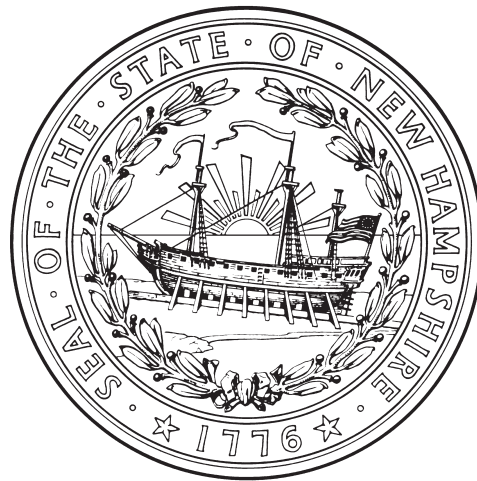


May 5, 2022
Nos. 10-11

STATE OF NEW HAMPSHIRE

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



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

Legislative Proceedings

SENATE JOURNAL

**ADJOURNMENT – APRIL 28, 2022 SESSION
COMMENCEMENT – MAY 5, 2022 SESSION**

SENATE JOURNAL 10 *(continued)*

April 28, 2022

April 21, 2022
2022-1699-EBA
08/04

Enrolled Bill Amendment to HB 1446-FN

The Committee on Enrolled Bills to which was referred HB 1446-FN

AN ACT relative to the governing board of recreational therapists and relative to the governing board of respiratory care practitioners.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 1446-FN

This enrolled bill amendment revises section 2 to reflect current law as enacted in HB 1427-FN of the 2022 regular legislative session.

Enrolled Bill Amendment to HB 1446-FN

Amend the bill by replacing section 2 with the following:

2 Allied Health Professionals; Governing Boards. Amend RSA 328-F:3, I to read as follows:

I. There shall be established governing boards of athletic trainers, occupational therapists, ~~recreational therapists, respiratory care practitioners,~~ physical therapists, speech-language pathologists and hearing care providers, and genetic counselors.

Senator Bradley moved adoption of the Enrolled Bill Amendment. Adopted in recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

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

SB 240, apportioning state senate districts.

SB 241, apportioning executive council districts.

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

Out of Recess. Call the Senate to Order.

MOTION TO ADJOURN FROM LATE SESSION

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

Adopted. Adjournment from the Late Session.

SENATE JOURNAL 11

May 5, 2022

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

Without objection, pursuant to Senate Rule 2-33 Senator Rosenwald will participate remotely.

Senator Rosenwald stated her location and identified anyone present in her location.

Senator Giuda offered the following prayer:

Heavenly Father, we join together today on this beautiful day that you've given us, to deliberate the many issues that come from the people and businesses of our state. We ask you to guide us with your wisdom, with compassion, and with firmness in pursuing justice and pursuing righteousness in all that we do today. We ask that we join together peacefully, with the best of intentions for the people of our state that we serve honorably. We complete this day in friendship and with resolve to continue the greatness of our state. We ask this in your name. Amen.

Senator Ricciardi led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Senator Prentiss introduced Raj Gupta, MD, Eric Martin, MD, Lisa Patterson, MD, Marlene Van Dyke, RN, Adam Reimbez, RN, Mary Adam, RN, Ryan Hornblower, Paramedic, Kaylee Eastman, FF/Paramedic, Mike Wronka, Paramedic, Chris Stawasz, Paramedic, Stacy Meir, Paramedic, and state employees Justin Romanello and Vicki Blanchard, visiting in the gallery.

Senator Hennessey introduced Dana Nute, Founder of Resilient Buildings Group, Berkley Parenteau, twelve year old whose grandparents reside in Whitefield, Marlaina Renton and Ian Dowling, co-founders of Rek-Lis Brewing Company, Joel Bedor, Founder of Joel J. Bedor Associates, Professor Adam Finkle of Dalton, and Reverent Dr. Fred Anderson, pastor and Whitefield resident, visiting in the gallery.

Senator Avard introduced Julie Smith visiting in the gallery.

AMENDED FN REPORT FOR MAY 5, 2022

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

REGULAR CALENDAR:

ENERGY AND NATURAL RESOURCES

HB 1454-FN, relative to permits for the siting of new landfills. NOTE: The original recommendation was to have HB 1454-FN ordered to the Finance Committee if the Inexpedient to Legislate recommendation is overturned.

HEALTH AND HUMAN SERVICES

HB 1606, making the state vaccine registry an opt-in program. NOTE: The original recommendation was to have HB 1606 ordered to the Finance Committee.

The above two bills were Special Ordered from previous Senate Sessions, and are now being waived due to the Senate deadline of May 5, 2022 to act on all House Bills.

The following three bills are currently laid on the table. Should they be acted on during today's session, they are now being waived by the Finance Committee due to the Senate deadline of May 5, 2022 to act on all House Bills.

COMMERCE

SB 70-FN, relative to insurance coverage for emergency behavioral health services for children and young adults. Pending Motion Interim Study. NOTE: The original recommendation was to have SB 70-FN ordered to the Finance Committee if the Interim Study recommendation is overturned.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1319-FN, relative to granting certain corrections personnel death benefits if killed in the line of duty. Pending Motion Interim Study. NOTE: The original recommendation was to have HB 1319-FN ordered to the Finance Committee if the Interim Study recommendation is overturned.

HB 1417-FN-LOCAL, relative to payment by the state of a portion of retirement system contributions of political subdivision employers. Pending Motion Refer to Finance. NOTE: The original recommendation was to have HB 1417-FN ordered to the Finance Committee.

Without objection, the FN Report is adopted.

CONSENT CALENDAR REPORTS REMOVED

COMMERCE

HB 1039, by Senator Bradley

EDUCATION

HB 1639, by Senator Giuda

ENERGY AND NATURAL RESOURCES

HB 1299, by Senator Avard

JUDICIARY

HB 254, by Senator Bradley

HB 1103, by Senator Gannon

SPECIAL ORDER

Without objection, the following bill is Special Ordered to the beginning of the Regular Calendar. Adopted.

ENERGY AND NATURAL RESOURCES

HB 1454-FN, relative to permits for the siting of new landfills.

SPECIAL ORDER

Without objection, the following bills are Special Ordered to after the bills that were removed from the Consent Calendar. Adopted.

FINANCE

HB 103-FN, establishing a dental benefit under the state Medicaid program.

HB 275, relative to the declaration of a state of emergency.

HB 1604-FN, including state medical facilities in the statute providing medical freedom in immunizations, and relative to licensure of case management service providers.

HB 1661-FN-LOCAL, relative to regional career technical education agreements, an appropriation for preliminary work for a new legislative parking garage, health and human services, establishing an extraordinary need grant for schools, the release of a defendant pending trial, training and procedures for zoning and planning boards, and financial investments and incentives for affordable housing development.

HEALTH AND HUMAN SERVICES

HB 1099, relative to medical freedom in immunizations, re-establishing the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Farmers Market Nutrition Program, establishing an association health plan pilot program, and relative to expanding Medicaid to include certain postpartum health care services and making an appropriation therefor.

HB 1455, relative to state enforcement of federal vaccination mandates.

HB 1606, relative to administration of the state immunization registry.

JUDICIARY

HB 1178, prohibiting the state from enforcing any federal statute, regulation, or Presidential Executive Order that restricts or regulates the right of the people to keep and bear arms.

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.

COMMERCE

HB 314, relative to homestead food operation licensure.

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

This bill would simply increase the homestead food operation licensure cap from \$20,000 to \$35,000 a year. All existing guidelines established by the Department of Health and Human Services would remain unchanged. The Committee heard that this bill is necessary given the increased costs homesteaders have faced as they have emerged from the pandemic.

HB 1048, relative to minimum nonforfeiture amounts under the standard nonforfeiture law for individual deferred annuities.

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

At the request of the NH Insurance Department, this bill would reduce the interest rate for individual deferred annuities from 1 percent to 0.15 percent. This reduction would be in alignment with Model Law #805, which was adopted by the National Association of Insurance Commissioners (NAIC). The change made by NAIC came at the request of the insurance industry because they had seen their ability to offer annuity products adversely affected by the low interest rate environment.

HB 1089, relative to the unenforceability of noncompete agreements upon termination of an employee for noncompliance with a medical intervention mandate.

Interim Study, Vote 5-0. Senator French for the committee.

This bill would have made noncompete agreements unenforceable if an employee did not comply with a required medical intervention or if there were a material change to their condition of employment. Industry stakeholders said that the vague and overly broad language of this bill would completely undo existing statutes governing noncompete agreements. Given the overwhelming concerns raised by the industry, the Committee felt the motion of Interim Study was appropriate.

HB 1282, relative to the records of communication common carriers.

Interim Study, Vote 5-0. Senator French for the committee.

This bill would have prohibited communications common carriers from releasing customer information to government entities unless it was requested through a valid search warrant or exempted under an exception to a warrant. The Committee heard that this bill could have potentially unintended consequences on the operation of all state government agencies. For example, the Department of Revenue believed this bill could impact their ability to conduct communication services tax audits. Also, the Committee heard concerns that this bill could impact the ability of the National Center for Missing and Exploited Children from reporting cyber tips to task forces across the country.

EDUCATION

HB 1135, requiring a performance audit of the department of education, education freedom account program. Ought to Pass with Amendment, Vote 5-0. Senator Prentiss for the committee.

This bill requires an audit of the department of education and the education freedom account (EFA) program. This is a financial audit, not a performance audit, to review the EFA program's policies and procedures to ensure that it is adhering to legislative requirements and generally accepted standards for operation. As the EFA program is fairly new and contracted out to a private entity, not managed by the state through the department of education, a thoughtful review of how this program and the state-allocated funds are being managed is crucial and necessary. The Committee unanimously adopted a committee amendment to change the effective date to October 1, 2023 to allow for a more thorough audit of the EFA program's most current implementation of rules and procedures.

Senate Education

April 26, 2022

2022-1805s

10/04

Amendment to HB 1135

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect October 1, 2023.

HB 1190, relative to rulemaking by the state board of education for compliance with federal provisions.

Inexpedient to Legislate, Vote 5-0. Senator Kahn for the committee.

This bill would prohibit the state board of education from adopting administrative rules that require a school district to comply with a federally mandated curriculum or program of study that is not fully funded by federal or state funds. The Committee heard concerns from the chair of the state board of education on how this bill would create complications in rulemaking as neither the state board, nor the state, can predict how programs or curriculum changes will or will not be funded in the future. Additionally, federal law is the supreme law of the land and cannot be superseded by state law. The Committee unanimously supports the motion of inexpedient to legislate.

HB 1236, relative to the legislative oversight committee for the education improvement and assessment program. Ought to Pass, Vote 5-0. Senator Prentiss for the committee.

This bill reestablishes the legislative oversight committee for the education improvement and assessment program. The Committee heard testimony on how the repeal of this oversight committee, during the COVID-19 pandemic, led to confusion and a breakdown in communication between the department of education, the legislature, the executive branch, etc. as this committee is still referenced in various areas of statute with reporting responsibilities. Under this reestablished committee, the membership does change from three appointed members from the Senate and the House to one member from the Senate and five members from the House.

HB 1244-L, relative to parental consent to medical and dental treatments of children in schools. Ought to Pass, Vote 5-0. Senator Ricciardi for the committee.

This bill requires a child's parent or legal guardian to provide explicit written consent for any medical or dental treatment provided in a school setting. This bill affords parents and guardians the ability and right to consent to treatment and would be a one-time transactional, consent action.

HB 1311, prohibiting persons charged with or convicted of certain assault or controlled drug possession violations from employment in a public school or being granted teaching credentials. Ought to Pass with Amendment, Vote 5-0. Senator Ricciardi for the committee.

This bill adds the prohibition of persons convicted of first degree assault or possession of a controlled drug with the intent to sell from employment in a public school and from being granted a teaching credential. The Committee heard testimony on how striking it is that these convictions do not already bar an individual from becoming a teacher in NH. The Committee unanimously adopted an amendment to require that the possession of a controlled drug with the intent to sell conviction be at the felony level and within the last ten years.

Senate Education
April 26, 2022
2022-1834s
10/04

Amendment to HB 1311

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

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

V. Any person who has been charged pending disposition for or convicted of any violation or attempted violation of ***RSA 318-B:2 for possession of a controlled drug with the intent to sell, felony level, within the last 10 years***; RSA 630:1; 630:1-a; 630:1-b; 630:2; ***631:1***; 632-A:2; 632-A:3; 632-A:4; 633:1; 633:7; 639:2; 639:3; 645:1, II or III; 645:2; 649-A:3; 649-A:3-a; 649-A:3-b; 649-B:3; or 649-B:4; or any violation or any attempted violation of RSA 650:2 where the act involves a child in material deemed obscene; in this state, or under any statute prohibiting the same conduct in another state, territory, or possession of the United States, shall not be hired by a school administrative unit, school district, chartered public school, or public academy. The superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy may deny a selected applicant a final offer of employment if such person has been convicted of any crime, misdemeanor or felony, in addition to those listed above. The governing body of a school district, chartered public school, or public academy shall adopt a policy relative to hiring practices based on the results of the criminal history records check and report of misdemeanors and felonies received under paragraph II. Such policy may include language stating that any person who has been convicted of any misdemeanor, or any of a list of misdemeanors, may not be hired. Such policy may also include language stating that any person who has been convicted of any felony, or any of a list of felonies, shall not be hired.

2 Credentialing Applicant and Candidate Criminal History Records Check; Violations Added. Amend RSA 189:13-c, V to read as follows:

V. Any person who has been charged pending disposition for or convicted of any violation or attempted violation of ***RSA 318-B:2 possession of a controlled drug with the intent to sell, felony level, within the last 10 years***, RSA 630:1; 630:1-a; 630:1-b; 630:2; ***631:1***; 632-A:2; 632-A:3; 632-A:4; 633:1; 639:2; 639:3; 645:1, II or III; 645:2; 649-A:3; 649-A:3-a; 649-A:3-b; 649-B:3; or 649-B:4; or any violation or any attempted violation of RSA 650:2 where the act involves a child in material deemed obscene in this state, or under any statute prohibiting the same conduct in another state, territory, or possession of the United States, shall not be granted a teaching credential by the department nor shall candidates be granted clearance.

2022-1834s

AMENDED ANALYSIS

This bill adds the prohibition of persons convicted of first degree assault or possession of a controlled drug with the intent to sell at a felony level within the last 10 years from employment in a public school and from being granted a teaching credential.

HB 1367, relative to civics instruction in schools.

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

This bill requires a competency assessment in government and civics instruction in high schools in NH. This bill modifies the provisions enacted in 2021 that made a civics competency assessment a high school graduation requirement by requiring students to pass this assessment, with a grade of 70 percent or higher, on the 128-question civics naturalization examination developed by the 2020 U.S. Citizen and Immigration Services. This bill also ensures that students with individualized education programs (IEPs) receive accommodations when taking this assessment.

HB 1663, relative to requirements for home education students.

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

The bill clarifies provisions for home education programs concerning notifications required for students moving to a new school district, educational evaluations, and termination of home education. During the COVID-19 pandemic, many NH families made the transition to homeschooling. This bill works to achieve clarity by decomplicating homeschool statutes and rules for parents and advocates seeking to attain information on the homeschooling process in NH without having to consult two bodies of law.

ELECTION LAW AND MUNICIPAL AFFAIRS

HB 144, relative to absentee ballot request forms.

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

This bill as amended modifies the absentee ballot request forms and the absentee ballot envelopes. The changes made will improve the usability of the application for the voter while also clarifying the information for the clerk. Furthermore, language has been added to make clear that an “illness or other medical condition” is allowable for receipt of an absentee ballot.

Election Law and Municipal Affairs

April 26, 2022

2022-1809s

05/04

Amendment to HB 144

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

1 Absentee Voter Registration; Applicability. Amend RSA 654:16 and 654:17 to read as follows:

654:16 Applicability. Any person who has his *or her* domicile in any town or city in this state and is qualified to vote therein at the next subsequent election to be held in said town or city except for the fact that his *or her* name does not appear on the checklist to be used at the election, and who is temporarily absent therefrom or who by reason of physical disability, *illness, or other medical condition* is unable to attend a meeting of the supervisors of the checklist, may cause his *or her* name to be added to such checklist by applying to the city or town clerk or the secretary of state for a voter registration form provided for in RSA 654:7 and an appropriate absentee registration affidavit provided for in RSA 654:17.

654:17 Absentee Registration Affidavit.

I. The absentee registration affidavit shall be prepared by the secretary of state and shall be in substantially the following form:

Affidavit (Absence from town)

I, _____ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That my legal domicile is in the town of _____, New Hampshire, I will be of the age of 18 years or over on election day and am entitled to vote in the election to be held in said town on _____, _____ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I do not intend to be present within said town at such time prior to said election as shall enable me personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I am temporarily residing in _____ (city and state or city, province, and country);

4) That I hereby enclose one of the following as proof of identity and domicile:

(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows my name and address; or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows my name and address, or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;

5) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 4) above, this application may not be approved; and

6) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

Signature of Applicant

Date

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

Affidavit (Physical Disability, *Illness, or Other Medical Condition*)

I, _____ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That my legal domicile is in the town of _____, New Hampshire, I will be of the age of 18 years or over on election day, and am entitled to vote in the election to be held in said town on _____, ____ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I am unable by reason of physical disability, ***illness, or other medical condition*** personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I hereby enclose one of the following as proof of identity and domicile:

(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows my name and address; or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows my name and address, or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;

4) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 3) above, this application may not be approved; and

5) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

Signature of Applicant

Date

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

II. There shall be printed below each of the foregoing affidavits the following affirmation:

Affirmation

I, _____, the undersigned witness, do hereby swear or affirm, under the penalties for voting fraud set forth below, that on the _____ day of _____, ____ (date), the above named, _____, having satisfied me as to his or her identity, signed the foregoing affidavit in my presence, and did before me swear to (or affirm) the truth of the statements therein contained.

Signature of Witness

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

2 Absentee Voting Based on Official Absence, Religious Observance, and Disability, Illness, or Other Medical Condition. Amend RSA 656:33 to read as follows:

656:33 Official Absence, Religious Observance, and Disability, ***Illness, or Other Medical Condition*** Absentee Ballots. Prior to any state election, the secretary of state shall prepare, in such quantity as the secretary of state may deem necessary, absence, religious observance, and disability, ***illness, or other medical condition*** absentee ballots in the same form as nearly as practicable as the official ballot to be used at said election. Said absentee ballots shall have the words “absentee ballot” printed on them and shall be similarly endorsed and printed on paper of the same color as that used for official ballots.

3 Absentee Voting. Amend the section heading of RSA 657:1 and RSA 657:1, I to read as follows:

657:1 Absence, Religious Observance, and Disability, ***Illness, or Other Medical Condition*** Absentee Voting.

I. Any person who will be absent on the day of any state election from the city, town, or unincorporated place in which he or she is registered to vote or who cannot appear in public on any election day because of his or her observance of a religious commitment or who is unable to vote there in person by reason of physical disability, ***illness, or other medical condition*** may vote at such elections as provided in this chapter. A person who is unable to appear at any time during polling hours at his or her polling place because of an employment obligation shall be considered absent for purposes of this chapter. For the purposes of this section, the term “employment” shall include the care of children and infirm adults, with or without compensation.

4 Absentee Ballot Application Forms. Amend the section heading and RSA 657:4, I to read as follows:

657:4 ***Absentee Ballot Application*** Forms.

I. Prior to any state election, the secretary of state shall prepare the appropriate application forms for absentee ballots worded in substantially the following form. The secretary of state shall insert the names of all parties qualified as set forth in RSA 652:11 in the list of parties on the application form. The secretary of state shall prepare the application forms in such quantity as he or she deems necessary:

Absence (Excluding Absence Due to Residence Outside the United States), Religious Observance, and Disability, ***Illness, or Other Medical Condition***:

I hereby declare that (check one):

_____ I am a duly qualified voter who is currently registered to vote in this [town/ward] ***city, town, or unincorporated place***.

_____ I am ***unable to register to vote in person because I am*** absent from the [town/city] ***city, town, or unincorporated place*** where I am domiciled and will be until after the next election, or I am unable to register in person due to a disability, and request that the forms necessary for absentee voter registration be sent to me with the absentee ballot.

I will be entitled to vote by absentee ballot because (check one):

_____ I plan to be absent on the day of the election from the city, town, or unincorporated place where I am domiciled.

_____ I am confined in a penal institution for a misdemeanor or while awaiting trial.

~~[_____ I am requesting a ballot for the presidential primary election and I may be absent on the day of the election from the city, town, or unincorporated place where I am domiciled, but the date of the election has not been announced. I understand that I may only make such a request 14 days after the filing period for candidates has closed, and that if I will not be absent on the date of the election I am not eligible to vote by absentee ballot.]~~

_____ I cannot appear in public on election day because of observance of a religious commitment.

_____ I am unable to vote in person due to a disability, *illness, or other medical condition*.

_____ I cannot appear at any time during polling hours at my polling place because of an employment obligation. For the purposes of this application, the term "employment shall include the care of children and infirm adults, with or without compensation.

For use only on the Monday immediately prior to the election: I cannot appear at my polling place on election day because the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day applicable to my city, town, or unincorporated place and either (check one):

_____ I ~~[am elderly or infirm or I have a physical disability, and]~~ would otherwise vote in person but I have concerns for my safety traveling in the storm.

_____ I anticipate that school, child care, or adult care will be canceled, and would otherwise vote in person but will need to care for children or infirm adults.

_____ I am requesting a ballot for the presidential primary election and I may be absent on the day of the election from the city, town, or unincorporated place where I am domiciled, but the date of the election has not been announced. I understand that I may only make such a request 14 days after the filing period for candidates has closed, and that if I will not be absent on the date of the election I am not eligible to vote by absentee ballot.

Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24.

I am requesting an official absentee ballot for the following election (check one):

_____ ***General Election to be held on***

(MM/DD/YYYY)

_____ ***State Primary Election to be held on***

(MM/DD/YYYY)

_____ Presidential Primary ***Election*** to be held on

(MM/DD/YYYY)

(The date may appear as blank when the date is not known.)

~~{ _____ State Primary to be held on~~

~~***(MM/DD/YYYY)***~~

~~{ _____ General Election }~~

For primary elections, I am a member of or I am now declaring my affiliation with the (check one):

_____ Republican Party

_____ Democratic Party

_____ (name of any party determined by the secretary of state to have achieved official status under RSA 652:11)

and am requesting a ballot for that party's primary.

Please print:

Applicant's Name:

(Last) (First) (Middle) (Sr., Jr., II., III)

Applicant's Voting Domicile (home address):

(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Mail the ballot to me at this address (if different than the home address):

(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

[Applicant's Phone Number : _____]

Applicant's Email Address : _____]

Applicant's Signature: _____

Date Signed: _____

(MM/DD/YYYY)

Please provide one or both of the following in case we need to contact you:

Applicant's Phone Number: _____

Applicant's Email Address: _____

I attest that I assisted the applicant in executing this form because he or she has a disability.

Signature _____

Print Name _____

If your absentee ballot application or affidavit envelope has the printed name and signature of a person who assisted you with voting, your signature will not be compared to your signature on the absentee ballot affidavit to verify your identity. Otherwise, if your signatures do not appear to be made by the same person, your absentee ballot may not be counted.

The applicant must sign this form to receive an absentee ballot. Any person who witnesses and assists a voter with a disability in executing this form shall print and sign his or her name in the space provided on the application form. The moderator will not compare the voter's signature on the application with the signature on the absentee ballot affidavit when a person assisting the voter has signed the statement on the absentee ballot application or affidavit envelope that assistance was provided.

5 Absentee Ballots. Amend RSA 657:7 to read as follows:

657:7 Absence, Religious Observance, and Disability, ***Illness, or Other Medical Condition That Prevents the Voter From Appearing at the Polls.*** Prior to any state election, the secretary of state shall prepare the following forms in such quantity as he ***or she*** deems necessary:

I. Absence, religious observance, and disability, ***illness, or other medical condition*** absentee ballots as provided in RSA 656:33.

II. Affidavit envelopes of sufficient size to contain the ballots on which shall be printed the following:

YOUR COMPLETED ABSENTEE BALLOT MUST BE SEALED IN THIS ENVELOPE

I do hereby certify under the penalties for voting fraud set forth below that:

I am a voter in the city, [or] town, ***or unincorporated place*** of _____, New Hampshire, ***in ward*** _____ [-] ***and that*** one of the following applies to me:

1) I will be absent on election day. Absence includes:

a) I will be out-of-town on election day.

b) I will be unable to vote in person because I will be working.

c) I will be unable to vote in person because I will be caring for children or infirm adults, with or without compensation.

d) I am voting absentee on the Monday immediately before the election, the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning that applies to my town/ward, **or unincorporated place**, and I have concerns for traveling in the storm.

2) I am unable to vote in person due to disability, **illness, or other medical condition**.

3) I am unable to vote in person due to observance of a religious commitment, which prevents me from voting in person.

4) I am confined to a penal institution for a misdemeanor or while awaiting trial.

I have carefully read or had read to me the absentee voting instructions. I personally marked the absentee ballot enclosed in this envelope or, due to a disability, I had assistance in marking the absentee ballot.

Voter Signature _____

Voter Address _____

A person assisting a voter with a disability shall sign this statement on this envelope acknowledging the assistance.

I attest that I assisted (print voter name) _____ because the voter is a person with a disability. I marked the ballot and/or this form as instructed by the voter.

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

III. Return envelopes of size sufficient to contain the preceding envelope addressed to the town and city clerks of the state in which absentee voters shall return their ballots, **if such ballots are returned by mail**. On the envelopes shall be printed "Enclosed is the ballot of an absentee voter" and, at the top thereof, 4 blank spaces with the words "Name, Voting Address, Ward, Town or City" appropriately printed thereon. **Absentee ballots returned to town or city clerks in person shall not be required to be placed in such outer envelopes.**

IV. Such explanatory matter and instructions for voters as the secretary of state with the approval of the attorney general shall deem appropriate to carry into effect the purposes hereof.

V. Mailing envelopes large enough to contain all the above materials in which the town and city clerks shall mail or deliver them to absentee voters.

6 Absentee Voting; Refusal to Certify; Procedure. Amend RSA 657:16 to read as follows:

657:16 Refusal to Certify; Procedure. If he or she refuses to certify the application, the town or city clerk shall notify the applicant in writing within 7 days to that effect. The town or city clerk shall provide the applicant with an absentee ballot and a notice that the ballot will not be counted unless the applicant submits the documents necessary to complete an absentee registration. The applicant shall be advised in writing what documents, if any, have been received in proper form and which the applicant must submit. **If the applicant submits such documents via mail, he or she shall do so by enclosing them** in the outer envelope that contains the absentee ballot envelope. **An applicant hand delivering such documents need not enclose them in the outer envelope.** The town or city clerk shall mark the absentee ballot application, the absentee ballot affidavit, and the outer envelope, **if applicable**, with the words "Not Registered." Upon receipt of [an] **a mailed** outer envelope marked "Not Registered," the clerk shall open the outer envelope. If the applicant returns the required documents with the absentee ballot by the date set for correcting the checklist under RSA 654:27 and RSA 654:28, the town or city clerk shall forward the registration forms to the supervisors of the checklist and, if the applicant is found to be qualified, the applicant shall be registered and his or her absentee ballot shall be processed in the same manner as the absentee ballot of a previously registered voter. All documents received after the deadline for correcting the checklist under RSA 654:27 and RSA 654:28 shall be processed as election day registrations under RSA 654:7-a. If the ballot is returned without the required documents in proper form, the ballot shall be marked in the manner set forth by law for successfully challenged absentee ballots and preserved in accordance with RSA 33-A:3-a. The clerk shall preserve the application of any applicant who is not registered as a voter until the time set by law for the destruction of the ballots after the election at which time the application shall be destroyed. Any justice of the superior court has jurisdiction

in equity upon such notice as he or she may order to require that the name of the person making application for an absentee ballot be placed upon the checklist or registered as a member of any party and be sent an absentee ballot.

7 Absentee Voting; Procedure by Voter. Amend RSA 657:17, I to read as follows:

I. After marking the ballot, the voter or the person assisting a blind voter or voter with a disability who is unable to mark his or her ballot shall enclose and seal the same in an inner envelope. The voter shall execute the affidavit on the envelope. A person assisting a blind voter or voter with a disability who needs assistance executing the affidavit shall sign a statement on the affidavit envelope acknowledging the assistance. ***If the voter or the person assisting the blind voter or voter with a disability who needs assistance is mailing the absentee ballot to the town or city clerk, the voter or the person assisting the blind voter or voter with a disability*** shall enclose and seal the inner envelope with the affidavit in an outer envelope. The voter or the person assisting a blind voter or voter with a disability shall then endorse on the outer envelope the voter's name, address, and voting place. The absentee ballot shall be delivered to the city or town clerk from whom it was received in one of the following ways:

(a) The voter or the voter's delivery agent may personally deliver the envelope, ***in which case the voter or the voter's delivery agent need not enclose the affidavit envelope in the outer envelope***; or

(b) The voter or the person assisting the blind voter or voter with a disability may mail the ***ballot and affidavit envelope within the outer*** envelope to the city or town clerk, with postage affixed.

8 Subdivision Heading Amended. Amend the subdivision heading preceding RSA 657:12 to read as follows:

Procedure for Absence, Religious Observance, and Disability,
Illness, or Other Medical Condition, and Overseas Voting

9 Town Elections; Absentee Voting. Amend RSA 669:26 to read as follows:

669:26 Absentee Voting.

I. Every town which has adopted an official ballot system for town elections as provided in RSA 669:12 or 669:13 shall provide for absentee voting. Any eligible voter who is absent from such a town on the day of a town election, or who cannot appear in public on election day because of his or her observance of a religious commitment, or who, by reason of physical disability, ***illness, or other medical condition***, is unable to vote in person may vote at a town election in accordance with the provisions of this section and RSA 669:27-669:29. A person who is unable to appear at any time during polling hours at his or her polling place because of an employment obligation shall be considered absent for purposes of this section and RSA 669:27-669:29. For the purposes of this section, the term "employment" shall include the care of children and infirm adults, with or without compensation.

