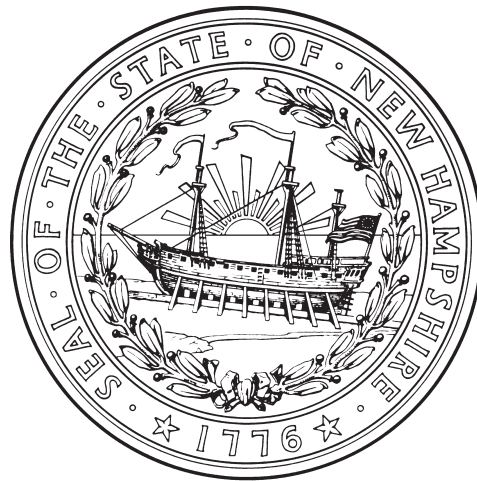


February 18, 2021
Nos. 4-5

STATE OF NEW HAMPSHIRE

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



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

Legislative Proceedings

SENATE JOURNAL

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

SENATE JOURNAL 4 *(continued)*

February 11, 2021

Out of Recess. Call the Senate to Order.

MOTION TO ADJOURN FROM LATE SESSION

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

PRESIDENT MORSE: I would like the record to reflect that all roll calls will be requested by Senator Bradley and seconded by Senator Soucy in the remote sessions.

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

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

The following Senators voted No: (None)

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

Adopted. Adjournment from the Late Session.

SENATE JOURNAL 5

February 18, 2021

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

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

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

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

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

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

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

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

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

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

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

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

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

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0.

There were 24 members present.

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

Good morning. Let us begin with a moment of silence.

Dear God, we gather today from diverse parts of our state. We've come from the North Country with small towns, from college towns, from cities, from the Lakes Region, from the mountains to the Seacoast. We give you thanks for the diversity of thought in the New Hampshire State Senate. No one can be right all the time, but we need different views to keep us honest and humble. What we share here today is a love for the great state of New Hampshire. We share a love for its traditions and for what it can be in the future. We share a love to the people we are called to serve. We love how hard they work and how much they care for their communities. Give us wisdom and humility to always do what is right, good, just, and fair to the people of New Hampshire. Help us to enact laws that serve the greatest good, that brings peace and prosperity to everyone who is willing to work for it. Let us never forget that even though we have differences as how to accomplish this, we are all citizens of this great country and state. And we have a sacred calling to serve the people of New Hampshire. Amen.

Senator Prentiss led the Pledge of Allegiance.

FN REPORT FOR FEBRUARY 18, 2021

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

CONSENT CALENDAR:

WAYS AND MEANS

SB 103-FN, relative to nexus provisions for certain disaster-related or emergency-related work performed in the state.

Senator Daniels moved to adopt today's FN Report.

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

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

The following Senators voted No: (None)

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

CONSENT CALENDAR REPORTS REMOVED

COMMERCE

SB 38, by Senator Giuda

HEALTH AND HUMAN SERVICES

SB 120, by Senator Sherman

CONSENT CALENDAR

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

WAYS AND MEANS

SB 103-FN, relative to nexus provisions for certain disaster-related or emergency-related work performed in the state.

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

This bill waives certain business registration, licensing, and taxation requirements for out-of-state businesses temporarily performing work in New Hampshire during a declared state of emergency. This will remove certain roadblocks and barriers to bringing both personnel and assets into New Hampshire during an emergency. Doing so will help streamline emergency restoration efforts and ensure that utility and communications services can be restored as expeditiously as possible.

The question is on the adoption of the Consent Calendar.

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

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

The following Senators voted No: (None)

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

REGULAR CALENDAR

COMMERCE

SB 68, requiring an employer to provide reasonable accommodations for pregnant employees.

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

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

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

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

The following Senators voted No: (None)

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

ENERGY AND NATURAL RESOURCES

SB 129, relative to minimizing environmental impacts on the habitats of endangered or threatened species.

