702

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Child Welfare; Procurement Requirements. Amend RSA 170-G:4-d by inserting after paragraph I the following new paragraph:

I-a. The commissioner shall employ a procurement model for administering the provision of therapeutic-based residential behavioral health treatment services provided pursuant to RSA 170-G and RSA 135-F. All contracts shall incorporate the use of trauma-focused models of care. In cases where the unique needs of a juvenile or the capacity of a contracted provider prevent the use of a contracted provider, the commissioner may approve and shall pay for placement with another certified provider on a temporary basis if the commissioner determines that the placement is necessary to meet the juvenile's immediate treatment needs.

2020-1073s

AMENDED ANALYSIS

This bill establishes criteria governing the use of contracted providers in the department of health and human services' child welfare program.

The bill is a request of the department of health and human services.

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 718-FN-A, relative to the New Hampshire state health improvement plan and making an appropriation therefor. Ought to Pass with Amendment, Vote 4-0. Senator Sherman for the committee.

Health and Human Services
March 4, 2020
2020-1072s
01/06

Amendment to SB 718-FN-A

Amend RSA 126-A:81, II(c) as inserted by section 2 of the bill by replacing it with the following:

- (c) Identify disparities in social determinants that impact health, health outcomes, and access to care.

Amend RSA 126-A:82, I as inserted by section 2 of the bill by replacing it with the following:

I. There is hereby established a state health assessment and state health improvement plan advisory council. The membership of the council shall be diverse with respect to race, ethnicity, geography, and age as follows:

(a) Two members of the house of representatives, one of whom shall be appointed by the speaker of the house of representatives and one of whom shall be appointed by the minority leader.

(b) Two members of the senate, one of whom shall be a member of the minority party, appointed by the senate president.

(c) The commissioner of the department of health and human services, or designee.

(d) The commissioner of the department of education, or designee.

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

(f) The commissioner of the department of safety, or designee.

(g) The commissioner of the department of corrections, or designee.

(h) The New Hampshire attorney general, or designee.

(i) The director of the division of public health services, department of health and human services, or designee.

(j) The chairperson of state commission on aging, or designee.

(k) The director of the Manchester health department, or designee.

(l) A representative from the New Hampshire Public Health Association, appointed by the association.

(m) A representative of the New Hampshire Alliance for Healthy Aging, appointed by the alliance.

(n) A representative of the North Country Health Consortium, appointed by the consortium.

(o) A representative of the New Hampshire Fiscal Policy Institute, appointed by the institute.

(p) Two representatives from housing entities, one appointed by the New Hampshire Housing Finance Authority, and one appointed by the New Hampshire Housing Authorities Corporation.

(q) Two representatives of hospitals located in New Hampshire, one from a large health care system and one from a critical care hospital, appointed by the New Hampshire Hospital Association.

(r) A representative of a federally qualified community health center, appointed by the Bi-State Primary Care Association.

(s) A psychiatrist or psychologist licensed in New Hampshire, appointed by the commissioner of the department of health and human services.

(t) A physician, appointed by the New Hampshire Medical Society.

(u) An advanced practice nurse practitioner licensed in New Hampshire, appointed by the New Hampshire Nurse Practitioners Association.

(v) A representative of municipal government, appointed by the New Hampshire Municipal Association.

(w) A school superintendent, appointed by the New Hampshire School Administrators Association.

(x) A representative of a peer recovery program, appointed by the commissioner of the department of health and human services.

(y) An environmental health researcher from a New Hampshire college or university, appointed by the commissioner of the department of health and human services.

(z) A representative of a philanthropic organization, appointed by the commissioner of the department of health and human services.

(aa) A substance use disorder treatment provider, appointed by the NH Providers Association.

(bb) A community action program representative, appointed by the New Hampshire Community Action Partnership.

(cc) The director of the Nashua health department, or designee.

(dd) A health officer, appointed by the New Hampshire Health Officers Association.

Amend RSA 126-A:82, III as inserted by section 2 of the bill by replacing it with the following:

III. Members of the council appointed under subparagraphs II(a) through (j) in this section shall serve a term coterminous with their term in office. The members appointed pursuant to subparagraphs II(k) through (dd) in this section shall serve 6-year terms provided that initial appointments shall be for staggered terms of one to 6 years. Legislative members shall receive mileage at the legislative rate when attending to the duties of the council. The first-named senate member shall convene the organizational meeting of the council within 45 days of the effective date of this section for the purpose of electing officers. The chairperson shall be elected upon a majority vote of the council. Seventeen members shall constitute a quorum.

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).

SB 754-FN, establishing a dental benefit under the state Medicaid program.
Ought to Pass with Amendment, Vote 4-0. Senator Bradley for the committee.

Health and Human Services
March 4, 2020
2020-1070s
01/05

Amendment to SB 754-FN

Amend RSA XIX-a(a)(2) and (3) as inserted by section 2 of the bill by replacing it with the following:

(2) The commissioner shall issue a request for information to assist in selecting the administrative model for the state's Medicaid dental program. Such model shall be either a model administered by a dental managed care organization or a model administered by the state's current medical managed care organizations. The commissioner shall obtain the requested information from both the current medical managed care organizations and any interested dental managed care organization. The administrative model selected shall demonstrate the greatest ability to satisfy the state's need for value, quality, efficiency, innovation, and savings. The request for information shall be released no later than August 1, 2020. The request for information shall address improving health outcomes, expanding the provider network, increasing capacity of providers, integrating a value-based care model, and exploring innovative programs for children and adults.

(3) If the model administered by a dental managed care organization is selected, the commissioner shall issue a 3-year request for proposals, with 2 optional one-year extensions, to enter into contracts with the vendor that demonstrates the greatest ability to satisfy the state's need for value, quality, efficiency, innovation, and savings. The state plan amendment shall be submitted to the Centers for Medicare and Medicaid Services (CMS) no later than November 1, 2020. Implementation of a procured contract shall begin April 1, 2021. The commissioner shall establish a capitated rate for the appropriate model for the contract that is full risk to the vendor. In contracting for a dental managed care model and the various rate cells, the department shall ensure no reduction in the quality of care of services provided to enrollees in the managed care model and shall exercise all due diligence to maintain or increase the quality of care provided. Following approval by the joint health care reform oversight committee, pursuant to RSA 420-N:3, the department shall seek, with the review of the fiscal committee of the general court, all necessary and appropriate state plan amendments and waivers to implement the provisions of this paragraph. The program shall not commence operation until such state plan amendments or waivers have been approved by CMS. All necessary state plan amendments and waivers shall be submitted by November 1, 2020.

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

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

A roll call was requested by Senator Rosenwald, seconded by Senator Levesque.

The following Senators voted Yes: Starr, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D'Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: (None)

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

SB 758-FN, relative to banning kratom.

Ought to Pass with Amendment, Vote 4-0. Senator Fuller Clark for the committee.

Health and Human Services

March 4, 2020

2020-1079s

08/04

Amendment to SB 758-FN

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

AN ACT regulating products containing kratom.

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

1 Short Title. This act shall be known and may be cited as the “Kratom Consumer Protection Act.”

2 New Subdivision; Products Containing Kratom. Amend RSA 146 by inserting after section 21 the following new subdivision:

Products Containing Kratom

146:22 Definitions.

I. “Dealer” means a person that sells, prepares, or maintains kratom products, or advertises, represents, or holds itself out as selling, preparing, or maintaining kratom products. Dealer includes, but is not limited to, a manufacturer, wholesaler, store, restaurant, hotel, catering facility, camp, bakery, delicatessen, supermarket, grocery store, convenience store, nursing home, or food or drink company.

II. “Department” means the department of health and human services.

III. “Food” means a food, food product, food ingredient, dietary ingredient, dietary supplement, or beverage intended for human consumption. Pursuant to this subdivision, all kratom products shall be considered to be food.

IV. “Kratom product” means a food product or dietary ingredient containing any part of the leaf of the plant *Mitragyna speciosa*.

146:23 Kratom Distribution; Labeling Required. A dealer that prepares, distributes, or sells food that is represented as a kratom product shall disclose on the product label the factual basis upon which that representation is made.

146:24 Certain Kratom Products Prohibited. No dealer shall prepare, distribute, or sell any of the following:

I. A kratom product that is adulterated with a dangerous non-kratom substance. A kratom product is adulterated with a dangerous non-kratom substance if the kratom product is mixed or packed with a non-kratom substance and that substance affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer.

II. A kratom product that is contaminated with a dangerous non-kratom substance. A kratom product is contaminated with a dangerous non-kratom substance if the kratom product contains a poisonous or otherwise deleterious non-kratom ingredient, including, but not limited to, the substances listed in RSA 318-B.

III. A kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 2 percent of the alkaloid composition of the product.

IV. A kratom product containing any synthetic alkaloids including synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compounds of the kratom plant.

V. Any kratom containing product that does not include on its package or label the amount of mitragynine and 7-hydroxymitragynine contained in the product; and that does not provide adequate labeling directions necessary for safe and effective use by consumers.

146:25 Sale to Persons Under 18 Prohibited. No dealer shall distribute or sell a kratom product to a person under 18 years of age.

146:26 Penalties.

I. A dealer that violates RSA 146:23 shall be subject to an administrative fine of not more than \$500 for the first offense and not more than \$1,000 for the second or subsequent offense. Upon the request of a person to whom an administrative fine is issued, the director shall conduct a hearing in accordance with the RSA 541.

II. A dealer shall not violate this subdivision if it is shown by a preponderance of the evidence that the dealer relied in good faith upon the representations of a manufacturer, processor, packer, or distributor of food represented to be a kratom product.

146:27 Rulemaking. The department shall adopt rules, pursuant to RSA 541-A, for the administration and enforcement of this subdivision including but not limited to:

I. Standards for registered kratom products.

II. Standards for testing to ensure such products are safe for human consumption.

III. Procedures for accurate labeling of kratom products.

IV. Fees and procedures for registration of kratom products to be sold in the state.

V. Fines for the distribution or sale of unregistered kratom products.

146:28 Registration of Kratom Products.

I. Any producer, manufacturer, or dealer of a kratom product shall register with the department for a fee. No unregistered kratom product shall be sold within the state.

II. Any producer, manufacturer, or dealer that distributes, sells, or attempts to distribute or sell an unregistered kratom product shall be guilty of a civil violation and assessed a fine by the department.

3 Effective Date. This act shall take effect January 1, 2021.

2020-1079s

AMENDED ANALYSIS

This bill requires products containing kratom to be registered with the department of health and human services.

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.

JUDICIARY

SB 436-FN, relative to the penalties for various motor vehicle violations.

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

Senate Judiciary

March 3, 2020

2020-1047s

11/04

Amendment to SB 436-FN

Amend the introductory paragraph of RSA 651:2, II-h as inserted by section 1 of the bill by replacing it with the following:

II-h. A person charged with any offense under RSA 265, RSA 265-A, or RSA 630:3 whose offense was also based on facts involving the prohibited use of a mobile electronic device while driving, as defined in RSA 265:79-c, may be subject to enhanced penalties for such offenses, as follows:

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect January 1, 2021.

2020-1047s

AMENDED ANALYSIS

This bill provides for enhanced penalties for certain driving offenses where the offense was also based on facts involving the prohibited use of a mobile electronic device.

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

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

A roll call was requested by Senator French, seconded by Senator Chandley.

The following Senators voted Yes: Bradley, Watters, Hennessey, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D'Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: Starr, Giuda, Gray, French.

Roll Call, Yeas: 20 - Nays: 4. Adopted, bill ordered to Third Reading.

SB 649-FN, relative to commercial drivers' licenses and driving under the influence while driving certain commercial motor vehicles.

Ought to Pass, Vote 4-1. Senator Levesque for the committee.

Recess. Out of recess.

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

A roll call was requested by Senator Levesque, seconded by Senator Rosenwald.

Senators Levesque and Rosenwald withdrew their request for a roll call.

Recess. Out of recess.

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

SB 679-FN, relative to policies on sexual assault in higher education institutions.

Ought to Pass with Amendment, Vote 3-1. Senator Hennessey for the committee.

Senate Judiciary

March 3, 2020

2020-1046s

04/10

Amendment to SB 679-FN

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

AN ACT requiring institutions of higher education to adopt policies on sexual misconduct.