I-a. Notwithstanding any statutory reference to the 45 day deadline to deliver absentee ballots to UOCAVA voters, as defined in RSA 652:16-b, the town clerk shall deliver absentee ballots to UOCAVA voters in a manner consistent with RSA 657:19.

II. When the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day applicable to the town:

(a) A person who is elderly or infirm or who has a physical disability, ***illness, or other medical condition***, who otherwise would have voted in person but has concerns for his or her safety traveling in the storm, shall be considered absent for purposes of this section and RSA 669:27-669:29 and may vote absentee on the Monday immediately prior to the election.

(b) A person who cares for children or infirm adults who reasonably anticipates that school, child care, or adult care will be canceled, who otherwise would have voted in person but will be deterred from voting by the need to care for children or infirm adults, shall be considered absent for purposes of this section and RSA 669:27-669:29 and may vote absentee on the Monday immediately prior to the election.

(c) As required by RSA 652:20, the clerk's office shall be open to receive applications for absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive returned ballots on the Monday immediately prior to an election at a minimum from 3:00 p.m. to 5:00 p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the individual has taken the oath of office and has been trained in the requirements for using an absentee ballot and the procedures for issuing and receiving absentee ballots.

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

2022-1809s

AMENDED ANALYSIS

This bill modifies the absentee ballot request forms and absentee ballot envelopes, permits absentee voting due to illness or other medical condition that prevents the voter from appearing at the polls, and permits absentee ballots to be emailed to UOCAVA voters for local elections.

HB 1174, relative to election challengers.

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

This bill as amended clarifies how an election challenger may observe ballot counting at the polling place. It codifies into law that the moderator must assign a position for the challenger that enables them to see and hear the hand counting of ballots. Additionally, the challenger must be able to maintain a clear line of sight on any electronic ballot counting device.

Election Law and Municipal Affairs

April 25, 2022

2022-1782s

04/10

Amendment to HB 1174

Amend the bill by replacing section 1 with the following:

1 New Section; Provisions for the Purity of Elections; Challengers. Amend RSA 666 by inserting after section 5 the following new section:

666:5-a Challengers; Where Positioned. Notwithstanding any other provision of law to the contrary, a challenger appointed pursuant to RSA 666:5 shall be assigned by the moderator or other election official presiding at the polling place to such position or positions within the polling place as will enable such challenger to see and hear the hand-counting of ballots for the tabulation of votes, and to maintain a line of sight on any electronic ballot counting device. Nothing in this section shall deprive any other person of the right to observe the hand-counting of ballots for the tabulation of votes as provided by law.

2022-1782s

AMENDED ANALYSIS

This bill permits election challengers to observe the hand counting of ballots and tabulation of votes from a distance which enables them to maintain a line of sight on any electronic ballot counting device.

HB 1194, relative to the procedure for overriding a local tax cap.

Inexpedient to Legislate, Vote 5-0. Senator Soucy for the committee.

This bill would have required a super majority vote of the legislative body to override a local tax cap. Many communities across New Hampshire have adopted a tax cap with the understanding that they could override it with a simple majority. Making this change would limit the legislative bodies' ability to increase or decrease the amount of appropriations which current law prohibits. In addition, the language as drafted would significantly complicate the process for SB 2 towns that have adopted tax caps to then approve special capital projects.

HB 1307, modifying the authority and duties of the housing appeals board.

Inexpedient to Legislate, Vote 5-0. Senator Perkins Kwoka for the committee.

This bill would modify the authority and duties of the Housing Appeals Board by reducing the scope of its jurisdiction. Currently, the Housing Appeals Board can hear appeals of local decisions on housing and housing development. Considering the housing crisis New Hampshire is in, and the delays that come with appeals in the Superior Court, the Committee determined that it was inappropriate to make modifications to the authority of the Housing Appeals Board at this time.

ENERGY AND NATURAL RESOURCES

HB 478, relative to treatment of PFAS contaminants in the drinking water of the Merrimack Village Water District. Interim Study, Vote 5-0. Senator Giuda for the committee.

HB 478 would require Saint Gobain Performance Plastics to pay for the remediation if water in certain wells in Merrimack that it contaminated. While the committee understands and sympathizes with the people of Merrimack, they are hesitant for the legislature to become involved in an ongoing legal dispute between the Merrimack Village Water District and Saint Gobain.

HB 1205, allowing the department of environmental services to have access to enhanced 911 information. Ought to Pass, Vote 5-0. Senator Perkins Kwoka for the committee.

Currently, Department of Environmental Services has limited access to 911 data including the longitude, latitude, and street address. In recent years Department of Environmental Services has been able to use this data to figure out the location of private wells during contamination events, especially in southern New Hampshire. This bill will enable Department of Environmental Services to use this data to maintain an inventory of services lines in addition, including uniform naming conventions with other political subdivisions.

HB 1258, relative to the implementation of the department of energy. Ought to Pass with Amendment, Vote 5-0. Senator Perkins Kwoka for the committee.

HB 1258 aims to fix issues that were left unanswered in the wake of the passage of HB 2 last year which created the Department of Energy. The Department and the Public Utilities Commission requested this legislation. The bill transfers several of the duties of Public Utilities Commission to the Department of Energy, in keeping with the guiding principle that the Department should be an administrative, policy-making body and the Commission an adjudicative body. The bill also gives the Department a period of 5 years to create new rules around needed elements.

Energy and Natural Resources
April 26, 2022
2022-1824s
12/05

Amendment to HB 1258

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

AN ACT relative to the implementation of the department of energy and relative to the definition of “municipal host” for purposes of limited electrical energy producers.

Amend the bill by replacing section 6 with the following:

6 Department of Energy; Transfer of Rules, Orders, Approvals. Amend RSA 12-P:14 to read as follows:

12-P:14 Transfer of Rules, Orders, Approvals. Existing rules, orders, and approvals of the public utilities commission which are associated with any functions, powers, and duties, transferred to the department of energy pursuant to RSA 12-P:11 or any other statutory provision, shall continue in effect ***notwithstanding any provision of RSA 541-A:17, II to the contrary***, and be enforced by the commissioner of the department of energy ***or the commission, as applicable***, until they ***otherwise*** expire or are repealed or amended in accordance with applicable law, ***or for a period of 5 years, whichever occurs first. To the extent the department acts pursuant to an existing rule, order, or approval, the department shall not be subject to RSA 541-A:29 or RSA 541-A:29-a.***

Amend the bill by replacing section 8 with the following:

8 Regional Greenhouse Gas Initiative; Carbon Dioxide Emissions Budget Trading Program. Amend the introductory paragraph of RSA 125-O:21, VI to read as follows:

VI. The department and the ~~commission~~ ***department of energy*** shall report on an annual basis to the air pollution advisory committee under RSA 125-J:11 ~~[and the legislative oversight committee]~~; ***the chair of the house science, technology, and energy committee; and the chair of the senate energy and natural resource committee***, to monitor the transformation of delivery of electric services under RSA 374-F:5, on the status of the implementation of RGGI in New Hampshire, with emphasis on the prices and availability of RGGI allowances to affected CO2 sources, consumer protection mechanisms, and the trends in electric rates for New Hampshire businesses and ratepayers. The report shall include but not be limited to:

Amend the bill by replacing all after section 32 with the following:

33 Limited Electrical Energy Producers Act; Definitions. Amend RSA 362-A:1-a, II-c to read as follows:

II-c. “Municipal host” means a customer generator with a total peak generating capacity of greater than one megawatt and less than 5 megawatts used to offset the electricity requirements of a group consisting exclusively of one or more customers who are political subdivisions, provided that all customers are located within the same utility franchise service territory. A municipal host shall be located in the same municipality as all group members if the facility began operation after January 1, 2021. A municipal host may be owned by

either a public or private entity. For this definition, “political subdivision” means *the state of New Hampshire or* any city, town, county, school district, chartered public school, village district, school administrative unit, or any district or entity created for a special purpose administered or funded by any of the above-named governmental units.

34 Repeals. The following are repealed:

- I. RSA 12-P:12, relative to prohibited service.
- II. RSA 371:17-a, relative to new attachments on existing utility poles.
- III. RSA 371:17-b, relative to temporary licenses for existing crossings on existing poles.
- IV. RSA 371:18, relative to exceptions to hearing requirements.
- V. RSA 374-F:3, V(b), relative to transition service.

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

2022-1824s

AMENDED ANALYSIS

This bill makes various changes to amend the powers and duties of the public utilities commission and the department of energy. This bill also amends the definition of “political subdivision,” as used in the definition of a “municipal host.”

HB 1270, repealing the legislative oversight committee to monitor the transformation of delivery of electric services.

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

The purpose of HB 1270 is to retire the Legislative Oversight Committee. It has become clear that the committee has accomplished its stated purpose. Since 2018, there have been no subsequent meetings of this committee. Instead of assigning this committee a new purpose, it would be better to eliminate the committee. If necessary, a new committee may be created in the future. The Senate Energy and Natural Resources Committee asks for support for this legislation.

HB 1285, relative to the multi-use energy data platform.

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

HB 1285 clarifies that it is the duty of the Public Utilities Commission to establish privacy standards for the multi-use energy data platform, as opposed to the Department of Energy. This is a clean up change from the restructuring around the creation of the Department of Energy last year. The bill requires, as a condition of accessing the online energy data platform, that a third party complete a qualification and registration process to ensure that any customer data downloaded from the platform remains in a safe, secure environment according to data privacy standards established by the PUC.

HB 1293, relative to the design of sewage or waste disposal systems for a person’s own domicile.

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

HB 1293 repeals the exemption allowing any person who desires to submit plans and specification for a sewage or waste disposal system for the person’s own domicile to do so without a permit. The existing exemption creates an undue regulatory burden on the Department of Environmental Services. This provision is rarely used, but when it is used it creates problems for the Department.

Energy and Natural Resources

April 26, 2022

2022-1825s

12/10

Amendment to HB 1293

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

AN ACT relative to the design of sewage or waste disposal systems for a person’s own domicile, and relative to water well and sewage or waste disposal systems.

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

2 New Paragraphs; Water Pollution and Waste Disposal; Definitions. Amend RSA 485-A:2 by inserting after paragraph XXIV the following new paragraphs:

XXV. "Water well contractor" shall mean "water well contractor" as defined in RSA 482-B:2.

XXVI. "Water well board" means the water well board established in RSA 482-B:3.

XXVII. "Well" shall mean "well" as defined in RSA 482-B:2.

3 Water Pollution and Waste Disposal; Protective Well Radii. RSA 485-A:30-b is repealed and reenacted to read as follows:

485-A:30-b Protective Well Radii.

I. The requirements in this paragraph shall apply to wells other than municipal or state-owned wells and to sewage disposal systems.

(a) The commissioner shall adopt rules under RSA 541-A providing for protective well radii for private wells and for regulation of land use within the radii boundary.

(b) No action of the department, and nothing in this section, shall have the effect of encumbering any lot, other than a lot upon which a well or sewage disposal system is installed or replaced, without the lot owner's permission. However, the department shall adopt rules that:

(1) Allow abutting landowners to overlap protective well radii.

(2) Allow an applicant to count state and locally-mandated setbacks, recorded easements, or land under conservation or similar dedication toward the required protective well radius provided such setback, easement, or dedicated land ensures the protection of drinking water quality.

II. The requirements in this paragraph shall apply to the installation of wells other than municipal or state-owned wells.

(a) For any well being installed or utilized to serve one or more new commercial buildings or a non-community water system as defined in RSA 485:1-a, the entire protective well radius shall be located on-lot or in conformance with subparagraph I(b)(2). For the purposes of this section, the term "commercial building" means a building that houses a commercial use but shall not include a residence which is also used for commercial purposes unless the total water withdrawal exceeds 600 gallons per day. A new commercial building means a new structure intended for commercial use, an existing residential structure being converted to commercial use, or an increase in water use at an existing commercial building to a level that requires a larger protective well radius under rules adopted by the department.

(b) For all other wells, if the applicable protective well radius cannot be met either on-lot or using the methods described in subparagraph I(b), the on-lot protective radius shall be maximized to the extent practicable. The department may require water quality monitoring, record keeping, and reporting by the owner of the property as it deems necessary to ensure that the well water is suitable for its intended uses for any well installation that does not meet the applicable protective well radius.

(c) Whenever a water well contractor installs a well that does not meet the applicable protective well radius, the water well contractor shall notify the property owner of the consequences of such reduced radius and advise the property owner whether special precautions should be taken relative to well installation.

(d) Prior to a water well contractor changing the location of an existing well, the water well contractor shall advise and consult with the property owner or the property owner's agent about the best possible alternative location, considering distance to property boundaries, and, if applicable, to the sewage disposal system, and the capability for the lot to support the existing sewage loading considering the alternative location.

(e) Wells shall be installed in conformance with applicable water well board statutes and rules, including RSA 482-B.

(f) When a well is installed concurrently with a sewage disposal system, and prior to the system being placed into operation in accordance with RSA 485-A:29, I, and the well cannot be installed as shown on the approved plan, the water well contractor shall advise and consult with the property owner or the property owner's agent on the best possible alternative location, considering distance to property boundaries and to the sewage disposal system and the capability for the lot to support the sewage loading considering the alternative location. The owner shall ensure that an amended sewage disposal plan showing the actual location of the well is submitted to the department. If the entire protective well radius cannot be located on-lot, the owner of the property shall sign a standard release form prepared by the department, to acknowledge the potential

loss of the protection of any portion of the radius which extends over the property line. Within 30 days after well installation, the owner shall record the release form in the registry of deeds of the county in which the property is located.

(g) Any portion of a protected well radius that is not maintained on lot shall not be deemed to have protection and, therefore, sewage disposal systems shall not be required to meet the setback distance to wells on abutting lots.

III. The requirements in this paragraph shall apply to the installation or replacement of sewage disposal systems.

(a) Plans and specifications for a proposed sewage disposal system for a property which is or will be served by an on-lot well, shall show the location or proposed location of the well, or a designated area within which the well will be located, and shall show the protective radius as specified in the department's rules.

(b) If the location of a proposed sewage disposal system will not meet the applicable well radius of a well that is or is proposed to be on the same lot, the owner of the property shall sign a setback waiver form prepared by the department upon which the actual distance from wells within the applicable well radius shall be noted. For existing wells, the owner shall record the approved setback waiver form in the registry of deeds within 30 days after the sewage disposal system approval is issued or, for proposed wells, within 30 days after well installation. The department may require water quality monitoring, record keeping, and reporting by the owner of the property as it deems necessary to ensure that the well water is suitable for its intended uses when any installation or replacement of a sewage disposal system impinges on the applicable protective well radius.

4 Rulemaking; Duties of the Commissioner. Amend the introductory paragraph of RSA 485-A:41, IV to read as follows:

IV. Adopt rules, pursuant to RSA 541-A and after public hearing, relative to the implementation of this subdivision. The commissioner shall adopt rules relative to the circumstances under which the commissioner may grant a waiver of any rule, except that no waivers of rules relating to site loading or set-back distances to ground or surface waters shall be allowed for sewage or waste disposal systems on lots in subdivisions created after September 1, 1989. A waiver must be consistent with the intent of this subdivision and have a just result. In particular, ~~[an encroachment waiver]~~ **a waiver that would result in a protective well radius not being met** shall meet the following criteria:

5 Sewage Disposal Systems; Action on Applications. Amend RSA 485-A:31, I to read as follows:

I. Subject to paragraphs II and III, the department shall give notice in writing **or email** to the person submitting the plans and specifications for subdivision of land of its approval or ~~[disapproval]~~ **of the need for additional information to complete the review** of such plans and specifications within 30 days of the date such plans and specifications and the required fees are received by the department and shall give notice in writing to the person submitting plans and specifications for sewage or waste disposal systems of its approval or ~~[disapproval]~~ **of the need for additional information to complete the review** of such plans and specifications within 15 working days of the date such plans and specifications and the required fees are received by the department. Unless such written ~~[disapproval]~~ **notice of the need for additional information to complete the review** shall be mailed to the person submitting plans and specifications within 30 days in the case of plans and specifications for subdivision of land and 15 working days in the case of plans and specifications for sewage or waste disposal systems from the date of receipt with the required fees by the department, the plans and specifications shall be deemed to have been approved. **If the department gives notice of the need for additional information, the department shall, within 30 days of the receipt of such information in the case of plans and specification for subdivision of land and within 15 working days of the receipt of such information in the case of plans and specifications for sewage or waste disposal systems, approve or deny the application.** The department shall send a copy of the approval or disapproval of such plans and specifications to the planning board or board of selectmen of the affected municipality.

6 New Paragraph; Sewage Disposal Systems; Action on Applications. Amend RSA 485-A:31 by inserting after paragraph III the following new paragraph:

IV. The commissioner shall adopt rules pursuant to RSA 541-A relative to the procedures for review and standards for rendering a final decision for approval or denial of plans and specifications for subdivision of land and sewage or waste disposal systems.

7 Repeal. The following are repealed:

I. RSA 485-A:2, III-a, relative to the definition of encroachment waiver.

II. RSA 485-A:30-a, relative to notice of applications for sewage or waste disposal systems.

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

2022-1825s

AMENDED ANALYSIS

This bill:

I. Repeals the exemption allowing any person who desires to submit plans and specifications for a sewage or waste disposal system for the person's own domicile to do so without a permit.

II. Clarifies the subsurface waiver process in water well systems.

III. Clarifies certain notice requirements for the department of environmental services on sewage and waste disposal systems.

HB 1331, relative to power line maintenance and construction.

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

HB 1331 will allow any New Hampshire utility customer that requires a power line extension located on private property to hire any contractor who is approved by the utility. The Department of Energy took no position on this bill. Utility approval will still be required.

JUDICIARY

HB 408, relative to employment restrictions for registered sex offenders.

Interim Study, Vote 5-0. Senator Carson for the committee.

This bill would prohibit a person convicted of certain sexual assault offenses from hiring or otherwise engaging in any employment or volunteer service which provides direct services to a minor, or supervision or oversight of a minor. Although this issue is worthy of consideration, the language is in need of further review before it can be implemented.

HB 1118, relative to the determination of parental rights and responsibilities following the death of a child's parent or guardian.

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

This bill provides that in the determination of parental rights and responsibilities following the death of a child's parent or guardian the Court shall consider the wishes of the deceased guardian as outlined in the estate documents. Although this is not a prescriptive direction to the Court, it still appropriately considers the wishes of that deceased parent or guardian when making a decision in the best interests of the child. This will not only put parents and guardians on notice as to including this kind of information in their estate planning but will also help to provide more stability and certainly for children faced with tragic situations.

HB 1266, relative to restrictions on enforcement of federal immigration laws.

Interim Study, Vote 5-0. Senator Carson for the committee.

This bill would prohibit state, county, municipal, or judicial officials from adopting or enforcing policies restricting enforcement of federal immigration laws. The Committee had concerns regarding how this legislation would impact the State Police's Fairness in Policing Policy, and therefore believes this language needs further examination and recommends the bill to Interim Study.

HB 1303, relative to causes for absolute divorce.

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

This bill revises the grounds for absolute divorce by removing the words "habitual drunkard" from our statutes and replacing it with "habitually abuses alcohol". Furthermore, the bill extends the grounds to include drug abuse, in recognition of the reality some are faced with in their relationships.

HB 1305, relative to temporary alimony.

Interim Study, Vote 5-0. Senator Carson for the committee.

This bill would modify the definition of temporary alimony that a court may award in a pending divorce case. Making this amendment to the statute would result in a pretty significant change in the alimony process, and the Committee believes that more time is needed to examine possible unintended consequences.

HB 1382, relative to the presumption of shared parenting in the determination of parental rights and responsibilities.

Inexpedient to Legislate, Vote 5-0. Senator Carson for the committee.

This bill would define shared parenting and establish a presumption that shared parenting is in the best interests of the child. The current statute of RSA 461-A already establishes a presumption that children do best when both parents have stable and meaningful involvement in their children's lives, and further there were concerns brought forward during testimony regarding the impact this would have on domestic violence victims. Therefore, the Committee believes the current RSA 461-A implements a process that is in the best interest of children and recommends that this bill not move forward.

HB 1416, relative to consent for mental health treatment in parenting cases with shared decision-making responsibility.

Interim Study, Vote 5-0. Senator Carson for the committee.

This bill would provide that in parenting cases with shared decision-making responsibility, either parent may consent to mental health treatment for the child provided that the parent notifies the other parent of the decision. Although the Committee appreciates the intent of the legislation and recognizes the vital importance of mental health treatment, the language is simply not ready to move forward at this time.

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

Recess. Out of recess.

REGULAR CALENDAR

ENERGY AND NATURAL RESOURCES

HB 1454-FN, relative to permits for the siting of new landfills.

Inexpedient to Legislate, Vote 3-1. Senator Avard for the committee.

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

Senator Bradley moved Ought to Pass.

Senator Hennessey offered a Floor Amendment.

Sen. Hennessey, Dist 1

May 3, 2022

2022-1938s

08/10

Floor Amendment to HB 1454-FN

Amend RSA 149-M:9, XV as inserted by section 2 of the bill by replacing it with the following:

XV.(a) The department shall establish a site-specific setback distance for any proposed new landfill from any perennial river, lake, or coastal water of New Hampshire, as defined in RSA 483-B:4, XVI. The setback distance shall be sufficient to prevent any contaminated groundwater at any part of the actual solid waste disposal area from reaching any perennial river, lake, or coastal water of New Hampshire within 5 years. The setback distance shall be calculated as follows:

(1) The applicant shall hire an independent hydrogeologist at the applicant's expense, to estimate based upon adequate and representative on-site field testing, the seepage velocity of groundwater in both surficial geological deposits and in bedrock. The maximum seepage velocity shall be the highest rate estimated for any test site in the disposal area.

(2) The 5-year distance-of-travel estimate shall be calculated by multiplying the maximum seepage velocity, in units of feet per year, by 5 years.

(3) The setback from any perennial river, lake, or coastal water of New Hampshire shall be the greater of the 5-year distance-of-travel estimate calculated in subparagraph (2) or 200 feet.

(b) No permit shall be issued by any division of the department for siting a new landfill that fails to conform with the setback distance as calculated using the method set forth in subparagraph (a).

(c) Nothing in this paragraph shall be construed to prohibit the expansion of any landfills that are in operation at the time this paragraph takes effect.

(d) The department may adopt rules under RSA 541-A to allow for the use of project improvement allowances that may enable a project to meet the minimum 5-year setback, even if it is located less than the 5-year distance-of-travel estimate from a surface water body. One or more allowances, of one additional year each, may be added to the calculated travel time, based on specific additional control technology, monitoring programs, or funding guarantees that the department believes may increase the effective safety of the project. In no case, however, shall any one project receive more than 3 additional years added to its calculated travel time.

The question is on the adoption of the Floor Amendment.

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

The following Senators voted Yes: Hennessey, Giuda, Watters, Prentiss, French, Ward, Ricciardi, Kahn, Daniels, Rosenwald, Whitley, Perkins Kwoka, Gannon, Sherman.

The following Senators voted No: Bradley, Gray, Avard, Carson, Cavanaugh, Reagan, Soucy, Birdsell, D'Allesandro, Morse.

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

Senator Avard moved to Lay on the Table.

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

The following Senators voted Yes: Avard, Carson, Birdsell.

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

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

Recess. Out of recess.

INTRODUCTION OF GUESTS

Senator Giuda introduced students from Piermont Village School in Piermont visiting in the gallery.

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 Bradley.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Watters, Prentiss, Ricciardi, Kahn, Daniels, Rosenwald, Whitley, Reagan, Soucy, D'Allesandro, Perkins Kwoka, Gannon, Sherman.

The following Senators voted No: Gray, French, Ward, Avard, Carson, Cavanaugh, Birdsell, Morse.

Roll Call, Yeas: 16 - Nays: 8. Adopted, bill ordered to Third Reading.

COMMERCE

HB 1165, repealing the Granite State paid family leave plan.

Interim Study, Vote 4-1. Senator Bradley for the committee.

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

EDUCATION

HB 1132, relative to applications for a charter conversion school.

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

Senate Education

April 26, 2022

2022-1803s

10/05

Amendment to HB 1132

Amend the bill by replacing section 1 with the following:

1 Chartered Public Schools; Public School Vote for Charter Conversion. Amend RSA 194-B:3, VI to read as follows:

VI.(a) Any existing public school may by a vote of the school board ***and a 2/3 majority vote taken by the school district at a regular annual meeting pursuant to RSA 195, RSA 197, or the governing charter, called for the purpose and provided that an article is inserted in the warrant for said meeting to*** become a charter conversion school[, ~~provided that, in addition to all other requirements of this chapter for establishment of a chartered public school-~~

(1) ~~A majority of its prospective teachers vote by ballot to approve such conversion in a district with more than one school, or 2/3 of the teachers so vote in a single school district.~~

(2) ~~The school superintendent and principal both provide their approval in writing].~~

(b) All pupils attending a school which successfully converts to charter status shall be eligible for admission to such chartered public school.

(c) Nothing in this section shall be construed to limit a school district's obligation to provide special education services to all qualifying students residing in the district consistent with the requirements of state and federal law.

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 Kahn, seconded by Senator Sherman.

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

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

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

HB 1195, relative to public comment periods at school board or school administrative unit public meetings. Ought to Pass with Amendment, Vote 5-0. Senator Hennessey for the committee.

Senate Education
April 26, 2022
2022-1835s
10/05

Amendment to HB 1195

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

AN ACT relative to public comment periods at school district meetings and meetings of the state board of education.

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

1 New Subdivision; School Board Public Comment Period. Amend RSA 189 by inserting after section 73 the following new subdivision:

School Board Public Comment Period

189:74 School Board Public Comment Period.

I. School boards shall provide the opportunity for the public to comment on school district matters at a meeting of the school board held under RSA 91-A:2. The public comment period shall be for no less than 30 minutes. School boards may request that persons register in advance of the meeting, but may not require pre-registration as a condition of participating in the public comment period. School boards may impose reasonable time limits for each speaker, provided such time limits are equal for all speakers. Nothing in this section shall restrict school boards from establishing other reasonable standards for the public comment period, provided such standards are imposed equally for all speakers. School boards may reasonably restrict public comments that disclose student personally-identifiable information, teacher personally-identifiable information, or other confidential or privileged information.

II. The requirement that a school board shall provide the opportunity for the public to comment on school district matters at a meeting of the school board shall not apply to emergency meetings under RSA 91-A:2, II.

III. The requirement that a school board shall provide the opportunity for the public to comment on school district matters at a meeting of the school board shall not apply when the sole purpose of the school board meeting is to enter non-public session under RSA 91-A:3.

2 New Section; State Board of Education; Public Comment Period. Amend RSA 21-N by inserting after section 10 the following new section:

21-N:10-a State Board of Education Public; Comment Period. The state board of education shall provide the opportunity for the public comment on educational matters at meetings of the state board. The public comment period shall be for no less than 30 minutes. The state board of education may request that persons register in advance of the meeting, but may not require pre-registration as a condition of participating in the public comment period. The state board of education may impose reasonable time limits for each speaker, provided such time limits are equal for all speakers. Nothing in this section shall restrict the state board of education from establishing other reasonable standards for the public comment period, provided such standards are imposed equally for all speakers. The state board of education may reasonably restrict public comments that disclose student personally-identifiable information, teacher personally-identifiable information, or other confidential or privileged information.

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

2022-1835s

AMENDED ANALYSIS

This bill requires public comment periods at school board meetings and meetings of the state board of education.

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.

ELECTION LAW AND MUNICIPAL AFFAIRS

HB 1397, relative to the length of terms for Rockingham county officers.

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

Election Law and Municipal Affairs

April 26, 2022

2022-1798s

12/10

Amendment to HB 1397

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

AN ACT relative to the length of terms for Rockingham county officers and relative to the Gunstock area commission.

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

3 Gunstock Area Commission; Commission Member Elections. 1959, 399:3 is repealed and reenacted to read as follows:

399:3 Membership of the Commission. The commission shall consist of five members hereinafter referred to as "members," and two ex officio non-voting members. The members shall be resident property owners in the county of Belknap, and shall be invested with all the duties hereinafter granted to and imposed upon said commission. The ex officio members shall be the commissioner of the New Hampshire department of business and economic affairs, or designee, and the Belknap county administrator.

2022-1798s

AMENDED ANALYSIS

This bill establishes a 4-year term for the county treasurer, county sheriff, county register of deeds, and county attorney in Rockingham county. The bill also adds two ex officio non-voting members to the Gunstock area commission.

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

Senator Giuda offered a Floor Amendment.

Sen. Giuda, Dist 2
May 4, 2022
2022-1948s
12/08

Floor Amendment to HB 1397

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

AN ACT relative to the length of terms for Rockingham county officers and relative to the Gunstock area commission.

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

3 Gunstock Area Commission; Commission Member Elections. RSA 1959, 399:4 as amended by 2020, 18:1 is repealed and reenacted to read as follows:

399:4 Commission Member Elections. Members of the commission shall be chosen by election held in conjunction with the state general election, provided that the members' elections shall be non-partisan with candidates listed on a ballot that may be part of the regular ballot at the discretion of the secretary of state. Members of the commission shall be chosen for 6-year terms. The November 2022 election shall fill any vacancy occurring in 2022 and 2023. The November 2024 election shall replace those commissioners whose terms expire in 2024 and 2025. The 2026 election shall replace the commissioner whose term expires in 2026. All future election cycles will continue with this sequence (2-2-1.) Currently serving commissioners are eligible to run for re-election during this transition. Each member shall continue in office until his or her successor has been elected and qualified, and each member shall be subject to removal for cause by a vote of the county commissioners after public hearing. No commissioner may serve more than 2 consecutive terms.

4 Gunstock Area Commission; Vacancies. RSA 1959: 399:8 is repealed and reenacted to read as follows:

399:8 Vacancies. If a vacancy occurs in said commission, it shall be filled by a candidate appointed by majority vote of the county commissioners until the next general election, at which time the voters will elect a commissioner to serve the unexpired remainder of the term.