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

Energy and Natural Resources

February 10, 2021

2021-0315s

04/05

Amendment to SB 129

Amend the bill by replacing section 1 with the following:

1 Endangered Species Conservation Act; Conservation Programs. RSA 212-A:9, III is repealed and reenacted to read as follows:

III. All other state departments and agencies, to the extent possible, consistent with their authorities and responsibilities, shall assist and cooperate with the executive director in the furtherance of the purposes of this chapter for the conservation of endangered or threatened species. They shall take such action as is reasonable and prudent to insure that actions authorized, funded, or carried out by them do not significantly jeopardize the continued existence of such species or result in the destruction or modification of habitat of such species which is determined by the executive director to be critical, by requiring that all such action is

designed to avoid and minimize harm to endangered and threatened species and habitat designated as critical. For the purposes of this statute, "significantly" shall be defined by the fish and game department and the department of environmental services through RSA 541-A. The provisions of RSA 212-A or any rule adopted under this chapter, or any rule which refers to the requirements of this chapter, shall not be applicable to a state department or agency when that state department or agency, in the process of undertaking an action, is required by federal law or regulation, or which has adopted internal policies or procedures, to address the environmental impact on endangered or threatened wildlife or wildlife habitat designated as critical.

The question is on the adoption of the Committee Amendment.

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

The following Senators voted Yes: Hennessey.

The following Senators voted No: Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

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

MOTION OF RECONSIDERATION

Senator Bradley, having voted on the prevailing side, moved to reconsider the following action taken by the body on SB 129, relative to minimizing environmental impacts on the habitats of endangered or threatened species.: Committee Amendment 0315s.

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

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

The following Senators voted No: (None)

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

The question is on the adoption of the Committee Amendment.

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

The following Senators voted Yes: (None)

The following Senators voted No: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

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

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3
February 17, 2021
2021-0416s
04/05

Floor Amendment to SB 129

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

1 Endangered Species Conservation Act; Conservation Programs. Amend RSA 212-A:9, III to read as follows:

III. All other state departments and agencies, to the extent possible, consistent with their authorities and responsibilities, shall assist and cooperate with the executive director in the furtherance of the purposes of this chapter for the conservation of endangered or threatened species. They shall take such action as is reasonable and prudent to insure that actions authorized, funded, or carried out by them do not **appreciably** jeopardize the continued existence of such species or result in the destruction or modification of habitat of such species which is determined by the executive director to be critical, **by requiring that all such action is designed to avoid and minimize harm to such species and habitat designated as critical. For**

the purpose of this statute, “appreciably jeopardize the continued existence of such species” shall be defined in rules adopted by the executive director pursuant to RSA 541-A. The provisions of RSA 212-A or any rule promulgated under this chapter shall not be applicable to a state department or agency when that state department or agency, in the process of undertaking an action, is required by federal law or regulation to address the environmental impact on wildlife or wildlife habitat, of that action.

2 New Section; Fish and Game Fund; Funds Paid as Mitigation for Unavoidable Impacts to Wildlife or Habitat of Wildlife. Amend RSA 206 by inserting after section 33-f the following new section:

206:33-g Funds Paid as Mitigation for Unavoidable Impacts to Wildlife or Habitat of Wildlife. The executive director may accept funds paid as mitigation for unavoidable impacts to wildlife or habitat of wildlife within the state of New Hampshire. Notwithstanding any other provision of law to the contrary, the executive director may accept and receive such funds without the approval of the governor, the governor and council, or the commission. All moneys received under this section for mitigation of impacts shall be deposited as follows:

I. For impacts to nongame species or the habitat of nongame species that are not considered threatened or endangered, moneys shall be deposited in the nongame species account established under RSA 212-B:6 and used solely for the purposes set forth in that section.

II. For impacts to threatened and endangered species or the habitats of threatened and endangered species, moneys shall be deposited in the threatened and endangered species compensatory mitigation fund established under RSA 212-A:16 and used solely for the purposes set forth in that section.

III. All other moneys received under this section shall be deposited into the fish and game fund established under RSA 206:33 and used solely for the purposes set forth in RSA 206:34-a.