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

1 New Chapter; Sexual Misconduct at Institutions of Higher Education. Amend RSA by inserting after chapter 188-G the following new chapter:

CHAPTER 188-H

SEXUAL MISCONDUCT AT INSTITUTIONS OF HIGHER EDUCATION

Adoption of Policies

188-H:1 Definitions. In this subdivision:

I. "Commission" means the higher education commission established in RSA 21-N:8-a.

II. "Director" means the director of the department of education, division of educator support and higher education.

III. "Division" means the department of education, division of educator support and higher education.

IV. "Institution of higher education" means a public, private, non-profit, or for-profit school chartered, incorporated, or otherwise organized in this state legally authorized to award a degree at an associate level or above with an established physical presence in this state.

V. "Reporting party" means a student or employee who reports having experienced an incident of sexual misconduct to the institution.

VI. "Responding party" means a student or employee who has been accused of an alleged incident of sexual misconduct.

VII. "Student" means an individual who is enrolled at least half-time in a credit-bearing program through a public or private degree-granting postsecondary institution of higher education whether part-time, full-time, or as an extension student, or who has taken a leave of absence or who has withdrawn due to being a victim of sexual misconduct.

VIII. "Sexual misconduct" means an incident of sexual violence, dating violence, domestic violence, gender-based violence, violence based on sexual orientation or gender identity or expression, sexual assault or harassment, and stalking.

188-H:2 Adoption of Policies Required.

I. Each institution of higher education shall adopt a policy on sexual misconduct that shall be made available, upon request, to an applicant, student, or employee of the institution and shall be publicly available on the institution's website in an accessible format not later than the first week of classes in each academic year. The institution shall update the website annually. The policy shall include, but not be limited to:

(a) Procedures by which students and employees at the institution may report or disclose incidents of sexual misconduct regardless of where the offense occurred.

(b) Information on where to receive immediate emergency assistance following an incident of sexual misconduct which shall include, but shall not be limited to:

(1) The name and location of the nearest medical facility where an individual may request that a medical forensic exam be administered by a trained sexual violence forensic health care provider, including information on transportation options and information on reimbursement for travel costs, if any.

(2) The contact information for a rape crisis center and a domestic violence center and a description of the services provided by such centers.

(3) The telephone number and website for a national 24-hour hotline, as well as any state or local resources, that provides information on sexual misconduct.

(4) Information on any programs that may financially assist a student with the cost of emergency medical assistance.

(c) Descriptions of and contact information for the types of counseling and health, safety, academic, and other support services available within the local community or region or through a rape crisis center or domestic violence center, which shall include but not be limited to the name and contact information for a confidential resources advisor and a description of the role of and services provided by the confidential resources advisor and the name and contact information for the institution's Title IX coordinator.

(d) The rights of students and employees to:

(1) Notify or decline to notify law enforcement, including campus, local and state police, of an alleged incident of sexual misconduct.

(2) Receive assistance from campus authorities in making any such notification.

(3) Obtain a court- or institution-issued protective order against a responding party of the incident of sexual misconduct.

(e) The process for requesting supportive measures reasonably available from the institution which shall include, but not be limited to, options for changing academic, living, campus transportation, or working arrangements or taking a leave of absence in response to an alleged incident of sexual misconduct, how to request those changes, and the process to have any such measures reviewed.

(f) The contact information for the closest local, state, and federal law enforcement agencies with jurisdiction over matters involving sexual misconduct and procedures for students to notify the institution that a protective order has been issued under state or federal law and the institution's responsibilities upon receipt of such notice.

(g) A summary of the institution's procedures for investigating, adjudicating, and resolving sexual misconduct complaints, including clear statements advising students that:

(1) The process shall be uniformly applied for all disciplinary proceedings relating to any claims of sexual misconduct.

(2) Notice shall be given, upon such time as the institution decides to proceed with an institutional disciplinary process, to the reporting party and the responding party describing the date, time, and location, if known, and a summary of the factual allegations concerning the violation.

(3) An investigation, including any hearings and resulting disciplinary proceedings, shall be conducted by an individual who receives not less than annual training on issues relating to sexual misconduct, investigatory procedures and hearing procedures to protect the safety and rights of students and promote accountability and a trauma-informed response.

(4) The reporting party of an alleged incident of sexual misconduct and the responding party may be accompanied by an advisor or support person of their choice, which may include an advocate or counsel, to meet with the institution's investigator or other fact finder and may consult with an advisor or support person, which may include an advocate or counsel, during any meetings and disciplinary proceedings; provided, however, that the institution may establish rules regarding how the proceedings will be conducted which may include guidelines on the extent to which the advisor or support person for each party may participate in a meeting or disciplinary proceeding and any limitations on participation which shall apply equally to both parties; and provided further, that the institution shall adopt reasonable measures to provide for the involvement of the advisor or support person for each party but the availability of the advisor or support person shall not significantly delay a meeting or disciplinary proceeding.

(5) The reporting party and the responding party shall be provided with a copy of the institution's policies regarding the submission and consideration of evidence that may be used during a disciplinary proceeding and shall have equal opportunity to present evidence and witnesses on their behalf during a disciplinary proceeding; provided, however, that each party shall be provided with timely and equal access to relevant evidence that shall be used in the determination of a discipline.

(6) There shall be restrictions on evidence considered by the fact finder including, but not limited to, the use of evidence of prior sexual activity or character witnesses.

(7) The reporting party and the responding party shall be informed in writing of the results of a disciplinary proceeding not later than 7 business days after a final determination of a complaint, not including any time for appeal, unless good cause for additional time is shown, and they shall be informed of any process for appealing the decision.

(8) If an institution offers an appeal as a result of procedural errors, previously unavailable relevant evidence that could significantly impact the outcome of a case or where the sanction is disproportionate to the findings, the reporting party and the responding party shall be provided with an equal opportunity to appeal decisions regarding responsibility or sanctions.

(9) The institution shall not publicly disclose the identity of the reporting party and the responding party, except as necessary to carry out a disciplinary process or as permitted under state or federal law.

(h) A summary of the institution's employee disciplinary process as it pertains to sexual misconduct.

(i) The range of sanctions or penalties the institution may impose on students and employees found responsible for a violation of the applicable institutional policy prohibiting acts of sexual misconduct.

Sexual Misconduct Climate Surveys and Task Force

188-H:3 Sexual Misconduct Climate Surveys. Each institution of higher education shall biennially conduct a sexual misconduct climate survey of all students at said institution. Each institution's sexual misconduct climate survey shall include a base set of common questions recommended by the task force on sexual misconduct and approved by the director, hereinafter described as the "base survey." The director shall provide a copy of the base sexual misconduct climate survey to all institutions biennially. Each institution shall also be permitted to append their own campus-specific questions to the base survey, provided that these questions do not require the disclosure of any personally-identifying information and are not unnecessarily traumatizing for victims of sexual violence. Within 120 days after completion of a sexual misconduct climate survey, each institution shall submit a summary of the results to the director and shall also post a summary of the results on the institution's website in an easily accessible manner.

188-H:4 Task Force on Sexual Misconduct.

I. There shall be a task force on sexual misconduct at institutions of higher education. The task force shall consist of the following members:

- (a) The chancellor of the university system of New Hampshire, or designee.
- (b) The chancellor of the community college system of New Hampshire, or designee.
- (c) The director of higher education, division of educator support and higher education, department of education, or designee.
- (d) Two representatives of the private 4-year colleges in New Hampshire, with not more than one representative from any such college, appointed by the governor and council on recommendation by the New Hampshire College and University Council.
- (e) One member to be appointed by the governor and council as a representative from a for-profit college or university not a member of the New Hampshire College and University Council.
- (f) The commissioner of the department of health and human services, or designee.
- (g) The attorney general, or designee.
- (h) The following members, who shall be appointed by the governor, one of whom shall be a student attending a public institution of higher education in this state; one of whom shall be a student attending a private institution of higher education in this state; one of whom shall be a student attending an institution in the community college system of New Hampshire; one of whom shall be a representative of the university of New Hampshire recommended by the president of the university; 4 of whom shall be representatives recommended by the New Hampshire Coalition Against Domestic and Sexual Violence; 2 of whom shall be representatives recommended by the New Hampshire Campus Consortium Against Sexual and Interpersonal Violence; one of whom shall be a researcher with experience in the development and design of sexual misconduct climate surveys; one of whom shall be a researcher of statistics, data analytics, or econometrics with experience in higher education survey analysis; one of whom shall be a representative of the Prevention Innovations Research Center at the University of New Hampshire; and one of whom shall represent Every Voice New Hampshire.

II. The task force shall develop a base sexual misconduct climate survey for distribution to institutions of higher education and provide such institutions with any related recommendations respecting the content, timing, and application of the survey. The task force shall deliver its base survey and related recommendations, including but not limited to, recommendations on achieving statistically valid response rates, to each institution of higher education no less often than biennially and for the first time by March 31, 2021.

III. In developing the base sexual misconduct climate survey, the task force shall:

- (a) Utilize best practices from peer-reviewed research and consult with individuals with expertise in the development and use of sexual misconduct climate surveys by institutions of higher education.
- (b) Review sexual misconduct climate surveys which have been developed and previously utilized by institutions.
- (c) Provide opportunities for written comment from organizations that work directly with victims and survivors of sexual misconduct to ensure the adequacy and appropriateness of the proposed content.
- (d) Consult with institutions on strategies for optimizing the effectiveness of the survey.

(e) Account for the diverse needs and differences of the state's institutions of higher education.

IV. The base sexual misconduct climate surveys shall gather information on topics that may include, but shall not be limited to:

(a) The number of incidents, both reported and unreported, of sexual misconduct at the institution of higher education.

(b) When and where incidents of sexual misconduct occurred.

(c) Student awareness of institutional policies and procedures related to campus sexual misconduct.

(d) Whether a student reported the sexual misconduct, and if so, to which campus resource or law enforcement agency such report was made, and, if not, the reason for the student's decision not to report.

(e) Whether a student was informed of or referred to local, state, campus or other resources, or victim support services, including appropriate medical care and legal services.

(f) Whether a student was provided the option of protection from retaliation, access to school-based accommodations, and criminal justice remedies.

(g) Contextual factors, such as the involvement of force, incapacitation, or coercion.

(h) Demographic information that could be used to identify at-risk groups including but not limited to gender.

(i) Perceptions of campus safety among members of the campus community and confidence in the institution's ability to protect against and respond to incidents of sexual misconduct.

(j) Whether the student has chosen to withdraw or taken a leave of absence from the institution or transferred to another institution.

(k) Whether the student has withdrawn from any classes or been placed on academic probation as a result of the incident.

(l) Other questions as determined by the task force.

V. The base sexual misconduct climate survey shall collect anonymous responses and shall not provide the disclosure of any identifying information.

VI. There shall be established within the division a data repository for all summaries of sexual misconduct climate surveys submitted by institutions of higher education to the division in accordance with this section. An institution of higher education shall submit its sexual misconduct climate survey, accompanied by the anonymized raw data supporting such survey, to the director. The director shall ensure that the sexual misconduct climate survey data submitted by all institutions will be available to the public in an easily accessible manner on the division's website.

VII. Each institution of higher education shall publish on the institution's website in an easily accessible manner:

(a) The results of the survey.

(b) The annual security report required under 20 U.S.C. section 1092, otherwise known as the Clery Act.

(c) A link to the division's statewide data on sexual misconduct climate survey data as set forth in paragraph VIII.

VIII. The director shall adopt rules, pursuant to RSA 541-A, including deadlines for dissemination and collection of survey information, consistent with the purposes of this statute, and shall promote the effective solicitation to achieve the highest practical response rate, collection, and publication of statistical information gathered from the state's institutions of higher education.

Trauma-Informed Policies

188-H:5 Trauma-Informed Policy. Each institution of higher education shall:

I. Develop a trauma-informed policy in coordination with the institution's Title IX coordinator, and the local rape crisis center or domestic violence center. In addition, the institution may consider input from various internal and external entities including, but not limited to institutional administrators, personnel affiliated

with on-campus and off-campus health care centers, personnel affiliated with on-campus, when available, and local, confidential resources advisors, residence life staff, students, the department of state police, and the police department and the county attorney having jurisdiction in the city or town wherein the institution's primary campus is located.

II. Provide draft policies and substantive changes by electronic or regular mail to internal and external entities, with instructions on how to comment and a reasonable length of time in which comments will be accepted. However, once an institution has adopted such policies as required by this section, the opportunity for review and comment by internal and external entities shall only apply to substantive changes in those policies.

III. Apply such policies, as applicable, relating to claims of sexual misconduct to all students and employees in a culturally competent way.

Collaboration With Law Enforcement

188-H:6 Collaboration With Law Enforcement.