5 New Paragraph; Gunstock Area Commission; Quarterly Report. Amend RSA 1959, 399:14 as amended by 2020, 18:2 by inserting after paragraph (f) the following new paragraph:

(g) At the beginning of each quarter, by the 15th of the month, the commission shall submit a financial and operations report to the following entities: the county delegation, the county commissioners, and the clerk of every town and city in Belknap county. The report shall include, but shall not be limited to, a summary of profits or losses and the status of all capital projects.

6 Gunstock Area Commission; Reference Changes. Amend RSA 1959, 399:17-18 to read as follows:

399:17 Powers of the County Commissioners. As long as this chapter shall be in effect~~[-and upon the appointment of a commission by the appointive agency]~~, the county commissioners of Belknap county shall be relieved of all duties and responsibilities with respect to the operation and maintenance of the area.

399:18 Present Assets, Loans and Other Obligations. ~~[Upon the appointment of a commission by the appointive agency, all]~~ **All** money ~~[then]~~ held by the county of Belknap for the account of the area, shall be considered transferred to the commission for the purposes of this chapter, which shall include any accounts which are kept as capital reserve accounts, or accounts known as Belknap county recreational area fund, and any obligation for the payment of any outstanding serial notes or bonds or any other current bills at such time shall be considered to have been transferred to the commission and shall be payable out of future revenues.

7 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.

2022-1948s

AMENDED ANALYSIS

This bill establishes a 4-year term for the county treasurer, county sheriff, county register of deeds, and county attorney in Rockingham county. This bill also requires that Gunstock area commission members be elected by the voters and amends the duties of the county commission.

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.

ENERGY AND NATURAL RESOURCES

HB 490, relative to the definitions of “game camera” and “hunting day” and relative to the use of game cameras. Ought to Pass with Amendment, Vote 5-0. Senator Avarð for the committee.

Energy and Natural Resources

April 26, 2022

2022-1807s

04/10

Amendment to HB 490

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

AN ACT relative to the definitions of “game camera” and “hunting day,” relative to the use of game cameras, relative to the use of temporary tree stands or observation blinds, and relative to the definition of “firearm.”

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

3 New Section; General Provisions as to Fish and Game; Use of Game Cameras. Amend RSA 207 by inserting after section 62 the following new section:

207:63 Use of Game Cameras.

I. Any person taking or attempting to take a game animal or fur-bearing animal may use a game camera to locate, surveil, aid, or assist in any attempt to locate or surveil any game animal or fur-bearing animal.

II. A landowner may remove a game camera which the landowner has not authorized to remain on his or her property. A landowner shall notify the owner of any game camera that the landowner removes.

III. A person who places a game camera on the private property of another shall label the camera with that person's name and contact information.

IV. A property owner may contact a local or state law enforcement officer or a conservation officer to remove a game camera which was placed in violation of this section.

V. This section shall not prohibit:

(a) The use of a game camera to deter theft or vandalism of a motor vehicle when the motor vehicle is temporarily parked; or

(b) The lawful use of implanted or attached electronic devices by fish and game department staff or other persons holding a scientific permit from the executive director to identify, monitor, and track animals; or

(c) Any device placed or used in accordance with a warrant or in accordance with other lawful actions of law enforcement officers and personnel of the fish and game department in the performance of their official duties.

VI. Any person who violates this section shall be guilty of violation and subject to a fine of up to \$1,000 for each offense and, for a second or subsequent conviction under this section, forfeiture of the placed equipment.

4 Fish and Game; Use of Tree Stands, Observation Blinds, and Pit Blinds. Amend RSA 207:36-a, V to read as follows:

V. ~~[All property owner permits shall expire on December 31 of each year unless rescinded by the property owner or designee.]~~ ***A portable or temporary tree stand or observation blind that does not violate paragraphs I or II of this section may be erected on the land of another between August 31 and December 31 of a calendar year. All portable or temporary tree stands or observation blinds shall be removed from the property by January 1, unless allowed by the written permission of the landowner. The portable or temporary tree stand or observation blind shall be labeled with the name and address of the owner in a clearly visible manner not higher than 6 feet off the ground, using an identification sign made of durable material at least 3 inches by 6 inches in size.***

5 Pistols and Revolvers; Definition of “Firearm”. Amend RSA 159:1 to read as follows:

159:1 Definition.

I. “Pistol or revolver,” as used [herein] **in this chapter**, means any firearm with barrel less than 16 inches in length. It does not include antique pistols, gun canes, or revolvers. An antique pistol, gun cane, or revolver, for the purposes of this chapter, means any pistol, gun cane, or revolver utilizing an early type of ignition, including, but not limited to, flintlocks, wheel locks, matchlocks, percussions and pin-fire, but no pistol, gun cane, or revolver which utilizes readily available center fire or rim-fire cartridges which are in common, current use shall be deemed to be an antique pistol, gun cane, or revolver. Nothing in this section shall prevent antique pistols, gun canes, or revolvers from being owned or transferred by museums, antique or arms collectors, or licensed gun dealers at auctions, gun shows, or private premises provided such ownership or transfer does not conflict with federal statutes.

II. In this chapter, “firearm” shall have the same meaning as in 18 U.S.C. section 921(a)(3) as it appears on April 12, 2022. For the purposes of this chapter, the meaning of “firearm” shall not be construed in a manner that is broader than the definition under federal law.

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

2022-1807s

AMENDED ANALYSIS

This bill adds definitions of “game camera” and “hunting day” and permits the use of a game camera to take or attempt to take a game animal or fur-bearing animal. The bill also provides limitations on the use of temporary tree stands and observation blinds and defines “firearm” as having the same meaning as the federal definition of “firearm.”

The question is on the adoption of the Committee Amendment.

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

The following Senators voted Yes: Bradley, Watters, Prentiss, French, Kahn, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Soucy, Birdsell, D’Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: Hennessey, Giuda, Gray, Ward, Ricciardi, Daniels, Reagan.

Roll Call, Yeas: 17 - Nays: 7. Adopted.

Senator Giuda offered a Floor Amendment.

Sen. Giuda, Dist 2

May 3, 2022

2022-1924s

04/10

Floor Amendment to HB 490

Amend the bill by replacing section 3 with the following:

3 New Section; General Provisions as to Fish and Game; Use of Game Cameras. Amend RSA 207 by inserting after section 62 the following new section:

207:63 Use of Game Cameras.

I. Any person taking or attempting to take a game animal or fur-bearing animal may use a game camera to locate, surveil, aid, or assist in any attempt to locate or surveil any game animal or fur-bearing animal.

II.(a) If an unauthorized game camera is located within 300 feet of an inhabited structure or within the boundary of a landowner’s legally-defined curtilage, whichever distance is greater, the landowner may remove the camera, provided that within 24 hours of removing the camera, the landowner notifies the camera owner using the identification information on the camera, and surrenders the camera to the local police or conservation officer to be retrieved by the camera’s owner.

(b) If an unauthorized game camera is located within 300 feet of a structure outside the landowner’s legally-defined curtilage, the landowner may remove the camera, provided that within 24 hours of removing the camera, the landowner notifies the camera owner using the identification information on the camera, and surrenders the camera to the local police or conservation officer to be retrieved by the camera’s owner.

(c) If a landowner discovers an unauthorized game camera in an area not defined in subparagraphs (a) or (b), the landowner shall, within 24 hours of discovering the camera, notify the camera owner using the identification information on the camera. If the landowner wishes the camera to be removed, the landowner shall, within 24 hours of discovering the camera, request the local police or conservation officer to remove it.

(d) Upon discovering an unauthorized game camera anywhere on their property, a landowner removing or seeking to remove the camera, or their authorized representative, may place tape over the camera lens. However, this subparagraph shall not relieve a landowner of the obligation to comply with subparagraphs (a)-(c).

III. This section shall not prohibit:

(a) The use of a game camera to deter theft or vandalism of a motor vehicle when the motor vehicle is temporarily parked; or

(b) The lawful use of implanted or attached electronic devices by fish and game department staff or other persons holding a scientific permit from the executive director to identify, monitor, and track animals; or

(c) Any device placed or used in accordance with a warrant or in accordance with other lawful actions of law enforcement officers and personnel of the fish and game department in the performance of their official duties.

IV. Any person who violates this section shall be guilty of violation and subject to a fine of up to \$1,000 for each offense and, for a second or subsequent conviction under this section, forfeiture of the placed equipment.

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 Giuda.

The following Senators voted Yes: Hennessey, Giuda, Gray, French, Daniels, Avard, Carson, Birdsell, Gannon, Morse.

The following Senators voted No: Bradley, Watters, Prentiss, Ward, Ricciardi, Kahn, Rosenwald, Whitley, Cavanaugh, Reagan, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

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

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

HB 1049, establishing a committee to study landfill siting criteria and methods for reducing pressure on landfill capacity.

Inexpedient to Legislate, Vote 3-2. Senator Gray for the committee.

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

HB 1148, relative to prohibiting government entities subordinate to the state from restricting the types of fuel sources that may be used for energy.

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

Energy and Natural Resources

April 26, 2022

2022-1821s

12/04

Amendment to HB 1148

Amend the bill by replacing section 1 with the following:

1 Department of Energy; Report Required. The department of energy shall report to the chairpersons of the house science, technology, and energy committee, the senate energy and natural resources committee, the house municipal and county government committee, and the senate election law and municipal affairs committee by June 1, 2023, concerning:

I. The authority of municipalities to enact or enforce a resolution, ordinance, rule, code, policy, or take any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be used, delivered, converted, or supplied to customers.

II. Any restrictions on the authority of municipalities to implement policies or goals to meet "net-zero" or "zero emissions" targets.

2022-1821s

AMENDED ANALYSIS

This bill requires the department of energy to report on the authority of a municipality regarding energy usage and targets.

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

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

HB 1185, relative to treatment of water contaminated with perfluorinated chemicals.
Inexpedient to Legislate, Vote 4-0. Senator Gray for the committee.

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

Senator Bradley moved Ought to Pass.

Senator Daniels offered a Floor Amendment.

Sen. Avard, Dist 12

Sen. Daniels, Dist 11

May 3, 2022

2022-1916s

08/04

Floor Amendment to HB 1185

Amend the bill by replacing section 2 with the following:

2 New Section; Wastewater Treatment Plant; PFAS Testing. Amend RSA 485-A by inserting after section 5-d the following new section:

485-A:5-e Wastewater Treatment Plant; Per fluorinated Chemical (PFAS) Testing.

I. A wastewater treatment plant may require any industrial or commercial facilities or septic haulers of industrial or commercial waste contributing discharge to its plant to test such discharge to determine the level of PFAS in the discharge. A wastewater treatment plant that makes this requirement shall notify any industrial or commercial facilities or septic haulers of industrial or commercial waste contributing discharge to its plant in writing of such testing requirements including:

(a) Identification of potential sources of PFAS using safety data sheets or other specification sheets.

(b) Sample test result of the discharge measuring levels of PFAS in the discharge provided to the wastewater treatment plant.

(c) Submission of an annual report to the municipality in which the wastewater treatment plant containing a list of the test results.

II. An industrial or commercial facility or septic hauler of industrial or commercial waste that receives a notification from a wastewater treatment plant under paragraph I shall have 90 days from the receipt of such notification to comply with the testing requirements.

III. A wastewater treatment plant may refuse discharge from an industrial or commercial facility or septic hauler of industrial or commercial waste that has reported a level of PFAS in its discharge above the level the wastewater treatment plant determines to be acceptable.

IV. In accordance with RSA 485-A:5-b, each municipality shall enter into an agreement to assure access to an approved septage facility for the disposal of domestic septage. Such agreements shall ensure that domestic septage has an outlet approved by the municipality. Municipalities may enter into agreements with other municipalities to assure access to an approved septage facility if such municipalities do not have a wastewater treatment facility.

V. Wastewater treatment facilities may collect samples for PFAS analysis from septage loads originating from residential sources. Non-residential septage loads from commercial or industrial sources shall have prior approval by the municipality before discharging to a wastewater treatment facility.

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

Recess. Out of recess.

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

HB 1186, relative to companion animals during a declared state of emergency.
Ought to Pass with Amendment, Vote 4-0. Senator Perkins Kwoka for the committee.

Energy and Natural Resources
April 25, 2022
2022-1750s
04/05

Amendment to HB 1186

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Emergency Shelter for Companion Animals. Amend RSA 126-A by inserting after section 97 the following new subdivision:

Emergency Shelter for Companion Animals

126-A:98 State Policy for Companion Animals. During a declared state of emergency as defined in RSA 4:45, III(c) containing an evacuation order, any hotel or community shelter that shelters evacuated persons shall allow disaster animal response trailers, or other reasonable accommodations, on site to accommodate any companion animal belonging to such evacuated persons. The maximum number of animals per sheltered family shall comply with local ordinances. For the purpose of this section, "companion animal" means a cat, dog, or other legally-owned animal kept in an enclosure that might typically be found in a home. During such emergency, any volunteer who has been vetted by the department of health and human services and is a member of the disaster animal response team and is assisting evacuated persons and companion animals shall be considered an emergency worker under RSA 21-P:41, VI(c).

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

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

HB 1356, relative to the taking of gray squirrels.
Inexpedient to Legislate, Vote 3-2. Senator Watters for the committee.

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

Recess. Out of recess.

FINANCE

HB 214, relative to a public school facility condition assessment and school building aid grants.
Interim Study, Vote 4-3. Senator Daniels for the committee.

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

HB 481-FN-A, establishing the office of the right-to-know ombudsman and making an appropriation therefor.
Ought to Pass, Vote 6-0. Senator Giuda for the committee.

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

HB 536-FN, relative to death benefits for public works employees killed in the line of duty, and relative to workers' compensation offsets for certain retirement system benefits.
Interim Study, Vote 6-1. Senator Daniels for the committee.

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

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

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

The following Senators voted No: Hennessey, Watters, Prentiss, Ricciardi, Kahn, Rosenwald, Carson, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 11 - Nays: 13. Failed.

Senator D'Allesandro moved Ought to Pass.

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

HB 1066-FN, requiring the commissioner of the department of environmental services to prepare a plan relative to cyanobacterial blooms in New Hampshire.

Ought to Pass, Vote 6-0. Senator Hennessey for the committee.

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

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

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.

HB 1221-FN, relative to the rate of the business profits tax, and relative to payment by the state to municipalities of an amount equal to a portion of retirement system contributions of political subdivision employers. Ought to Pass with Amendment, Vote 6-0. Senator Giuda for the committee.

Senate Finance

April 26, 2022

2022-1840s

10/04

Amendment to HB 1221-FN

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

AN ACT relative to the rate of the business profits tax, and relative to payment by the state to political subdivisions of an amount equal to a portion of retirement system contributions of political subdivision employers.

Amend the bill by replacing sections 4 and 5 with the following:

4 Local Property Tax Reduction. A one-time appropriation of state surplus funds is hereby granted to each political subdivision of the state in accordance with section 5 of this act. It is the intent of the legislature that this will result in a one-time reduction in local property taxes without increasing state or local baseline spending.

5 Retirement System Costs; State Funding; Appropriation. For the state fiscal year ending June 30, 2023, the state shall pay to each political subdivision an amount equal to 7.5 percent of both the normal and accrued liability contributions of each political subdivision for benefits under the retirement system on account of its group II members and group I teacher members. The board of trustees of the retirement system shall certify the amount required for each such state payment based on actual payroll data from the fiscal year ending June 30, 2022, and the total amount of the state grants, to the treasurer. The governor is authorized to draw a warrant for the total sum of these one-time grants out of any money in the treasury not otherwise appropriated.

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

Senator Soucy moved to divide the question on the motion of Ought to Pass with Amendment: The first vote will be on Sections 1, 3 and 7. The second vote will be on the remainder of the bill as amended with the effective date.

The Chair ruled the question divisible.

The question is on the adoption of the motion of Ought to Pass with Amendment: Sections 1, 3 and 7.

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

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

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

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

The question is on the adoption of the motion of Ought to Pass with Amendment: Remainder of the bill as amended with the effective date. Adopted, bill ordered to Third Reading.

HB 1263, relative to prescribed studies on health, physical education, wellness, and personal finance literacy in schools.

Ought to Pass, Vote 4-2. Senator Reagan for the committee.

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

HB 1288, relative to the terms for certain officers and the names, duties, and funds of certain divisions within the department of administrative services.

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

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

Recess. Out of recess.

HB 1431-FN-L, establishing the parental bill of rights.

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

Senator Carson offered a Floor Amendment.

Sen. Carson, Dist 14

May 4, 2022

2022-1943s

07/05

Floor Amendment to HB 1431-FN-LOCAL

Amend RSA 169-I:6 as inserted by section 2 of the bill by replacing it with the following:

169-I:6 Exceptions. This chapter does not:

I. Authorize a parent of a minor child in this state to engage in conduct that is unlawful or to abuse or neglect his or her minor child in violation of general law, as defined in RSA 169-C.

II. Restrict the authority of the department of health and human services, division for children, youth and families.

III. Prohibit a court of competent jurisdiction, law enforcement officer, or employees of a government agency that is responsible for child welfare from acting in his or her official capacity.

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 Avard, seconded by Senator Giuda.

Recess. Out of recess.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Reagan, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 13 - Nays: 11. Adopted, bill ordered to Third Reading.

HB 1476-FN, relative to release of a defendant pending trial.

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

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

May 4, 2022

2022-1941s

04/05

Floor Amendment to HB 1476-FN

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

1 Bail and Recognizances; Release of a Defendant Pending Trial. Amend RSA 597:2, I-III(a) to read as follows:
597:2 Release of a Defendant Pending Trial.

I. Except as provided in paragraph **III or** VI, upon the appearance before the court of a person charged with an offense, the court shall issue an order that, pending arraignment or trial, the person be:

- (a) Released on his or her personal recognizance or upon execution of an unsecured appearance bond, pursuant to the provisions of paragraph III;
- (b) Released on a condition or combination of conditions pursuant to the provisions of paragraph III;
- (c) Detained; or
- (d) Temporarily detained to permit revocation of conditional release pursuant to the provisions of paragraph VIII.

II. Except as provided in RSA 597:1-d, a person charged with a probation violation shall be entitled to a bail hearing. The court shall issue an order that, pending a probation violation hearing, the person be:

- (a) Released on his or her personal recognizance or upon execution of an unsecured appearance bond, pursuant to the provisions of paragraph III;
- (b) Released on a condition or combination of conditions pursuant to the provisions of paragraph III; or
- (c) Detained.

III. When considering whether to release or detain a person, the court **and, if applicable, a bail commissioner** shall consider the following issues:

- (a) Safety of the public or the defendant.

(1) Except as provided in RSA 597:1-c, a person who is charged with homicide under RSA 630; first degree assault under RSA 631:1; second degree assault under RSA 631:2; domestic violence under RSA 631:2-b; aggravated felonious sexual assault under RSA 632-A:2; felonious sexual assault under RSA 632-A:3; kidnapping under RSA 633:1; stalking under RSA 633:3-a; trafficking in persons under RSA 633:7; robbery under RSA 636:1, III; possession, manufacture, or distribution of child sexual abuse images under RSA 649-A; or computer pornography and child exploitation under RSA 649-B; shall not be brought before a bail commissioner and shall, upon arrest, be detained pending arraignment before the court. Arraignment shall occur no later than 24 hours after the arrest, Saturdays, Sundays, and legal holidays excluded, or no later than 36 hours after arrest if arrested between 8:00 a.m. and 1:00 p.m. and the person's attorney is unable to attend an arraignment on the same day, Saturdays, Sundays, and legal holidays excluded. At the person's appearance before the court, the court shall order that the person be detained pending trial if the court determines by clear and convincing evidence that release of the person is a danger to the public or themselves. In determining whether release will endanger the safety of that person or the public, the court may consider all relevant and material factors presented pursuant to paragraph IV. If the court does not find by clear and convincing evidence that the person must be detained, the court shall order the person released pursuant to paragraph I(a) or paragraph I(b), or, if applicable, temporarily detained pursuant to paragraph I(d).

(2) If a person is charged with any **other** criminal offense, an offense listed in RSA 173-B:1, I, or a violation of a protective order under RSA 458:16, III, or after arraignment, is charged with a violation of a protective order issued under RSA 173-B, the court may order preventive detention without bail, or, in the alternative, may order restrictive conditions including but not limited to electronic monitoring and supervision, only if the court determines by clear and convincing evidence that release will endanger the safety of that person or the public. In determining whether release will endanger the safety of that person or the public, the court may consider all relevant factors presented pursuant to paragraph IV.

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

2022-1941s

AMENDED ANALYSIS

This bill lists certain offenses which, if committed by the defendant, create a presumption that a defendant is a danger to the public and shall be detained for up to 36 hours.

INTRODUCTION OF GUESTS

Senator D'Allesandro introduced Representative Ned Gordon visiting in the gallery.

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

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

HB 1503-FN, exempting the developer, seller, or facilitator of the exchange of an open blockchain token from certain securities laws and adopting the Uniform Commercial Code relative to controllable electronic records. Ought to Pass with Amendment, Vote 7-0. Senator D'Allesandro for the committee.

Senate Finance

May 3, 2022

2022-1939s

08/04

Amendment to HB 1503-FN

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

AN ACT adopting the Uniform Commercial Code relative to controllable electronic records, relative to exempting the developer, seller, or facilitator of the exchange of an open blockchain token from certain securities laws.

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

1 Statement of Intent.

I. The Joint Committee on the Uniform Commercial Code and Emerging Technologies of the Uniform Law Commission has developed draft Uniform Commercial Code provisions governing certain digital assets, specifically those that fall within the definition of "controllable electronic records." The current draft has been extensively vetted by those who understand and participate in digital transactions.

II. Adoption of the Uniform Law Commission's draft by the New Hampshire general court will create a considerable advantage for New Hampshire to lead in emerging industries utilizing blockchain, digital ledger technology, virtual currencies, and other digital assets and would provide a sensible framework and legal certainty for transactions of controllable electronic records. In subsequent sessions, if necessary, the New Hampshire general court will review and adopt conforming amendments to the provisions of the Uniform Commercial Code on controllable electronic records to remain consistent with the language and intent of the final proposal of the Joint Committee on the Uniform Commercial Code and Emerging Technologies of the Uniform Law Commission.

2 Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b)(10) to read as follows:

(10) "Conspicuous," with reference to a term, means so written, displayed, or presented that a reasonable person against which it is to operate ought to have noticed it. Whether a term is "conspicuous" or not is a decision for the court. ~~[Conspicuous terms include the following:—~~

~~(A) a heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and—~~

~~(B) language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.]~~

3 New Paragraph; Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b) by inserting after paragraph (16) the following new paragraph:

(16A) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

4 Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b)(21) to read as follows:

(21) "Holder" means:

(A) the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession; or

(B) the person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) the person in control, ***other than pursuant to Section 7-106(d)***, of a negotiable electronic document of title.

5 Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b)(24) to read as follows:

(24) “Money” means a medium of exchange ***that is*** currently authorized or adopted by a domestic or foreign government. ~~[The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries.]~~ ***The term does not include an electronic record that is a medium of exchange recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by a government, or organization or pursuant to such an agreement.***

6 Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b)(27) to read as follows:

(27) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity. ***The term includes a protected series, however denominated, of an entity if the protected series is established under law other than this chapter that limits, or limits if conditions specified under the law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.***

7 Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b)(37) to read as follows:

(37) “Signed” includes using any symbol executed or adopted with present intention to adopt or accept a writing ***and, with respect to a record that is not a writing, includes the attachment to or logical association with the record of an electronic symbol, sound, or process with the present intent to adopt or accept the record. “Sign” and “Signature” have corresponding meanings.***

8 Uniform Commercial Code; Definitions. Amend the introductory paragraph of RSA 382-A:1-204 to read as follows:

Except as otherwise provided in Articles 3, 4, ~~and~~ 5, ***6, and 12***, a person gives value for rights if the person acquires them:

9 Uniform Commercial Code; Sales; Scope. RSA 382-A:2-102 is repealed and reenacted to read as follows:

(1) Unless the context otherwise requires and except as provided in subsections (3) and (4), this Article applies to transactions in goods.

(2) If the goods aspects of a hybrid transaction predominate, this Article applies to the transaction.

(3) If the goods aspects of a hybrid transaction do not predominate, the provisions of this Article which relate primarily to the goods aspects of the transaction and not to the transaction as a whole apply.

(4) This article does not apply to any transaction which although in the form of an unconditional contract to sell or present sale is intended to operate only as a security transaction nor does this Article impair or repeal any statute regulating sales to consumers, farmers, or other specified classes of buyers.

(5) This Section does not preclude in appropriate circumstances the application of other law to the aspects of a hybrid transaction which do not relate to the goods even if the goods aspects of the transaction predominate.

10 Uniform Commercial Code; Sales; Definitions. RSA 382-A:2-106 is repealed and reenacted to read as follows:

382-A:2-106 Definitions: “Contract”; “Agreement”; “Contract for Sale”; “Sale”; “Present Sale”; “Conforming” to Contract; “Termination”; “Cancellation”.

(1) In this Article unless the context otherwise requires “contract” and “agreement” are limited to those relating to the present or future sale of goods. “Contract for sale” includes both a present sale of goods and a contract to sell goods at a future time. A “sale” consists in the passing of title from the seller to the buyer for a price (Section 2-401). A “present sale” means a sale which is accomplished by the making of the contract.

(2) Goods or conduct including any part of a performance are “conforming” or conform to the contract when they are in accordance with the obligations under the contract.

(3) “Termination” occurs when either party pursuant to a power created by agreement or law puts an end to the contract otherwise than for its breach. On “termination” all obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

(4) “Cancellation” occurs when either party puts an end to the contract for breach by the other and its effect is the same as that of “termination” except that the cancelling party also retains any remedy for breach of the whole contract or any unperformed balance.

(5) “Hybrid transaction” means a single transaction involving a sale of goods and a sale, lease, or license of other property or the provision of services.

11 Uniform Commercial Code; Sales; Statute of Frauds. RSA 382-A:2-201 is repealed and reenacted to read as follows:

382-A:2-201 Formal Requirements; Statute of Frauds.

(1) Except as otherwise provided in this section a contract for the sale of goods for the price of \$500 or more is not enforceable by way of action or defense unless there is some record sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by his authorized agent or broker. A record is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this paragraph beyond the quantity of goods shown in such record.

(2) Between merchants if within a reasonable time a record in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) against such party unless a record containing a notice of objection to its contents is given with 10 days after it is received.

12 Uniform Commercial Code; Sales; Final Written Expression. Amend RSA 382-A:2-202 to read as follows:

382-A:2-202 Final Written Expression; Parol or Extrinsic Evidence.

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a [writing] **record** intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented

(a) by course of performance, course of dealing, or usage of trade (Section 1-303); and

(b) by evidence of consistent additional terms unless the court finds the [writing] **record** to have been intended also as a complete and exclusive statement of the terms of the agreement.

13 Uniform Commercial Code; Sales; Seals Inoperative. Amend RSA 382-A:2-203 to read as follows:

382-A:2-203 Seals Inoperative. The affixing of a seal to a [writing] **record** evidencing a contract for sale or an offer to buy or sell goods does not constitute the [writing] **record** a sealed instrument and the law with respect to sealed instruments does not apply to such a contract or offer.

14 Uniform Commercial Code; Sales; Firm Offers. Amend RSA 382-A:2-205 to read as follows:

382-A:2-205 Firm Offers. An offer by a merchant to buy or sell goods in a signed [writing] **writing** which by its terms gives assurance that it will be held open is not revocable, for lack of consideration, during the time stated or if no time is stated for a reasonable time, but in no event may such period of irrevocability exceed three months; but any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

15 Uniform Commercial Code; Sales; Modification, Rescission, and Waiver. Amend RSA 382-A:2-209(2) to read as follows:

(2) A signed agreement which excludes modification or rescission except by a signed [writing] **record** cannot be otherwise modified or rescinded, but except as between merchants such a requirement on a form supplied by the merchant must be separately signed by the other party.

16 Uniform Commercial Code; Leases; Scope. RSA 382-A:2A-102 is repealed and reenacted to read as follows:

382-A:2A-102 Scope.

(1) Except as provided in subsection (3), this article applies to any transaction, regardless of form, that creates a lease.

(2) If the lease-of-goods aspects of a hybrid lease predominate, this article applies to the transaction.

(3) If the lease-of-goods aspects of a hybrid lease do not predominate:

(A) only the provisions of this article which relate primarily to the lease-of-goods aspects of the transaction and not to the transaction as a whole apply;

(B) RSA 382-A:2A-209 applies if the lease is a finance lease; and

(C) RSA 382-A:2A-407 applies to the promises of a person that is the lessee in a finance lease to the extent the promises are consideration for the right to possession and use of the leased goods.

(4) This Section does not preclude the application in appropriate circumstances of other law to the aspects of a hybrid lease which do not relate to the lease of goods even if the lease-of-goods aspects of the transaction predominate.

17 New Subparagraph; Definitions; Uniform Commercial Code; Leases; Definitions. Amend RSA 382-A:2A-103 by inserting after subparagraph (1)(h) the following new subparagraph:

(hh) "Hybrid lease" means a single transaction involving a lease of goods and:

(i) the provision of services;

(ii) a sale of other goods; or

(iii) a sale, lease, or license of property other than goods.

18 Uniform Commercial Code; Leases; Statute of Frauds. Amend RSA 382-A:2A-201 to read as follows:

382-A:2A-201 Statute of Frauds.

(1) A lease contract is not enforceable by way of action or defense unless:

(a) the total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than \$1,000; or

(b) there is a ~~[writing]~~ **record**, signed by the party against whom enforcement is sought or by that party's authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.

(2) Any description of leased goods or of the lease term is sufficient and satisfies subsection (1)(b), whether or not it is specific, if it reasonably identifies what is described.

(3) A ~~[writing]~~ **record** is not insufficient because it omits or incorrectly states a term agreed upon, but the lease contract is not enforceable under subsection (1)(b) beyond the lease term and the quantity of goods shown in the writing.