3 New Section; Endangered Species Conservation Act; Threatened and Endangered Species Compensatory Mitigation Fund. Amend RSA 212-A by inserting after section 15 the following new section:

212-A:16 Threatened and Endangered Species Compensatory Mitigation Fund. There is hereby established in the state treasury a separate fund to be known as the threatened and endangered species compensatory mitigation fund into which payments made pursuant to this section shall be credited. The fund shall be non-lapsing and continually appropriated to the department, for the purpose of funding projects that facilitate a net conservation benefit to threatened and endangered species, including, but not limited to critical habitat creation or restoration and the monitoring and maintenance of such areas. The state treasurer shall invest the fund as provided by law and any interest received on such investment shall be credited to the fund. Notwithstanding any other provision of law to the contrary, the executive director may accept payment for deposit into the fund for an unavoidable loss of critical habitat from a proposed activity without the approval of the governor, the governor and council, or the commission. The executive director shall approve disbursements from the fund following consultation with the commissioner of the department of environmental services. The department shall submit an annual report by October 1, 2022, and every year thereafter, to the fiscal committee, the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library, summarizing all deposits and expenditures from the fund. The report shall include, but not limited to a description of all projects undertaken. The executive director shall adopt rules under RSA 541-A for the threatened and endangered species compensatory mitigation fund no later than one year following the effective date of this section.

4 New Subparagraph; Application of Receipts; Threatened and Endangered Species Compensatory Mitigation Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (364) the following new subparagraph:

(365) Moneys credited to the threatened and endangered species compensatory mitigation fund established in RSA 212-A:16.

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

2021-0416s

AMENDED ANALYSIS

This bill requires all state departments and agencies to take actions designed to minimize environmental impacts to endangered or threatened species habitats. The bill also authorizes the executive director of fish and game to accept payment for the unavoidable loss of such habitat and establishes a threatened and endangered species compensatory mitigation fund.

The question is on the adoption of the Floor Amendment.

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

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

The following Senators voted No: Prentiss, Whitley, Reagan.

Roll Call, Yeas: 21 - Nays: 3. Adopted.

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

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

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

The following Senators voted No: Prentiss, Whitley, Reagan.

Roll Call, Yeas: 21 - Nays: 3. Adopted, bill ordered to Third Reading.

FINANCE

SB 77-FN, relative to fees for the services of sheriffs and deputy sheriffs.

Ought to Pass, Vote 7-0. Senator D'Allesandro for the committee.

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

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

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

The following Senators voted No: (None)

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

SB 135-FN-L, relative to the calculation of the cost of an opportunity for an adequate education

Ought to Pass, Vote 7-0. Senator Hennessey for the committee.

Senator Kahn offered a Floor Amendment.

Sen. Kahn, Dist 10

February 18, 2021

2021-0438s

06/04

Floor Amendment to SB 135-FN-LOCAL

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

AN ACT relative to the calculation of the cost of an opportunity for an adequate education and relative to a temporary change in the formula for school funding.

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

2 New Subparagraph; Fiscal Capacity Disparity Aid. Amend RSA 198:41, I by inserting after subparagraph (c) the following new subparagraph:

(d) Add the municipality's additional aid for fiscal capacity disparity pursuant to RSA 198:40-c.

3 Fiscal Capacity Disparity Aid. Amend RSA 2019, 346:440, XVI to read as follows:

XVI. **Paragraphs I and III of** section 236 of this act shall take effect July 1, 2021.

XVI-a. Paragraph II of section 236 shall take effect July 1, 2022.

4 Repeal. RSA 198:41, I(d), relative to fiscal capacity disparity aid, is repealed.

5 Effective Date.

I. Section 4 of this act shall take effect July 1, 2022.

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

2021-0438s

AMENDED ANALYSIS

This bill requires the commissioner of the department of education to compare the ADMA of school year 2019-2020 and school year 2020-2021 and use the greater of the two to calculate the cost of an opportunity for an adequate education.

This bill also makes a temporary change to the formula for school funding.

The question is on the adoption of the Floor Amendment.

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

The following Senators voted Yes: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

The following Senators voted No: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avar, Carson, Reagan, Birdsell, Gannon, Morse.

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 Bradley, seconded by Senator Soucy.

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

The following Senators voted No: (None)

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

HEALTH AND HUMAN SERVICES

SB 97, adopting omnibus legislation relative to health insurance.

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

Health and Human Services

February 11, 2021

2021-0326s

08/06

Amendment to SB 97

Amend part I of the bill by replacing it with the following:

1 New Section; Primary Care Referral Parity. Amend RSA 420-J by inserting after section 6-e the following new section:

420-J:6-f Referrals and Orders from Certified Direct Primary Care Providers. The department shall review direct primary care agreements submitted by direct primary care providers and shall certify the first 10 which it determines to be fully compliant with the provisions of RSA 329:1-e. A health benefit plan under this chapter shall not deny or reduce payment for any health care service covered under an enrollee's health plan based solely on the basis that the enrollee's referral was made by a certified direct primary care provider who is not a member of the carrier's provider network, provided it would have covered the same services if ordered by an in-network provider, subject to the following limitations:

I. No payment shall be made to the certified direct primary care provider for primary care services covered by the direct primary care agreement pursuant to RSA 329:1-e, II(f).