I. Each institution of higher education shall adopt policies and procedures with local law enforcement agencies to establish the respective roles and responsibilities of each party related to the prevention of and response to on-campus and off-campus sexual misconduct. Institutions of higher education and local law enforcement agencies shall develop policies and procedures that comply with all applicable state and federal confidentiality and privacy laws and:

- (a) Delineate sharing protocols for investigative responsibilities.
- (b) Provide protocols for investigations, including standards for notification and communication and measures to promote evidence preservation.
- (c) Coordinate training, programing, and requirements on issues related to sexual misconduct.
- (d) Ensure that reporting parties are able to move safely and comfortably between classes, extracurriculars, sports, and campus jobs.
- (e) Develop a protocol for sharing information about specific crimes, which may include a mechanism for sharing information anonymously, that:
 - (1) Requires that the reporting party authorized or requested that such information be shared and is fully and accurately informed about what procedures shall occur if the information is shared; and
 - (2) Is carried out in a manner that is consistent with the General Education Provisions Act, 20 U.S.C. section 1221, and any other applicable provisions under state law.
- (f) Establish the methods for sharing the Clery Act reporting requirements and for facilitating the issuance of timely warnings and emergency notifications required by the Clery Act relative to crimes that may pose a serious threat to the campus or near campus communities.
- (g) Develop methods for notifying the appropriate county attorney's office.
- (h) Update such policies and procedures biennially.

II. Notwithstanding any general or special law to the contrary, a member of the department of state police or a local police department who acts as a first responder to a report of sexual misconduct at an institution of higher education shall receive training in the awareness of dating violence, domestic violence, sexual assault, and stalking and in trauma-informed response, subject to appropriation.

Confidential Resource Advisors

188-H:7 Confidential Resource Advisors.

I. Each institution of higher education shall establish a campus security policy that includes the designation of at least one confidential resource advisor. The confidential resource advisor:

- (a) May have another role at the institution;
- (b) Shall not be a student or a Title IX coordinator; and
- (c) Shall be appointed based on experience and a demonstrated ability of the individual to effectively provide victim services related to sexual misconduct.

II. The institution shall designate existing categories of employees that may serve as confidential resource advisors. The designation of an existing category of employees shall not preclude the institution from designating a new or existing employee as a confidential resource advisor or in another confidential role. An institution may partner with a local, state, or national victim advocacy organization to provide a confidential resource advisor under this section. An institution that enrolls fewer than 1,000 residential students may partner with another institution or rape crisis center within the state to provide the services under this section. An institution shall ensure that any partnership entered into under this paragraph shall result in a confidential resource advisor being available to students within a reasonable distance to the student's institution.

III. The confidential resource advisor shall receive training in the awareness and prevention of sexual misconduct and in trauma-informed response and coordinate with on-campus and off-campus rape crisis centers and domestic violence centers within a reasonable time after being designated as a confidential resource advisor.

IV. The confidential resource advisor shall inform the student or employee, including in written format:

- (a) Reporting options and the effects of each option.
- (b) Counseling services available on campus and through a local rape crisis center or domestic violence center.
- (c) Medical and health services available on campus and off campus.
- (d) Campus escort services for security.
- (e) Available academic and residence life accommodations.
- (f) Student loan counseling for students considering temporary permanent withdrawal or half time enrollment regarding loan deferment, forbearance, or other student loan programs.
- (g) The investigative and disciplinary process of the institution.
- (h) The legal process carried out through local, state, and federal law enforcement agencies.
- (i) That the institution's disciplinary process is not to be considered a substitute for the criminal justice process.
- (j) Any limits on the ability of the confidential resource advisor to provide privacy or confidentiality to the student.

V. The confidential resource advisor:

- (a) May, if appropriate and if directed by the reporting party, assist the reporting party in contacting or reporting to campus or local law enforcement agencies.
- (b) Shall notify the reporting and responding party of their rights and the institution's responsibilities regarding a protection order, no contact order, and any other lawful orders issued by the institution or by a criminal, civil, or tribal court.
- (c) Shall not be required to report an incident to the institution or a law enforcement agency unless otherwise required to do so by state or federal law and shall provide confidential services to students and employees.
- (d) May attend an administrative or institution-based adjudication proceeding as the advisor or support person of the student's or employee's choice.
- (e) Shall not disclose confidential information without the prior written consent of the student or employee who shared the information.
- (f) Shall not provide services to more than one party in an incident and shall ensure confidentiality is maintained.

VI. Nothing in this section shall be construed to limit either party's right of cross examination of the advisor in a civil or criminal proceeding if the advisor testifies after written consent has been given. A confidential communication shall not be subject to discovery and shall be inadmissible in a criminal or civil proceeding without the prior written consent of the party who shared the information. Information provided to the confidential resource advisor shall not be released to a campus official or law enforcement officer or agency unless written consent has been given by the party. A confidential resource advisor shall not act as a counselor or therapist unless the confidential resource advisor is licensed as a counselor in this state and the reporting party engages the confidential resource advisor in that capacity.

VII. Notice to a confidential resource advisor of an alleged act of sexual misconduct or a confidential resource advisor's performance of a service under this section shall not be considered actual or constructive notice of such an alleged act to the institution of higher education at which the confidential resource advisor is employed or provides contracted services.

VIII. If a conflict of interest arises for an institution in which a confidential resource advisor is advocating for a reporting party's need for sexual assault crisis services or campus or law enforcement services, the institution shall not discipline, penalize, or otherwise retaliate against the confidential resource advisor for representing the interest of the reporting party.

Awareness Programming

188-H:8 Awareness Programming. An institution of higher education, with guidance from its Title IX coordinator, local law enforcement, and the rape crisis center or the domestic violence center, shall provide mandatory annual sexual misconduct primary prevention and awareness programming for all students and all employees of the institution that shall include:

- I. An explanation of consent as it applies to sexual activity and sexual relationships.
- II. The role drugs and alcohol play in an individual's ability to consent.
- III. Information on options relating to the reporting of an incident of sexual misconduct, the effects of each option, and the methods to report an incident of sexual misconduct, including confidential and anonymous disclosure.
- IV. Information on the institution's procedures for resolving sexual misconduct complaints and the range of sanctions or penalties the institution may impose on students and employees found responsible for a violation.
- V. The name, contact information, and role of the confidential resource advisor.
- VI. Strategies for bystander intervention and risk reduction.
- VII. Opportunities for ongoing sexual misconduct prevention and awareness campaigns and programming.

Training for Individuals and Institutions

Involved in the Disciplinary Process

188-H:9 Training for Individuals Involved in the Disciplinary Process. An individual who participates in the implementation of an institution of higher education's disciplinary process, including an individual responsible for resolving complaints of reported incidents, shall have training or experience in handling sexual misconduct complaints and the operations of the institution's disciplinary process. The training shall include, but not be limited to:

- I. Information on working with and interviewing persons subjected to sexual misconduct.
- II. Information on particular types of conduct that constitute sexual misconduct, including same-sex dating violence, domestic violence, sexual assault, and stalking.
- III. Information on consent and the role drugs and alcohol may play in an individual's ability to consent.
- IV. The effects of trauma, including any neurobiological impact on a person.
- V. Cultural competence training regarding how sexual misconduct may impact students differently depending on factors that contribute to a student's cultural background, including but not limited to national origin, sex, ethnicity, religion, gender identity, gender expression, and sexual orientation.
- VI. Ways to communicate sensitively and compassionately with a reporting party of sexual misconduct including, but not limited to, an awareness of responding to a reporting party with consideration of that party's cultural background and providing services to or assisting in locating services for the reporting party.
- VII. Training and information regarding how dating violence, domestic violence, sexual assault, and stalking may impact students with developmental or intellectual disabilities.

188-H:10 Institutional Training. Each institution of higher education shall ensure that its Title IX coordinator and members of its special or campus police force or the campus safety personnel employed by the institution are educated in the awareness of sexual misconduct and in trauma-informed response.

188-H:11 Notice of Rights. The institution of higher education shall provide both the accuser and the responding party with written notice of the institution's decision to proceed with an institutional disciplinary process regarding an allegation of sexual misconduct within 24 hours of such decision, and sufficiently in advance of a disciplinary hearing to provide both the reporting and responding parties with the opportunity to meaningfully exercise their rights to a proceeding that is prompt, fair, and impartial; which shall include the opportunity to both parties to present witnesses and other evidence; and any other due process rights afforded to them under institutional policy. The written notice shall include the information required to be posted on the institution's website pursuant to this chapter.

Reporting Requirements

188-H:12 Data Reporting Requirements. Annually, not later than October 1, an institution of higher education shall prepare and submit to the director, the commissioner of the department of health and human services, the clerks of the senate and house of representatives, and the chairpersons of the senate and house committees with jurisdiction over education a report that includes:

I. The total number of allegations of dating violence, domestic violence, sexual assault, and stalking reported to the institution's Title IX coordinator by a student or employee of the institution against another student or employee of the institution.

II. The number of cases made by a student or employee of the institution against another student or employee of the institution investigated by local or state law enforcement agency, if known.

III. The number of students found responsible for violating an institution's policies prohibiting sexual misconduct.

IV. The number of students found not responsible for violating an institution's policies prohibiting sexual misconduct.

V. The number of disciplinary actions imposed by the institution as a result of a finding of responsibility for violating an institution's policies prohibiting sexual misconduct. The report shall provide information in an anonymous manner that complies with state and federal privacy laws.

188-H:13 Amnesty. A reporting party or a witness that causes an investigation of sexual misconduct, or drug or alcohol use, shall not be subject to a disciplinary proceeding or sanction for a violation of the institution of higher education's student conduct policy related to the incident unless the institution determine that the report was not made in good faith or that the violation was egregious. An egregious violation shall include, but not be limited to, taking an action that places the health and safety of another person at risk.

Enforcement and Penalty

188-H:14 Enforcement and Penalty. Upon determination, after reasonable notice and opportunity for a hearing, that an institution of higher education has violated or failed to carry out any provision of this chapter or any rule adopted under this chapter, the director may impose a civil penalty upon such institution for each violation not to exceed \$150,000, which shall be adjusted for inflation annually, or one percent of an institution's annual operating budget, whichever is lower. The director shall use any such civil penalty funds to provide oversight of this chapter.

188-H:15 Memoranda of Understanding With Rape Crisis Centers or Domestic Violence Centers.

I. An institution of higher education shall enter into and maintain a memorandum of understanding with a rape crisis center or domestic violence center to:

(a) Assist in developing the institution's policies, programing, and training regarding sexual misconduct involving students or employees.

(b) Provide an off-campus alternative for students and employees of the institution to receive free and confidential sexual assault crisis services, including access to a sexual assault nurse examiner if available, or free and confidential domestic violence crisis services in response to sexual misconduct.

(c) Ensure that a student or employee of the institution may access free and confidential counseling and advocacy services either on campus or off campus.

(d) Ensure cooperation and training between the institution and the crisis center or agency to ensure an understanding of the roles that the institution, crisis center, and agency should play in responding to reports and disclosures of sexual misconduct against students and employees of the institution and the institution's protocols for providing support and services to such students and employees.

II. A memorandum of understanding may include an agreement, including a fee structure, between the rape crisis center or domestic violence center and the institution of higher education to provide confidential victim services. Confidential victim services may include case consultation and training fees for confidential resource advisors, consultation fees for the development and implementation of student education and prevention programs, the development of staff training and prevention curriculum, and confidential on-site office space for an advocate from a rape crisis center or domestic violence center to meet with students.

III. The commission may waive the requirements of this section in the case of an institution that demonstrates that it acted in good faith but was unable to obtain a signed memorandum.

2 Effective Date. This act shall take effect 180 days after its passage.

2020-1046s

AMENDED ANALYSIS

This bill requires institutions of higher education to adopt and make available to students policies on sexual misconduct; to develop a task force and survey on sexual misconduct and report its findings; to appoint a campus safety advisor; to collaborate with law enforcement on the investigation and prosecution of sexual misconduct incidents; to establish confidential resource advisors; to develop awareness programming; and to undertake institutional training in the awareness and prevention of sexual misconduct on campus.

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

Senator Hennessey offered a Floor Amendment.

Sen. Hennessey, Dist 5
March 11, 2020
2020-1199s
04/05

Floor Amendment to SB 679-FN

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

AN ACT requiring institutions of higher education to adopt policies on sexual misconduct.