(4) A lease contract that does not satisfy the requirements of subsection (1), but which is valid in other respects, is enforceable:

(a) if the goods are to be specially manufactured or obtained for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the lessee, has made either a substantial beginning of their manufacture or commitments for their procurement;

(b) if the party against whom enforcement is sought admits in that party's pleading, testimony or otherwise in court that a lease contract was made, but the lease contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) with respect to goods that have been received and accepted by the lessee.

(5) The lease term under a lease contract referred to in subsection (4) is:

(a) if there is a ~~[writing]~~ **record** signed by the party against whom enforcement is sought or by that party's authorized agent specifying the lease term, the term so specified;

(b) if the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court a lease term, the term so admitted; or

(c) a reasonable lease term.

19 Uniform Commercial Code; Leases; Final Written Expression. Amend RSA 382-A:2A-202 to read as follows:

382-A:2A-202 Final Written Expression; Parol or Extrinsic Evidence.

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a [writing] **record** intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(a) by course of dealing or usage of trade or by course of performance; and

(b) by evidence of consistent additional terms unless the court finds the [writing] **record** to have been intended also as a complete and exclusive statement of the terms of the agreement.

20 Uniform Commercial Code; Leases; Seals Inoperative. Amend RSA 382-A:2A-203 to read as follows:

382-A:2A-203 Seals Inoperative. The affixing of a seal to a [writing] **record** evidencing a lease contract or an offer to enter into a lease contract does not render the [writing] **record** a sealed instrument and the law with respect to sealed instruments does not apply to the lease contract or offer.

21 Uniform Commercial Code; Leases; Firm Offers. Amend RSA 382-A:2A-205 to read as follows:

382-A:2A-205 Firm Offers. An offer by a merchant to lease goods to or from another person in a signed [writing] **record** that by its terms gives assurance it will be held open is not revocable, for lack of consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the period of irrevocability exceed 3 months. Any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

22 Uniform Commercial Code; Leases; Modification, Rescission, and Waiver. Amend RSA 382-A:2A-208(2) to read as follows:

(2) A signed lease agreement that excludes modification or rescission except by a signed [writing] **record** may not be otherwise modified or rescinded, but, except as between merchants, such a requirement on a form supplied by a merchant must be separately signed by the other party.

23 Uniform Commercial Code; Negotiable Instruments. Amend RSA 382-A:3-104(3) to read as follows:

(3) does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain (i) an undertaking or power to give, maintain, or protect collateral to secure payment, (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, [or] (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor; **(iv) a term that specifies the law that governs the promise or order; or (v) an undertaking to resolve in a specified forum a dispute concerning the promise or order.**

24 Uniform Commercial Code; Negotiable Instruments; Issue of Instrument. Amend RSA 382-A:3-105(a) to read as follows:

(a) "Issue" means:

(1) the first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person; or

(2) if agreed by the payee, first transmission by the drawer to the payee of an image of an item and information derived from the item in a manner that enables the depository bank to collect the item by transferring or presenting under federal law an electronic check.

25 Uniform Commercial Code; Negotiable Instruments; Discharge by Cancellation or Renunciation. Amend RSA 382-A:3-604 to read as follows:

382-A:3-604 Discharge by Cancellation or Renunciation.

(a) A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument (i) by an intentional voluntary act, such as surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge, or (ii) by agreeing not to sue or otherwise renouncing rights against the party by a signed ~~[writing]~~ **record**. ***The obligation of a party to pay a check is not discharged solely by the destruction of the check in connection with a process in which information is extracted from the check and an image of the check is made, and subsequently, the information and image are transmitted for payment.***

(b) Cancellation or striking out of an indorsement pursuant to subsection (a) does not affect the status and rights of a party derived from the indorsement

26 Uniform Commercial Code; Funds Transfers; Payment Order. Amend the introductory paragraph of RSA 382-A:4A-103(a)(1) to read as follows:

(1) "Payment order" means an instruction of a sender to a receiving bank, transmitted orally, ~~[electronically]~~, or in ~~[writing]~~ **a record**, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

27 Uniform Commercial Code; Funds Transfers; Security Procedure. Amend RSA 382-A:4A-201 to read as follows:

382-A:4A-201 Security Procedure. "Security procedure" means a procedure established by agreement of a customer and a receiving bank for the purpose of (i) verifying that a payment order or communication amending or cancelling a payment order is that of the customer, or (ii) detecting error in the transmission or the content of the payment order or communication. A security procedure ***may impose an obligation on the receiving bank or the customer and*** may require the use of algorithms or other codes, identifying words, ~~[or]~~ numbers, ***symbols, sounds or biometrics***, encryption, callback procedures, or similar security devices. Comparison of a signature on a payment order or communication with an authorized specimen signature of the customer ***or requiring that a payment order be sent from a known email address, IP address or phone number*** is not by itself a security procedure.

28 Uniform Commercial Code; Funds Transfers; Authorized and Verified Payment Orders. Amend RSA 382-A:4A-202(a)-(c) to read as follows:

(a) A payment order received by the receiving bank is the authorized order of the person identified as sender if that person authorized the order or is otherwise bound by it under the law of agency.

(b) If a bank and its customer have agreed that the authenticity of payment orders issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving bank is effective as the order of the customer, whether or not authorized, if (i) the security procedure is a commercially reasonable method of providing security against unauthorized payment orders, and (ii) the bank proves that it accepted the payment order in good faith and in compliance with ***the bank's obligation under*** the security procedure and any ~~[written]~~ agreement or instruction of the customer, ***evidenced by a record***, restricting acceptance of payment orders issued in the name of the customer. The bank is not required to follow an instruction that violates ~~[a written]~~ ***an agreement evidenced by a record*** with the customer or notice of which is not received at a time and in a manner affording the bank a reasonable opportunity to act on it before the payment order is accepted.

(c) Commercial reasonableness of a security procedure is a question of law to be determined by considering the wishes of the customer expressed to the bank, the circumstances of the customer known to the bank, including the size, type, and frequency of payment orders normally issued by the customer to the bank, alternative security procedures offered to the customer, and security procedures in general use by customers and receiving banks similarly situated. A security procedure is deemed to be commercially reasonable if (i) the security procedure was chosen by the customer after the bank offered, and the customer refused, a security procedure that was commercially reasonable for that customer, and (ii) the customer expressly agreed in ~~[writing]~~ **a record** to be bound by any payment order, whether or not authorized, issued in its name and accepted by the bank in compliance with the ***bank's obligations under the*** security procedure chosen by the customer.

29 Uniform Commercial Code; Funds Transfers; Unenforceability of Certain Verified Payment Orders. Amend RSA 382-A:4A-203(a)(1) to read as follows:

(1) By express ~~written~~ agreement **evidenced by a record**, the receiving bank may limit the extent to which it is entitled to enforce or retain payment of the payment order.

30 Uniform Commercial Code; Funds Transfers; Misdescription of Beneficiary. Amend RSA 382-A:4A-207(c) (2) to read as follows:

(2) If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obliged to pay its order unless the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, signed a ~~writing~~ **record** stating the information to which the notice relates.

31 Uniform Commercial Code; Funds Transfer; Misdescription of Intermediary Bank or Beneficiary's Bank. Amend RSA 382-A:4A-208(b)(2) to read as follows:

(2) If the sender is not a bank and the receiving bank proves that the sender, before the payment order was accepted, had notice that the receiving bank might rely on the number as the proper identification of the intermediary or beneficiary's bank even if it identifies a person different from the bank identified by name, the rights and obligations of the sender and the receiving bank are governed by subsection (b)(1), as though the sender were a bank. Proof of notice may be made by any admissible evidence. The receiving bank satisfies the burden of proof if it proves that the sender, before the payment order was accepted, signed a ~~writing~~ **record** stating the information to which the notice relates.

32 Uniform Commercial Code; Funds Transfers; Rejection of Payment Order. Amend RSA 382-A:4A-210(a) to read as follows:

(a) A payment order is rejected by the receiving bank by a notice of rejection transmitted to the sender orally~~[-electronically, or in writing]~~ **or in a record**. A notice of rejection need not use any particular words and is sufficient if it indicates that the receiving bank is rejecting the order or will not execute or pay the order. Rejection is effective when the notice is given if transmission is by a means that is reasonable in the circumstances. If notice of rejection is given by a means that is not reasonable, rejection is effective when the notice is received. If an agreement of the sender and receiving bank establishes the means to be used to reject a payment order, (i) any means complying with the agreement is reasonable and (ii) any means not complying is not reasonable unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

33 Uniform Commercial Code; Funds Transfer; Cancellation and Amendment of Payment Order. Amend RSA 382-A:4A-211(a) to read as follows:

(a) A communication of the sender of a payment order cancelling or amending the order may be transmitted to the receiving bank orally~~[-electronically, or in writing]~~ **or in a record**. If a security procedure is in effect between the sender and the receiving bank, the communication is not effective to cancel or amend the order unless the communication is verified pursuant to the security procedure or the bank agrees to the cancellation or amendment.

34 Uniform Commercial Code; Letters of Credit; Choice of Law and Forum. Amend RSA 382-A:5-116(c)-(e) to read as follows:

(c) ***For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under subsection (d).***

(d) ***A branch of a bank is considered to be located at the address indicated in the branch's undertaking. If more than one address is indicated, the branch is considered to be located at the address from which the undertaking was issued.***

(e) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject.

If (i) this article would govern the liability of an issuer, nominated person, or adviser under subsection (a) or (b), (ii) the relevant undertaking incorporates rules of custom or practice, and (iii) there is conflict between this article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in Section 5-103(c).

~~[(d)]~~ **(f)** If there is conflict between this article and Article 3, 4, 4A, or 9, this article governs.

~~[(e)]~~ **(g)** The forum for settling disputes arising out of an undertaking within this article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (a).

35 Uniform Commercial Code; Documents of Title; Control of Electronic Document of Title. Amend RSA 382-A:7-106(b) to read as follows:

(b) A system satisfies subsection (a), and a person~~[is deemed to have]~~ **has** control of an electronic document of title, if the document is created, stored, and ~~[assigned]~~ **transferred** in such a manner that:

(1) a single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as:

(A) the person to which the document was issued; or

(B) if the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or amendments that add or change an identified ~~[assignee]~~ **transferee** of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

(c) A system satisfies subsection (a) and a person has control of an electronic document of title if an electronic copy of the document, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

(1) enables the person to readily identify each electronic copy as an authoritative copy or nonauthoritative copy;

(2) enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number as the person to which each authoritative electronic copy was issued or transferred; and

(3) gives the person exclusive power, subject to subsection (h) to:

(A) prevent others from altering the person to which each authoritative electronic copy has been issued or transferred; and

(B) transfer control of each authoritative electronic copy.

(d) If a person has the powers that are specified in subsection (c)(3), the powers are presumed to be exclusive.

(e) A person has control of an electronic document of title if another person, other than the transferor of an interest in the document:

(1) has control of the document and acknowledges that it has control on behalf of the person; or

(2) obtains control of the document after having acknowledged that it will obtain control of the document on behalf of the person.

(f) A person that has control under this section is not required to acknowledge that it has or will obtain control on behalf of another person.

(g) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to another person.

(h) A power is exclusive under subsection (c)(3), even if:

(1) the authoritative electronic copy, a record attached to or logically associated with the electronic copy or a system in which the electronic copy is recorded limits the use of the document or has a protocol that is programmed to cause a change, including a transfer or loss of control; or

(2) the person shares the power with another person.

36 Uniform Commercial Code; Investment Securities; Definitions. Amend RSA 382-A:8-102(6)(i) to read as follows:

(i) send a signed ~~[writing]~~ **record**; or

37 Uniform Commercial Code; Investment Securities; Definitions. Amend RSA 382-A:8-106(d)-(g) to read as follows:

(d) A purchaser has “control” of a security entitlement if:

(1) the purchaser becomes the entitlement holder;

(2) the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder; or

(3) another person ~~[has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser]~~ ***other than the transferor of an interest in the security entitlement:***

(A) has control of the security entitlement and acknowledges that it has control on behalf of the purchaser; or

(B) obtains control of the security entitlement after having acknowledged that it will obtain control of the security entitlement on behalf of the purchaser.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder’s own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of subsection (c) or (d) has control even if the registered owner in the case of subsection (c) or the entitlement holder in the case of subsection (d) retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (c)(2) or (d)(2) without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

(h) A person that has control under this section is not required to acknowledge that it has control on behalf of a purchaser.

(i) If a person acknowledges that it has or will obtain control on behalf of a purchaser, unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the purchaser and is not required to confirm the acknowledgment to another person.

38 Uniform Commercial Code; Investment Securities; Protected Purchaser. Amend RSA 382-A:8-303(b) to read as follows:

(b) ~~[In addition to acquiring the rights of a purchaser, a]~~ **A protected purchaser also acquires its interest in the security free of any adverse claim.**

39 Uniform Commercial Code; Investment Securities; Acquisition of Security Entitlement from Securities Intermediary. Amend RSA 382-A:8-501(d) to read as follows:

(d) If a securities intermediary holds a financial asset for another person, and the financial asset is registered in the name of, payable to the order of, or specially indorsed to the [other] person, and has not been indorsed to the securities intermediary or in blank, the other person is treated as holding the financial asset directly rather than as having a security entitlement with respect to the financial asset.

40 Uniform Commercial Code; Secured Transactions; Definitions. Amend RSA 382-A:9-102(2) to read as follows:

(2) “Account”, except as used in “account for”, **“account to,” “account statement,” “customer’s account,” “on account of,” “statement of account,” and paragraphs (14) and (29)** means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a State, governmental unit of a State, or person licensed or authorized to operate the game by a State or governmental unit of a State. The term includes **controllable accounts and** health-care-insurance receivables. The term does not include (i) ~~rights to payment evidenced by chattel paper or an instrument~~ **chattel paper**, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card, **or (vii) rights to payment evidenced by an instrument.**

41 New Paragraphs; Definitions; Uniform Commercial Code; Secured Transactions; Assignee. Amend RSA 382-A:9-102 by inserting after paragraph (6) the following new paragraphs:

(6A) “Assignee” means a person:

(A) in whose favor a security interest that secures an obligation is created or provided for under a security agreement, whether or not an obligation to be secured is outstanding; or

(B) to which an account, chattel paper, payment intangible, or promissory note has been sold.

(6B) “Assignor” means a person that:

(A) under a security agreement creates or provides for a security interest that secures an obligation; or

(B) sells an account, chattel paper, payment intangible, or promissory note.

42 Uniform Commercial Code; Secured Transactions; Definitions. RSA 382-A:9-102(11) is repealed and reenacted to read as follows:

(11) “Chattel paper” means:

(A) a right to payment of a monetary obligation secured by specific goods, if the right to payment and security agreement are evidenced by a record; or

(B) a right to payment of a monetary obligation owed by a lessee under a lease agreement with respect to specific goods and a monetary obligation owed by the lessee in connection with the transaction giving rise to the lease, if:

(i) the right to payment and lease agreement are evidenced by a record; and

(ii) the predominant purpose of the transaction giving rise to the lease was to give the lessee the right to possession and use of the goods.

The term does not include (i) a right to payment arising out of a charter or other contract involving the use or hire of a vessel or (ii) a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

43 New Paragraphs; Uniform Commercial Code; Secured Transactions; Definitions. Amend RSA 382-A:9-102 by inserting after paragraph 27 the following new paragraphs:

(27A) “Controllable account” means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that under Section 12-105 has control of the controllable electronic record.

(27B) “Controllable payment intangible” means a payment intangible evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that under Section 12-105 has control of the controllable electronic record.

44 New Paragraph; Uniform Commercial Code; Secured Transactions; Definitions. Amend RSA 382-A:9-102 by inserting after paragraph 31 the following new paragraph:

(31A) “Electronic money” means money in an electronic form.

45 Uniform Commercial Code; Secured Transactions; Definitions. Amend RSA 382-A:9-102(42) to read as follows:

(42) “General intangible” means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes ***controllable electronic records***, payment intangibles and software.

46 Uniform Commercial Code; Secured Transactions; Definitions. Amend RSA 382-A:9-102(47) to read as follows:

(47) “Instrument” means a negotiable instrument (defined in Section 3-104), or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, ~~[or]~~ (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card, ***or (iv) writings that evidence chattel paper.***

47 New Paragraph; Definitions; Money; Secured Transactions; UCC. Amend RSA 382-A:9-102 by inserting after paragraph (54) the following new paragraph:

(54A) “Money” has the meaning provided in Section 1-201(24), but the term does not include (i) a deposit account or (ii) money in an electronic form that cannot be subjected to control under Section 9-105A.

48 Definitions; Payment Intangible; Secured Transactions; UCC. Amend RSA 382-A:9-102(61) to read as follows:

(61) “Payment intangible” means a general intangible under which the account debtor’s principal obligation is a monetary obligation. ***The term includes a controllable payment intangible.***

49 New Paragraph; Definitions; Tangible Money; Secured Transactions; UCC. Amend RSA 382-A:9-102 by inserting after paragraph (79) the following new paragraph:

(79A) “Tangible money” means money in a tangible form.

50 Definitions; Controllable Electronic Record; Qualified Purchaser; Secured Transactions; UCC. Amend RSA 382-A:9-102(b) to read as follows:

(b) “Control” as provided in Section 7-106 and the following definitions in other articles apply to this article:

“Applicant” Section 5-102.

“Beneficiary” Section 5-102.

“Broker” Section 8-102.

“Certificated security” Section 8-102.

“Check” Section 3-104.

“Clearing corporation” Section 8-102.

“Contract for sale” Section 2-106.

“Controllable electronic record” Section 12-102.

“Customer” Section 4-104.

“Entitlement holder” Section 8-102.

“Financial asset” Section 8-102.

“Holder in due course” Section 3-302.

“Issuer” (with respect to a letter of credit or letter-of-credit right) Section 5-102.

“Issuer” (with respect to a security) Section 8-201.

“Issuer” (with respect to documents of title) Section 7-102.

“Lease” Section 2A-103.

“Lease agreement” Section 2A-103.

“Lease contract” Section 2A-103.

“Leasehold interest” Section 2A-103.

“Lessee” Section 2A-103.

“Lessee in ordinary course of business” Section 2A-103.

“Lessor” Section 2A-103.

“Lessor’s residual interest” Section 2A-103.

“Letter of credit” Section 5-102.

“Merchant” Section 2-104.

“Negotiable instrument” Section 3-104.

“Nominated person” Section 5-102.

“Note” Section 3-104.

“Proceeds of a letter of credit” Section 5-114.

“Prove” Section 3-103.

“Qualifying purchaser” Section 12-102.

“Sale” Section 2-106.

“Securities account” Section 8-501.

“Securities intermediary” Section 8-102.

“Security” Section 8-102.

“Security certificate” Section 8-102.

“Security entitlement” Section 8-102.

“Uncertificated security” Section 8-102.

51 Control of Deposit Account; Secured Transactions; UCC. Amend RSA 382-A:9-104 to read as follows:
382-A:9-104 Control of Deposit Account.

(a) Requirements for control. A secured party has control of a deposit account if:

(1) the secured party is the bank with which the deposit account is maintained;

(2) the debtor, secured party, and bank have agreed in ~~[an authenticated]~~ ***a signed*** record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; ~~[or]~~

(3) the secured party becomes the bank’s customer with respect to the deposit account; ***or***

(4) another person, other than the debtor:

(A) has control of the deposit account and acknowledges that it has control on behalf of the secured party; or

(B) obtains control of the deposit account after having acknowledged that it will obtain control of the deposit account on behalf of the secured party.

(b) Debtor's right to direct disposition. A secured party that has satisfied subsection (a) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

52 Control of Electronic Copy of Record Evidencing Chattel Paper; Secured Transactions; UCC. RSA 382-A:9-105 is repealed and reenacted to read as follows:

382-A:9-105 Control of Electronic Copy of Record Evidencing Chattel Paper.

(a) General rule: control of electronic copy of record evidencing chattel paper. A purchaser has control of each authoritative electronic copy of a record evidencing chattel paper if a system employed for evidencing the assignment of interests in the chattel paper reliably establishes the purchaser as the person to which the chattel paper was assigned.

(b) Single authoritative copy. A system satisfies subsection (a) if the record or records evidencing the chattel paper are created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the purchaser as the assignee of the record or records;

(3) the authoritative copy is communicated to and maintained by the purchaser or its designated custodian;

(4) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the purchaser;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

(c) One or more authoritative copies. A system satisfies subsection (a) and a purchaser has control of an electronic copy of a record evidencing chattel paper if:

(1) the electronic copy, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

(A) enables the person readily to identify each electronic copy as an authoritative copy or non-authoritative copy;

(B) enables the purchaser readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as the assignee of each authoritative electronic copy; and

(C) gives the purchaser exclusive power, subject to subsection (d), to:

(i) prevent others from adding or changing an identified assignee of each authoritative electronic copy; and

(ii) transfer control of each authoritative electronic copy; or

(2) another person, other than the debtor:

(A) has control of each authoritative electronic copy and acknowledges that it has control on behalf of the purchaser; or

(B) obtains control of each authoritative electronic copy after having acknowledged that it will obtain control of the electronic copy on behalf of the purchaser.

(d) Presumption of exclusivity of certain powers. If a person has the powers that are specified in subsection (c)(1)(C), the powers are presumed to be exclusive.

(e) Meaning of exclusive. A power is exclusive under subsection (b)(1)(C), even if:

(1) the electronic copy, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded limits the use of the electronic record or has a protocol programmed to cause a change, including a transfer or loss of control; or

(2) the purchaser shares the power with another person.

53 New Section; Control of Electronic Money. Amend RSA 382-A by inserting after section 9-105 the following new section:

382-A: 9-105A Control of Electronic Money.

(a) General rule: control of electronic money. A person has control of electronic money if:

(1) the electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded gives the person:

(A) the power to avail itself of substantially all the benefit from the electronic money; and

(B) exclusive power, subject to subsection (b), to:

(i) prevent others from availing themselves of substantially all the benefit from the electronic money; and

(ii) transfer control of the electronic money to another person or cause another person to obtain control of other electronic money as a result of the transfer of the electronic money; and

(2) the electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as having the powers under paragraph (1).

(b) Presumption of exclusivity of certain powers. If a person has the powers that are specified in subsection (a)(1)(B), the powers are presumed to be exclusive.

(c) Control through another person. A person has control of electronic money if another person, other than the transferor of an interest in the electronic money:

(1) has control of the electronic money and acknowledges that it has control on behalf of the person, or

(2) obtains control of the electronic money after having acknowledged that it will obtain control of the electronic money on behalf of the person.

(d) Meaning of exclusive. A power is exclusive under subsection (a)(1)(B), even if:

(1) the electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded limits the use of the electronic money or has a protocol programmed to cause a change, including a transfer or loss of control; or

(2) the person shares the power with another person.

54 New Sections; Control of Controllable Electronic Record, Controllable Account, or Controllable Payment Intangible; Nor Requirement to Confirm; Secured Transactions; UCC. Amend RSA 382-A by inserting after section 107 the following new sections:

382-A:9-107A Control of Controllable Electronic Record, Controllable Account, or Controllable Payment Intangible.

(a) Control under Section 12-105. A secured party has control of a controllable electronic record as provided in Section 12-105.

(b) Control of controllable account and controllable payment intangible. A secured party has control of a controllable account or controllable payment intangible if the secured party has control of the controllable electronic record that evidences the controllable account or controllable payment intangible.

382-A:9-107B No Requirement to Acknowledge or Confirm; No Duties.

(a) No requirement to acknowledge. A person that has control under Section 9-104, 9-105, or 9-105A is not required to acknowledge that it has or will obtain control on behalf of another person.

(b) No duties or confirmation. If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to another person.

55 Attachment and Enforceability of Security Interest; Secured Transactions; UCC. Amend RSA 382-A:9-203(b)(3) to read as follows:

(3) one of the following conditions is met:

(A) the debtor has ~~[authenticated]~~ **signed** a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(B) the collateral is not a certificated security and is in the possession of the secured party under Section 9-313 pursuant to the debtor's security agreement;

(C) the collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under Section 8-301 pursuant to the debtor's security agreement; ~~[or]~~

(D) the collateral is **controllable accounts, controllable electronic records, controllable payment intangibles**, deposit accounts, ~~[electronic chattel paper,]~~ **electronic documents, electronic money**, investment property, **or** letter-of-credit rights~~[, or electronic documents,]~~ and the secured party has control under Section 7-106, 9-104, 9-105, **9-105A**, 9-106, ~~[or]~~ 9-107, **or 9-107A** pursuant to the debtor's security agreement; **or**

(E) the collateral is chattel paper and the secured party has possession and control under Section 9-314A pursuant to the debtor's security agreement.

56 Attachment and Enforceability; Secured Transactions; UCC. Amend RSA 382-A:9-203(b)-(c) to read as follows:

(b) When after-acquired property clause not effective. **Subject to subsection (c)**, a security interest does not attach under a term constituting an after-acquired property clause to:

(1) consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within 10 days after the secured party gives value; or

(2) a commercial tort claim.

(c) **Limitation on subsection (b). Subsection (b) does not prevent a security interest from attaching:**

(1) to consumer goods as proceeds under Section 9-315(a) or commingled goods under section 9-336(c);

(2) to a commercial tort claim as proceeds under Section 9-315(a); or

(3) under an after-acquired property clause to property that is proceeds of consumer goods or a commercial tort claim.

(d) Future advances and other value. A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

57 Duties and Rights; Secured Party in Control; Secured Transactions; UCC. Amend the introductory paragraph of RSA 382-A:9-207(c) to read as follows:

(c) Duties and rights when secured party in possession or control. Except as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under Section 7-106, 9-104, 9-105, **9-105A**, 9-106, ~~[or]~~ 9-107, **or 9-107A**:

58 Additional Duties of Secured Party; Secured Transactions; UCC. Amend RSA 382-A:9-208(b) to read as follows:

(b) Duties of secured party after receiving demand from debtor. Within 10 days after receiving~~[-an authenticated]~~ **a signed** demand by the debtor:

(1) a secured party having control of a deposit account under Section 9-104(a)(2) shall send to the bank with which the deposit account is maintained ~~[an authenticated]~~ **a signed** statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) a secured party having control of a deposit account under Section 9-104(a)(3) shall:

(A) pay the debtor the balance on deposit in the deposit account; or

(B) transfer the balance on deposit into a deposit account in the debtor's name;

(3) a secured party, other than a buyer, having control ~~[of electronic chattel paper]~~ under Section 9-105 ***of an electronic copy of a record evidencing chattel paper*** shall ***transfer control of the electronic copy to the debtor or a person designated by the debtor;*** ~~;~~

~~[(A) communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;~~

~~(B) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and~~

~~(C) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;~~

(4) a secured party having control of investment property under Section 8-106(d)(2) or 9-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an ~~[authenticated record]~~ ***a signed record*** that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party;

(5) a secured party having control of a letter-of-credit right under Section 9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party ~~[an authenticated]~~ ***a signed*** release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; ~~and~~

~~(6) a secured party having control of an electronic document shall:~~

~~(A) give control of the electronic document to the debtor or its designated custodian;~~

~~(B) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and~~

~~(C) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.]~~

(6) a secured party having control under Section 7-106 of an authoritative copy of an electronic document of title shall transfer control of the authoritative copy to the debtor or a person designated by the debtor;

(7) a secured party having control under Section 9-105A of electronic money shall transfer control of the electronic money to the debtor or a person designated by the debtor; and

(8) a secured party having control under Section 12-105 of a controllable electronic record shall transfer control of the controllable electronic record to the debtor or a person designated by the debtor.

59 Law Governing Perfection; Secured Transactions; UCC. Amend RSA 382-A:9-301 to read as follows:

382-A:9-301 Law Governing Perfection and Priority of Security Interests. Except as otherwise provided in Sections 9-303 through ~~[9-306]~~ ***9-306B***, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in paragraph (4), while tangible negotiable documents, goods, instruments, **or tangible** money~~[-or tangible chattel paper]~~ is located in a jurisdiction, the local law of that jurisdiction governs:

(A) perfection of a security interest in the goods by filing a fixture filing;

(B) perfection of a security interest in timber to be cut; and

(C) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

60 New Sections; Chattel Paper Evidenced by Authoritative Electronic Copy. Amend RSA 382-A by inserting after section 9-306 the following new sections:

382-A:9-306A Law Governing Perfection and Priority of Security Interests in Chattel Paper.

(a) Chattel paper evidenced by authoritative electronic copy. Except as provided in subsection (e), if chattel paper is evidenced only by an authoritative electronic copy of the chattel paper or is evidenced by an authoritative electronic copy and an authoritative tangible copy, the local law of the electronic chattel paper's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the chattel paper.

(b) Electronic Chattel Paper's Jurisdiction. The following rules determine the electronic chattel paper's jurisdiction under this section:

(1) If the authoritative electronic copy of chattel paper, or a record attached to or logically associated with the electronic copy which is readily available for review, expressly provides that a particular jurisdiction is the electronic chattel paper's jurisdiction for purposes of this part, this article, or the [Uniform Commercial Code], that jurisdiction is the electronic chattel paper's jurisdiction.

(2) If paragraph (1) does not apply and the rules of the system in which the electronic copy is recorded are readily available for review and expressly provide that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this part, this article, or the [Uniform Commercial Code], that jurisdiction is the electronic chattel paper's jurisdiction.

(3) If paragraphs (1) and (2) do not apply and the electronic copy, or a record attached to or logically associated with the electronic copy which is readily available for review, expressly provides that the chattel paper is governed by the law of a particular jurisdiction, that jurisdiction is the electronic chattel paper's jurisdiction.

(4) If paragraphs (1) through (3) do not apply and the rules of the system in which the electronic copy is recorded are readily available for review and expressly provide that the chattel paper or the system is governed by the law of a particular jurisdiction, that jurisdiction is the electronic chattel paper's jurisdiction.

(5) If paragraphs (1) through (4) do not apply, the electronic chattel paper's jurisdiction is the jurisdiction in which the debtor is located.