II. An insurer shall not apply a deductible, coinsurance, or copayment greater than the applicable deductible, coinsurance, or copayment that would apply to the same health care service if the service was referred or ordered by an in-network participating primary care provider.

III. An insurer may require the direct primary care provider to file a written attestation or a copy of the certified direct primary care agreement to demonstrate that the provider is a direct primary care provider.

IV. Health care services may be subject to utilization review by the insurer.

V. The covered person shall retain the right to choose direct primary care on an elective, self-pay basis; no entity regulated under this chapter shall prohibit a certified direct primary care provider from continuing care on an elective, self-pay basis.

VI. Direct primary care providers shall not be required to contract as participating providers in any network.

VII. On or before October 1, 2025, the insurance department shall report to the joint legislative oversight committee on health and human services, established in RSA 126-A:13, relative to any change in expenses to insurers and any resultant changes in insurance rates attributable to this section, as well as any other impacts of direct primary care on the insurance market or health care coverage.

2 Repeal. RSA 420-J:6-f, relative to referrals and orders from certified direct primary care providers, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect January 1, 2027.

II. The remainder of this act shall take effect January 1, 2022.

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

1 New Section; Pharmacy Benefits Managers; Prohibited Acts. Amend RSA 402-N by inserting after section 4 the following new section:

402-N:4-a Prohibited Acts. A pharmacy benefit manager shall not, either directly or indirectly:

I. Prohibit an in-network retail pharmacy from:

(a) Mailing or delivering a prescription drug to an enrollee as an ancillary service of the in-network retail pharmacy provided that confirmation of delivery is obtained.

(b) Charging a shipping or handling surcharge to an enrollee who requests that the in-network retail pharmacy mail or deliver a prescription drug to the enrollee as an ancillary service provided the enrollee receives a disclosure from the in-network retail pharmacy regarding any surcharge to be charged to the patient for the delivery of a prescription drug, including that the surcharge may not be reimbursable by the plan sponsor or pharmacy benefit manager.

(c) Offering the ancillary services described in subparagraph I(a) to an enrollee.

II. Charge an enrollee who uses an in-network retail pharmacy that offers to mail or deliver a prescription drug to an enrollee as an ancillary service a surcharge for the delivery of a prescription drug or copayment that is higher than the surcharge or copayment the enrollee would pay if the enrollee used an in-network retail pharmacy that does not offer to mail or deliver a prescription drug to an enrollee as an ancillary service.

III. For purposes of this section, a retail pharmacy shall not include a "mail-order pharmacy" as defined in RSA 318:1, VII-b.

The question is on the adoption of the Committee Amendment.

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

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

The following Senators voted No: Gray.

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

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

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

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

The following Senators voted No: Gray.

Roll Call, Yeas: 23 - Nays: 1. Adopted, bill ordered to Third Reading.

CONSENT CALENDAR REPORTS REMOVED

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

COMMERCE

SB 38, relative to the organization of alternative treatment centers.

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

Commerce

February 9, 2021

2021-0281s

11/05

Amendment to SB 38

Amend the bill by inserting after the enacting clause the following and renumbering the original sections 1-9 to read as 2-10, respectively:

1 Statement of Intent. The general court recognizes that the state of New Hampshire in 2013 authorized 4 regional licenses for alternative treatment centers to distribute therapeutic cannabis to New Hampshire citizens who have been diagnosed by a provider as having a qualifying medical condition and who possesses a valid registry identification card issued pursuant to RSA 126-X:4. The licensed alternative treatment centers have been formed as voluntary not-for-profit entities under RSA 292 as required by statute. The not-for-profit requirement has had a detrimental effect on the ability of the licensed alternative treatment centers to distribute affordable products due to their inability to finance operations through sales of equity rather than borrowing funds from private lending sources. Therefore, the general court hereby addresses the patient affordability issues by allowing only the alternative treatment centers holding licenses under RSA 126-X as of January 1, 2021 to convert their business under the provisions and definitions set forth below.