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

1 New Chapter; Sexual Misconduct at Institutions of Higher Education. Amend RSA by inserting after chapter 188-G the following new chapter:

CHAPTER 188-H SEXUAL MISCONDUCT AT INSTITUTIONS OF HIGHER EDUCATION Adoption of Policies

188-H:1 Definitions. In this subdivision:

I. "Commission" means the higher education commission established in RSA 21-N:8-a.

II. "Director" means the director of the department of education, division of educator support and higher education.

III. "Division" means the department of education, division of educator support and higher education.

IV. "Institution of higher education" means a public, private, non-profit, or for-profit school chartered, incorporated, or otherwise organized in this state legally authorized to award a degree at an associate level or above with an established physical presence in this state.

V. "Reporting party" means a student or employee who reports having experienced an incident of sexual misconduct to the institution.

VI. "Responding party" means a student or employee who has been accused of an alleged incident of sexual misconduct.

VII. "Student" means an individual who is enrolled at least half-time in a credit-bearing program through a public or private degree-granting postsecondary institution of higher education whether part-time, full-time, or as an extension student, or who has taken a leave of absence or who has withdrawn due to being a victim of sexual misconduct.

VIII. "Sexual misconduct" means an incident of sexual violence, dating violence, domestic violence, gender-based violence, violence based on sexual orientation or gender identity or expression, sexual assault or harassment, or stalking, as defined by each institution in its code of conduct, in a manner consistent with applicable federal definitions.

188-H:2 Adoption of Policies Required.

I. Each institution of higher education shall adopt a policy on sexual misconduct, consistent with applicable state and federal law, which shall be publicly available on campus in locations where students regularly congregate including, but not limited to, dining and recreational facilities, libraries, bookstores, student unions and student centers, and the common areas of dormitories and other student housing locations, and shall be made available, upon request, to an applicant, student, or employee of the institution and shall be publicly available on the institution's website in an accessible format not later than the first week of classes in each academic year. The institution shall update the website annually. The policy shall be trauma-informed, and shall be developed in coordination with the institution's Title IX coordinator, and the local rape crisis center or domestic violence center. In addition, the institution may consider input from various internal and external entities including, but not limited to institutional administrators, personnel affiliated with on-campus and off-campus health care centers, personnel affiliated with on-campus, when available, and local, confidential resources advisors, residence life staff, students, the division of state police, and the police department and the county attorney having jurisdiction in the city or town where the institution's primary campus is located. The policy shall be developed in a culturally competent manner in order to reflect the diverse needs of all students. The policy shall include, but not be limited to:

(a) Procedures by which students and employees at the institution may report or disclose alleged incidents of sexual misconduct regardless of where the offense occurred.

(b) Information on where to receive immediate emergency assistance following an alleged incident of sexual misconduct which shall include, but shall not be limited to:

(1) The name and location of the nearest medical facility where an individual may request that a medical forensic exam be administered by a trained sexual violence forensic health care provider, including information on transportation options and information on reimbursement for travel costs, if any.

(2) The contact information for a rape crisis center and a domestic violence center and a description of the services provided by such centers.

(3) The telephone number and website for a national 24-hour hotline, as well as any state or local resources, that provides information on sexual misconduct.

(4) Information on any programs that may financially assist a student with the cost of emergency medical assistance.

(c) Descriptions of and contact information for the types of counseling and health, safety, academic, and other support services available within the local community or region or through a rape crisis center or domestic violence center, or the name and contact information for organizations that support students accused of sexual misconduct, which shall include but not be limited to the name and contact information for a confidential resources advisor and a description of the role of and services provided by the confidential resources advisor and the name and contact information for the institution's Title IX coordinator.

(d) The rights and obligations of students and employees to:

(1) Notify or decline to notify law enforcement, including campus, local and state police, of an alleged incident of sexual misconduct.

(2) Receive assistance from campus authorities in making any such notification.

(3) Obtain a court- or institution-issued protective order against a responding party of the incident of sexual misconduct.

(e) The process for requesting supportive measures reasonably available from the institution which shall include, but not be limited to, options for changing academic, living, campus transportation, or working arrangements or taking a leave of absence in response to an alleged incident of sexual misconduct, how to request those changes, and the process to have any such measures reviewed.

(f) The contact information for the closest local, state, and federal law enforcement agencies with jurisdiction over matters involving sexual misconduct and procedures for students to notify the institution that a protective order has been issued under state or federal law and the institution's responsibilities upon receipt of such notice.

(g) A summary of the institution's procedures for investigating, adjudicating, and resolving sexual misconduct complaints, including an explanation of all procedures which shall be followed to obtain investigatory reports and gather evidence, and potential sanctions which may be imposed, as well as clear statements advising students that:

(1) The process shall be uniformly applied for all disciplinary proceedings relating to any claims of sexual misconduct.

(2) Timely and detailed notice shall be given, upon such time as the institution decides to proceed with an institutional disciplinary process, to the reporting party and the responding party describing the date, time, and location, if known, and a summary of the factual allegations concerning the violation.

(3) An investigation, including any hearings and resulting disciplinary proceedings, shall be conducted by an individual who receives not less than annual training on issues relating to sexual misconduct, investigatory procedures and hearing procedures to protect the safety and rights of students and promote accountability, objectivity, impartiality, and a trauma-informed response.

(4) The reporting party of an alleged incident of sexual misconduct and the responding party may be accompanied by an advisor or support person of their choice, which may include an advocate or counsel, to meet with the institution's investigator or other fact finder and may consult with an advisor or support person, which may include an advocate or counsel, during any meetings and disciplinary proceedings; provided, however, that the institution may establish rules regarding how the proceedings will be conducted which may include guidelines on the extent to which the advisor or support person for each party may participate in a meeting or disciplinary proceeding and any limitations on participation which shall apply equally to both parties; and provided further, that the institution shall adopt reasonable measures to provide for the involvement of the advisor or support person for each party but the availability of the advisor or support person shall not significantly delay a meeting or disciplinary proceeding.

(5) The reporting party and the responding party shall be provided with a copy of the institution's policies regarding the submission and consideration of evidence that may be used during a disciplinary proceeding and shall have equal opportunity to present evidence and witnesses on their behalf during a disciplinary proceeding; provided, however, that each party shall be provided with timely and equal access to all relevant evidence that shall be used in the determination of a discipline.

(6) There shall be restrictions on evidence considered by the fact finder including, but not limited to, the use of evidence of prior sexual activity or character witnesses.

(7) The reporting party and the responding party shall be informed in writing of the results of a disciplinary proceeding not later than 7 business days after a final determination of a complaint, not including any time for appeal, unless good cause for additional time is shown, and they shall be informed of any process for appealing the decision.

(8) If an institution offers an appeal as a result of procedural errors, previously unavailable relevant evidence that could significantly impact the outcome of a case or where the sanction is disproportionate to the findings, the reporting party and the responding party shall be provided with an equal opportunity to appeal decisions regarding responsibility or sanctions.

(9) The institution shall not publicly disclose the identity of the reporting party and the responding party, except as necessary to carry out a disciplinary process or as permitted under state or federal law.

(10) The institution's disciplinary proceedings shall not serve as a substitute for the criminal justice process.

(h) A summary of the institution's employee disciplinary process as it pertains to sexual misconduct.

(i) The range of sanctions or penalties the institution may impose on students and employees found responsible for a violation of the applicable institutional policy prohibiting acts of sexual misconduct.

II. Each institution of higher education shall provide draft policies and substantive changes by electronic or regular mail to internal and external entities, with instructions on how to comment and a reasonable length of time in which comments will be accepted. However, once an institution has adopted such policies as required by this section, the opportunity for review and comment by internal and external entities shall only apply to substantive changes in those policies.

188-H:3 Notice of Rights. Each institution of higher education shall provide both the accuser and the responding party with written notice of the institution's decision to proceed with an institutional disciplinary process regarding an allegation of sexual misconduct sufficiently in advance of a disciplinary hearing to provide both the reporting and responding parties with the opportunity to meaningfully exercise their rights to a proceeding that is prompt, fair, and impartial; which shall include the opportunity to both parties to present witnesses and other evidence, and any other due process rights afforded to them under institutional policy. The written notice shall include the information required to be posted on the institution's website pursuant to this chapter.

Sexual Misconduct Climate Surveys and Task Force

188-H:4 Sexual Misconduct Climate Surveys. Each institution of higher education shall biennially conduct a sexual misconduct climate survey of all students at said institution. Each institution's sexual misconduct climate survey shall include a base set of common questions recommended by the task force on sexual misconduct and approved by the director, hereinafter described as the "base survey." The director shall provide a copy of the base sexual misconduct climate survey to all institutions biennially. Each institution shall also be permitted to append their own campus-specific questions to the base survey, provided that these questions do not require the disclosure of any personally-identifying information and are not unnecessarily traumatizing for victims of sexual violence. Within 120 days after completion of a sexual misconduct climate survey, each institution shall submit a summary of the results to the director and shall also post a summary of the results on the institution's website in an easily accessible manner.

188-H:5 Task Force on Sexual Misconduct.

I. There shall be a task force on sexual misconduct at institutions of higher education. The task force shall consist of the following members:

- (a) The chancellor of the university system of New Hampshire, or designee.
- (b) The chancellor of the community college system of New Hampshire, or designee.
- (c) The director of higher education, division of educator support and higher education, department of education, or designee.
- (d) Two representatives of the private 4-year colleges in New Hampshire, with not more than one representative from any such college, appointed by the governor and council on recommendation by the New Hampshire College and University Council.
- (e) The president of the New Hampshire Association of Campus Law Enforcement Administrators, or designee.
- (f) The commissioner of the department of health and human services, or designee.
- (g) The attorney general, or designee.
- (h) The following members, who shall be appointed by the governor, one of whom shall be a student attending a public institution of higher education in this state; one of whom shall be a student attending a private institution of higher education in this state; one of whom shall be a student attending an institution in the community college system of New Hampshire; one of whom shall be a representative of the university of New Hampshire recommended by the president of the university; 3 of whom shall be representatives recommended by the New Hampshire Coalition Against Domestic and Sexual Violence; one of whom shall be a representative recommended by the New Hampshire Campus Consortium Against Sexual and Interpersonal Violence; one of whom shall be a researcher with experience in the development and design of sexual misconduct climate surveys; one of whom shall be a researcher of statistics, data analytics, or econometrics with experience in higher education survey analysis; one of whom shall be a representative of the Prevention Innovations Research Center at the University of New Hampshire; and one of whom shall represent Every Voice New Hampshire.

II. The task force shall develop a base sexual misconduct climate survey for distribution to institutions of higher education and provide such institutions with any related recommendations respecting the content, timing, and application of the survey. The task force shall deliver its base survey and related recommendations, including but not limited to, recommendations on achieving statistically valid response rates, to each institution of higher education no less often than biennially and for the first time by March 31, 2021.

III. In developing the base sexual misconduct climate survey, the task force shall:

(a) Utilize best practices from peer-reviewed research and consult with individuals with expertise in the development and use of sexual misconduct climate surveys by institutions of higher education.

(b) Review sexual misconduct climate surveys which have been developed and previously utilized by institutions.

(c) Provide opportunities for written comment from organizations that work directly with victims and survivors of sexual misconduct to ensure the adequacy and appropriateness of the proposed content.

(d) Consult with institutions on strategies for optimizing the effectiveness of the survey.

(e) Account for the diverse needs and differences of the state's institutions of higher education.

IV. The base sexual misconduct climate surveys shall gather information on topics that may include, but shall not be limited to:

(a) The number of incidents, both reported and unreported, of sexual misconduct at the institution of higher education.

(b) When and where incidents of sexual misconduct occurred.

(c) Student awareness of institutional policies and procedures related to campus sexual misconduct.

(d) Whether a student reported the sexual misconduct, and if so, to which campus resource or law enforcement agency such report was made, and, if not, the reason for the student's decision not to report.

(e) Whether a student was informed of or referred to local, state, campus or other resources, or victim support services, including appropriate medical care and legal services.

(f) Whether a student was provided the option of protection from retaliation, access to school-based accommodations, and criminal justice remedies.

(g) Contextual factors, such as the involvement of force, incapacitation, or coercion.

(h) Demographic information that could be used to identify at-risk groups including but not limited to gender.

(i) Perceptions of campus safety among members of the campus community and confidence in the institution's ability to protect against and respond to incidents of sexual misconduct.

(j) Whether the student has chosen to withdraw or taken a leave of absence from the institution or transferred to another institution due to either being the reporting party or responding party in an allegation of sexual misconduct.

(k) Whether the student has withdrawn from any classes or been placed on academic probation as a result of the incident.