(c) Relation of transaction to electronic chattel paper's jurisdiction not necessary. Subsections (a) and (b) apply even if a transaction does not bear any relation to the electronic chattel paper's jurisdiction.

(d) Chattel paper evidenced by authoritative tangible copy. If an authoritative tangible copy of a record evidences chattel paper and the chattel paper is not evidenced by an authoritative electronic copy, while an authoritative tangible copy of a record evidencing chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(A) perfection of a security interest in the chattel paper by possession under Section 9-314A; and

(B) the effect of perfection or nonperfection and the priority of a security interest in the chattel paper.

(e) When perfection governed by law of jurisdiction where debtor is located. The local law of the jurisdiction in which the debtor is located governs perfection of a security interest in chattel paper by filing.

382-A:9-306B Law Governing Perfection and Priority of Security Interests in Controllable Accounts, Controllable Electronic Records, and Controllable Payment Intangibles.

(a) Governing law: general rules. Except as provided in subsection (b), the local law of the controllable electronic record's jurisdiction as specified in Section 12-107(c) and (d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a controllable account, controllable electronic record, or controllable payment intangible.

(b) When perfection governed by law of jurisdiction where debtor is located. The local law of the jurisdiction in which the debtor is located governs:

(1) perfection of a security interest in a controllable account, controllable electronic record, or controllable payment intangible by filing; and

(2) automatic perfection of a security interest in a controllable payment intangible created by a sale of the controllable payment intangible.

61 When Filing Required; Secured Transactions; UCC. Amend RSA 382-A:9-310(b)(8)-(10) to read as follows:

(8) in ***controllable accounts, controllable electronic records, controllable payment intangibles***, deposit accounts, ~~[electronic chattel paper]~~ electronic documents, investment property, or letter-of-credit rights which is perfected by control under Section 9-314;

(9) ***in chattel paper which is perfected by possession and control under Section 9-314A;***

(10) in proceeds which is perfected under Section 9-315; or

~~[(10)]~~ (11) that is perfected under Section 9-316.

62 Perfection of Security Interests; Secured Transactions; UCC. Amend RSA 382-A:9-312 to read as follows:

382-A:9-312 Perfection of Security Interests in Chattel Paper, ***Controllable Accounts, Controllable Electronic Records, Controllable Payment Intangibles***, Deposit Accounts, Documents, Goods Covered by Documents, Instruments, Investment Property, Letter-of-Credit Rights, and Money; Perfection by Permissive Filing; Temporary Perfection Without Filing or Transfer of Possession.

(a) Perfection by filing permitted. A security interest in chattel paper, ~~[negotiable documents]~~ ***controllable accounts, controllable electronic records, controllable payment intangibles***, instruments, ~~[or]~~ investment property, ***or negotiable documents*** may be perfected by filing.

(b) Control or possession of certain collateral. Except as otherwise provided in Section 9-315(c) and (d) for proceeds:

(1) a security interest in a deposit account may be perfected only by control under Section 9-314;

(2) and except as otherwise provided in Section 9-308(d), a security interest in a letter-of-credit right may be perfected only by control under Section 9-314; ~~[and]~~

(3) a security interest in ***tangible*** money may be perfected only by the secured party's taking possession under Section 9-313; ***and***

(4) ***a security interest in electronic money may be perfected only by control under Section 9-314.***

(c) Goods covered by negotiable document. While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) a security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) a security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) Goods covered by nonnegotiable document. While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(1) issuance of a document in the name of the secured party;

(2) the bailee's receipt of notification of the secured party's interest; or

(3) filing as to the goods.

(e) Temporary perfection: new value. A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of 20 days from the time it attaches to the extent that it arises for new value given under ~~[an authenticated]~~ **a signed** security agreement.

(f) Temporary perfection: goods or documents made available to debtor. A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(1) ultimate sale or exchange; or

(2) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) Temporary perfection: delivery of security certificate or instrument to debtor. A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(1) ultimate sale or exchange; or

(2) presentation, collection, enforcement, renewal, or registration of transfer.

(h) Expiration of temporary perfection. After the 20-day period specified in subsection (e), (f), or (g) expires, perfection depends upon compliance with this article.

63 Possession By Secured Party Perfection; Secured Transactions; UCC. Amend RSA 382-A:9-313(a) to read as follows:

(a) Perfection by possession or delivery. Except as otherwise provided in subsection (b), a secured party may perfect a security interest in ~~[tangible negotiable documents,]~~ goods, instruments, **negotiable tangible documents, or tangible** money, ~~[or tangible chattel paper]~~ by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under Section 8-301.

64 Possession by a Secured Party; Perfection; Secured Transactions; UCC. Amend RSA 382-A:9-313(c) to read as follows:

(c) Collateral in possession of person other than debtor. With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) the person in possession ~~[authenticates]~~ **signs** a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) the person takes possession of the collateral after having ~~[authenticated]~~ **signed** a record acknowledging that it will hold possession of collateral for the secured party's benefit.

65 Perfection by Control; Secured Transactions; UCC. Amend RSA 382-A:9-314(a)-(b) to read as follows:

(a) Perfection by control. A security interest in ~~[investment property, deposit accounts, letter-of-credit rights, electronic chattel paper, or electronic documents]~~ **controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property, or letter-of-credit rights** may be perfected by control of the collateral under Section 7-106, 9-104, ~~[9-105,]~~ **9-105A**, 9-106, ~~[or]~~ 9-107, **or 9-107A**.

(b) Specified collateral: time of perfection by control; continuation of perfection. A security interest in **controllable accounts, controllable electronic records, controllable payment intangibles**, deposit accounts, ~~[electronic chattel paper, letter-of-credit rights, or]~~ electronic documents, **electronic money, or letter-of-credit rights** is perfected by control under Section 7-106, 9-104, ~~[9-105,]~~ **9-105A**, ~~[or]~~ 9-107, **or 9-107A** when the secured party obtains control and remains perfected by control only while the secured party retains control.

66 New Section; Perfection by Possession; Secured Transactions; UCC. Amend RSA 382-A by inserting after section 9-314 the following new section:

9-314A Perfection by Possession and Control of Chattel Paper.

(a) Perfection by possession and control. A secured party may perfect a security interest in chattel paper by taking possession of each authoritative tangible copy of the record evidencing the chattel paper and obtaining control of each authoritative electronic copy of the electronic record evidencing the chattel paper.

(b) Time of perfection; continuation of perfection. A security interest is perfected under subsection (a) when the secured party takes possession and obtains control and remains perfected under subsection (a) only while the secured party retains possession and control.

(c) Application of Section 9-313 to Perfection by Possession of Chattel Paper. Section 9-313(c) and (f) through (i) applies to perfection by possession of an authoritative tangible copy of a record evidencing chattel paper.

67 Continued Perfection of Security Interest; Secured Transactions; UCC. Amend the introductory paragraph of RSA 382-A:9-316(a) to read as follows:

(a) General rule: effect on perfection of change in governing law. A security interest perfected pursuant to the law of the jurisdiction designated in Section 9-301(1), ~~or~~ 9-305(c), **9-306A(e), or 9-306B(b)** remains perfected until the earliest of:

68 Continued Perfection of Security Interest; Secured Transactions; UCC. Amend RSA 382-A:9-316(f) to read as follows:

(f) Change in jurisdiction of **controllable electronic record**, bank, issuer, nominated person, securities intermediary, or commodity intermediary. A security interest in **controllable accounts, controllable electronic records, controllable payment intangibles, chattle paper**, deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the **controllable electronic record's jurisdiction, the electronic chattel paper's jurisdiction, the** bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) the time the security interest would have become unperfected under the law of that jurisdiction; or

(2) the expiration of 4 months after a change of the applicable jurisdiction to another jurisdiction.

69 Interest that Take Priority Over or Take Free of Security Interest or Agricultural Lien; Secured Transactions; UCC. Amend RSA 382-A:9-317 to read as follows:

382-A:9-317 Interests That Take Priority Over or Take Free of Security Interest or Agricultural Lien.

(a) Conflicting security interests and rights of lien creditors. A security interest or agricultural lien is subordinate to the rights of:

(1) a person entitled to priority under Section 9-322; and

(2) except as otherwise provided in subsection (e), a person that becomes a lien creditor before the earlier of the time:

(A) the security interest or agricultural lien is perfected; or

(B) one of the conditions specified in Section 9-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) Buyers that receive delivery. Except as otherwise provided in subsection (e), a buyer~~[-other than a secured party,]~~ of ~~[tangible chattel paper, tangible documents,]~~ goods, instruments, **tangible documents**, or a certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Lessees that receive delivery. Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) Licensees and buyers of certain collateral. **Subject to subsections (f), (g), (h), and (i)** a licensee of a general intangible or a buyer, other than a secured party, of collateral other than ~~[tangible chattel paper,]~~ **electronic money**, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Purchase-money security interest. Except as otherwise provided in Sections 9-320 and 9-321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

(f) Buyers of chattel paper. A buyer, other than a secured party, of chattel paper takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and:

(1) receives delivery of each authoritative tangible copy of the record evidencing the chattel paper; and,

(2) if each authoritative electronic copy of the record evidencing the chattel paper can be subjected to control under Section 9-105, obtains control of each authoritative electronic copy.

(g) Buyers of electronic documents. A buyer of an electronic document takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and, if each authoritative electronic copy of the document can be subjected to control under Section 7-106, obtains control of each authoritative electronic copy.

(h) Buyers of controllable electronic records. A buyer of a controllable electronic record takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable electronic record.

(i) Buyers of controllable accounts and controllable payment intangibles. A buyer, other than a secured party, of a controllable account or a controllable payment intangible takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable account or controllable payment intangible.

70 New Section; Priority of Security Interests; Secured Transactions; UCC. Amend RSA 382-A by inserting after section 9-326 the following new section:

382-A:9-326A Priority of Security Interests in Controllable Account, Controllable Electronic Record, and Controllable Payment Intangible. A security interest in a controllable account, controllable electronic record, or controllable payment intangible held by a secured party having control of the account, electronic record, or payment intangible has priority over a conflicting security interest held by a secured party that does not have control.

71 Priority of Purchaser of Chattel Paper or Instrument; Secured Transactions; UCC. Amend RSA 382-A:9-330(a)-(b) to read as follows:

(a) Purchaser's priority: security interest claimed merely as proceeds. A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) in good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of **each authoritative tangible copy of the record evidencing** the chattel paper [or] **and obtains control under RSA 382-A:9-105 of each authoritative electronic copy of the record evidencing** the chattel paper [~~under Section 9-105~~]; and

(2) the [~~chattel paper does~~] **authoritative copies of the record evidencing the chattel paper do** not indicate that [~~it has~~] **the copies have** been assigned to an identified assignee other than the purchaser.

(b) Purchaser's priority: other security interests. A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of **each authoritative tangible copy of the record evidencing** the chattel paper [or] **and obtains control under RSA 382-A:9-105 of each authoritative electronic copy of the record evidencing** the chattel paper [~~under Section 9-105~~] in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

72 Priority Rights of Purchasers; Secured Transactions; UCC. Amend RSA 382-A:9-331 to read as follows:

382-A:9-331 Priority of Rights of Purchasers of **Controllable Accounts, Controllable Electronic Records, Controllable Payment Intangibles**, Instruments, Documents, and Securities Under Other Articles; Priority of Interests in Financial Assets and Security Entitlements **and Protections Against Assertions of Claims** Under [~~Article 8~~] **Articles 8 and 12**.

(a) Rights under Articles 3, 7, ~~[and] 8,~~ **and 12** not limited. This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security, **or a qualifying purchaser of a controllable account, controllable electronic record, or controllable payment intangible**. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, ~~[and] 8,~~ **and 12**.

(b) Protection under ~~[Article 8]~~ **Articles 8 and 12**. This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under ~~[Article 8]~~ **Articles 8 and 12**.

(c) Filing not notice. Filing under this article does not constitute notice of a claim or defense to the holders, ~~or~~ purchasers, or persons described in subsections (a) and (b).

73 Transfer of Money; Transfer of Funds; Secured Transactions; UCC. Amend RSA 382-A:9-332 to read as follows:

382-A:9-332 Transfer of Money; Transfer of Funds From Deposit Account.

(a) Transferee of **tangible** money. A transferee of **tangible** money takes the money free of a security interest ~~[unless the transferee acts]~~ **if the transferee receives delivery of the money without acting** in collusion with the debtor in violating the rights of the secured party.

(b) **Transferee of electronic money. A transferee of electronic money takes the money free of a security interest if the transferee obtains control of the money without acting in collusion with the debtor in violating the rights of the secured party.**

(c) Transferee of funds from deposit account. A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account ~~[unless the transferee acts]~~ **if the transferee receives the funds without acting** in collusion with the debtor in violating the rights of the secured party.

74 Discharge of Account Debtor; Secured Transactions; UCC. Amend RSA 382-A:9-406 to read as follows:

382-A:9-406 Discharge of Account Debtor; Notification of Assignment; Identification and Proof of Assignment; Restrictions on Assignment of Accounts, Chattel Paper, Payment Intangibles, and Promissory Notes Ineffective.

(a) Discharge of account debtor; effect of notification. Subject to subsections (b) through (i) **and (l)**, an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, ~~[authenticated]~~ **signed** by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) When notification ineffective. Subject to ~~[subsection (h)]~~ **subsections (h) and (l)**, notification is ineffective under subsection (a):

(1) if it does not reasonably identify the rights assigned;

(2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(3) at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

(B) a portion has been assigned to another assignee; or

(C) the account debtor knows that the assignment to that assignee is limited.

(c) Proof of assignment. Subject to ~~[subsection (h)]~~ **subsections (h) and (l)**, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) Term restricting assignment generally ineffective. Except as otherwise provided in subsection (e) and Sections 2A-303 and 9-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Inapplicability of subsection (d) to certain sales. Subsection (d) does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under Section 9-610 or an acceptance of collateral under Section 9-620.

(f) Legal restrictions on assignment generally ineffective. Except as otherwise provided in Sections 2A-303 and 9-407 and subject to subsections (h) and (i), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subsection (b)(3) not waivable. Subject to subsection (h), an account debtor may not waive or vary its option under subsection (b)(3).

(h) Rule for individual under other law. This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) Inapplicability. This section does not apply to:

(1) an assignment of a health-care-insurance receivable; or

(2) an assignment or transfer of or creation of a security interest in:

(A) a claim or right to receive compensation for injuries or sickness as described in 26 U.S.C.A § 104(a)(1) or (2), as amended from time to time; or

(B) a claim or right to receive benefits under a special needs trust as described in 42 U.S.C.A § 1396p(d)(4), as amended from time to time.

(j) Section prevails over inconsistent law. Except as otherwise provided in subsection (i), this section prevails over any inconsistent provision of an existing or future statute, rule, or regulation of this State unless the provision is contained in a statute of this State, refers expressly to this section, and states that the provision prevails over this section.

(k) Inapplicability to interests in certain entities. Subsections (d), (f), and (j) do not apply to a security interest in an ownership interest in a general partnership, limited partnership, or limited liability company.

(l) Inapplicability of certain subsections. Subsections (a) through (c) and (g) do not apply to a controllable account or controllable payment intangible.

75 Rights After Default; Secured Transactions; UCC. Amend RSA 382-A:9-601(b) to read as follows:

(b) Rights and duties of secured party in possession or control. A secured party in possession of collateral or control of collateral under Section 7-106, 9-104, 9-105, **9-105A**, 9-106, ~~or~~ 9-107, **or 9-107A** has the rights and duties provided in Section 9-207.

76 Unknown Debtor or Secondary Obligor; Secured Transactions; UCC. RSA 382-A:9-605 is repealed and reenacted to read as follows:

(a) When no duty owed by secured party. Except as provided in subsection (b), a secured party does not owe a duty based on its status as secured party:

(1) to a person that is a debtor or obligor, unless the secured party knows:

- (A) that the person is a debtor or obligor;
- (B) the identity of the person; and
- (C) how to communicate with the person; or

(2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

- (A) that the person is a debtor; and
- (B) the identity of the person.

(b) When secured party owes duty to debtor notwithstanding subsection (a). A secured party owes a duty based on its status as a secured party to a person that is a debtor if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible, the secured party knows that the information specified in subsection (a)(1)(A), (B), or (C) is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.

77 Notification Before Disposition of Collateral; Secured Transactions; UCC. Amend RSA 382-A:9-611 to read as follows:

382-A:9-611 Notification Before Disposition of Collateral.

(a) "Notification date." In this section, "notification date" means the earlier of the date on which:

- (1) a secured party sends to the debtor and any secondary obligor ~~[an authenticated]~~ **a signed** notification of disposition; or
- (2) the debtor and any secondary obligor waive the right to notification.

(b) Notification of disposition required. Except as otherwise provided in subsection (d), a secured party that disposes of collateral under Section 9-610 shall send to the persons specified in subsection (c) a reasonable authenticated notification of disposition.

(c) Persons to be notified. To comply with subsection (b), the secured party shall send ~~[an authenticated]~~ **a signed** notification of disposition to:

- (1) the debtor;
- (2) any secondary obligor; and
- (3) if the collateral is other than consumer goods:

(A) any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

(B) any other secured party or lienholder that, 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

- (i) identified the collateral;
- (ii) was indexed under the debtor's name as of that date; and

(iii) was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) any other secured party that, 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in Section 9-311(a).

(d) Subsection (b) inapplicable: perishable collateral; recognized market. Subsection (b) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) Compliance with subsection (c)(3)(B). A secured party complies with the requirement for notification prescribed by subsection (c)(3)(B) if:

(1) not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (c)(3)(B); and

(2) before the notification date, the secured party:

(A) did not receive a response to the request for information; or

(B) received a response to the request for information and sent ~~[an authenticated]~~ **a signed** notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

78 Contents and Form of Notification Before Disposition of Collateral; Secured Transactions; UCC. Amend RSA 382-A:9-614 to read as follows:

382-A:9-614 Contents and Form of Notification Before Disposition of Collateral: Consumer-Goods Transaction.

In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) the information specified in Section 9-613(1);

(B) a description of any liability for a deficiency of the person to which the notification is sent;

(C) a telephone number from which the amount that must be paid to the secured party to redeem the collateral under Section 9-623 is available; and

(D) a telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

[Name and address of secured party]

[Date]

NOTICE OF OUR PLAN TO SELL PROPERTY

[Name and address of any obligor who is also a debtor]

Subject: [Identification of Transaction]

We have your [describe collateral] , because you broke promises in our agreement.

[For a public disposition:]

We will sell [describe collateral] at public sale. A sale could include a lease or license. The sale will be held as follows:

Date:

Time:

Place:

You may attend the sale and bring bidders if you want.

[For a private disposition:]

We will sell [describe collateral] at private sale sometime after [date]. A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you [will or will not, as applicable] still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at [telephone number].

If you want us to explain to you in writing **or in an electronic document** how we have figured the amount that you owe us, you may call us at [telephone number] [or write us at secured party's address **or a description of electronic communication method**] and request a written explanation **or an explanation in an electronic document**. [We will charge you \$_____ for the explanation if we sent you another written explanation of the amount you owe us within the last six months.]

If you need more information about the sale call us at [telephone number] [or write us at [secured party's address] **or description of electronic communication method**].

We are sending this notice to the following other people who have an interest in [describe collateral] or who owe money under your agreement:

[Names of all other debtors and obligors, if any]

[End of Form]

(4) A notification in the form of paragraph (3) is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of paragraph (3) is sufficient, even if it includes errors in information not required by paragraph (1), unless the error is misleading with respect to rights arising under this article.

(6) If a notification under this section is not in the form of paragraph (3), law other than this article determines the effect of including information not required by paragraph (1).

79 Explanation of Calculation of Surplus or Deficiency; Secured Transactions; UCC. Amend RSA 382-A:9-616(a)-(c) to read as follows:

382-A:9-616 Explanation of Calculation of Surplus or Deficiency.

(a) Definitions. In this section:

(1) "Explanation" means a ~~writing~~ **record** that:

(A) states the amount of the surplus or deficiency;

(B) provides an explanation in accordance with subsection (c) of how the secured party calculated the surplus or deficiency;

(C) states, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

(D) provides a telephone number or mailing address from which additional information concerning the transaction is available.

(2) "Request" means a record:

(A) ~~authenticated~~ **signed** by a debtor or consumer obligor;

(B) requesting that the recipient provide an explanation; and

(C) sent after disposition of the collateral under Section 9-610.

(b) Explanation of calculation. In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under Section 9-615, the secured party shall:

(1) send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

(A) before or when the secured party accounts to the debtor and pays any surplus or first makes ~~written~~ demand **in a record** on the consumer obligor after the disposition for payment of the deficiency; and

(B) within 14 days after receipt of a request; or

(2) in the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) Required Information. To comply with subsection (a)(1)(B), ~~a writing~~ **an explanation** must provide the following information in the following order:

(1) the aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(A) if the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession; or

(B) if the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition;

(2) the amount of proceeds of the disposition;

(3) the aggregate amount of the obligations after deducting the amount of proceeds;

(4) the amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(5) the amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (1); and

(6) the amount of the surplus or deficiency.

80 Nonliability and Limitation on Liability of Secured Party; Secured Transactions; UCC. Amend RSA 382-A:9-628 to read as follows:

382-A:9-628 Nonliability and Limitation on Liability of Secured Party; Liability of Secondary Obligor.

(a) Limitation of liability of secured party for noncompliance with article. ***Subject to subsection (f)***, unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(1) the secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this article; and

(2) the secured party's failure to comply with this article does not affect the liability of the person for a deficiency.

(b) Limitation of liability based on status as secured party. ***Subject to subsection (f)*** a secured party is not liable because of its status as secured party:

(1) to a person that is a debtor or obligor, unless the secured party knows:

(A) that the person is a debtor or obligor;

(B) the identity of the person; and

(C) how to communicate with the person; or

(2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) that the person is a debtor; and

(B) the identity of the person.

(c) Limitation of liability if reasonable belief that transaction not a consumer-goods transaction or consumer transaction. A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(1) a debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(2) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) Limitation of liability for statutory damages. A secured party is not liable to any person under Section 9-625(c)(2) for its failure to comply with Section 9-616.

(e) Limitation of multiple liability for statutory damages. A secured party is not liable under Section 9-625(c)(2) more than once with respect to any one secured obligation.

(f) Notwithstanding subsection (b), a secured party owes a duty based on its status as a secured party to a person that is a debtor if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible, the secured party knows that it will not be provided with the information specified in subsection (b) (1)(A), (B), or (C) by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.

81 New Subdivisions; Uniform Commercial Code; Article 12 and 13; Controllable Electronic Records; Transition Provisions. Amend RSA 382-A by inserting after section 9-809 the following new subdivisions:

ARTICLE 12

CONTROLLABLE ELECTRONIC RECORDS

382-A:12-101 Short Title. This article may be cited as Uniform Commercial Code-Controllable Electronic Records.

382-A:12-102 Definitions.

(a) Article 12 definitions. In this article:

(1) “Controllable electronic record” means a record stored in an electronic medium that can be subjected to control under Section 12-105. The term does not include a controllable account, a controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic document of title, electronic money, investment property, or a transferable record.

(2) “Qualifying purchaser” means a purchaser of a controllable electronic record or an interest in the controllable electronic record that obtains control of the controllable electronic record for value, in good faith, and without notice of a claim of a property right in the controllable electronic record.

(3) “Transferable record” means:

(A) “Transferable record” as defined in the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., as amended; or

(B) “Transferable record” as defined in [cite to Uniform Electronic Transactions Act Section 16(a)].

(4) “Value” has the meaning provided in Section 3-303(a).

(b) Definitions in Article 9. The definitions in Article 9 of “account debtor”, “controllable account”, “controllable payment intangible”, “chattel paper”, “deposit account”, “electronic money”, and “investment property” apply to this article.

382-A:12-103 Relationship to Article 9 and Consumer Laws.

(a) Article 9 governs in case of conflict. If there is conflict between this article and Article 9, Article 9 governs.

(b) Applicable consumer law and other laws. A transaction subject to this article is subject to any applicable rule of law that establishes a different rule for consumers and [insert reference to (i) any other statute or regulation that regulates the rates, charges, agreements, and practices for loans, credit sales, or other extensions of credit and (ii) any consumer-protection statute or regulation].

382-A:12-104 Rights in Controllable Account, Controllable Electronic Record, and Controllable Payment Intangible.

(a) Applicability of section to controllable account and controllable payment intangible. This section applies to the acquisition and purchase of rights in a controllable account or controllable payment intangible, including the rights and benefits of a purchaser and a qualifying purchaser under subsections (d), (e), (g), and (h), in the same manner this section applies to a controllable electronic record.

(b) Control of controllable account and controllable payment intangible. For purposes of determining whether a purchaser of a controllable account or a controllable payment intangible is a qualifying purchaser, the purchaser obtains control of the account or payment intangible if it obtains control of the controllable electronic record that evidences the account or payment intangible.

(c) Applicability of other law to acquisition of rights. Except as provided in this section, law other than this article determines whether a person acquires a right in a controllable electronic record and the right the person acquires.

(d) Shelter principle and purchase of limited interest. A purchaser of a controllable electronic record acquires all rights in the controllable electronic record that the transferor had or had power to transfer, except that a purchaser of a limited interest in a controllable electronic record acquires rights only to the extent of the interest purchased.

(e) Rights of qualifying purchaser. A qualifying purchaser acquires its rights in the controllable electronic record free of a claim of a property right in the controllable electronic record.

(f) Limitation of rights of qualifying purchaser in other property. Except as provided in subsections (a) and (e) for controllable accounts and controllable payment intangibles or law other than this article, a qualifying purchaser takes a right to payment, right to performance, or interest in property evidenced by the controllable electronic record subject to a claim of a property right in the right to payment, right to performance, or other interest in property.

(g) No-action protection for qualifying purchaser. An action may not be asserted against a qualifying purchaser based on both a purchase by the qualifying purchaser of a controllable electronic record and a claim of a property right in another controllable electronic record, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory.

(h) Filing not notice. Filing of a financing statement under Article 9 is not notice of a claim of a property right in a controllable electronic record.

382-A:12-105 Control of Controllable Electronic Record.

(a) General rule: control of controllable electronic record. A person has control of a controllable electronic record if:

(1) the electronic record, a record attached to or logically associated with the electronic record, or a system in which the electronic record is recorded gives the person:

(A) the power to avail itself of substantially all the benefit from the electronic record; and

(B) exclusive power, subject to subsection (b), to:

(i) prevent others from availing themselves of substantially all the benefit from the electronic record; and

(ii) transfer control of the electronic record to another person or cause another person to obtain control of another controllable electronic record as a result of the transfer of the electronic record; and

(2) the electronic record, a record attached to or logically associated with the electronic record, or a system in which the electronic record is recorded enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as having the powers specified in paragraph (1).

(b) Presumption of exclusivity of certain powers. If a person has the powers that are specified in subsection (a)(1)(B), the powers are presumed to be exclusive.

(c) Control through another person. A person has control of a controllable electronic record if another person, other than the transferor of an interest in the electronic record:

(1) has control of the electronic record and acknowledges that it has control on behalf of the person, or

(2) obtains control of the electronic record after having acknowledged that it will obtain control of the electronic record on behalf of the person.

(d) No requirement to acknowledge. A person that has control under this section is not required to acknowledge that it has control on behalf of another person.

(e) No duties or confirmation. If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to another person.

(f) Meaning of exclusive. A power specified in subsection (a)(1) is exclusive, even if:

(1) the controllable electronic record, a record attached to or logically associated with the electronic record, or a system in which the electronic record is recorded limits the use of the electronic record or has a protocol programmed to cause a change, including a transfer or loss of control or a modification of benefits afforded by the electronic record; or

(2) the person shares the power with another person.

382-A:12-106 Discharge of Account Debtor on Controllable Account or Controllable Payment Intangible.

(a) Discharge of account debtor. An account debtor on a controllable account or controllable payment intangible may discharge its obligation by paying:

(1) the person having control of the controllable electronic record that evidences the controllable account or controllable payment intangible; or

(2) except as provided in subsection (b), a person that formerly had control of the controllable electronic record.

(b) Effect of notification. Subject to subsection (d), an account debtor may not discharge its obligation by paying a person that formerly had control of the controllable electronic record if the account debtor receives a notification that:

(1) is signed by a person that formerly had control or the person to which control was transferred;

(2) reasonably identifies the controllable account or controllable payment intangible;

(3) notifies the account debtor that control of the controllable electronic record that evidences the controllable account or controllable payment intangible was transferred;

(4) identifies the transferee, in any reasonable way, including by name, identifying number, cryptographic key, office, or account number; and

(5) provides a commercially reasonable method by which the account debtor is to pay the transferee.

(c) Discharge following effective notification. After receipt of a notification that complies with subsection (b), the account debtor may discharge its obligation by paying in accordance with the notification and may not discharge the obligation by paying a person that formerly had control.

(d) When notification ineffective. Subject to subsection (h), notification is ineffective under subsection (b):

(1) unless, before the notification is sent, an account debtor and the person that, at that time, had control of the controllable electronic record that evidences the controllable account or controllable payment intangible agree in a signed record to a commercially reasonable method by which a person may furnish reasonable proof that control has been transferred;

(2) to the extent an agreement between an account debtor and seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(3) at the option of an account debtor, if the notification notifies the account debtor to:

(A) divide a payment;

(B) make less than the full amount of an installment or other periodic payment; or

(C) pay any part of a payment by more than one method or to more than one person.

(e) Proof of transfer of control. Subject to subsection (h), if requested by the account debtor, the person giving the notification seasonably shall furnish reasonable proof, using the agreed method, that control of the controllable electronic record has been transferred. Unless the person complies with the request, the account debtor may discharge its obligation by paying a person that formerly had control, even if the account debtor has received a notification under subsection (b).