2021-0281s

AMENDED ANALYSIS

This bill permits alternative treatment centers to organize as business corporations and limited liability companies, and provides the procedure for alternative treatment centers organized as voluntary corporations as of January 1, 2021 to convert to business corporations or limited liability companies.

The question is on the adoption of the Committee Amendment.

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

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

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

Roll Call, Yeas: 18 - Nays: 6. Adopted.

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

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

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

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

Roll Call, Yeas: 18 - Nays: 6. Adopted, bill ordered to Third Reading.

HEALTH AND HUMAN SERVICES

SB 120, relative to physician assistant medical services through the Manchester Veterans Administration Medical Center.

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

Senator Sherman offered a Floor Amendment.

Sen. Sherman, Dist 24

February 17, 2021

2021-0429s

10/04

Floor Amendment to SB 120

Amend the bill by replacing section 1 with the following:

1 Physician Assistants; Manchester Veterans Administration Medical Center. Amend RSA 328-D:2-a to read as follows:

328-D:2-a Licensure Requirements Suspended; Manchester Veterans Administration Medical Center.

I. New Hampshire state licensure laws, rules, and regulations for physician assistants are hereby suspended for those physician assistants from other states or countries who are employed by the United States Department of Veterans Affairs and who are offering medical services to patients ~~[of the Manchester]~~ **coordinated through the** Veterans Administration Medical Center (VAMC) at licensed medical facilities outside of the Manchester VAMC, provided that such physician assistants are acting within the scope of their employment at the VAMC and possess a current license in good standing in their respective state or country of licensure. ***New Hampshire physician assistants who are employed by the United States Department of Veterans Affairs and who are offering medical services to patients of the Veterans Administration Medical Center (VAMC) and requesting licensure in New Hampshire may be supervised by physicians from other states or countries provided they possess a current license in good standing in their respective state or country.***

II. The acting director of the Manchester VAMC shall submit to the executive director of the New Hampshire office of professional licensure and certification, or designee, a list of all out-of-state or out-of-country physician assistants offering services in the state of New Hampshire ***and out-of-state or out-of-country physicians accepting supervisory responsibility of New Hampshire physician assistants.***

III. Nothing in this section shall be construed to preempt or supplant an individual licensed medical facility's policies regarding the emergency credentialing of physician assistants or any other medical personnel.

2021-0429s

AMENDED ANALYSIS

This bill modifies the requirements for out-of-state or out-of country physician assistants and state-licensed physician assistants to offer medical services through the Veterans Administration Medical Center.

The question is on the adoption of the Floor Amendment.

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

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

The following Senators voted No: (None)

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

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

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

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

The following Senators voted No: (None)

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

MOTION TO REMOVE FROM THE TABLE

Senator Gray moved to remove SB 43 from the Table.

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

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

The following Senators voted No: (None)

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

ELECTION LAW AND MUNICIPAL AFFAIRS

SB 43, authorizing an audit of the Rockingham County district 7 state representative race.

The pending motion is Inexpedient to Legislate.

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

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

The following Senators voted Yes: (None)

The following Senators voted No: Hennessey, Giuda, Bradley, Watters, Prentiss, Gray, French, Ward, Ricciardi, Kahn, Daniels, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

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

Senator Gray moved Ought to Pass.

Senator Giuda offered a Floor Amendment.

Sen. Giuda, Dist 2

Sen. Birdsell, Dist 19

Sen. Gray, Dist 6

Sen. Ward, Dist 8

Sen. Soucy, Dist 18

Sen. Perkins Kwoka, Dist 21

February 18, 2021

2021-0432s

11/05

Floor Amendment to SB 43

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

AN ACT authorizing an audit of the Rockingham County district 7 state representative race.

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

1 Findings. Rockingham County district 7 state representative election night results and the results of a state recount declared the same candidates elected. On appeal, the recount was upheld by the ballot law commission. Those results were certified to the New Hampshire house of representatives. The house of representatives have seated those winners of the election. The election results are therefore final; however, questions have been raised regarding the variance between the election night results and the recount results. This act authorizes an audit which will respond to those questions.

2 Applicability. This act is limited to authorizing an audit of the Rockingham County state representative district 7 race from the November 3, 2020 general election.