(l) Other questions as determined by the task force.

V. The base sexual misconduct climate survey shall collect anonymous responses and shall not provide the disclosure of any identifying information.

VI. There shall be established within the division a data repository for all summaries of sexual misconduct climate surveys submitted by institutions of higher education to the division in accordance with this section. An institution of higher education shall submit its sexual misconduct climate survey, accompanied by the anonymized raw data supporting such survey, to the director. The director shall ensure that the sexual misconduct climate survey data submitted by all institutions will be available to the public in an easily accessible manner on the division's website.

VII. Each institution of higher education shall publish on the institution's website in an easily accessible manner:

- (a) The results of the survey.
- (b) The annual security report required under 20 U.S.C. section 1092, otherwise known as the Clery Act.
- (c) A link to the division's statewide data on sexual misconduct climate survey data as set forth in paragraph VIII.

VIII. The director shall adopt rules, pursuant to RSA 541-A, including deadlines for dissemination and collection of survey information, consistent with the purposes of this statute, and shall promote the effective solicitation to achieve the highest practical response rate, collection, and publication of statistical information gathered from the state's institutions of higher education.

Collaboration With Law Enforcement

188-H:6 Collaboration With Law Enforcement.

I. Each institution of higher education shall adopt policies and procedures with the local law enforcement agency having primary jurisdiction over the city or town wherein the institution's primary campus is located to establish the respective roles and responsibilities of each party related to the prevention of and response to on-campus and off-campus sexual misconduct. Institutions of higher education and local law enforcement agencies shall develop policies and procedures that comply with all applicable state and federal confidentiality and privacy laws and:

- (a) Delineate sharing protocols for investigative responsibilities.
- (b) Provide protocols for investigations, including standards for notification and communication and measures to promote evidence preservation.
- (c) Coordinate training, programing, and requirements on issues related to sexual misconduct.
- (d) Ensure that reporting parties are able to move safely and comfortably between classes, extracurriculars, sports, and campus jobs.
- (e) Develop a protocol for sharing information about specific crimes, which may include a mechanism for sharing information anonymously, that:
 - (1) Requires that the reporting party authorized or requested that such information be shared and is fully and accurately informed about what procedures shall occur if the information is shared; and
 - (2) Is carried out in a manner that is consistent with the General Education Provisions Act, 20 U.S.C. section 1221, and any other applicable provisions under state law.
- (f) Establish the methods for sharing the Clery Act reporting requirements and for facilitating the issuance of timely warnings and emergency notifications required by the Clery Act relative to crimes that may pose a serious threat to the campus or near campus communities.
- (g) Develop methods for notifying the appropriate county attorney's office.
- (h) Update such policies and procedures biennially.

II. The commission may waive the requirements of this section in the case of an institution that demonstrates that it acted in good faith but was unable to adopt joint policies and procedures with the local law enforcement agency having primary jurisdiction over the city or town wherein the institution's primary campus is located.

III. Notwithstanding any general or special law to the contrary, a member of the department of state police or a local police department who acts as a first responder to a report of sexual misconduct at an institution of higher education shall receive training in the awareness of dating violence, domestic violence, sexual assault, and stalking and in trauma-informed response, subject to appropriation.

Confidential Resource Advisors

188-H:7 Confidential Resource Advisors.

I. Each institution of higher education shall establish a campus security policy that includes the designation of at least one confidential resource advisor. The confidential resource advisor:

- (a) May have another role at the institution;
- (b) Shall not be a student or a Title IX coordinator; and
- (c) Shall be appointed based on experience and a demonstrated ability of the individual to effectively provide victim services related to sexual misconduct.

II. The institution shall designate existing categories of employees that may serve as confidential resource advisors. The designation of an existing category of employees shall not preclude the institution from designating a new or existing employee as a confidential resource advisor or in another confidential role. An institution may partner with a local, state, or national victim advocacy organization to provide a confidential resource advisor under this section. An institution that enrolls fewer than 1,000 residential students may partner with another institution or rape crisis center within the state to provide the services under this section. An institution shall ensure that any partnership entered into under this paragraph shall result in a confidential resource advisor being available to students within a reasonable distance to the student's institution.

III. The confidential resource advisor shall receive training in the awareness and prevention of sexual misconduct and in trauma-informed response and coordinate with on-campus and off-campus rape crisis centers and domestic violence centers within a reasonable time after being designated as a confidential resource advisor.

IV. The confidential resource advisor shall inform the student or employee, or provide resources about how to obtain, including in written format:

- (a) Reporting options and the effects of each option.
- (b) Counseling services available on campus and through a local rape crisis center or domestic violence center.
- (c) Medical and health services available on campus and off campus.
- (d) Campus escort services for security.
- (e) Available academic and residence life accommodations.
- (f) Student loan counseling for students considering temporary permanent withdrawal or half time enrollment regarding loan deferment, forbearance, or other student loan programs.
- (g) The investigative and disciplinary process of the institution.
- (h) The legal process carried out through local, state, and federal law enforcement agencies.
- (i) That the institution's disciplinary process is not to be considered a substitute for the criminal justice process.
- (j) Any limits on the ability of the confidential resource advisor to provide privacy or confidentiality to the student.

V. The confidential resource advisor:

- (a) May, if appropriate and if directed by the reporting party, assist the reporting party in contacting or reporting to campus or local law enforcement agencies.
- (b) Shall notify the student of their rights and the institution's responsibilities regarding a protection order, no contact order, and any other lawful orders issued by the institution or by a criminal, civil, or tribal court.
- (c) Shall not be required to report an incident to the institution or a law enforcement agency unless otherwise required to do so by state or federal law and shall provide confidential services to students and employees.
- (d) May attend an administrative or institution-based adjudication proceeding as the advisor or support person of the student's or employee's choice.
- (e) Shall not disclose confidential information without the prior written consent of the student or employee who shared the information.
- (f) Shall not provide services to more than one party in an incident and shall ensure confidentiality is maintained.

VI. Nothing in this section shall be construed to limit either party's right of cross examination of the advisor in a civil or criminal proceeding if the advisor testifies after written consent has been given. A confidential resource advisor shall not act as a counselor or therapist unless the confidential resource advisor is licensed as a counselor in this state and the reporting party engages the confidential resource advisor in that capacity.

VII. Notice to a confidential resource advisor of an alleged act of sexual misconduct or a confidential resource advisor's performance of a service under this section shall not be considered actual or constructive notice of such an alleged act to the institution of higher education at which the confidential resource advisor is employed or provides contracted services.

VIII. If a conflict of interest arises for an institution in which a confidential resource advisor is advocating for a reporting party's need for sexual assault crisis services or campus or law enforcement services, the institution shall not discipline, penalize, or otherwise retaliate against the confidential resource advisor for representing the interest of the reporting party.

188-H:8 Privilege for Confidential Resource Advisors.

I. In this section:

(a) "Confidential communication" means information transmitted between a victim, as defined in paragraph (b), of an alleged sexual assault, alleged domestic abuse, alleged sexual harassment, or alleged stalking, and a confidential resource advisor in the course of that relationship and in confidence by means which, so far as the victim is aware, does not disclose the information to a third person. The presence of an interpreter for the hearing impaired, a foreign language interpreter, or any other interpreter necessary for that communication to take place shall not affect the confidentiality of the communication nor shall it be deemed a waiver of the privilege. The term includes all information received by the confidential resource advisor in the course of that relationship.

(b) "Victim" means any person alleging sexual misconduct, as defined by the institutions' policies and procedures, who consults a confidential resource advisor for the purpose of securing support, counseling or assistance concerning a mental, physical, emotional, legal, housing, medical, or financial problem caused by an alleged act of sexual misconduct, or an alleged attempted sexual misconduct.

II.(a) A victim has the privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made by the victim to a confidential resource advisor, including any record made in the course of support, counseling, or assistance of the victim. Any confidential communication or record may be disclosed only with the prior written consent of the victim. This privilege terminates upon the death of the victim. The privilege and confidentiality under this subparagraph shall extend to:

- (1) A third person present to assist communication with the victim.
- (2) A third person present to assist a victim who is physically challenged.
- (3) Co-participants in support group counseling of the victim.

(b) Persons prevented from disclosing a confidential communication or record pursuant to subparagraph (a) shall be exempt from the provisions of RSA 631:6.

III. The privilege may be claimed or waived in all civil, administrative, and criminal legal proceedings, including discovery proceedings, by the following persons:

- (a) The victim or an attorney on the victim's behalf.
- (b) The guardian of the victim, if the victim has been found incompetent by a court of competent jurisdiction.
- (c) A minor victim who is emancipated, married, or over the age of 15, unless, in the opinion of the court, the minor is incapable of knowingly waiving the privilege. A guardian ad litem shall be appointed in all cases in which there is a potential conflict of interest between a victim under the age of 18 and their parent or guardian.

IV. Waiver as to a specific portion of communication between the victim and the confidential resource advisor shall not constitute a waiver of the privilege as to other portions of the confidential communication between victim and confidential resource advisor, relating to the alleged crime.

V. In criminal proceedings when a defendant seeks information privileged under this chapter in discovery or at trial, the procedure below shall be followed:

(a) A written pretrial motion shall be made by the defendant to the court stating that the defendant seeks discovery of records of a confidential resource advisor or testimony of a confidential resource advisor. The written motion shall be accompanied by an affidavit setting forth specific grounds as to why discovery is requested and showing that there is a substantial likelihood that favorable and admissible information would be obtained through discovery or testimony. No discovery or hearing shall occur pursuant to the information sought to be disclosed for at least 3 business days after the filing of a motion for disclosure.

(b) The only information subject to discovery from the records of a confidential resource advisor or which may be elicited during the testimony of a confidential resource advisor are those statements of the victim which relate to the alleged crime being prosecuted in the instant trial.

(c) Prior to admission of information at deposition, trial, or other legal proceeding, when a claim of privilege has been asserted and whether or not the information was obtained through discovery, the burden of proof shall be upon the defendant to establish by a preponderance of the evidence that:

(1) The probative value of the information, in the context of the particular case, outweighs its prejudicial effect on the victim's emotional or physical recovery, privacy, or relationship with the confidential resource advisor.

(2) That the information sought is unavailable from any other source.

(3) That there is a substantial probability that the failure to disclose that information will interfere with the defendant's right to confront the witnesses against him or her and the defendant's right to a fair trial.

(d) The trial court shall review each motion for disclosure of information on a case by case basis and determine on the totality of the circumstances that the information sought is or is not subject to the privilege established in paragraph II. In finding that the privilege shall not apply in a particular case, the trial court shall make written findings as to its reasons therefor.

(e) The records and testimony of a confidential resource advisor shall be disclosed solely to the trial judge to determine, as a matter of law, whether the information contained in the records or testimony is admissible under this chapter.

(f) That portion of any record and testimony of a confidential resource advisor which is not disclosed to the defendant shall be preserved by the court under seal for appeal. For the purpose of preservation, a copy of the record shall be retained with the original released to the confidential resource advisor. Costs of duplication shall be borne by the defendant.

(g) If, after disclosure of privileged information, the court upholds the privilege claim, the court shall impose a protective order against revealing any of the information without the consent of the person authorized to permit disclosure.

VI. The privilege established by this chapter shall not apply when the confidential resource advisor has knowledge that the victim has given perjured testimony and when the defendant has made an offer of proof that there is probable cause to believe that perjury has been committed.

VII. Failure of any person to testify as a witness pursuant to the provisions of this chapter shall not give rise to an inference unfavorable to the prosecution or the defense.

VIII. The victim shall have a right to interlocutory appeal to the supreme court from any decision by a court to require the disclosure of records or testimony of a confidential resource advisor.

IX. The confidential resource advisor shall have the same reporting duties under RSA 169-C:29 as other professionals, providing that this duty shall not apply where a minor is seeking relief pursuant to RSA 173-B:3 for abuse by a spouse or former spouse of the minor, or by an intimate partner who is not related to the minor by consanguinity or affinity. As used in this section, "abuse" and "intimate partners" shall be as defined in RSA 173-B:1.

Awareness Programming

188-H:9 Awareness Programming. An institution of higher education, with guidance from its Title IX coordinator, local law enforcement, and the rape crisis center or the domestic violence center, shall provide mandatory annual sexual misconduct primary prevention and awareness programming for all students and all employees of the institution that shall include:

I. An explanation of consent as it applies to sexual activity and sexual relationships.

II. The role drugs and alcohol play in an individual's ability to consent.

III. Information on options relating to the reporting of an incident of sexual misconduct, the effects of each option, and the methods to report an incident of sexual misconduct, including confidential and anonymous disclosure.