(f) What constitutes reasonable proof. A person furnishes reasonable proof that control has been transferred if the person demonstrates, using the agreed method, that the transferee has the power to:

(1) avail itself of substantially all the benefit from the controllable electronic record;

(2) prevent others from availing themselves of substantially all the benefit from the controllable electronic record; and

(3) transfer the powers mentioned in paragraphs (1) and (2) to another person.

(g) Rights not waivable. Subject to subsection (h), an account debtor may not waive or vary its rights under subsections (d)(1) and (e) or its option under subsection (d)(3).

(h) Rule for individual under other law. This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

382-A: 12-107 Governing Law.

(a) Governing law: general rule. Except as provided in subsection (b), the local law of a controllable electronic record's jurisdiction governs a matter covered by this article.

(b) Governing law: Section 12-106. The local law of the controllable electronic record's jurisdiction for a controllable electronic record that evidences a controllable account or controllable payment intangible governs a matter covered by Section 12-106 unless an effective agreement determines that the local law of another jurisdiction governs.

(c) Controllable electronic record's jurisdiction. The following rules determine a controllable electronic record's jurisdiction under this section:

(1) If the controllable electronic record, or a record attached to or logically associated with the controllable electronic record which is readily available for review, expressly provides that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this article or this chapter, that jurisdiction is the controllable electronic record's jurisdiction.

(2) If paragraph (1) does not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this article or the [Uniform Commercial Code], that jurisdiction is the controllable electronic record's jurisdiction.

(3) If paragraphs (1) and (2) do not apply and the controllable electronic record, or a record attached to or logically associated with the controllable electronic record which is readily available for review, expressly provides that the controllable electronic record is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

(4) If paragraphs (1) through (3) do not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that the controllable electronic record or the system is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

(5) If paragraphs (1) through (4) do not apply, the controllable electronic record's jurisdiction is the District of Columbia.

(d) Applicability of Article 12. If subsection (c)(5) applies and Article 12 is not in effect in the District of Columbia without material modification, the governing law for a matter covered by this article is the law of the District of Columbia as though Article 12 were in effect in the District of Columbia without material modification. In this section, "Article 12" means Uniform Commercial Code—Controllable Electronic Records (with Conforming Amendments to Articles 1 and 9), 2022 Official Text.

(e) Relation of transaction to controllable electronic record's jurisdiction not necessary. Subsections (b) through (d) apply even if a transaction does not bear any relation to the controllable electronic record's jurisdiction.

(f) Rights of purchasers determined at time of purchase. The rights acquired by a purchaser or a qualifying purchaser under Section 12-104 are governed by the law applicable under this section at the time of purchase.

ARTICLE 13

ADDITIONAL TRANSITION PROVISIONS FOR ARTICLES 9 AND 12

382-A:13-301 Savings Clause.

(a) Pre-effective-date transactions, liens, or interests. Except as otherwise provided in this part, Article 9 and Article 12 apply to a transaction, lien, or other interest in property, even if the transaction, lien, or interest was entered into, created, or acquired before the effective date of this Article.

(b) Continuing validity. Except as otherwise provided in subsection (c) and Sections 13-302 through 13-306:

(1) a transaction, lien, or interest in property that was not governed by this chapter and was validly entered into, created, or transferred before the effective date of this Article, and would be subject to Article 9 as amended or Article 12 if it had been entered into, created, or transferred after the effective date of this Article, and the rights, duties, and interests flowing from the transaction, lien, or interest in property remain valid after the effective date of this Article; and

(2) the transaction, lien, or interest in property may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(c) Pre-effective-date proceedings. This Article does not affect an action, case, or proceeding commenced before the effective date of this Article.

382-A:13-302 Security Interest Perfected Before Effective Date.

(a) Continuing perfection: perfection requirements satisfied. A security interest that is enforceable and perfected immediately before the effective date of this Article is a perfected security interest under this Article if, on the effective date of this Article, the applicable requirements for enforceability and perfection under this Article are satisfied without further action.

(b) Continuing perfection: perfection requirements not satisfied. If, immediately before the effective date of this Article, a security interest is enforceable and perfected, but the applicable requirements for enforceability or perfection under this Article, are not satisfied on the effective date of this Article, the security interest:

(1) is a perfected security interest until the earlier of the time perfection would have ceased under the law in effect immediately before the effective date of this Article or January 1, 2025;

(2) remains enforceable thereafter only if the security interest satisfies the requirements for enforceability under Section 9-203 before January 1, 2025; and

(3) remains perfected thereafter only if the applicable requirements for perfection under this Article are satisfied before January 1, 2025.

382-A:13-303 Security Interest Unperfected Before Effective Date. A security interest that is enforceable immediately before the effective date of this Article but which would be unperfected at that time:

(1) remains an enforceable security interest until January 1, 2025;

(2) remains enforceable thereafter if the security interest becomes enforceable under Section 9-203 on the effective date of this Article or before January 1, 2025; and

(3) becomes perfected:

(A) without further action, on the effective date of this Article if the applicable requirements for perfection under this Article are satisfied before or at that time; or

(B) when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

382-A:13-304 Effectiveness of Actions Taken Before Effective Date.

(a) Pre-effective-date action; attachment and perfection before adjustment date. If action, other than the filing of a financing statement, is taken before the effective date of this Article and the action would have resulted in perfection of the security interest had the security interest become enforceable before the effective date of this Article, the action is effective to perfect a security interest that attaches under this Article before January 1, 2025. An attached security interest becomes unperfected on January 1, 2025 unless the security interest becomes a perfected security interest under this Article before January 1, 2025.

(b) Pre-effective-date filing. The filing of a financing statement before the effective date of this Article is effective to perfect a security interest on the effective date of this Article to the extent the filing would satisfy the applicable requirements for perfection under this Article.

(c) Pre-effective-date enforceability actions. The taking of an action before the effective date of this Article is sufficient for the enforceability of a security interest on the effective date of this Article if the action would satisfy the applicable requirements for enforceability under this Article.

382-A:13-305 Priority

(a) Determination of priority. Subject to subsections (b) and (c), this Article determines the priority of conflicting claims to collateral.

(b) Established priorities. Subject to subsection (c), if the relative priorities of claims to collateral were established before the effective date of this Article, Article 9 determines priority.

(c) Determination of certain priorities on adjustment date. On January 1, 2025, to the extent that the relative priorities determined by this Article modify the relative priorities established before the effective date of this Article, the relative priorities of claims to Article 12 property and electronic money which were established before the effective date of this Article cease to apply.

382-A:13-306 Priority of Claims When Priority Rules of Article 9 Do Not Apply.

(a) Determination of priority. Subject to subsections (b) and (c), Article 12 determines the priority of conflicting claims to Article 12 property when the priority rules of Article 9 do not apply.

(b) Established priorities. Subject to subsection (c), when the priority rules of Article 9 do not apply and the relative priorities of claims to Article 12 property were established before the effective date of this Article, law other than Article 12 determines priority.

(c) Determination of certain priorities on adjustment date. When the priority rules of Article 9 do not apply, to the extent that the relative priorities determined by this Article modify the relative priorities established before the effective date of this Article, on January 1, 2025 the relative priorities of claims to Article 12 property which were established before the effective date of this Article cease to apply.

82 New Paragraph; Uniform Securities Act; Definitions; Open Blockchain Token. Amend RSA 421-B:1-102 by inserting after paragraph (35) the following new paragraph:

(35-a) "Open blockchain token" means a digital unit which is:

(A) Created:

(i) In response to the verification or collection of a specified number of transactions relating to a digital ledger or database;

(ii) By deploying computer code to a blockchain network that allows for the creation of digital tokens or other units; or

(iii) Using any combination of the methods specified in subparagraphs (i) and (ii) of this paragraph;

(B) Recorded in a digital ledger or database which is chronological, consensus-based, decentralized and mathematically verified in nature, especially relating to the supply of units and their distribution; and

(C) Capable of being traded or transferred between persons without an intermediary or custodian of value.

83 New Paragraph; Uniform Securities Act; Exempt Transaction; Open Blockchain Token. Amend RSA 421-B:2-202 by inserting after paragraph (24) the following new paragraph:

(25) A purchase or sale of an open blockchain token if all of the following are met:

(A) The issuer or seller of the token, or the registered agent of the developer or seller, files a notice of intent with the secretary of state, as specified in subsection (D) of this section;

(B) The purpose of the token is for a consumptive purpose, which shall only be exchangeable for, or provided for the receipt of, goods, services or content, including rights of access to goods, services or content; and

(C) The issuer or seller of the token did not sell the token to the initial buyer as a financial investment. For purposes of this subsection, a developer seller of the token will be deemed not to have sold the token to the initial buyer as a financial investment if:

(i) The issuer or seller did not market the token as a financial investment; and

(ii) At least one of the following is true:

(a) The issuer or seller of the token reasonably believed that it sold the token to the initial buyer for a consumptive purpose;

(b) The token has a consumptive purpose that is available at the time of sale and can be used at or near the time of sale for use for a consumptive purpose;

(c) If the token does not have a consumptive purpose available at the time of sale, the initial buyer of the token is prevented from reselling the token until the token is available for use for a consumptive purpose; or

(d) The issuer or seller takes other reasonable precautions to prevent buyers from purchasing the token as a financial investment.

(D) The issuer, seller or person who facilitates the exchange of an open blockchain token, or the registered agent of the applicable person, files a notice of intent with the secretary of state prior to offering or selling the tokens in this state. The notice of intent shall contain the name of the person acting as an issuer, seller or facilitator, the contact information of the person or the registered agent of the person, and a statement that any marketing or advertising materials, including web sites offering or selling open blockchain tokens, will contain a disclosure that the tokens are not registered as securities pursuant to a transaction exemption under RSA 421-B, the New Hampshire Uniform Securities Act. The notice shall also specify whether the person will be acting as an issuer, seller or facilitator. A form shall be made available by the office of the secretary of state on its Internet website for this purpose. The secretary of state shall charge a fee of \$100 per filing.

84 New Subparagraph; Uniform Securities Act; Broker-Dealer Registration Requirements and Exemption. Amend RSA 421-B:4-401(b) by inserting after subparagraph (2) the following new subparagraph:

(3)(A) Except as otherwise provided by RSA 421-B:5-511, a person who exclusively facilitates the exchange of an open blockchain token if all of the following are met:

(i) The person, or the registered agent of the person, files a notice of intent with the secretary of state, as specified in RSA 421-B:2-202(26)(d);

(ii) The person has a reasonable and good faith belief that a token subject to exchange conforms to the requirements of paragraphs RSA 421-B:2-202(25)(a)-(c); and

(iii) The person takes reasonably prompt action to terminate the exchange of a token that does not conform to the requirements of this subsection.

85 New Section; Uniform Securities Act; Liability of Issuers, Seller, and Others Who Facilitate Exchange of Open Blockchain Tokens. Amend RSA 421-B by inserting after section 5-510 the following new section:

421-B:5-511 Liability of Issuers, Sellers, and Others Who Facilitate Exchange of Open Blockchain Tokens. Notwithstanding any other provision of law, an issuer, seller, or a person who facilitates the exchange of an open blockchain token is subject to the provisions of RSA 421-B:5-501 through RSA 421-B:5-503 and RSA 421-B:5-505 through RSA 421-B:5-510 only to the extent necessary to carry out those sections. The secretary of state shall have the authority provided under RSA 421-B:6-601 through RSA 421-B:6-613 to determine compliance with the provisions of this section, including whether a person qualifies for the exemptions set forth in this section. The evidentiary burdens specified in RSA 421-B:5-503 shall apply in any proceeding initiated by the secretary of state pursuant to this subsection.

86 Effective Date. This act shall take effect January 1, 2025.

2022-1939s

AMENDED ANALYSIS

This bill exempts the developer, seller, or facilitator of the exchange of an open blockchain token from certain securities laws.

This bill also adopts the Uniform Commercial Code on controllable electronic records.

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

Senator Sherman offered a Floor Amendment.

Sen. Sherman, Dist 24

Sen. Carson, Dist 14

May 5, 2022

2022-1974s

08/10

Floor Amendment to HB 1503-FN

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

AN ACT adopting the Uniform Commercial Code relative to controllable electronic records, relative to exempting the developer, seller, or facilitator of the exchange of an open blockchain token from certain securities laws and establishing state procurement policies intended to promote the use of American materials.

Amend the bill by replacing section 86 with the following:

86 New Subparagraphs; Department of Administrative Services; Division of Procurement and Support Services; Structural Steel Defined. Amend RSA 21-I:11, II by inserting after subparagraph (f) the following new subparagraphs:

(g) "Structural steel" shall mean a product consisting of the elements of the structural frame that are shown and sized in the structural design documents, essential to support the design loads as defined in the 2016 American Institute of Steel Construction (AISC) code of standard practice for steel buildings and bridges 303-16.

(h) "Domestic fabricated structural steel" shall mean an iron or steel product where all manufacturing must take place in the United States, from the initial melting stage, through fabrication, and application of coatings, except metallurgical processes involving the refinement of steel additives. The miscellaneous steel or iron components, subcomponents, and hardware necessary to encase, assemble, and construct such components, including, but not limited to, cabinets, covers, shelves, clamps, fittings, sleeves, washers, bolts, nuts, screws, tie wire, spacers, chairs, lifting hooks, faucets, and door hinges, shall not be subject to the United States manufacturing requirement of this definition.

(i) "Permanently incorporated product" shall mean a product that is required to remain in place at the completion of the project contract, in a fixed location, affixed to the public work to which it was incorporated and shall not mean a product that will be removed from the project at or before its completion.

87 New Paragraph; Department of Administrative Services; Division of Procurement and Support Services; Established Preference of American Made Materials in State Administered Contracts. Amend RSA 21-I:11 by inserting after paragraph II the following new paragraph:

III.(a) Notwithstanding any law to the contrary relating to procurement and to the extent permitted by federal law, any state administered contract for construction, reconstruction, alteration, repair, improvement, or maintenance of a public building or public works with the state shall contain a provision that the permanently incorporated iron, structural steel, and fabricated structural steel used or supplied in the performance of the contract or any subcontract as defined in RSA 21-I:11, II shall be fabricated in the United States. Such provision shall only be required if there is at least \$1,000,000 state dollars being used in the contract.

(b) Departments and agencies of this state affected by subparagraph (a) shall identify what steel products need Buy America certification in the contract documents.

(c) Departments and agencies of this state affected by subparagraph (a) may request a waiver from the department of administrative services, which shall provide an opportunity for public hearing and comment at least 30 days before finalizing a waiver, in the same manner as described in RSA 541-A:11. The department of administrative services may grant a waiver upon finding that:

(1) Application of the project would be inconsistent with the public interest;

(2) The product is not produced or fabricated in the United States and that it would be in the public interest to provide a waiver;

(3) The item for which a waiver is being requested is not produced and fabricated in the United States in sufficient and reasonably available quantities and of satisfactory quality; or

(d) A request for waiver under subparagraph (c) shall include facts and justification to support the granting of the waiver. The response to a request shall be in writing and made available to the public upon request. In granting a waiver, the department of administrative services shall consider all appropriate factors including, but not limited to, any cost, administrative burden, and delay that would be imposed if the provision were not waived.

(e) Waivers granted by the department of administrative services under subparagraph (b), shall be granted on a project-by-project basis and shall be nontransferable.

(f) If a court or federal or state agency has determined that any person intentionally affixed a "Made in America" label to structural steel under this paragraph that was not made in the United States or otherwise

falsely represented that structural steel under this paragraph was produced in the United States, the department of administrative services shall withhold contract payment until the structural steel can be replaced, a waiver is granted, or the noncompliance of this paragraph is otherwise remedied. Failure to comply or produce a satisfactory remedy to the state may result in debarment proceedings in accordance with RSA 21-I:11-c, III.

(g) If any provision of this paragraph or application thereof is held to be invalid or in conflict with any applicable laws, this invalidity or conflict shall not affect the other provisions or applications which shall be given effect without the invalid provisions or applications, and to this end, the provisions and applications of this paragraph are severable.

88 Effective Date.

I. Sections 86-87 of this act shall take effect January 1, 2023.

II. The remainder of this act shall take effect January 1, 2025.

2022-1974s

AMENDED ANALYSIS

This bill exempts the developer, seller, or facilitator of the exchange of an open blockchain token from certain securities laws. This bill also adopts the Uniform Commercial Code on controllable electronic records. This bill also establishes the requirement, as well as waiver and fraud processes, for the use of American made steel products in all public works projects where the state administers the contract and the contract involves at least \$1,000,000 state dollars.

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

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

HB 1513-FN, relative to the definition of a child with a disability for purposes of special education. Ought to Pass with Amendment, Vote 6-0. Senator Rosenwald for the committee.

Senate Finance

April 26, 2022

2022-1832s

10/04

Amendment to HB 1513-FN

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

AN ACT relative to the definition of a child with a disability under special education laws and providing funding for special education costs for students over age 21 until their 22nd birthday.

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

2 Department of Education; Special Education; Students Age 21; Funding.

I. For the 2022-2023 school year, department of education shall be liable for all school district costs related to providing services to special education students over age 21 until their 22nd birthday. Upon application by a school district, the department shall provide reimbursement for any such costs, which were not otherwise compensated for through other forms of state education aid. To qualify for reimbursement, a school district shall have utilized any unexpended federal Individuals with Disabilities Education Act (IDEA) funds for the fiscal year 2022 and any available IDEA American Rescue Plan Act funds. Payments shall be made to school districts under the payment schedule of special education aid under RSA 186-C:18.

II. Notwithstanding any law to the contrary, any unexpended funds for biennium ending June 30, 2023, in account 06-56-56-560040-3043-629 (special education aid), shall not lapse and shall be made available to the department of education for the purpose of providing reimbursements under paragraph I. Any remaining unexpended funds after all reimbursements have been made shall be transferred to 06-56-56-562010-3015 (court ordered placements). If amounts available under this paragraph are insufficient to cover reimbursements approved under paragraph I, an amount equal to the shortfall is hereby appropriated to the department from the education trust fund created under RSA 198:39. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section.

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

2022-1832s

AMENDED ANALYSIS

This bill modifies the definition of “child with a disability” to include persons up to 21 years of age. The bill also provides for reimbursement from the department of education for special education costs for students over age 21 until their 22nd birthday and provides funding therefor.

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

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

HB 1526-FN, relative to income eligibility for in and out medical assistance.
Ought to Pass with Amendment, Vote 5-0. Senator Rosenwald for the committee.

Senate Finance
April 26, 2022
2022-1833s
05/04

Amendment to HB 1526-FN

Amend the bill by replacing section 2 with the following:

2 Appropriation; In and Out Medical Assistance. The sum of \$2,685,192 for the fiscal year ending June 30, 2023 is hereby appropriated to the department of health and human services to implement 2020; 39:1. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated. The department may accept and expend matching federal funds for this purpose without prior approval of the fiscal committee.

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

Senator Kahn offered a Floor Amendment.

Sen. Kahn, Dist 10
May 4, 2022
2022-1956s
07/08

Floor Amendment to HB 1526-FN

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

3 Mental Health Counseling Compact; Executive Committee Duties. RSA 330-D:8, IV is repealed and re-enacted to read as follows:

IV. The executive committee shall:

- (a) Have the power to act on behalf of the commission according to the terms of this compact;
- (b) Be composed of up to 11 members:
 - (1) Seven voting members who are elected by the commission from the current membership of the commission; and
 - (2) Up to 4 ex-officio, non-voting members from 4 recognized national professional counselor organizations to be selected by their respective organizations;
- (c) The commission may remove any member of the executive committee as provided in the bylaws;
- (d) Meet at least annually; and
- (e) Have the following duties and responsibilities:
 - (1) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by the compact member states such as annual dues, and any commission compact fee charged to licensees for the privilege to practice;
 - (2) Ensure compact administration services are appropriately provided, contractual or otherwise;
 - (3) Prepare and recommend the budget;
 - (4) Maintain financial records on behalf of the commission;

- (5) Monitor compact compliance of member states and provide compliance reports to the commission;
- (6) Establish additional committees as necessary; and
- (7) Other duties as provided in rules or the bylaws.

4 Contingency. If SB 397 of the 2022 legislative session becomes law, then section 3 of this act shall take effect at 12:01 AM on the date SB 397 takes effect. If SB 397 of the 2022 legislative session does not become law, then section 3 of this act shall not take effect.

5 Effective Date.

I. Section 3 of this act shall take effect as provided in section 4 of this act.

II. The remainder of this act shall take effect January 1, 2023.

2022-1956s

AMENDED ANALYSIS

This bill:

I. Repeals the suspension for the biennium ending June 30, 2023, of 2020, 39:1, which required the department of health and human services to amend the income eligibility standard for the “in and out medical assistance” policy.

II. Makes an appropriation to the department of health and human services to implement the revised income eligibility standard.

III. Revises the duties of the executive committee established in the mental health counseling compact, contingent upon the compact becoming law.

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

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

HB 1535-FN, relative to a one-time allowance for certain state retirees.
Inexpedient to Legislate, Vote 4-3. Senator Daniels for the committee.

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

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

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Daniels, Reagan, Morse.

The following Senators voted No: Watters, Prentiss, Ricciardi, Kahn, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Soucy, Birdsell, D’Allesandro, Perkins Kwoka, Gannon, Sherman.

Roll Call, Yeas: 9 - Nays: 15. Failed.

Senator Soucy moved Ought to Pass.

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

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

The following Senators voted Yes: Bradley, Watters, Prentiss, Ricciardi, Kahn, Avard, Rosenwald, Carson, Whitley, Cavanaugh, Soucy, Birdsell, D’Allesandro, Perkins Kwoka, Gannon, Sherman, Morse.

The following Senators voted No: Hennessey, Giuda, Gray, French, Ward, Daniels, Reagan.

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

HB 1547-FN, relative to per fluorinated chemical remediation in soil and procedures for certain hazardous waste generators.

Ought to Pass with Amendment, Vote 7-0. Senator Daniels for the committee.

Senate Finance

May 3, 2022

2022-1937s

08/04

Amendment to HB 1547-FN

Amend the bill by replacing all after section 7 with the following:

8 PFAS Remediation Loan Fund; Grants. Amend RSA 485-H:11, I to read as follows:

I. The department, to the limit of the funds appropriated to the department for this purpose through the actions of the fiscal committee established under RSA 14:30-a *or by the general court*, shall provide grants to entities meeting the eligibility requirements of RSA 485-H:3 and RSA 485-H:4 for up to the greater of \$1,500,000 or 30 percent of the total eligible cost of the project *or as provided for in rebate programs established by the department under RSA 485-H:3, II.*

9 New Paragraph; Implementation of Drinking Water Protection Program. Amend RSA 485-H:3 by inserting after paragraph II the following new paragraph:

II-a. The department may establish rebate programs to assist impacted private well users with water treatment or connection to public water systems.

10 Appropriation; PFAS Remediation Loan Fund. The sum of \$25,000,000 for the fiscal year ending June 30, 2022 is hereby appropriated to the PFAS remediation loan fund established under RSA 485-H:10 to fund grants and reimbursements in accordance with RSA 485-H:11. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

11 Effective Date.

I. Section 10 of this act shall take effect June 30, 2022.

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

2022-1937s

AMENDED ANALYSIS

This bill:

I. Requires the commissioner of the department of environmental services to adopt rules relative to per-fluorinated chemical remediation in the soil.

II. Clarifies language describing certification requirements for certain hazardous waste generators.

III. Makes an appropriation to the PFAS remediation loan fund.

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

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

HB 1548-L, relating to the sale of the Lakes Region Facility.

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

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

HB 1584-FN, establishing a capital improvement grant program for the benefit of state fairs and agricultural fairs. Inexpedient to Legislate, Vote 4-2. Senator Daniels for the committee.

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

Senator Hennessey moved Ought to Pass.

Senator Hennessey offered a Floor Amendment.

Sen. Hennessey, Dist 1

May 4, 2022

2022-1954s

08/05

Floor Amendment to HB 1584-FN

Amend RSA 425:19-b as inserted by section 1 of the bill by replacing it with the following:

425:19-b Capital Improvement Program Grant Fund. There is hereby established the capital improvement program grant fund to be used by the department to assist fairs in the manner provided by this chapter. Only the commissioner or the commissioner's designee may approve applications and authorize disbursements from the fund. The fund shall be nonlapsing for the purpose of administering this chapter should future state appropriations become available. Effective July 1, 2022, the state treasurer shall transfer into the capital improvement program grant fund from the state general fund the sum of \$250,000.

Amend RSA 425:19-c, VIII as inserted by section 1 of the bill by replacing it with the following:

VIII. Contribute matching funds or in-kind services in an amount equal to 30 percent or more of the value of the grant.

Amend RSA 425:19-d, II as inserted by section 1 of the bill by replacing it with the following:

II. The commissioner shall allocate at least 95 percent of the capital improvement program grant fund, including fund interest, to eligible applicant fairs and distribute such funds according to merit as measured by a merit rating to be set by the commissioner. This merit rating shall take into account such factors as area and population served, youth participation, attendance, gate receipts, number and type of exhibits, community support, evidence of successful achievement of desired outcomes and purposes of the fair, extent of improvements made to grounds and facilities from year to year, rural and farming nature of the region served by the fair, and overall condition and appearance of grounds.

Amend RSA 425:19-e, I as inserted by section 1 of the bill by replacing it with the following:

I. Subject to the availability of funds, the department shall provide grant funds on a competitive basis, to support capital projects that make health and safety improvements to agricultural fairgrounds or fair facilities in order to benefit participants and the fair-going public. The rules of such competition shall be established by the department in accordance with RSA 541-A.

Amend RSA 425:19-e, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The department may use the remaining funds from any general court appropriation to the state fair capital improvements for expenses incurred in the administration of the capital improvement grant program.

Amend RSA 425:19-g through 425:19-k as inserted by section 1 of the bill by replacing it with the following:

425:19-g Report of Grants. The commissioner shall compile an annual report detailing the number of disbursements from the fund, the amount of each disbursement, what entity received the disbursement, and the purpose of the disbursement, and shall submit such report to the speaker of the house of representatives, the president of the senate, the chairpersons of the house and senate ways and means committees, the house and senate finance committees, and the house and senate committees with jurisdiction over environmental and agricultural issues, by November 1 of each year or until such time that all funds within the capital improvement program grant fund have been disbursed and expended.

425:19-h Financial Records. Each capital improvement grant recipient shall use the calendar year as its fiscal year for keeping the books, records, and reports relative to the use of grant funds. All records such as invoices, contracts, or other documents supporting grant fund uses shall be preserved and available to the commissioner in accordance with rules pursuant to RSA 425:19-f.

425:19-i Failure to Keep Records. The failure to keep financial records shall be considered sufficient cause for the commissioner of agriculture, markets, and food to withhold the distribution of funds.

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

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

HB 1587-FN-A, relative to determination of average final compensation under the retirement system and making an appropriation therefor.

Ought to Pass, Vote 6-1. Senator Hennessey 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.

Recess. Out of recess.

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.

HB 1597-FN, permitting arraignments for felonies and preliminary examinations to be heard in circuit court. Inexpedient to Legislate, Vote 5-1. Senator Daniels for the committee.

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

Senator Daniels moved Ought to Pass.

Senator Daniels offered a Floor Amendment.

Sen. Daniels, Dist 11

Sen. Giuda, Dist 2

May 3, 2022

2022-1918s

08/05

Floor Amendment to HB 1597-FN

Amend the bill by replacing section 14 with the following:

14 Effective Date. This act shall take effect January 1, 2024.

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

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

HB 1624-FN-A, relative to students with disabilities participating in co-curricular activities and making an appropriation therefor.

Ought to Pass, Vote 6-0. Senator Hennessey for the committee.

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

HB 1627-FN-A, establishing an education freedom account program administrator in the department of education and making an appropriation therefor.

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

Senate Finance

April 26, 2022

2022-1836s

10/04

Amendment to HB 1627-FN-A

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

3 Authority and Responsibilities of the Scholarship Organization; Education Freedom Accounts. Amend RSA 194-F:4, V to read as follows:

V.(a) The scholarship organization may withhold from deposits or deduct from EFAs an amount to cover the costs of administering the EFA program, up to a maximum of 10 percent annually.

(b) For the fiscal year ending June 30, 2025 and the fiscal year ending June 30, 2026, the department of education may withhold up to 50 percent of the prior year costs associated with the education freedom account administrator established in RSA 21-N:7-a. The department shall calculate the total costs under this section and provide this amount to be withheld to the scholarship organization no later than August 15 of each year. The scholarship organization shall include the amount withheld under subparagraph (a), in the calculation of costs of administering the EFA program, which shall not exceed 10 percent annually of the EFAs approved.

(c) For the fiscal year ending June 30, 2027, and each fiscal year thereafter, the department of education may withhold 100 percent of the prior year costs associated with the education freedom account administrator established in RSA 21-N:7-a. The department shall calculate the total costs under this section and provide this amount to be withheld to the scholarship organization no later than August 15 of each year. The scholarship organization shall include the amount withheld under subparagraph (a) in the calculation of costs of administering the EFA program, which shall not exceed 10 percent annually of the EFAs approved.

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

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

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

HB 1662-FN, related to privacy obligations of the department of health and human services.

Ought to Pass, Vote 5-1. Senator Giuda for the committee.

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

Sen. Birdsell, Dist 19

May 5, 2022

2022-1969s

07/10

Floor Amendment to HB 1662-FN

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

AN ACT relative to the privacy obligations of the department of health and human services and requiring online marketplaces to disclose certain information to consumers.

Amend the bill by replacing all after section 3 with the following:

4 New Chapter; Regulation of Online Marketplaces. Amend RSA by inserting after chapter 358-S the following new chapter:

CHAPTER 358-T

REGULATION OF ONLINE MARKETPLACES

358-T:1 Definition. In this chapter:

I. "Consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes, including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed.

II. "High-volume third-party seller" means a participant in an online marketplace who is a third-party seller and who, in any continuous 12-month period during the previous 24 months, has entered into 200 or more discrete sales or transactions of new or unused consumer products and an aggregate total of \$5,000 or more in gross revenues. For purposes of calculating the number of discrete sales or transactions or the aggregate gross revenues, an online marketplace shall only be required to count sales or transactions made through the online marketplace and for which payment was processed by the online marketplace, either directly or through its payment processor.