3 Audit Authorized.

I. Notwithstanding any provisions of law to the contrary, the secretary of state and attorney general are authorized to conduct an audit of the Rockingham county district 7 state representative race using the ballots cast on November 3, 2020, in Windham, New Hampshire. The audit shall include hand counting 4 separate sets of ballots from the Rockingham county district 7 state representative race. To allow for a direct comparison of the results from the 2 systems for counting, the audit hand count shall include all counts done by the ballot

counting device, including votes cast for candidates on the ballot, write-in votes, and blanks or undervotes. The same sets of ballots shall be counted using a different ballot counting device for each set. The audit shall use the 4 ballot counting devices used by the town of Windham on November 3, 2020. The audit shall compare the results from each device to the results from hand counting the same set of ballots. The secretary of state and attorney general shall determine, in their discretion, the manner and process for conducting the audit.

II. The audit shall be a test of the ballot counting devices, not a recount of the results of the election. The results of this audit shall not alter the official results of the Rockingham County district 7 state representative race as determined by the ballot law commission ruling on November 25, 2020, upholding the recount of that race.

III. The audit shall be conducted in public and shall be live streamed. The methodology and results of the audit shall be made public.

IV. The secretary of state and the attorney general shall issue a report to the ballot law commission with a conclusion regarding whether the ballot counting devices accurately counted the sets of ballots audited. After receiving the report and pursuant to its authority under RSA 656:41, the ballot law commission shall make a determination as to whether the ballot counting device in use requires upgrading.

V. The secretary of state and attorney general are granted authority to unseal the ballot boxes from the town of Windham's November 3, 2020 general election in order to conduct the audit.

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

2021-0432s

AMENDED ANALYSIS

This bill authorizes an audit of the Rockingham county district 7 state representative race.

The question is on the adoption of the Floor Amendment.

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

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

The following Senators voted No: (None)

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

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

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

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

The following Senators voted No: (None)

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

MOTION TO ADJOURN FROM EARLY SESSION

Senator Bradley moved that the Senate adjourn from the Early Session, that the business of the Late Session be in order at the present time, that all bills and resolutions ordered to Third Reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

The question is on the adoption of the motion to adjourn from the Early Session.

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

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

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted. Adjournment from the Early Session.

LATE SESSION
ANNOUNCEMENTS

(The Chair recognized Senator Kahn.)

SENATOR KAHN: Thank you, Mister President. This last weekend, we lost a great public servant of the state of New Hampshire. And I'll introduce my good friend Doctor Robert Andrews. Bob, almost thirty-three years ago to the date is the person who chaired the search committee that brought me to New Hampshire and Keene State College. Bob, for thirty-three years served Keene State College as a professor of technology. He was instrumental in bringing that department along to create both the architecture and safety studies programs which are unique in the state. Bob, in addition to being a faculty member, reorganized and served as Dean of our graduate programs at Keene State, he was instrumental at our program development activities for all of his career. And served in the provost's office was assistant to the provost for many years. He was just a hands-on, go-to guy and he got things done.

In his summer months, he managed Sandy Island Family Camp in Lake Winnepesaukee, maybe some people are now connecting with him. Bob also, if you ever attended a Keene State College graduation, he was the voice; he would read up to 900 and 1,000 names of Keene State College students crossing the stage and receiving their diplomas on graduation day. Bob had a unique knack of keeping track of you and your birthdays. Long before Facebook, Bob had, he knew your birthday and he would call you on your birthday and just check in, see how you were doing.

Bob left Keene State College in 2009 because of Parkinson's Disease, and over the last eleven years, he needed care and received that in Massachusetts on the Cape, near where his birthplace was. And if I failed to mention it, for ten years he was a Selectman in his hometown of Surry. I say all this in the deepest respect for a man who lived life as fully as he could for as long as he could, and was a great asset to the Monadnock Region, Keene State College, and a great friend to many. I ask the indulgence of my colleagues so that we can read into the record a tribute to this great man. Thank you, Mister President.

(The Chair recognized Senator Watters.)

SENATOR WATTERS: Thank you, Mister President. Unanimous consent. To celebrate Black History Month, I would like to offer a preview to my colleagues of the Black Heritage Trail in New Hampshire's Concord tour video, titled in Frederick Douglass' words, "I Was a Slave, Even Here in New Hampshire," which will be released early next week.