IV. Information on the institution's procedures for resolving sexual misconduct complaints and the range of sanctions or penalties the institution may impose on students and employees found responsible for a violation.

V. The name, contact information, and role of the confidential resource advisor.

VI. Strategies for bystander intervention and risk reduction.

VII. Opportunities for ongoing sexual misconduct prevention and awareness campaigns and programming.

Training for Individuals and Institutions

Involved in the Disciplinary Process

188-H:10 Training for Individuals Involved in the Disciplinary Process. An individual who participates in the implementation of an institution of higher education's disciplinary process, including an individual responsible for resolving complaints of reported incidents, shall have training or experience in handling sexual misconduct complaints and the operations of the institution's disciplinary process. The training shall include, but not be limited to:

I. Information on working with and interviewing persons subjected to sexual misconduct.

II. Information on particular types of conduct that constitute sexual misconduct, including same-sex dating violence, domestic violence, sexual assault, and stalking.

III. Information on consent and the role drugs and alcohol may play in an individual's ability to consent.

IV. The effects of trauma, including any neurobiological impact on a person.

V. Cultural competence training regarding how sexual misconduct may impact students differently depending on factors that contribute to a student's cultural background, including but not limited to national origin, sex, ethnicity, religion, gender identity, gender expression, and sexual orientation.

VI. Ways to communicate sensitively and compassionately with a reporting party of sexual misconduct including, but not limited to, an awareness of responding to a reporting party with consideration of that party's cultural background and providing services to or assisting in locating services for the reporting party. Ways to communicate sensitively with a responding party, including an awareness of the emotional impact of being wrongly accused.

VII. Training and information regarding how dating violence, domestic violence, sexual assault, and stalking may impact students with developmental or intellectual disabilities.

188-H:11 Institutional Training. Each institution of higher education shall ensure that its Title IX coordinator and members of its special or campus police force or the campus safety personnel employed by the institution are educated in the awareness of sexual misconduct and in trauma-informed response.

Reporting Requirements

188-H:12 Data Reporting Requirements. Annually, not later than October 1, an institution of higher education shall prepare and submit to the director, the commissioner of the department of health and human services, the clerks of the senate and house of representatives, and the chairpersons of the senate and house committees with jurisdiction over education a report that includes:

I. The total number of allegations of dating violence, domestic violence, sexual assault, and stalking reported to the institution's Title IX coordinator by a student or employee of the institution against another student or employee of the institution.

II. The number of law enforcement investigations initiated in response to complaints of sexual misconduct brought forward by students or employees of the institution against another student or employee of the institution, if known.

III. The number of students found responsible for violating an institution's policies prohibiting sexual misconduct.

IV. The number of students found not responsible for violating an institution's policies prohibiting sexual misconduct.

V. The number of disciplinary actions imposed by the institution as a result of a finding of responsibility for violating an institution's policies prohibiting sexual misconduct. The report shall provide information in an anonymous manner that complies with state and federal privacy laws.

188-H:13 Amnesty. A reporting party or a witness that causes an investigation of sexual misconduct, or drug or alcohol use, shall not be subject to a disciplinary proceeding or sanction for a violation of the institution of higher education's student conduct policy related to the incident unless the institution determine that the report was not made in good faith or that the violation was egregious. An egregious violation shall include, but not be limited to, taking an action that places the health and safety of another person at risk.

Enforcement and Penalty

188-H:14 Enforcement and Penalty. Upon determination, after reasonable notice and opportunity for a hearing, that an institution of higher education has violated or failed to carry out any provision of this chapter or any rule adopted under this chapter, the director may impose a civil penalty upon such institution for each violation not to exceed \$150,000, which shall be adjusted for inflation annually, or one percent of an institution's annual operating budget, whichever is lower. The director shall use any such civil penalty funds to provide oversight of this chapter.

188-H:15 Memoranda of Understanding With Rape Crisis Centers or Domestic Violence Centers.

I. An institution of higher education shall enter into and maintain a memorandum of understanding with a rape crisis center or domestic violence center to:

(a) Assist in developing the institution's policies, programing, and training regarding sexual misconduct involving students or employees.

(b) Provide an off-campus alternative for students and employees of the institution to receive free and confidential sexual assault crisis services, including access to a sexual assault nurse examiner if available, or free and confidential domestic violence crisis services in response to sexual misconduct.

(c) Ensure that a student or employee of the institution may access free and confidential counseling and advocacy services either on campus or off campus.

(d) Ensure cooperation and training between the institution and the crisis center or agency to ensure an understanding of the roles that the institution, crisis center, and agency should play in responding to reports and disclosures of sexual misconduct against students and employees of the institution and the institution's protocols for providing support and services to such students and employees.

II. A memorandum of understanding may include an agreement, including a fee structure, between the rape crisis center or domestic violence center and the institution of higher education to provide confidential victim services. Confidential victim services may include case consultation and training fees for confidential resource advisors, consultation fees for the development and implementation of student education and prevention programs, the development of staff training and prevention curriculum, and confidential on-site office space for an advocate from a rape crisis center or domestic violence center to meet with students.

III. The commission may waive the requirements of this section in the case of an institution that demonstrates that it acted in good faith but was unable to obtain a signed memorandum.

2 Effective Date. This act shall take effect 180 days after its passage.

2020-1199s

AMENDED ANALYSIS

This bill requires institutions of higher education to adopt and make available to students policies on sexual misconduct; to develop a task force and survey on sexual misconduct and report its findings; to appoint a campus safety advisor; to collaborate with law enforcement on the investigation and prosecution of sexual misconduct incidents; to establish confidential resource advisors; to develop awareness programming; and to undertake institutional training in the awareness and prevention of sexual misconduct on campus.

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.

A roll call was requested by Senator Hennessey, seconded by Senator Morgan.

The following Senators voted Yes: Starr, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D'Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: (None)

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

SB 705-FN, relative to fraudulent online duplication of a social networking account.

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

Senate Judiciary

March 3, 2020

2020-1045s

04/11

Amendment to SB 705-FN

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

AN ACT relative to fraudulent impersonation using a social networking site.

Amend the bill by replacing section 1 with the following:

1 Identity Fraud; Online Impersonation. Amend RSA 638:26, I(c)-(d) to read as follows:

(c) Obtains or records personal identifying information about a person without the express authorization of such person in order to assist another to pose as such person; ~~or~~

(d) Poses as another person, without the express authorization of such person, with the purpose of obtaining confidential information about such person that is not available to the general public; **or**

(e) Without obtaining the other person's consent, and with the intent to mislead, harm, defraud, intimidate, or threaten another person, poses as, or uses the name or other personal information of such person to:

(1) Create a web page on a social networking site or Internet website; or

(2) Post or send one or more messages on or through a social networking site or Internet website, other than on or through an electronic mail program or message board program; or

(3) Posts or transmits an electronic mail, instant message, text message, or similar communication that references a name, domain address, phone number, or other personal identifiable information belonging to such person.

2020-1045s

AMENDED ANALYSIS

This bill establishes a criminal penalty for fraudulent impersonation using a social networking site.

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

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

A roll call was requested by Senator Levesque, seconded by Senator Carson.

The following Senators voted Yes: Giuda, Watters, Hennessey, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Feltes, Cavanaugh, Reagan, D'Allesandro, Fuller Clark, Sherman, Soucy.

The following Senators voted No: Starr, Bradley, Gray, French, Ward, Carson, Birdsell, Morse, Morgan.

Roll Call, Yeas: 15 - Nays: 9. Adopted, bill ordered to Third Reading.

HB 1660-FN, establishing a protective order for vulnerable adults.

Ought to Pass, Vote 3-1. Senator Chandley for the committee.

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

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

The following Senators voted Yes: Watters, Hennessey, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Feltes, Cavanaugh, D'Allesandro, Fuller Clark, Morgan, Sherman, Soucy.

The following Senators voted No: Starr, Giuda, Bradley, Gray, French, Ward, Carson, Reagan, Birdsell, Morse.

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

TRANSPORTATION

SB 610, establishing a commission to evaluate the transportation climate initiative framework for a draft memorandum of understanding and associated modeling and scenarios.

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

Senate Transportation

March 3, 2020

2020-1041s

06/11

Amendment to SB 610

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

AN ACT establishing a committee to evaluate the Transportation Climate Initiative memorandum of understanding and associated modeling and scenarios.

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

2 Committee Established. There is established a committee to evaluate the Transportation Climate Initiative memorandum of understanding, actions by member states, and associated modeling and scenarios.

3 Membership and Compensation.

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

(a) Four members of the senate, one of whom shall be a member of the energy and natural resources committee, one of whom shall be a member of the senate transportation committee, one of whom shall be a member of the senate finance committee, and one of whom shall be a member of the senate ways and means committee, appointed by the president of the senate.

(b) Six members of the house of representatives, one of whom shall be a member of the commerce and consumer affairs committee, one of whom shall be a member of the public works and highways committee, one of whom shall be a member of the house ways and means committee, one of whom shall be a member of the house finance committee, one of whom shall be a member of the house transportation committee, and one of whom shall be a member of the science, technology and energy committee, appointed by the speaker of the house of representatives. Staff of the senate and house committees from which membership is drawn, as available, shall assist in the work of the committee.

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

4 Duties. The committee shall:

I. Consider the effect of the Transportation Climate Initiative on New Hampshire emissions, clean energy strategies, and public health.

II. Consider the costs and benefits of participation and nonparticipation on New Hampshire consumers, business, industry, municipalities, and state agencies.

III. Evaluate the memorandum of understanding and related modeling and scenarios in terms of the Transportation Climate Initiative framework principles: equity, affected fuels and emissions, regulated entities, emissions reporting, monitoring and verification, flexibility and cost containment, auctions and allocations, regional caps and allowance budgets for each jurisdiction, market monitoring and auction administration, investment of proceeds, and complementary policies.

IV. Review information and data on total CO2 emissions from on-road gas and diesel and examine how the Transportation Climate Initiative program would impact CO2 emissions.

V. Evaluate the need for New Hampshire to conduct state specific modeling and identify a source of funding for that purpose.

VI. Consider which agency or agencies should be responsible for implementing and administering the program.

VII. Determine a legislative structure for continuing evaluation, policy recommendations, supervision and approval of expenditures, and subsequent legislative recommendations.

VIII. Recommend legislation to implement a Transportation Climate Initiative memorandum of understanding or to manage consequences of nonparticipation.

IX. Identify potential costs of the implementation phase before any revenues may be available from the program and a source of funding.

X. Request from the office of the legislative budget assistant the funding mechanism and information on any potential implication for article 6-a of the New Hampshire constitution.

XI. Consult with the department of environmental services, the office of strategic initiatives, the department of transportation, and the department of business and economic affairs.

XII. Receive input from interested parties and members of the public.

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

6 Report. 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, 2020.

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

2020-1041s

AMENDED ANALYSIS

This bill establishes a committee to evaluate the Transportation Climate Initiative memorandum of understanding.

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 615, relative to small unmanned aircraft.

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

Senate Transportation

March 3, 2020

2020-1036s

11/04

Amendment to SB 615

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

1 New Paragraphs; New Hampshire Aeronautics Act; Definitions. Amend RSA 422:3 by inserting after paragraph XXVII the following new paragraphs:

XXVII-a. "Small unmanned aircraft" means an unmanned aircraft as defined in federal regulations, as amended.

XXVII-b. "Small unmanned aircraft system" means a small unmanned aircraft and its associated elements as defined in federal regulations, as amended.

2 New Paragraph; New Hampshire Aeronautics Act; Definitions. Amend RSA 422:3 by inserting after paragraph XXIX the following new paragraph:

XXX. "Unmanned aircraft" means an aircraft as defined in federal regulations, as amended.

3 New Hampshire Aeronautics Act; Duties of the Commissioner. Amend RSA 422:4, VI to read as follows:

VI. Effecting uniformity in the regulations pertaining to the operation of aircraft by adopting uniform rules consistent with federal regulations and making noncompliance with federal regulations a violation of state law, thereby enabling the law enforcement agencies of the state to enforce the laws regulating the operation of aircraft. For the purposes of this paragraph, aircraft shall include ultralight vehicles [~~as defined in 14 C.F.R. part 103~~] **as defined in federal regulations, as amended, and small unmanned aircraft systems as defined in RSA 422:3, XXVII-b.**

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

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.

Recess. Out of recess.