III. "Online marketplace" means any person or entity that operates a consumer-directed electronically based or accessed platform that:

(a) Includes features that allow for, facilitate, or enable third-party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in the United States;

(b) Is used by one or more third-party sellers for such purposes; and

(c) Has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.

IV. "Seller" means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace's platform.

V. "Third-party seller" means any seller, independent of an online marketplace, who sells, offers to sell, or contracts to sell a consumer product in the United States through an online marketplace. The term "third-party seller" shall not include, with respect to an online marketplace:

(a) A seller who operates the online marketplace's platform; or

(b) A business entity that has:

(1) Made available to the general public the entity's name, business address, and working contact information;

(2) An ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; and

(3) Provided to the online marketplace identifying information, as described in RSA 358-T:2, that has been verified in accordance with that section.

VI. “Verify” means to confirm information provided to an online marketplace pursuant to this chapter, which may include the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided are valid, correspond to the seller or an individual acting on the seller’s behalf, not misappropriated, and not falsified.

358-T:2 Collection and Verification of Information by Online Marketplaces.

I. In general, online marketplaces shall require that any high-volume third-party seller on the online marketplace’s platform provide the online marketplace with the following information no later than 10 days after qualifying as a high-volume third-party seller on the platform:

(a) A bank account number, or, if the high-volume third-party seller does not have a bank account, the name of the payee for payments issued by the online marketplace to the high-volume third-party seller. The bank account or payee information required may be provided by the seller in the following ways:

(1) To the online marketplace; or

(2) To a payment processor or other third-party contracted by the online marketplace to maintain such information; provided that the online marketplace ensures that it can obtain such information on demand from such payment processor or other third-party.

(b) Contact information for high-volume third-party sellers as follows:

(1) If the high-volume third-party seller is an individual, the individual’s name; or

(2) If the high-volume third-party seller is not an individual, one of the following forms of contact information:

(A) A copy of a valid government-issued identification for an individual acting on behalf of such seller that includes the individual’s name; or

(B) A copy of a valid government-issued record or tax document that includes the business name and physical address of such seller.

(c) A business tax identification number or, if the high-volume third-party seller does not have a business tax identification number, a taxpayer identification number.

(d) A current working email address and phone number for the high-volume third-party seller.

II. An online marketplace shall:

(a) Periodically, but not less than annually, notify any high-volume third-party seller on such online marketplace’s platform of the requirement to keep any information collected under paragraph I current; and

(b) Require any high-volume third-party seller on such online marketplace’s platform to, not later than 10 days after receiving the notice under subparagraph (a), electronically certify that:

(1) The high-volume third-party seller has provided any changes to such information to the online marketplace, if such changes have occurred;

(2) There have been no changes to the high-volume third-party seller’s information; or

(3) The high-volume third-party seller has provided any changes to such information to the online marketplace.

III. In the event that a high-volume third-party seller does not provide the information or certification required, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to provide such information or certification not later than 10 days after the issuance of such notice, suspend any future sales activity of such seller until such seller provides such information or certification.

IV. In general, online marketplaces shall:

(a) Verify the information collected under paragraph I not later than 10 days after such collection; and

(b) Verify any changes to such information not later than 10 days after being notified of such change by a high-volume third-party seller under paragraph II.

V. In the case of a high-volume third-party seller that provides a copy of a valid government-issued tax document, any information contained in such document shall be presumed to be verified as of the date of issuance of such record or document.

VI. Data collected solely to comply with the requirements of this chapter may not be used for any other purpose unless required by law.

VII. An online marketplace shall implement and maintain reasonable security procedures and practices, including administrative, physical, and technical safeguards, appropriate to the nature of the data and the purposes for which the data will be used, to protect the data collected to comply with the requirements of this chapter from unauthorized use, disclosure, access, destruction, or modification.

358-T:3 Disclosure of Information by Online Marketplaces to Inform Consumers.

I. An online marketplace shall:

(a) Require any high-volume third-party seller with an aggregate total of \$20,000 or more in annual gross revenues on such online marketplace, and that uses such online marketplace's platform, to provide the information described in paragraph II to the online marketplace; and

(b) Disclose the information described in paragraph II to consumers in a conspicuous manner:

(1) In the order confirmation message or other document or communication made to a consumer after a purchase is finalized; and

(2) In the consumer's account transaction history.

II. The information described in this paragraph is the following:

(a) Subject to paragraph III, the identity of the high-volume third-party seller, including:

(1) The full name of the seller, which may include the seller name or seller's company name, or the name by which the seller or company operates on the online marketplace;

(2) The physical address of the seller; and

(3) Contact information for the seller, to allow for the direct, unhindered communication with high-volume third-party sellers by users of the online marketplace, including:

(A) A current working phone number;

(B) A current working email address; or

(C) Other means of direct electronic messaging, which may be provided to the high-volume third-party seller by the online marketplace.

(b) Whether the high-volume third party seller used a different seller to supply the consumer product to the consumer upon purchase, and, upon the request of an authenticated purchaser, the information described in subparagraph (a) relating to any such seller that supplied the consumer product to the purchaser, if such seller is different than the high-volume third party seller listed on the product listing prior to purchase.

III.(a) Subject to subparagraph (b), upon the request of a high-volume third-party seller, an online marketplace may provide for partial disclosure of the identity information required under subparagraph II(a) in the following situations:

(1) If the high-volume third-party seller certifies to the online marketplace that the seller does not have a business address and only has a residential street address, or has a combined business and residential address, the online marketplace may:

(A) Disclose only the country and, if applicable, the state in which the high-volume third-party seller resides; and

(B) Inform consumers that there is no business address available for the seller and that consumer inquiries should be submitted to the seller by phone, email, or other means of electronic messaging provided to such seller by the online marketplace.

(2) If the high-volume third-party seller certifies to the online marketplace that the seller is a business that has a physical address for product returns, the online marketplace may disclose the seller's physical address for product returns.

(3) If a high-volume third-party seller certifies to the online marketplace that the seller does not have a phone number other than a personal phone number, the online marketplace shall inform consumers that there is no phone number available for the seller and that consumer inquiries should be submitted to the seller's email address or other means of electronic messaging provided to such seller by the online marketplace.

(b) If an online marketplace becomes aware that a high volume third-party seller has made a false representation to the online marketplace in order to justify the provision of a partial disclosure under subparagraph (a) or that a high-volume third-party seller who has requested and received a provision for a partial disclosure under subparagraph (a) has not provided responsive answers within a reasonable timeframe to consumer inquiries submitted to the seller by phone, email, or other means of electronic messaging provided to such seller by the online marketplace, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to respond not later than 10 days after the issuance of such notice, suspend any future sales activity of such seller unless such seller consents to the disclosure of the identity information required under subparagraph II(a).

III. An online marketplace shall disclose to consumers in a clear and conspicuous manner on the product listing of any high-volume third-party seller, a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace.

IV. If a high-volume third-party seller does not comply with the requirements to provide and disclose information under this subsection, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to provide or disclose such information not later than 10 days after the issuance of such notice, suspend any future sales activity of such seller until the seller complies with such requirements.

358-T:4 Enforcement. Any violation of the provisions of this chapter is an unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right, remedy, or power given to the attorney general in RSA 358-A may be used to enforce the provisions of this chapter.

358-T:5 Rulemaking. The attorney general may adopt rules under RSA 541-A relative to the collection and verification of information under this chapter, provided that such regulations are limited to what is necessary to collect and verify such information.

358-T:6 Preemption. No political subdivision shall establish, mandate, or otherwise require online marketplaces to verify information from high-volume third-party sellers on a one-time or ongoing basis or disclose information to consumers.

5 Contingency. If the attorney general certifies to the director of the office of legislative services that H.R. 5502 (117th Congress (2021-2022)) or similar federal legislation requiring online marketplaces to verify and disclose certain information has become law prior to January 1, 2023, section 1 of this act shall not take effect. If H.R. 5502 or similar federal legislation requiring online marketplaces to verify and disclose certain information does not become law, section 1 of this act shall take effect January 1, 2023.

6 Effective Date.

I. Section 4 of this act shall take effect as provided in section 5 of this act.

II. Section 5 of this act shall take effect upon its passage.

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

2022-1969s

AMENDED ANALYSIS

This bill:

I. Establishes a data privacy and information technology security governance board within the department of health and human services to oversee data privacy risk calculation and risk mitigation efforts.

II. Provides for 2 employees within the department of health and human services to accomplish the data privacy and information technology objectives.

III. Requires third-party sellers to provide certain information to online marketplaces and to consumers and the failure to do so a violation of the consumer protection act.

The question is on the adoption of the Floor Amendment.

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

The following Senators voted Yes: 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.

Recess. Out of recess.

Senator Kahn offered a Floor Amendment.

Sen. Kahn, Dist 10

May 2, 2022

2022-1905s

07/10

Floor Amendment to HB 1662-FN

Amend the bill by replacing all after section 3 with the following:

4 Housing Expenses for Homeless People; Appropriation. The sum of \$5,000,000 for the fiscal year ending June 30, 2023 is hereby appropriated to the department of health and human services for the purpose of assisting cities and towns with housing expenses for homeless people seeking shelter. No later than August 1, 2022, the department shall distribute said sum to municipalities based on each municipality's share of total Medicaid enrollees as of April 3, 2022, as determined by section 5 of this act. Municipalities shall use said funds to make payments to homeless shelters or overnight lodging providers offering discounted rates to accommodate homeless people in their community. The governor shall determine if any discretionary funds appropriated in the American Rescue Plan Act of 2021, Public Law 117-2, or any other federal funds, can be used for this purpose, and the department shall expend such federal funds for this purpose. Any remainder shall be appropriated from the general fund. The governor is authorized to draw a warrant for the general fund portion of such sum from any money in the treasury not otherwise appropriated.

5 Housing Expenses for Homeless People; Appropriation Distribution Reference. The sum appropriated in section 4 of this act shall be distributed by the department according to the following table based upon full benefit Medicaid enrollees as of April 4, 2022:

Town Name:	Children (Under 19):	Elderly and Disabled:	Adult Expansion via Granite Advantage:	Other Non-Disabled /Non-Elderly Adults:	Total:	Distribution Amount:
Acworth	63	11	43	12	129	2,717
Albany	81	20	77	16	194	4,087
Alexandria	177	30	137	39	383	8,068
Allenstown	491	121	373	97	1,082	22,793
Alstead	174	29	165	38	406	8,553
Alton	382	58	343	73	856	18,032
Amherst	336	62	297	54	749	15,778
Andover	195	21	132	30	378	7,963
Antrim	292	51	210	53	606	12,766
Ashland	230	61	174	51	516	10,870
Atkinson	146	42	161	32	381	8,026
Auburn	172	39	186	45	442	9,311
Barnstead	429	56	316	83	884	18,622
Barrington	546	106	470	104	1,226	25,826
Bartlett	173	25	169	34	401	8,447

Bath	107	19	87	16	229	4,824
Bedford	638	382	543	128	1,691	35,622
Belmont	804	155	575	183	1,717	36,169
Bennington	161	31	134	26	352	7,415
Benton	21	9	16	2	48	1,011
Berlin	1,254	631	1,085	318	3,288	69,263
Bethlehem	268	68	243	43	622	13,103
Boscawen	347	238	281	65	931	19,612
Bow	300	52	225	57	634	13,355
Bradford	148	24	144	27	343	7,225
Brentwood	130	119	127	24	400	8,426
Bridgewater	39	9	53	7	108	2,275
Bristol	388	94	298	71	851	17,927
Brookfield	41	7	35	9	92	1,938
Brookline	180	28	185	43	436	9,185
Campton	318	55	251	66	690	14,535
Canaan	298	36	245	59	638	13,440
Candia	180	39	158	40	417	8,784
Canterbury	130	28	116	23	297	6,256
Carroll	57	9	72	6	144	3,033
Center Harbor	58	11	77	12	158	3,328
Charlestown	551	127	367	143	1,188	25,026
Chatham	38	2	21	7	68	1,432
Chester	213	32	185	43	473	9,964
Chesterfield	225	20	180	28	453	9,543
Chichester	208	38	129	35	410	8,637
Claremont	1,828	661	1,603	460	4,552	95,890
Clarksville	30	5	25	7	67	1,411
Colebrook	242	111	250	50	653	13,756
Columbia	27	14	31	5	77	1,622
Concord	3,576	1,713	3,856	824	9,969	210,001
Conway	1,016	339	977	187	2,519	53,064
Cornish	51	11	68	8	138	2,907
Croydon	67	11	56	15	149	3,139
Dalton	116	24	88	21	249	5,245
Danbury	128	15	106	23	272	5,730
Danville	221	55	204	46	526	11,080
Deerfield	263	51	171	32	517	10,891
Deering	148	40	155	31	374	7,878
Derry	2,511	650	1,997	568	5,726	120,621
Dorchester	43	6	36	11	96	2,022
Dover	2,070	749	1,906	502	5,227	110,109
Dublin	112	9	89	23	233	4,908
Dummer	32	7	20	2	61	1,285
Dunbarton	96	37	109	18	260	5,477
Durham	135	71	185	18	409	8,616

EastKingston	91	9	98	20	218	4,592
Easton	6	2	9	2	19	400
Eaton	25	2	25	2	54	1,138
Effingham	224	43	172	49	488	10,280
Ellsworth	11	-	10	2	23	485
Enfield	246	44	236	57	583	12,281
Epping	436	95	355	104	990	20,855
Epsom	302	110	227	61	700	14,746
Errol	13	9	22	2	46	969
Exeter	728	238	680	157	1,803	37,981
Farmington	743	201	586	160	1,690	35,601
Fitzwilliam	252	30	177	49	508	10,701
Francestown	89	10	63	10	172	3,623
Franconia	55	46	64	7	172	3,623
Franklin	1,183	421	949	259	2,812	59,236
Freedom	78	16	101	18	213	4,487
Fremont	210	39	190	45	484	10,196
Gilford	434	99	389	92	1,014	21,360
Gilmanton	310	45	243	65	663	13,966
Gilsum	80	13	58	10	161	3,392
Goffstown	737	336	569	151	1,793	37,770
Gorham	221	74	193	39	527	11,101
Goshen	74	14	59	16	163	3,434
Grafton	152	26	136	33	347	7,310
Grantham	88	12	89	19	208	4,382
Greenfield	152	39	102	28	321	6,762
Greenland	142	20	141	32	335	7,057
Greenville	195	41	158	52	446	9,395
Groton	32	5	27	2	66	1,390
Hampstead	273	63	268	54	658	13,861
Hampton	593	233	844	121	1,791	37,728
HamptonFalls	39	18	70	9	136	2,865
Hancock	81	15	90	16	202	4,255
Hanover	93	63	131	20	307	6,467
Harrisville	69	8	62	5	144	3,033
Haverhill	509	183	390	91	1,173	24,710
Hebron	38	6	44	6	94	1,980
Henniker	267	78	239	53	637	13,419
Hill	92	9	84	20	205	4,318
Hillsborough	675	151	494	140	1,460	30,755
Hinsdale	519	101	326	105	1,051	22,140
Holderness	110	16	140	19	285	6,004
Hollis	216	40	198	40	494	10,406
Hooksett	755	248	638	139	1,780	37,496
Hopkinton	254	50	213	41	558	11,754
Hudson	1,315	309	1,103	311	3,038	63,997

Jackson	36	6	50	2	94	1,980
Jaffrey	536	131	354	95	1,116	23,509
Jefferson	98	17	84	15	214	4,508
Keene	1,942	807	2,084	479	5,312	111,899
Kensington	64	7	74	13	158	3,328
Kingston	325	45	295	73	738	15,546
Laconia	2,004	852	2,024	428	5,308	111,815
Lancaster	393	136	330	81	940	19,801
Landaff	31	5	19	2	57	1,201
Langdon	33	5	31	6	75	1,580
Lebanon	768	308	751	180	2,007	42,278
Lee	185	35	208	35	463	9,753
Lempster	111	22	80	19	232	4,887
Lincoln	100	25	131	22	278	5,856
Lisbon	260	44	189	52	545	11,481
Litchfield	358	62	274	66	760	16,010
Littleton	715	238	693	157	1,803	37,981
Londonderry	1,269	199	1,020	247	2,735	57,614
Loudon	399	68	292	72	831	17,505
Lyman	33	5	39	2	79	1,664
Lyme	56	11	43	14	124	2,612
Lyndeborough	104	10	100	18	232	4,887
Madbury	64	15	55	17	151	3,181
Madison	251	45	198	39	533	11,228
Manchester	14,443	4,112	12,702	3,221	34,478	726,293
Marlborough	226	41	191	50	508	10,701
Marlow	70	10	29	15	124	2,612
Mason	56	6	60	7	129	2,717
Meredith	499	152	411	96	1,158	24,394
Merrimack	1,115	254	912	207	2,488	52,411
Middleton	181	31	110	46	368	7,752
Milan	111	34	89	21	255	5,372
Milford	998	274	772	215	2,259	47,587
Milton	443	91	329	93	956	20,139
Monroe	64	6	48	6	124	2,612
MontVernon	88	12	83	16	199	4,192
Moultonborough	317	38	236	44	635	13,377
Nashua	7,787	2,372	6,579	1,775	18,513	389,984
Nelson	47	8	43	14	112	2,359
NewBoston	265	61	206	48	580	12,218
NewCastle	7	2	19	2	30	632
NewDurham	196	14	153	46	409	8,616
NewHampton	190	29	161	19	399	8,405
NewIpswich	522	55	281	67	925	19,485
NewLondon	107	20	117	20	264	5,561
Newbury	99	27	105	12	243	5,119

Newfields	51	8	53	9	121	2,549
Newington	29	5	31	6	71	1,496
Newmarket	529	106	490	117	1,242	26,163
Newport	851	266	679	181	1,977	41,646
Newton	220	42	177	38	477	10,048
NorthHampton 7,331	109		32	183	24	348
Northfield	484	113	364	80	1,041	21,929
Northumberland	296	93	203	63	655	13,798
Northwood	298	63	261	77	699	14,725
Nottingham	236	37	181	36	490	10,322
Orange	24	2	18	2	46	969
Orford	144	9	72	15	240	5,056
Ossipee	652	171	450	124	1,397	29,428
Pelham	464	84	460	95	1,103	23,235
Pembroke	626	101	427	127	1,281	26,985
Peterborough	486	129	406	82	1,103	23,235
Piermont	66	14	42	11	133	2,802
Pittsburg	44	7	57	13	121	2,549
Pittsfield	561	116	362	122	1,161	24,457
Plainfield	79	16	61	15	171	3,602
Plaistow	440	53	351	103	947	19,949
Plymouth	448	121	476	107	1,152	24,267
Portsmouth	891	513	1,335	246	2,985	62,880
Randolph	19	2	21	2	44	927
Raymond	760	163	683	170	1,776	37,412
Richmond	135	11	72	16	234	4,929
Rindge	524	45	230	75	874	18,411
Rochester	3,472	1,084	3,164	801	8,521	179,498
Rollinsford	150	18	149	31	348	7,331
Roxbury	16	-	16	2	34	716
Rumney	180	19	161	22	382	8,047
Rye	102	35	188	24	349	7,352
Salem	1,387	369	1,321	325	3,402	71,665
Salisbury	76	21	68	14	179	3,771
Sanbornton	225	40	185	61	511	10,764
Sandown	318	65	253	59	695	14,640
Sandwich	80	10	75	13	178	3,750
Seabrook	785	215	788	201	1,989	41,899
Sharon	30	2	24	2	58	1,222
Shelburne	24	2	30	2	58	1,222
Somersworth	1,290	314	936	304	2,844	59,910
SouthHampton	28	2	38	8	76	1,601
Springfield	67	6	41	13	127	2,675
Stark	50	14	44	11	119	2,507
Stewartstown	81	65	79	13	238	5,014

Stoddard	102	13	61	12	188	3,960
Strafford	257	30	208	32	527	11,101
Stratford	110	37	108	31	286	6,025
Stratham	169	29	202	35	435	9,163
SugarHill	31	6	35	2	74	1,559
Sullivan	70	8	49	24	151	3,181
Sunapee	173	34	149	36	392	8,258
Surry	47	8	29	6	90	1,896
Sutton	82	7	68	7	164	3,455
Swanzey	643	158	524	118	1,443	30,397
Tamworth	362	84	305	61	812	17,105
Temple	83	20	95	17	215	4,529
Thornton	220	24	187	42	473	9,964
Tilton	467	105	409	100	1,081	22,772
Troy	251	56	184	57	548	11,544
Tuftonboro	167	19	167	29	382	8,047
Unity	47	69	40	5	161	3,392
Wakefield	515	81	352	95	1,043	21,971
Walpole	268	58	187	52	565	11,902
Warner	225	41	193	36	495	10,427
Warren	109	81	73	23	286	6,025
Washington	100	12	78	20	210	4,424
WatervilleValley	5	-	15	2	22	463
Weare	637	75	410	121	1,243	26,184
Webster	129	37	104	28	298	6,277
Wentworth	101	14	72	13	200	4,213
Westmoreland	95	102	91	16	304	6,404
Whitefield	276	91	231	49	647	13,629
Wilmot	88	7	69	9	173	3,644
Wilton	297	37	239	63	636	13,398
Winchester	552	167	439	133	1,291	27,195
Windham	351	114	379	60	904	19,043
Windsor	25	2	21	5	53	1,116
Wolfeboro	427	110	331	69	937	19,738
Woodstock	114	20	120	18	272	5,730

Out of State/
Unknown and
Fully Suppressed
Towns

233 68 186 57 544

Distribution Total: 5,000,000

6 Effective Date. This act shall take effect July 1, 2022.

2022-1905s

AMENDED ANALYSIS

This bill:

I. Establishes a data privacy and information technology security governance board within the department of health and human services to oversee data privacy risk calculation and risk mitigation efforts.

II. Provides for 2 employees within the department to accomplish the data privacy objectives.

III. Provides for an appropriation to the department for the housing expenses for homeless people seeking shelter, distribution of which is based on the Medicaid full enrollment population of each town as of April 4, 2022.

The question is on the adoption of the Floor Amendment.

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

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

The following Senators voted No: (None)

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

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

Sen. Carson, Dist 14

May 4, 2022

2022-1952s

07/10

Floor Amendment to HB 1662-FN

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

AN ACT relative to the privacy obligations of the department of health and human services and electronic wage payments.

Amend the bill by replacing all after section 3 with the following:

4 Labor; Weekly Wages; Electronic Payment. Amend RSA 275:43, I-II to read as follows:

I. Every employer shall pay all wages due to employees within 8 days after the expiration of the work week if the employee is paid on a weekly basis, or within 15 days after the expiration of the work week if the employee is paid on a biweekly basis, except when permitted to pay wages less frequently as authorized by the commissioner pursuant to paragraph IV or IV-a(a), on regular paydays designated in advance by the employer and at no cost to the employee:

(a) In lawful money of the United States;

(b) By electronic fund transfer;

(c) By direct deposit [~~with written authorization of the employee~~] to banks of the employee's choice;

(d) By a payroll card provided that the employer shall provide to the employee at least one free means to withdraw up to and including the full amount of the employee balance in the employee's payroll card or payroll card account during each pay period at a financial institution or other location convenient to the place of employment. ***Should an employee be unable to access their wages due to a technical or processing defect, the employer shall immediately provide the wages to the employee with either a replacement payroll card, a check, a direct deposit, or cash. In such a situation, the employer shall be liable for late payment of wages whenever the replacement wages are provided after the designated pay day. Should an employee's payroll card be lost, stolen, or damaged such that the funds are no longer accessible to the employee, the employer shall provide the employee with a replacement payroll card within 24 hours of being notified.*** None of the employer's costs associated with a payroll card or payroll card account shall be passed on to the employee; or

(e) With checks on a financial institution convenient to the place of employment where suitable arrangements are made for the cashing of such checks by employees for the full amount of the wages due; provided, however, that [~~if an employer elects to pay employees as specified in subparagraphs (b), (c), or (d), the employer shall offer employees the option of being paid as specified in subparagraph (e), and further provided that~~] all wages in the nature of health and welfare fund or pension fund contributions required pursuant to a health and welfare fund trust agreement, pension fund trust agreement, collective bargaining agreement, or other agreement adopted for the benefit of employees and agreed to by the employer shall be paid by every such employer within 30 days of the date of demand for such payment, the payment to be made to the administrator or other designated official of the applicable health and welfare or pension trust fund.

II. If an employer offers its employees the option of receiving wages by a payroll card, the employer shall:

(a) Provide to the employee written disclosure in plain language of all the employee's wage payment options. The written disclosure shall state the terms and conditions of the payroll card account option, including, but not limited to, the requirements set forth in this section and a complete itemized list of all known fees that may be deducted from the employee's payroll card account by the employer or card issuer. The disclosure shall also state whether third parties may assess transaction fees in addition to the fees assessed by the employee's payroll card issuer or issuers. In no event shall the employer provide payment of wages to a payroll card that has an expiration date, unless the employer agrees to provide a replacement payroll card before the expiration date at no cost to the employee.

(b) Initiate payment of wages to an employee by electronic fund transfer to a payroll card account only after the employee has ~~[voluntarily consented in writing to that method of payment. Consent to payment of wages by electronic fund transfer to a payroll card account shall not be a condition of hire or of continued employment. The written consent signed by the employee shall include the terms and conditions of the payroll card account option]~~ ***failed to provide bank information to enable direct deposit as specified in subparagraph I(c) within 14 calendar days of the employer's request. An employer that wishes to offer only electronic wage payment under subparagraphs I(c)-(d) shall advise employees that failure to provide bank information shall result in wage payments via payroll card.***

(c) Provide written notice of any change to any of the terms and conditions of the payroll card or payroll card account, including but not limited to an itemized list of all fees that may have changed~~[-and obtain written assent from the employee that the employee voluntarily consents to receive wages to a payroll card or payroll card account subject to the changes]~~. The employer shall be responsible for any increase in fees charged to the employee before the employer provides written notice of such changes to the employee.

(d) Provide the employee the option to discontinue receipt of wages by a payroll card or payroll card account, ***and instead to receive wages via direct deposit***, at any time, without penalty to the employee.

5 Effective Date.

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

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

2022-1952s

AMENDED ANALYSIS

This bill:

I. Establishes a data privacy and information technology security governance board within the department of health and human services to oversee data privacy risk calculation and risk mitigation efforts.

II. Provides for 2 employees within the department of health and human services to accomplish the data privacy and information technology security objectives.

III. Amends the provisions related to payment of an employee's wages by direct deposit.

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.

SENATE CLERK'S NOTE: TECHNICAL AND ADMINISTRATIVE CORRECTIONS

The Clerk is authorized to make technical and administrative corrections which are necessary to reflect the intent of the Senate. Adopted.

Recess. Out of recess.

HB 1677-FN, relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

Ought to Pass, Vote 5-2. Senator Daniels for the committee.

Recess. Out of recess.

Senator D'Allesandro offered a Floor Amendment.

Sen. D'Allesandro, Dist 20
Sen. Rosenwald, Dist 13
May 4, 2022
2022-1961s
04/10

Floor Amendment to HB 1677-FN

Amend RSA 21-M:11-a, I(i) as inserted by section 2 of the bill by replacing it with the following:

(i) "Sexual abuse" means an incident of sexually explicit conduct as defined in RSA 649-A:2, III, conduct which would constitute an offense under RSA 632-A:2, RSA 632-A:3, RSA 632-A:4, RSA 644:9, or RSA 645:1, or a common law cause of action for emotional abuse, assault, or battery that involves sexual contact or sexual penetration as defined by RSA 632-A:1.

Amend RSA 21-M:11-a, V as inserted by section 2 of the bill by replacing it with the following:

V. For all claims involving both sexual and physical abuse or sexual abuse only, no individual claimant shall be paid more than \$2,000,000 in settlement of all claims in the aggregate. For all claims involving physical abuse only, no individual claimant shall be paid more than \$200,000 in settlement of all physical abuse claims in the aggregate.

Amend RSA 21-M:11-a, VII(e)-(g) as inserted by section 2 of the bill by replacing them with the following:

(e) Claims shall be submitted under oath. Claimants shall be entitled to be treated with respect and dignity in the presentment of their claims. Perpetrators of sexual abuse or physical abuse identified by claimants may be referred to an appropriate law enforcement agency by the administrator, but only with the consent and cooperation of the claimant. A claimant shall not be required to cooperate in a criminal investigation as a condition of participating in the claim process.

(f) Claims and all documents and information created in connection with claims shall be confidential, except that matter which was not previously confidential shall not become so by virtue of being submitted in connection with a claim, or except as otherwise provided in this section or in RSA 91-A. This confidentiality is provided in order to protect the privacy of the claimant, and only for that reason. The claimant shall not be bound by this obligation of confidentiality and may waive it at any time.

Amend RSA 21-M:11-a, IX(a) as inserted by section 2 of the bill by replacing it with the following:

IX.(a) When a claimant requests that the administrator decide the claim, the administrator shall schedule the claim for a resolution proceeding according to the procedures approved by the joint fiscal committee. All resolution proceedings shall take place in the state of New Hampshire, although parties and witnesses may attend by telephone or video conference in the discretion of the administrator. To the greatest extent possible, claims shall be scheduled for resolution in the order that they are received and determined to be complete, except that the administrator may also give consideration to the time for which litigation may have been pending prior to the filing of a claim.

The question is on the adoption of the Floor Amendment.

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

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

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

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

Senator D'Allesandro offered a Floor Amendment.

Sen. D'Allesandro, Dist 20
Sen. Rosenwald, Dist 13
May 5, 2022
2022-1967s
04/08

Floor Amendment to HB 1677-FN

Amend the bill by replacing section 4 with the following:

4 Appropriation. The sum of \$100,000,000 for the biennium ending June 30, 2023 is hereby appropriated to the YDC settlement fund established in RSA 21-M:11-a, II for the purpose of administering and settling claims as provided in RSA 21-M:11-a. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated. The appropriation shall be nonlapsing, provided that any moneys in the YDC settlement fund not expended as of June 30, 2032 shall lapse to the revenue stabilization reserve account, unless the fund is earlier terminated by the attorney general, in consultation with the administrator, or as otherwise provided by law.