The Reverend Bob Thompson and I filmed the tour in September, visiting sites from Concord's founding until recent times. African American history is New Hampshire history. And this is especially true in the Capital City since actions taken by the Legislature turned the course of race relations from the very beginning. For example, when the Legislature held its first meeting in the new capital in 1782, at the Reverend Timothy Walker's house, and warehouse, the Governor, Governor's Council, and the Legislature were all served by Prince, Violet and Luce, enslaved in his household. The Legislature enacted the laws enforcing slavery, not abolished until 1857, and afterwards the subjugation of free people of color, as systemic racism as in other states was the very fabric of these statutes. Bills of sale and other records show the worthiest men of the parish were masters of slaves, including Rolfe, Stanley, McMillan, Colby, and many others. Several enslaved men however, served in the revolution and later became prominent in Concord and the region. Such as Sampson Battis, who purchased his enslaved wife from another Concord minister, and he led the Governor's Color Guard composed of black veterans of the Revolution on election days for decades. And also entertained the crowds with his fiddle. And he was joined by his son-in-law another Revolutionary War veteran, who provided refreshments and dancing lessons to the crowd.

The first portrait from life from an African American enslaved in New Hampshire was that of Nancy Herbert, purchased for \$5 as an infant in Boston by Lieutenant Herbert. Who remained in Concord for decades after gaining her freedom. A faithful church member and committed to what she called the elevation of her race. She was a member of the Concord Female Anti-Slavery Society and may have met Frederick Douglass on his first visit to Concord in 1842. Anti-slavery sentiments were strong in Concord, led by John Parker Hale, Herald of Freedom editor Nathaniel Peabody Rogers, Abby Kelley Foster and Stephen Foster and Nathaniel and Armenia White. Franklin Pierce bitterly opposed the anti-slavery movement. And there were a series of incidents when Pierce forces tried to stop meetings and speeches by storming the town house in Concord. And Pierce manipulated the votes so that Hale was not reelected United States Senator. The White's home at 144 Clinton Street was a stop on the underground railroad. And enslaved refugees staying there made a slave cabin dollhouse for the White's daughter, perhaps the only known object made by a fugitive slave during escape.

After the Civil War, life was often hard for free people of color in New Hampshire who were denied employment in the mills and many trades. They were warned from town to town, and many ended up their days sent to the Concord Asylum for the Insane, whether mentally ill or not, as a way for a town to save on cost of support. And then they were buried in anonymous graves on the site.

When Frederick Douglass returned to Concord for the dedication of the John Parker Hale statue in front of the State House. One of his last public addresses. He was seriously ill. And he thought the managers would allow him just they said, to give color to the occasion. But he rose to the occasion gave a stern appraisal of the neglect of equal rights. He noted John Parker Hale's courage in 1950. In contrast he said, to the destruction of the integrated Noyes Academy at Enfield in those years. At a time when the honest farmers of New Hampshire thought themselves justified in yoking up ninety oxen to drag away a negro schoolhouse, you'll see that John Parker Hale had something to meet in the state of New Hampshire as well as the state of South Carolina. He believed the Senate needed now another Hale. He decried the violence against black people sweeping America and said until we infuse a little more backbone into the politicians, and that politicians would bring to the front the question of right, the question of justice, the question of the constitution, we shall see this tide of violence sweep on. He called on politicians to denounce those who can stand up now and before the Senate of the United States and tell the North, tell the world that they didn't mean to violate the constitution so far in preventing the negro voting. Then as now, these words echo off the walls of the State House as a call to action.

I'd like to conclude with some more recent vignettes. As Mel Bolden would say, what's shaking? Well, Mel is still shaking in Concord. Mel Bolden 1919 to 2000 was famed as an illustrator and painter, the Dean of African American illustrators and a friend and peer of Norman Rockwell. He moved to New Hampshire in the late 1950s, becoming involved in Democratic politics and befriending the Concord Fire Department. In 1960 he was elected Party Chairman for Merrimack County, the only black county chairman in the country. He served on the State Commission for Human Rights. In his work for the Concord Monitor, he was known for his humorous illustrations to a guide for the New Hampshire presidential primary. His poster celebrating Christa McAuliffe's selection as the first teacher in space, showed her in her Concord classroom. And after the tragic explosion of the Challenger Shuttle in 1986, he worked closely with Grace Corrigan for the commemorative Reach for the Stars mural at Framingham State University.