ANNOUNCEMENTS

PRESIDENT SOUCY: Before taking up the bills on the Consent Calendar, each of you should have received a proposed rule amendment. The language that is before you is very limited in scope. And I just want to assure all of you, we were all elected here to do important work, and we have a schedule. We will adhere to that schedule as it is here before you currently. However, as a precaution, and not to be used except in an extraordinary circumstance, if something were to happen that would require us for the health and well-being of ourselves, our staff and members of the public, we may have to delay a deadline. It would be extraordinary; it is something I would not do without consulting with the minority leader and without having mutual agreement, that it is the right thing to do. With that, I would ask, recognize Senator Feltes.

AMENDMENT TO SENATE RULES

Senator Feltes moved to amend Senate Rule 7-1, with the amendment provided here today.

AMENDMENT TO SENATE RULE 7-1

Amend Senate Rule 7-1 with the following:

7-1 Deadlines. *In an effort to thwart the spread of Covid-19, after conferring with the Minority Leader, and public health officials about best practices concerning the safety of Senators, staff, and the public, the deadlines may be reasonably amended at the discretion of the Senate President, to be timely noticed on the General Court website.*

- (a) Tuesday, December 18, 2018 – Deadline for the Office of Legislative Services to accept drafting of a Senate Bill, Senate Concurrent Resolution, or Senate Joint Resolution with complete information for the 2019 Session.
- (b) Friday, January 11, 2019 – Deadline for prime sponsors to sign off on legislation.
- (c) Friday, January 11, 2019 – Deadline for co-sponsors to sign off on legislation.
- (d) Monday, February 25, 2019 – Friday, March 01, 2019: SENATE BREAK.
- (e) Thursday, March 07, 2019 – Deadline for Policy Committees to ACT on all Senate bills with a fiscal impact, except bills exempted pursuant to Senate Rule 4-5.
- (f) Thursday, March 28, 2019 – CROSSOVER – Deadline to ACT on all Senate bills.
- (g) Thursday, May 16, 2019 – Deadline for Policy Committees to ACT on all House bills with a fiscal impact, except bills exempted pursuant to Senate Rule 4-5.
- (h) Thursday, June 06, 2019 – Deadline to ACT on all House bills.
- (i) Thursday, June 13, 2019 – Deadline to FORM Committees of Conference.
- (j) Thursday, June 20, 2019 – Deadline to SIGN Committee of Conference Reports.
- (k) Thursday, June 27, 2019 – Deadline to ACT on Committee of Conference Reports.

- (l) Wednesday, October 16, 2019 – First day to FILE legislation.
- (m) Wednesday, October 30, 2019 – Deadline for the Office of Legislative Services to accept drafting of a Senate Bill, Senate Concurrent Resolution, or Senate Joint Resolution with complete information for the 2020 Session.
- (n) Wednesday, December 04, 2019 – Deadline for prime sponsors to sign off on legislation.
- (o) Wednesday, December 11, 2019 – Deadline for co-sponsors to sign off on legislation.
- (p) Thursday, December 19, 2019 – Deadline to REPORT rereferred bills out of committee.
- (q) Monday, February 24, 2020 – Friday, February 28, 2020: SENATE BREAK.
- (r) Thursday, March 05, 2020 – Deadline for Policy Committees to ACT on all Senate bills with a fiscal impact, except bills exempted pursuant to Senate Rule 4-5.
- (s) Thursday, March 26, 2020 – CROSSOVER – Deadline to ACT on all Senate bills.
- (t) Thursday, April 30, 2020 – Deadline for Policy Committees to ACT on all House bills with a fiscal impact, except bills exempted pursuant to Senate Rule 4-5.
- (u) Thursday, May 14, 2020 – Deadline to ACT on all House bills.
- (v) Thursday, May 21, 2020 – Deadline to FORM Committees of Conference.
- (w) Thursday, May 28, 2020 – Deadline to SIGN Committee of Conference Reports.
- (x) Thursday, June 04, 2020 – Deadline to ACT on Committee of Conference Reports.

The question is on the adoption of the amendment to Senate Rule 7-1.

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

The following Senators voted Yes: Starr, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D'Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted by necessary 2/3 vote.

CONSENT CALENDAR REPORTS REMOVED

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

COMMERCE

SB 685-FN, establishing a wholesale prescription drug importation program.
Ought to Pass with Amendment, Vote 5-0. Senator Cavanaugh for the committee.

Commerce
March 4, 2020
2020-1074s
01/10

Amendment to SB 685-FN

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

AN ACT establishing a wholesale prescription drug importation program and establishing the New Hampshire prescription drug competitive marketplace.

Amend RSA 126-BB:2, II(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Ensure that the program complies with the transaction and tracing requirements of 21 U.S.C. sections 360eee and 360eee-1 to the extent feasible and practical prior to imported prescription drugs coming into the possession of the licensed United States drug wholesaler and that the program complies fully with those federal requirements after imported prescription drugs are in the possession of the licensed drug wholesaler.

Amend RSA 126-BB:3, IV-IX as inserted by section 1 of the bill by replacing them with the following:

IV. Seek the appropriate federal approvals, exemptions, or agreements, or a combination thereof, as needed to enable all covered entities enrolled in or eligible for the federal 340B Drug Pricing Program to participate in the program to the fullest extent possible without jeopardizing their eligibility for the 340B Program.

V. Consult with health insurance carriers, employers, pharmacies, pharmacists, health care providers and consumers.

VI. Develop a registration process for health insurance carriers, pharmacies and health care providers authorized to prescribe and administer prescription drugs that are willing to participate in the program.

VII. Create a publicly accessible website for listing the prices of prescription drugs to be imported under the program.

VIII. Create an outreach and marketing plan to work with health carriers, provider associations to generate public awareness of the program.

IX. Develop a 2-year audit work plan.

X. Conduct any other activity determined necessary to successfully implement and operate the program.

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

2 New Subdivision; New Hampshire Prescription Drug Competitive Marketplace. Amend RSA 21-I by inserting after section 95 the following new subdivision:

New Hampshire Prescription Drug Competitive Marketplace

21-I:96 Purpose and Intent. The purpose and intent of this subdivision is to authorize the commissioner of the department of administrative services, with the approval of the governor and the executive council, to establish the New Hampshire prescription drug competitive marketplace in accordance with this subdivision. The objective of this subdivision is to optimize prescription drug savings by the state of New Hampshire through the following:

I. Adoption of a dynamically competitive reverse auction process for the state health plan selection of pharmacy benefit managers (PBM).

II. Ongoing, real-time electronic review and validation of PBM claims invoices as the foundation for reconciling pharmacy bills.

III. Conduct of market checks using technology driven evaluation of the incumbent PBM's prescription drug pricing based on benchmark comparators.

21-I:97 Definitions. In this subdivision:

I. "Department" means the department of administrative services.

II. "Pharmacy benefits manager" means a person, business, or other entity, including a wholly or partially owned or controlled subsidiary of a pharmacy benefits manager, that, pursuant to a contract with the health carrier or self-funded health benefit plan, manages the prescription drug coverage provided by the health carrier or self-funded health benefit plan, including, but not limited to, providing claims processing services for prescription drugs, performing drug utilization review, processing drug prior authorization requests, adjudication of grievances or appeals related to prescription drug coverage, contracting with network pharmacies, and controlling the cost of covered prescription drugs.

III. "PBM reverse auction" means an automated, transparent, and dynamically competitive bidding process conducted online that starts with an opening round of bids and allows qualified PBM bidders to counter-offer a lower price for as many rounds of bidding as determined by the department of administrative services or its authorized representative conducting the reverse auction for a multiple health plan prescription drug purchasing group.

IV. "Price" means the projected cost of a PBM proposal or "bid" for providing prescription drug benefits pursuant to this part, to enable "apples-to-apples" comparison of the costs of competing PBM proposals over the duration of the PBM services contract.

V. "Real-time" means within no more than 12 hours.

VI. “PBA” means a participant bidding agreement entered into by all participants in the PBM reverse auction prior to participation therein.

21-I:98 New Hampshire Prescription Drug Competitive Marketplace.

I. Notwithstanding any provision of law to the contrary, a contract for the services of a PBM for the administration of benefits under this subdivision may be procured by the department, at its sole discretion, in a transparent, online competitive process, or “PBM reverse auction” as set forth in this subdivision. If the department, acting in its discretion, opts to conduct such a process, it shall procure, through the solicitation of proposals from qualified professional services vendors, the following products and services based upon price, capabilities, and other factors as determined by the department:

(a) Technical assistance from a technology operator with respect to all of the following:

(1) Evaluating the qualifications of PBM bidders.

(2) Conducting online-automated reverse auction services to support the department or its authorized representatives in comparing the pricing for the PBM procurement.

(3) Providing related professional services.

(b) Technology platform with the required capabilities for conducting a PBM reverse auction, along with the related services of a technology operator, as described in subparagraph (a). The technology platform shall, at a minimum, possess the capacity to do the following:

(1) Conduct an automated, online, reverse auction of PBM services.

(2) Automate repricing of diverse and complex PBM prescription drug pricing proposals to enable “apples-to-apples” comparisons of the price of PBM bids utilizing 100 percent of annual prescription drug claims data available for state-funded health plans or a multiple health plan prescription drug purchasing group and using code-based classification of drugs from nationally accepted drug sources.

(3) Produce an automated report and analysis of PBM bids, including the ranking of PBM bids based on the comparative costs and qualitative aspects thereof within a 48-hour time period following the close of each round of reverse auction bidding.

(4) Perform real-time, electronic, line-by-line, claim-by-claim review of 100 percent of invoiced PBM prescription drug claims, and identify all deviations from the specific terms of the PBM services contract resulting from the reverse auction process.

(c) The contract for procurement of the technology platform and technology operator services shall not be awarded to any of the following:

(1) A vendor that is a PBM.

(2) A vendor that is a subsidiary or affiliate of a PBM.

(3) A vendor that is managed by a PBM or receives remuneration from a PBM for aggregating clients into a contractual relationship with a PBM.

(d) The vendor shall not outsource any part of the PBM reverse auction or the automated, real-time, electronic, line-by-line, claim-by-claim review of invoiced PBM prescription drug claims.

(e) With technical assistance and support provided by the technology operator, the department or its authorized representative shall specify the terms of the PBA. The terms of the PBA shall not be modified except by specific consent of the department of administrative services or its authorized representatives.

II. When and if procured, the technology platform used to conduct the reverse auction shall be repurposed over the duration of the PBM services contract as an automated pharmacy claims adjudication engine to perform real-time, electronic, line-by-line, claim-by-claim review of 100 percent of invoiced PBM prescription drug claims, and identify all deviations from the specific terms of PBM services contracts.

III. An entity may request in writing and subject to the approval of the commissioner to participate in a joint purchasing group with the state employee and retiree group insurance program for procuring for PBM services through a PBM reverse auction or otherwise. All entities participating in a joint purchasing group shall share proportionally in the cost of procurement including all support services.

IV. If the department opts, at its discretion, to conduct a transparent, online competitive PBM selection process, as set forth in this subdivision, the processes and procedures set forth in this section shall apply to prescription drug coverage in connection with the state employee health plan for benefits under this part including for state employees, retirees, spouses, and eligible dependents in accordance with the provisions of RSA 21-I:30 and any applicable collective bargaining agreements. Any other state-funded health plan or self-funded municipal employee or other local government employee health plan, public school employee health plans, operating individually or collectively, and the health plans of the university system of New Hampshire and the community college system of New Hampshire may utilize the processes and procedures set forth in this section individually or collectively or as a joint purchasing group with the state employee health plan.

V. After completion of a first PBM reverse auction by the department for the administration of benefits under the state employee health plan, and at the discretion of the department, self-funded private sector employer or multi-employer health plans with substantial participation by New Hampshire employees and their dependents may be permitted to participate in a joint purchasing pool with state employees for conduct of subsequent PBM reverse auctions provided that such participation shall comply with and shall be consistent with all applicable state and federal law and requirements of ERISA.

VI. The state employee health plan and any self-funded public or private sector health plans that may be permitted to participate with the state in a joint PBM reverse auction purchasing pool shall retain full autonomy over determination of their respective prescription drug formularies and pharmacy benefit designs and shall not be required to adopt a common drug formulary or common prescription pharmacy benefit design. Any such entity or purchasing group shall agree, before participating in the PBM reverse auction, to accept the prescription drug pricing plan that is selected through the PBM reverse auction process.