In Concord, Mel was perhaps best remembered for his close relationship with Concord firefighters. He frequently dropped in at the stations and often used his friends there as models for illustrations on various themes. He did four covers in 1977 for the centennial Fire Engineering Magazine, one of which depicted a New Hampshire mutual aid response featuring Concord's pumper Engine number 1. Firefighters recall Bolden showing up at the station and asking firefighters to cover themselves with shaving cream so he could depict firefighting in the snow. The Concord Firefighters' Union commissioned him to a painting of the Great White's Opera House fire on November 30, 1920, using Concord firefighters as models.

The tour concludes with a discussion with Senator Melanie Levesque about the continuing struggle in New Hampshire for voting rights and equality. The plan had been for there to be a discussion between former Representative Rogers Johnson and Senator Levesque, but a scheduling problem intervened, and Rogers said, Well, we'll just catch up with an interview another day.

This is why memory matters. It's why black history matters. Because those who have brought us so far in freedom's struggle, provide us with the inspiration and courage to keep on marching to freedom's land. Thank you, Mister President.

(The Chair recognized Senator Birdsell.)

SENATOR BIRDSSELL: Thank you, Mister President. I'll be very quick. I just want to thank everyone for their votes on Senate Bill 43. I know this recount has caused a lot of consternation in both Windham and across the state. And I just want to say thank you to Senator Giuda for working so doggedly on it, Senator Morse for the solution. I know he worked really hard on getting the solution. And I want to thank Senator Perkins Kwoka and Senator Soucy for making it a bipartisan affair. So, I just wanted to thank everyone. I'm sure Windham will be happy, hopefully, and we can get a solution long term later. So, just thank you all.

(The Chair recognized Senator D'Allesandro.)

SENATOR D'ALLESANDRO: Thank you, Mister President. I didn't intend to speak but I want to be brief too. I just want everyone to think about the eloquence of David Watters and his presentation. His eloquence, his absolute integrity, and his ability to focus in on the issue. And the issue is racism in this society. That's

got to be done away with. And he cited incident after incident in New Hampshire, our state, that took place. Those incidents take place on a daily basis throughout the country. It's up to us. We have twenty-four people here to recognize that these things happen and to do our very best to fight this racism. Congratulations to David Watters for opening our hearts and opening our souls to the realism of life. We're all going to be better because of it. We're all going to do better because of it. And each one of us I'm sure is going to dedicate themselves to making our world a better, better place. And we've got to be woken up every once in a while. David Watters, thank you for the awakening, thank you for the call, the call to defend what are the most sacred things and that's human dignity. Thank you.

Senator Bradley moved that, all personal privileges and unanimous consent shall be entered into the permanent *Journal of the Senate*. (Rule 2-16 and Rule 2-17).

The question is on the adoption of the motion that all personal privileges and unanimous consent shall be entered into the permanent *Journal of the Senate*.

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

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

The following Senators voted No: (None)

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

LATE SESSION

Third Reading and Final Passage

SB 38, relative to the organization of alternative treatment centers.

SB 43, authorizing an audit of the Rockingham County district 7 state representative race.

SB 68, requiring an employer to provide reasonable accommodations for pregnant employees.

SB 77-FN, relative to fees for the services of sheriffs and deputy sheriffs.

SB 97, adopting omnibus legislation relative to health insurance.

SB 103-FN, relative to nexus provisions for certain disaster-related or emergency-related work performed in the state.

SB 120, relative to physician assistant medical services through the Manchester Veterans Administration Medical Center.

SB 129, relative to minimizing environmental impacts on the habitats of endangered or threatened species.

SB 135-FN-LOCAL, relative to the calculation of the cost of an opportunity for an adequate education

MOTION TO RECESS TO CALL OF THE CHAIR

Senator Bradley moved that the business of the day being completed, that the Senate recess to the Call of the Chair for the purposes of introducing legislation, referring bills to committee, scheduling hearings, sending and receiving messages, vacating bills, and processing enrolled bill reports and amendments and when we recess, we recess to the Call of the Chair.

The question is on the adoption of the motion to recess to the Call of the Chair.

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

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

The following Senators voted No: (None)

Roll Call, Yeas: 24 - Nays: 0. Adopted. The Senate is in recess to the Call of the Chair.