VII. Any PBM providing services to the department or a self-funded health plan as described in paragraphs IV and V, shall provide the department and the plan the complete pharmacy claims data necessary to conduct the reverse auction and carry out their administrative and management duties.

VIII. The department may adopt rules, pursuant to RSA 541-A, to implement the provisions of this subdivision.

3 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

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

2020-1074s

AMENDED ANALYSIS

This bill establishes a wholesale importation program for prescription drugs from Canada by or on behalf of the state. This bill requires the department of health and human services to design the program and obtain federal approval for the program. This bill also establishes the New Hampshire prescription drug competitive marketplace.

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

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

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

The following Senators voted Yes: Starr, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D'Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: (None)

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

SB 739-FN, relative to mental health and substance use disorder insurance coverage.
Ought to Pass, Vote 5-0. Senator Morgan for the committee.

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

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

The following Senators voted Yes: Starr, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D'Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

SB 759-FN, relative to employers provision of reasonable accommodations for pregnant employees. Ought to Pass with Amendment, Vote 5-0. Senator French for the committee.

Commerce
March 3, 2020
2020-1061s
04/11

Amendment to SB 759-FN

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

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

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

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

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

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

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

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

The following Senators voted Yes: Starr, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D'Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

SPECIAL ORDER

Without objection, SB 572-FN, in the Committee on Judiciary, is special ordered to the present time. Adopted.

JUDICIARY

SB 572-FN, relative to prohibited sexual contact involving persons in a position of authority. Ought to Pass, Vote 5-0. Senator Hennessey for the committee.

INTRODUCTION OF GUESTS

Senator Hennessey introduced Ana Goble, visiting in the gallery.

Senator Hennessey offered a Floor Amendment.

Sen. Hennessey, Dist 5
March 12, 2020
2020-1208s
04/05

Floor Amendment to SB 572-FN

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

1 New Paragraph; Sexual Assault and Related Offenses; Definitions. Amend RSA 632-A:1 by inserting after paragraph V the following new paragraph:

V-a. "Student" means an individual who is enrolled or participating in any class or program from pre-school through grade 12, or any "adult student" as specified in Ed 1102.01(f)(1) at any school or education institution except as otherwise provided in the department of education administrative rules for the education of children with disabilities.

2 Aggravated Felonious Sexual Assault. Amend RSA 632-A:2, I(n) to read as follows:

(n) When the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit under any of the following circumstances:

(1) When the actor has direct supervisory, disciplinary, or other authority authorized by law over, or direct responsibility for maintaining detention of, the victim by virtue of the victim being detained or incarcerated in a correctional institution, the secure psychiatric unit, a juvenile detention facility, or any other setting in which the victim is not free to leave; [or]

(2) When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation; **or**

(3) When the actor is an employee, volunteer, or contractor at a primary or secondary educational institution and is in a position of authority over the victim, who is a student at the same educational institution.

Consent of the victim under any of the circumstances set forth in subparagraph (n) shall not be considered a defense.

3 Felonious Sexual Assault. Amend RSA 632-A:3, IV to read as follows:

IV.(a) Engages in sexual contact with the person, or causes the person to engage in sexual contact on himself or herself in the presence of the actor, when the actor is in a position of authority over the person and uses that authority to coerce the victim to submit under any of the following circumstances:

(1) When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; [or]

(2) When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation; **or**

(3) When the actor is an employee, volunteer, or contractor at a primary or secondary educational institution and is in a position of authority over the victim, who is a student at the same educational institution.

(b) Consent of the victim under any of the circumstances set forth in this paragraph shall not be considered a defense.

(c) For the purpose of this paragraph, "sexual contact" means the intentional touching **whether directly, through clothing, or otherwise**, of the [person's] **victim's or actor's** sexual or intimate parts, including genitalia, **emissions of seminal or vaginal fluid, tongue**, anus, breasts, and buttocks, where such contact, or the causing of such contact, can reasonably be construed as being for the purpose of sexual arousal or gratification of the person in the position of authority, or the humiliation of the person being touched.

4 Sexual Assault. Amend RSA 632-A:4, III(c) to read as follows:

(c) For the purpose of this paragraph, "sexual contact" means the intentional **touching whether directly, through clothing, or otherwise**, of the [person's] **victim's or actor's** sexual or intimate parts, including genitalia, **emissions of seminal or vaginal fluid, tongue**, anus, breasts, and buttocks, where such contact, or the causing of such contact, can reasonably be construed as being for the purpose of sexual arousal or gratification of the person in the position of authority, or the humiliation of the person being touched.

5 Effective Date. This act shall take effect January 1, 2021.

2020-1208s

AMENDED ANALYSIS

This bill inserts a definition of “student” in the sexual assault statutes and amends the circumstances that constitute sexual contact by a person in a position of authority for the purpose of sexual assault.

The question is on the adoption of the Floor Amendment.

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

The following Senators voted Yes: Starr, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D’Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: (None)

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

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

Sen. Carson, Dist 14

March 9, 2020

2020-1144s

04/10

Floor Amendment to SB 572-FN

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

AN ACT relative to the grounds for sexual assault and related offenses.

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

1 Sexual Assault and Related Offenses; Definition of Sexual Contact. Amend RSA 632-A:1, IV to read as follows:

IV. “Sexual contact” means the intentional touching whether directly, through clothing, or otherwise, of the victim’s or actor’s sexual or intimate parts, including emissions, tongue, anus, breasts, and buttocks. Sexual contact includes only that aforementioned conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification ***or the humiliation of the person being touched.***

2 New Paragraph; Sexual Assault and Related Offenses; Definition of Student Added. Amend RSA 632-A:1 by inserting after paragraph V the following new paragraph:

V-a. “Student” means an individual who is enrolled or participating in any class or program from pre-school through grade 12, or any “adult student” as defined in department of education rules at any school or education institution, except as otherwise provided in the New Hampshire Rules for the Education of Children with Disabilities.

3 Aggravated Felonious Sexual Assault. Amend RSA 632-A:2, I(k) to read as follows:

(k)(1) When, except as between legally married spouses, the victim is 13 years of age or older and under 18 years of age and the actor is in a position of authority over the victim ~~[and uses this authority to coerce the victim to submit]~~ ***and is more than 4 years older than the victim.***

(2) When the actor is an employee, contractor, or volunteer at a primary or secondary educational institution and the victim is a student and up to 10 months after the student’s graduation or departure.

(3) Consent of the victim under any of the circumstances set forth in subparagraph (k) shall not be considered a defense.

4 Felonious Sexual Assault. Amend RSA 632-A:3, III to read as follows:

III.(a) Engages in sexual contact with a person:

(1) Other than his ***or her*** legal spouse who is under 13 years of age.

(2) Thirteen years of age or older and under 18 years of age when the actor is in a position of authority over the victim and is more than 4 years older than the victim.

(3) When the actor is an employee, contractor, or volunteer at a primary or secondary educational institution and the victim is a student and up to 10 months after the student's graduation or departure.

(b) Consent of the victim under any of the circumstances set forth in subparagraph (a) shall not be considered a defense.

5 Repeal. The following are repealed:

I. RSA 632-A:3, IV(c), relative to a definition of sexual contact for purposes of the crime of felonious sexual assault.

II. RSA 632-A:4, III(c), relative to a definition of sexual contact for purposes of the crime of sexual assault.

6 Effective Date. This act shall take effect January 1, 2021.

2020-1144s

AMENDED ANALYSIS

This bill amends the definition of sexual contact in the criminal sexual assault statutes. The bill also expands the elements of the crime of felonious sexual assault and aggravated sexual assault to include sexual contact between school employees and students, and to include circumstances when the actor is in a position of authority over a victim who is between 13 and 18 years of age.

Recess. Out of recess.

The question is on the adoption of the Floor Amendment.

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

The following Senators voted Yes: Starr, Giuda, Bradley, Gray, French, Ward, Chandley, Carson, Reagan, Birdsell, Morse.

The following Senators voted No: Watters, Hennessey, Dietsch, Kahn, Levesque, Rosenwald, Feltes, Cavanaugh, D'Allesandro, Fuller Clark, Morgan, Sherman, Soucy.

Roll Call, Yeas: 11 - Nays: 13. Failed.

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

A roll call was requested by Senator Rosenwald, seconded by Senator Feltes.

The following Senators voted Yes: Starr, Giuda, Bradley, Watters, Hennessey, Gray, French, Ward, Dietsch, Kahn, Chandley, Levesque, Rosenwald, Carson, Feltes, Cavanaugh, Reagan, Birdsell, D'Allesandro, Fuller Clark, Morse, Morgan, Sherman, Soucy.

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted, bill ordered to Third Reading.

SB 468-FN, relative to prohibited sexual contact involving persons in a position of authority. Interim Study, Vote 5-0. Senator French for the committee.

Senator Giuda moved to Lay on the Table. Adopted.

MOTION TO ADJOURN FROM EARLY SESSION

Senator Feltes 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 Dietsch: SB 754-FN

ANNOUNCEMENTS

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Madam President. Just a point of personal privilege, if I might. Thank you. Thank you. We have rough sessions, people work hard and I think we all appreciate this. But I just want to say that, I want to pay a great deal of respect to Bob Giuda. Because I know the problems he has with his life, but he's here every day. He gets into every bill. I don't agree with him 90 percent of the time, but I've got to say, he gets into every bill and he gives you everything he's got. A man, who's committed to his family like he's committed to his family, makes me feel really good about being here. Makes me feel privileged to serve with you, knowing full well that everything we're getting out of you, is the kind of thing that we'd like to get from everybody. I applaud you for your decency. I applaud you for your consistency, your love for your family. I couldn't have done it. I'll tell you that. I couldn't have done it and I've been with the same woman for sixty years. And I'll tell you, kudos to you for all you do. Here to your family and all of us really should look up to you as a real example. So, thank you very much. Semper Fi.

(The Chair recognized Senator Giuda.)

SENATOR GIUDA: Thank you, Madam President. The hour is late, but I will tell you, while we will often disagree, on issues, you have become the family that gave me a reason to keep coming and waking every morning. And friend or foe, politically, ally or opponent on issues, I thank you, each and every one for the life you have given me here for the past, almost four years. It's been daunting at home, but I have something to look forward to every morning and that's working with you to make our state a better place. Madam President, thank you for your leadership. And thanks each, and every one of you. God bless you all.

Without objection, all personal privileges and unanimous consent shall be entered into the permanent *Journal of the Senate*. (Rule 2-16 and Rule 2-17). Adopted.

LATE SESSION

Third Reading and Final Passage

SB 436-FN, relative to the penalties for various motor vehicle violations.

SB 462-FN, relative to state energy management.

SB 572-FN, relative to prohibited sexual contact involving persons in a position of authority.

SB 586-FN, relative to certain expenditures by candidates and candidate committees.

SB 588-FN, relative to wanton waste of an animal and relative to contests for taking fur-bearing animals.

SB 591, establishing a statewide solid waste disposal reduction goal.

SB 610, establishing a committee to evaluate the Transportation Climate Initiative memorandum of understanding and associated modeling and scenarios.

SB 615, relative to small unmanned aircraft.

SB 626-FN, decreasing the fee to file a petition for a declaratory ruling with the site evaluation committee.

SB 631-FN, authorizing online voter registration.

SB 649-FN, relative to commercial drivers' licenses and driving under the influence while driving certain commercial motor vehicles.

SB 672, relative to behavioral health services for children and certain revisions to notifications of discharge for individuals found incompetent to stand trial and nonemergency involuntary admissions revocation of conditional discharge.

SB 688-FN, relative to the pricing of generic prescription drugs.

SB 692-FN, relative to certain costs of the public utilities commission for participation in regional activities.

SB 695-FN, relative to sharing voter registration information.

SB 698, relative to the Interstate Compact on Child Placement.

SB 702, relative to contracting requirements for certain providers of child welfare services with the department of health and human services.

SB 705-FN, relative to fraudulent impersonation using a social networking site.

SB 726-FN, relative to programs to aid veterans' access to employment, housing, health care, and college degrees.

SB 727-FN-LOCAL, relative to Holocaust and genocide studies legislation and establishing a commission to study genocide education.

SB 739-FN, relative to mental health and substance use disorder insurance coverage.

SB 758-FN, regulating products containing kratom.

SB 759-FN, relative to employers provision of reasonable accommodations for pregnant employees.

HB 712-FN, relative to a family and medical leave insurance program.

HB 1660-FN, establishing a protective order for vulnerable adults.

MOTION TO RECESS TO CALL OF THE CHAIR

Senator Feltes 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.