The question is on the adoption of the Floor Amendment.

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

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

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

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

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

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

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

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

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

HEALTH AND HUMAN SERVICES

HB 1022, permitting pharmacists to dispense the drug ivermectin by means of a standing order. Ought to Pass with Amendment, Vote 3-2. Senator Gray for the committee.

Health and Human Services

April 27, 2022

2022-1867s

05/04

Amendment to HB 1022

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

AN ACT permitting pharmacists to dispense the drug Ivermectin by means of a standing order and establishing a commission to study the use of Ivermectin to treat Covid-19.

Amend RSA 318-47-n, I as inserted by section 1 of the bill by replacing it with the following:

I. In this section, "standing order" means a written and signed protocol authored by one or more physicians licensed under RSA 329:12 or one or more advanced practice registered nurses licensed under RSA 326-B:18. Such agreement shall specify a protocol allowing the pharmacist licensed under RSA 318:18 to dispense Ivermectin under the delegated prescriptive authority of the physician or advanced practice registered nurse, specify a screening protocol for each patient, specify a requirement to document screening performed and the prescription in the patient's medical record, and include a plan for referring for evaluation and treatment of adverse events; provided that the standing order shall not be used if the patient is pregnant or under 18 years of age. Any such prescription shall be regarded as being issued for a legitimate medical purpose in the usual course of professional practice.

Amend the bill by replacing all after section 4 with the following:

5 New Subdivision; Commission to Study the Use of Ivermectin to Treat Covid-19 Established. Amend RSA 126-A by inserting after section 97 the following new subdivision:

Commission to Study the Use of Ivermectin to Treat Covid-19

126-A:98 Commission to Study the Use of Ivermectin to Treat Covid-19. There is established a commission to study use of Ivermectin to treat Covid-19.

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

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives, at least one of whom shall be a member of the house health, human services and elderly affairs committee and one of whom shall be a member of the executive departments and administration committee.

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

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

(d) A representative of the New Hampshire board of pharmacy, appointed by the board.

(e) A representative of the board of nursing, appointed by the board.

(f) A representative of the board of medicine, appointed by the board.

(g) A representative of the New Hampshire Medical Society, appointed by the society.

(h) A representative of the New Hampshire Hospital Association, appointed by the association.

(i) A representative of the New Hampshire Nurse Practitioners Association, appointed by the association.

(j) A representative of the New Hampshire Pharmacist Association, appointed by the association.

(k) Two members of the public, one of whom shall be appointed by the senate president and one of whom shall be appointed by the speaker of the house of representatives.

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

III. The commission shall examine national data on the use of Ivermectin to treat Covid-19, relevant studies around the use of Ivermectin and work already being conducted by other states standing orders. The commission shall review implementation of RSA 318:47-n, permitting pharmacists to dispense Ivermectin by means of a standing order, and provide a recommendation as to whether such authority should be made permanent.

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

V. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2023.

6 Repeal. The following are repealed:

I. RSA 126-A:98 and the subdivision heading preceding RSA 126-A:98, relative to a commission to study the use of Ivermectin to treat Covid-19.

II. RSA 318:47-n, authorizing pharmacists to dispense Ivermectin by means of a standing order.

7 Effective Date.

I. Paragraph I of section 6 of this act shall take effect December 31, 2023.

II. Paragraph II of section 6 of this act shall take effect July 1, 2024.

III. Sections 1-4 of this act shall take effect 60 days after its passage.

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

2022-1867s

AMENDED ANALYSIS

This bill allows pharmacists to dispense Ivermectin pursuant to a standing order. The authority is repealed July 1, 2024. The bill also establishes a commission to study the use of Ivermectin to treat Covid-19 and to provide a recommendation regarding whether to make the standing order permanent.

President Pro Tempore Carson presiding.

The question is on the adoption of the Committee Amendment.

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

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

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

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

President Morse presiding.

Senator Sherman offered a Floor Amendment.

Sen. Sherman, Dist 24

Sen. Whitley, Dist 15

May 3, 2022

2022-1922s

05/04

Floor Amendment to HB 1022

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

AN ACT establishing a commission to study the use of Ivermectin to treat Covid-19.

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

1 New Subdivision; Commission to Study the Use of Ivermectin to Treat Covid-19 Established. Amend RSA 126-A by inserting after section 97 the following new subdivision:

Commission to Study the Use of Ivermectin to Treat Covid-19

126-A:98 Commission to Study the Use of Ivermectin to Treat Covid-19. There is established a commission to study use of Ivermectin to treat Covid-19.

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

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives, at least one of whom shall be a member of the house health, human services and elderly affairs committee and one of whom shall be a member of the executive departments and administration committee.

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

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

(d) A representative of the New Hampshire board of pharmacy, appointed by the board.

(e) A representative of the board of nursing, appointed by the board.

(f) A representative of the board of medicine, appointed by the board.

(g) A representative of the New Hampshire Medical Society, appointed by the society.

(h) A representative of the New Hampshire Hospital Association, appointed by the association.

(i) A representative of the New Hampshire Nurse Practitioners Association, appointed by the association.

(j) A representative of the New Hampshire Pharmacist Association, appointed by the association.

(k) Two members of the public, one of whom shall be appointed by the senate president and one of whom shall be appointed by the speaker of the house of representatives.

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

III. The commission shall examine national data on the use of Ivermectin to treat Covid-19, relevant studies around the use of Ivermectin and work already being conducted by other states standing orders.

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

V. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2022.

2 Repeal. RSA 126-A:98 and the subdivision heading preceding RSA 126-A:98 are repealed.

3 Effective Date.

I. Section 2 of this act shall take effect December 31, 2022.

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

2022-1922s

AMENDED ANALYSIS

This bill establishes a commission to study the use of Ivermectin to treat Covid-19.

The question is on the adoption of the Floor Amendment.

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

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.

Senator Sherman offered a Floor Amendment.

Sen. Sherman, Dist 24

Sen. Whitley, Dist 15

May 5, 2022

2022-1977s

05/10

Floor Amendment to HB 1022

Amend RSA 318:47-n as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

II-a. Any person who receives Ivermectin through a standing order shall sign an informed consent stating that there is no proven benefit to treating Covid-19 with Ivermectin.

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 Sherman, seconded by Senator Avar.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avar, Carson, Reagan, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

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

HB 1080, relative to the rights of conscience for medical professionals.

Interim Study, Vote 4-1. Senator Bradley for the committee.

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

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

Recess. Out of recess.

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

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

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

HB 1210, relative to exemptions from vaccine mandates.

Interim Study, Vote 4-1. Senator Bradley for the committee.

President Pro Tempore Carson presiding.

President Morse presiding.

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

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

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

The following Senators voted No: Giuda, French, Daniels, Avar, Reagan.

Roll Call, Yeas: 19 - Nays: 5. Adopted.

JUDICIARY

HB 238, prohibiting provocations based on a victim's actual or perceived gender, gender identity, gender expression, or sexual orientation from being used as a defense in manslaughter cases.

Interim Study, Vote 3-2. Senator Gannon for the committee.

Recess. Out of recess.

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

A roll call was requested by Senator Sherman, seconded by Senator Perkins Kwoka.

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

The following Senators voted No: Hennessey, Watters, Prentiss, Ricciardi, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

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

Senator Bradley moved to Lay on the Table. Adopted.

HB 1101, relative to a forfeiture of personal property.

Interim Study, Vote 4-1. Senator Gannon for the committee.

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

HB 1280, prohibiting a parent's refusal to vaccinate a child pursuant to an order of the state or federal government to be used as a basis for terminating parental rights.

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

Senate Judiciary

April 27, 2022

2022-1859s

04/05

Amendment to HB 1280

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

AN ACT prohibiting a parent's refusal to vaccinate a child from being used as evidence in any proceeding to terminating parental rights and enacting the 2009 interstate compact for the placement of children.

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

1 Termination of Parental Rights; Grounds for Termination of the Parent-Child Relationship; Decision to Vaccinate Prohibited. Amend RSA 170-C:5, II to read as follows:

II. That, although the parents are financially able, they have substantially and continuously neglected to provide the child with necessary subsistence, education or other care necessary for his mental, emotional, or physical health or have substantially and continuously neglected to pay for such subsistence, education or

other care when legal custody is lodged with others; provided, however, it shall not be grounds for the termination of the parent-child relationship for the sole reason the parent of said child relies upon spiritual means through prayer in accordance with a recognized religious method of healing in lieu of medical treatment for the healing of said child. ***A parent's decision not to have their child vaccinated shall not be used as evidence in any proceeding to terminate parental rights.***

2 Interstate Compact for the Placement of Children. RSA 170-A is repealed and reenacted to read as follows:

CHAPTER 170-A
INTERSTATE COMPACT
FOR THE PLACEMENT OF CHILDREN

170-A:1 Interstate Compact for the Placement of Children. On the effective date of this chapter, based upon the enactment of the Interstate Compact for the Placement of Children into law by the thirty-fifth compacting state, the governor is authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

ARTICLE I

Purpose

The purpose of this Interstate Compact for the Placement of Children is to:

I. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

II. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

III. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

IV. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

V. Provide for uniform data collection and information sharing between member states under this compact.

VI. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

VII. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

VIII. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II

Definitions

As used in this compact:

I. "Approved placement" means the public child-placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

II. "Assessment" means an evaluation of a prospective placement by a public child-placing agency in the receiving state to determine if the placement meets the individualized needs of the child, including, but not limited to, the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement by a public child-placing agency.

III. "Child" means an individual who has not attained the age of 18.

IV. "Certification" means to attest, declare, or swear to before a judge or notary public.

V. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact or the bylaws or rules of the Interstate Commission.

VI. “Home study” means an evaluation of a home environment conducted in accordance with the applicable requirements of the state in which the home is located and that documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.

VII. “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3(c) of the Alaska Native Claims Settlement Act, 43 U.S.C. section 1602(c).

VIII. “Interstate Commission for the Placement of Children” means the commission that is created under Article VIII of this compact and which is generally referred to as the “Interstate Commission.”

IX. “Jurisdiction” means the power and authority of a court to hear and decide matters.

X. “Legal risk placement” or “legal risk adoption” means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother’s state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

XI. “Member state” means a state that has enacted this compact.

XII. “Noncustodial parent” means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

XIII. “Nonmember state” means a state which has not enacted this compact.

XIV. “Notice of residential placement” means information regarding a placement into a residential facility provided to the receiving state, including, but not limited to, the name, date, and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

XV. “Placement” means the act by a public or private child-placing agency intended to arrange for the care or custody of a child in another state.

XVI. “Private child-placing agency” means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney, that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

XVII. “Provisional placement” means a determination made by the public child-placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

XVIII. “Public child-placing agency” means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether the entity acts on behalf of a state, a county, a municipality, or another governmental unit, and which facilitates, causes, or is involved in the placement of a child from one state to another.

XIX. “Receiving state” means the state to which a child is sent, brought, or caused to be sent or brought.

XX. “Relative” means someone who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a nonrelative with such significant ties to the child that the nonrelative may be regarded as a relative as determined by the court in the sending state.

XXI. “Residential facility” means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care and that is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, the term “residential facility” does not include institutions primarily educational in character, hospitals, or other medical facilities.

XXII. “Rule” means a written directive, mandate, standard, or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets, or prescribes a policy or provision of the compact. A rule has the force and effect of an administrative rule in a member state and includes the amendment, repeal, or suspension of an existing rule.

XXIII. “Sending state” means the state from which the placement of a child is initiated.

XXIV. “Service member’s permanent duty station” means the military installation where an active duty United States Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

XXV. “Service member’s state of legal residence” means the state in which the active duty United States Armed Services member is considered a resident for tax and voting purposes.

XXVI. “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory of the United States.

XXVII. “State court” means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals who have not attained the age of 18.

XXVIII. “Supervision” means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III

Applicability

I. Except as otherwise provided in paragraph II, this compact shall apply to:

(a) The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state; provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

(b) The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

(1) The child is being placed in a residential facility in another member state and is not covered under another compact; or

(2) The child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

(c) The interstate placement of any child by a public child-placing agency or private child-placing agency as a preliminary step to a possible adoption.

II. The provisions of this compact shall not apply to:

(a) The interstate placement of a child in a custody proceeding in which a public child-placing agency is not a party; provided, however, that the placement is not intended to effectuate an adoption.

(b) The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement; provided, however, that the placement is not intended to effectuate an adoption.

(c) The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

(d) The placement of a child, not subject to paragraph I, into a residential facility by his or her parent.

(e) The placement of a child with a noncustodial parent, provided that:

(1) The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child;

(2) The court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

(3) The court in the sending state dismisses its jurisdiction in interstate placements in which the public child-placing agency is a party to the proceeding.

(f) A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

(g) Cases in which a child who is a United States citizen living overseas with his or her family, at least one of whom is in the United States Armed Services and stationed overseas, is removed and placed in a state.

(h) The sending of a child by a public child-placing agency or a private child-placing agency for a visit as defined by the rules of the Interstate Commission.

III. For purposes of determining the applicability of this compact to the placement of a child with a family member in the United States Armed Services, the public child-placing agency or private child-placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

IV. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts, including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may, in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate similar rules to ensure the coordination of services, timely placement of children, and reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV

Jurisdiction

I. Except as provided in Article IV, paragraph VIII, and Article V, subparagraph II(b) and (c), concerning private and independent adoptions, and in interstate placements in which the public child-placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

II. When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

III. In cases that are before courts and subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person or by telephone, audio-video conference, or such other means as approved by the rules of the Interstate Commission, and judicial officers may communicate with other judicial officers and persons involved in the interstate process as may be permitted by their code of judicial conduct and any rules promulgated by the Interstate Commission.

IV. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

(a) The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child-placing agency in the receiving state;

(b) The child is adopted;

(c) The child reaches the age of majority under the laws of the sending state;

(d) The child achieves legal independence pursuant to the laws of the sending state;

(e) A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state;

(f) An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

(g) The public child-placing agency of the sending state requests termination and has obtained the concurrence of the public child-placing agency in the receiving state.

V. When a sending state court terminates its jurisdiction, the receiving state child-placing agency shall be notified.

VI. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

VII. Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

VIII. The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child, and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

(a) When the child is a ward of another court that established jurisdiction over the child prior to the placement;

(b) When the child is in the legal custody of a public agency in the sending state; or

(c) When a court in the sending state has otherwise appropriately assumed jurisdiction over the child prior to the submission of the request for approval of placement.

IX. A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an "approved placement" by the public child-placing agency in the receiving state.

ARTICLE V

Placement Evaluation

I. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child-placing agency shall provide a written request for assessment to the receiving state.

II. For placements by a private child-placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state public child-placing agencies. The required content to accompany a request for approval shall include all of the following:

(a) A request for approval identifying the child, the birth parents, the prospective adoptive parents, and the supervising agency, signed by the person requesting approval.

(b) The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state or, where permitted, the laws of the state where the adoption will be finalized.

(c) Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state or, where permitted, the laws of the state where finalization of the adoption will occur.

(d) A home study.

(e) An acknowledgment of legal risk signed by the prospective adoptive parents.

III. The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received, and reviewed by the public child-placing agency in both the sending state and the receiving state.

IV. Approval from the public child-placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the Interstate Commission.

V. The procedures for making the request for an assessment shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

VI. Upon receipt of a request from the public child-placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child-placing agency of the sending state may request a determination for a provisional placement.

VII. The public child-placing agency in the receiving state may request from the public child-placing agency or the private child-placing agency in the sending state, and shall be entitled to receive, supporting or additional information necessary to complete the assessment or approve the placement.

VIII. The public child-placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the Interstate Commission.

IX. For a placement by a private child-placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

X. The Interstate Commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI

Placement Authority

I. Except as otherwise provided in this compact, no child subject to this compact shall be placed in a receiving state until approval for such placement is obtained.

II. If the public child-placing agency in the receiving state does not approve the proposed placement, then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

III. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

(a) The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures act.

(b) If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved; provided, however, that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII

Placing Agency Responsibility

I. For the interstate placement of a child made by a public child-placing agency or state court:

(a) The public child-placing agency in the sending state shall have financial responsibility for:

(1) The ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(2) As determined by the public child-placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

(b) The receiving state shall only have financial responsibility for:

(1) Any assessment conducted by the receiving state; and

(2) Supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child-placing agencies of the receiving and sending states.

(c) Nothing in this section shall prohibit public child-placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

II. For the placement of a child by a private child-placing agency preliminary to a possible adoption, the private child-placing agency shall be:

(a) Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

(b) Financially responsible for the child absent a contractual agreement to the contrary.

III. The public child-placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

IV. The public child-placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

V. Nothing in this compact shall be construed to limit the authority of the public child-placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

VI. Each member state shall provide for coordination among its branches of government concerning the state's participation in and compliance with the compact and Interstate Commission activities through the creation of an advisory council or use of an existing body or board.

VII. Each member state shall establish a central state compact office which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

VIII. The public child-placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act, 25 U.S.C. section 1901 et seq., for placements subject to the provisions of this compact, prior to placement.

IX. With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII

Interstate Commission for the Placement of Children

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

I. Be a joint commission of the member states and shall have the responsibilities, powers, and duties set forth herein and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

II. Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy-related matters governed by this compact binding the state.

(a) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

(b) A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(c) A representative shall not delegate a vote to another member state.

(d) A representative may delegate voting authority to another person from that state for a specified meeting.

III. Include, in addition to the commissioners of each member state, persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

IV. Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. The executive committee shall not have the power to engage in rulemaking.

ARTICLE IX

Powers and Duties of the Interstate Commission

The Interstate Commission shall have the following powers:

I. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

II. To provide for dispute resolution among member states.

III. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, or actions.

IV. To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

V. Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements.

VI. To establish and maintain offices as may be necessary for the transacting of its business.

VII. To purchase and maintain insurance and bonds.

VIII. To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies and rates of compensation.

IX. To establish and appoint committees and officers, including, but not limited to, an executive committee as required by Article X.

X. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

XI. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

XII. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

XIII. To establish a budget and make expenditures.

XIV. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

XV. To report annually to the legislatures, the governors, the judiciary, and the state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

XVI. To coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.

XVII. To maintain books and records in accordance with the bylaws of the Interstate Commission.

XVIII. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X

Organization and Operation of the Interstate Commission

I. Organization.

(a) Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt rules to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

(b) The Interstate Commission's rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying.

II. Meetings.

(a) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

(b) Public notice shall be given by the Interstate Commission of all meetings, and all meetings shall be open to the public.

(c) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

III. Officers and staff.

(a) The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions, and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

(b) The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee, and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

IV. Qualified immunity, defense, and indemnification.

(a) The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred or that such person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, however, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(b)(1) The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties, for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(2) The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, however, that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, a member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, however, that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI

Rulemaking Functions of the Interstate Commission

I. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

II. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate, consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

III. When promulgating a rule, the Interstate Commission shall, at a minimum:

- (a) Publish the proposed rule's entire text stating the reasons for that proposed rule;
- (b) Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record and made publicly available; and
- (c) Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties.

IV. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

V. Not later than 60 days after a rule is promulgated, an interested person may file a petition in the United States District Court for the District of Columbia or in the federal district court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

VI. If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

VII. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12 months but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

VIII. Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

- (a) Transition rules.
- (b) Forms and procedures.
- (c) Timelines.
- (d) Data collection and reporting.
- (e) Rulemaking.
- (f) Visitation.
- (g) Progress reports and supervision.
- (h) Sharing of information and confidentiality.
- (i) Financing of the Interstate Commission.
- (j) Mediation, arbitration, and dispute resolution.
- (k) Education, training, and technical assistance.
- (l) Enforcement.
- (m) Coordination with other interstate compacts.

IX. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

- (a) The Interstate Commission may promulgate an emergency rule only if it is required to:
 - (1) Protect the children covered by this compact from an imminent threat to their health, safety, and well-being;
 - (2) Prevent loss of federal or state funds; or
 - (3) Meet a deadline for the promulgation of an administrative rule required by federal law.
- (b) An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to the emergency rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.
- (c) An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

ARTICLE XII

Oversight, Dispute Resolution, and Enforcement

I. Oversight.

(a) The Interstate Commission shall oversee the administration and operation of the compact.

(b) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(c) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

(d) The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order, or other determination, however so captioned or classified, void as to this compact, its bylaws, or rules of the Interstate Commission.

II. Dispute resolution.

(a) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

(b) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

III. Enforcement. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or rules of the Interstate Commission, the Interstate Commission may:

(a) Provide remedial training and specific technical assistance;

(b) Provide written notice to the defaulting state and other member states of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default;

(c) By majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws, or rules of the Interstate Commission. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

(d) Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII

Financing of the Commission

I. The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

II. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

III. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet those obligations, nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

IV. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV

Member States, Effective Date, and Amendment

I. Any state is eligible to become a member state.

II. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the thirty-fifth state. Thereafter, it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

III. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV

Withdrawal and Dissolution

I. Withdrawal.

(a) Once effective, the compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(b) Withdrawal from this compact shall be by the enactment of a statute repealing the compact. The effective date of withdrawal shall be the effective date of the repeal of the statute.

(c) The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

(d) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

(e) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

II. Dissolution of compact.

(a) This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

(b) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI

Severability and Construction

I. The provisions of this compact shall be severable, and, if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

II. The provisions of this compact shall be liberally construed to effectuate its purposes.

III. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII

Binding Effect of Compact and Other Laws

I. Other laws. Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

II. Binding effect of the compact.

(a) All lawful actions of the Interstate Commission are binding upon the member states.

(b) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(c) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature or executive branch of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII

Indian Tribes

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

3 Adoption; Reference Changed. Amend RSA 170-B:18, IV to read as follows:

IV. The department or a licensed child-placing agency making the required assessment may request other departments or licensed child-placing agencies within or outside this state to make the assessment or designated portions thereof as may be appropriate. Where such written assessments are made, a written report shall be filed with the court; provided, however, said report shall not violate RSA 170-A, the interstate compact ~~on~~ **for** the placement of children.

4 Contingency. Sections 2, 3, and 6 of this act, relative to the 2009 edition of the Interstate Compact for the Placement of Children, shall take effect on the date that the commissioner of the department of health and human services certifies to the director of the office of legislative services and the secretary of state that 35 compacting states, including New Hampshire, have enacted the 2009 edition of the Interstate Compact for the Placement of Children.

5 New Section; Interstate Compact on the Placement of Children; Placement of a Child with a Parent. Amend RSA 170-A by inserting after section 1 the following new section:

170-A:1-a Placement of a Child with a Parent. The provisions of this chapter shall not apply to the placement of a child with a parent, provided that:

I. The parent proves, to the satisfaction of a court, a substantial relationship with the child; and

II. The court makes a written finding that placement with the parent is in the best interests of the child.

6 Repeal. RSA 170-A:1-a, relative to the placement of a child with a parent under the interstate compact on the placement of children, is repealed.

7 Effective Date.

I. Sections 2, 3, and 6 of this act shall take effect as provided in section 4 of this act.

II. Section 5 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect January 1, 2023.

2022-1859s

AMENDED ANALYSIS

This bill:

I. Prohibits a parent's decision not to have their child vaccinated from being used as grounds to terminate parental rights.

II. Provides for the adoption of the 2009 edition of the interstate compact for the placement of children.

III. Exempts certain child placements from the interstate compact on the placement of children in RSA 170-A.

Senator Soucy moved to divide the question on the Committee Amendment #2022-1859s to HB 1280: The first vote will be on Sections 1 and 7. The Second vote will be on the remainder of the Committee Amendment #2022-1859s with the effective date.

The Chair ruled the question divisible.

The question is on the adoption of the Committee Amendment: Sections 1 and 7.

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

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

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

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

The question is on the adoption of the Committee Amendment: Remainder with effective date. Adopted.

Senator Soucy moved to divide the question on the motion of Ought to Pass with Amendment: The first vote will be on Sections 1 and 7. The second vote will be on the remainder of the bill as amended with the effective date.

The Chair ruled the question divisible.

The question is on the adoption of the motion of Ought to Pass with Amendment: Sections 1 and 7. Adopted.

The question is on the adoption of the motion of Ought to Pass with Amendment: Remainder of the bill as amended with the effective date. Adopted, bill ordered to Third Reading.

Recess. Out of recess.

HB 1625, repealing the prohibition on entering or remaining on a public way or sidewalk adjacent to a reproductive health care facility.

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

Senator Perkins Kwoka offered a Floor Amendment.

Sen. Perkins Kwoka, Dist 21

Sen. Watters, Dist 4

Sen. Prentiss, Dist 5

Sen. Kahn, Dist 10

Sen. Rosenwald, Dist 13

Sen. Whitley, Dist 15

Sen. Cavanaugh, Dist 16

Sen. Soucy, Dist 18

Sen. D'Allesandro, Dist 20

Sen. Sherman, Dist 24

May 5, 2022

2022-1971s

05/08

Floor Amendment to HB 1625

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

AN ACT relative to access to abortion care.

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

1 Title. This act shall be known and may be cited as the New Hampshire Access to Abortion Care Act.

2 New Chapter; Access to Abortion Care. Amend RSA by inserting after chapter 132-A the following new chapter:

CHAPTER 132-B

ACCESS TO ABORTION CARE

132-B:1 Access to Abortion Care. It shall be the public policy of New Hampshire that, because it is vital to the equality and liberty of all individuals, the state shall not restrict or interfere with an individual's exercise of their private decision to terminate a pregnancy except as provided in RSA 329:44 and RSA 132:32-RSA 132:36.

132-B:2 Enforcement.

I. An individual injured as a result of a violation of this chapter shall have a private right of action in superior court against the state for injunctive relief arising from the violation.

II. In addition to any injunctive relief awarded, the court may award costs and reasonable attorney's fees to an injured person who prevails in an action brought under this chapter.

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

2022-1971s

AMENDED ANALYSIS

This bill establishes the New Hampshire access to abortion care act.

The question is on the adoption of the Floor Amendment.

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

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

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

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

Senator Sherman offered a Floor Amendment.

Sen. Sherman, Dist 24

Sen. Perkins Kwoka, Dist 21

May 5, 2022

2022-1980s

10/12

Floor Amendment to HB 1625

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

AN ACT relative to the fetal life protection act.

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

1 Fetal Life Protection Act; Prohibitions; Exceptions; Ultrasound Examination Requirement. Amend RSA 329:44, I and II to read as follows:

I. Except in the case of a ***pregnancy that results from felonious sexual assault, as defined in RSA 632-A:2 or RSA 632-A:3 or incest or a*** medical emergency as specifically defined in paragraph III, no abortion shall be performed, induced, or attempted by any health care provider unless a health care provider has first made a determination of the probable gestational age of the fetus. In making such a determination, the health care provider shall make such inquiries of the pregnant woman and perform or cause to be performed all such medical examinations, imaging studies, and tests as a reasonably prudent health care provider in the community, knowledgeable about the medical facts and conditions of both the woman and the fetus involved, would consider necessary to perform and consider in making an accurate diagnosis with respect to gestational age, provided, however, that the health care provider shall conduct an obstetric ultrasound examination of the patient for the purpose of making the determination. ***This subdivision shall be construed to require the performance of an ultrasound only if the provider either knows that the fetus has a gestational age of at least 24 weeks or is conscious of a substantial risk that the fetus has a gestational age of at least 24 weeks.***

II. Except ***in the case of felonious sexual assault, as defined in RSA 632-A:2 or RSA 632-A:3 or incest or*** a medical emergency as specifically defined in paragraph III, no health care provider shall knowingly

perform, induce, or attempt to perform an abortion upon a pregnant woman when the probable gestational age of her fetus has been determined to be at least 24 weeks or in the absence of a determination by a health care provider pursuant to paragraph I as to the fetus' probable gestational age.

2 Repeal. The following are repealed:

I. RSA 329:46, establishing criminal penalties against health care providers for violation of the fetal life protection act.

II. RSA 329:47, establishing civil remedies against health care providers for violation of the fetal life protection act.

III. RSA 329:48, relative to review by the board of medicine.

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

2022-1980s

AMENDED ANALYSIS

The bill expands the circumstances under which an abortion may be performed after 24 weeks to include rape and incest, construes the ultrasound requirement, and repeals the criminal, civil, and administrative penalties for violation of the fetal life protection act.

The question is on the adoption of the Floor Amendment.

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

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

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

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

Recess. Out of recess.

MOTION OF RECONSIDERATION

Senator Whitley, moved to reconsider the following action taken by the body on HB 1625, repealing the prohibition on entering or remaining on a public way or sidewalk adjacent to a reproductive health care facility. Floor Amendment #2022-1971s.

The Chair ruled that Senator Whitley was not on the prevailing side.

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

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

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

The following Senators voted No: Hennessey, Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 12 - Nays: 11. 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

HB 1039, relative to the definition of "beverage manufacturer retail outlet" and certain liquor licenses and fees. Ought to Pass with Amendment, Vote 5-0. Senator Bradley for the committee.

Commerce

April 26, 2022

2022-1799s

04/10

Amendment to HB 1039

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

AN ACT relative to the definition of “beverage manufacturer retail outlet” and certain liquor licenses and fees, including beer and specialty beverage festival licenses.

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-4 to read as 5-6, respectively:

3 Beer and Specialty Beverage Festival Licenses. Amend RSA 178:30 to read as follows:

178:30 Beer *and Specialty Beverage* Festival Licenses.

I. The commission may issue a supplemental beer *and specialty beverage* festival license to the holder of a beverage manufacturer license, brew pub license, wholesale distributors license, beverage vendor license, on-premises license, or off-premises license. The commission may also issue a beer *and specialty beverage* festival license to a responsible person representing a voluntary nonprofit group or such group’s designee. Notwithstanding any other provisions of law, the holder of a license under this section shall be allowed to organize, advertise, and hold an event not exceeding 3 days in length, promoting the products of the beverage industry. The provisions of RSA 178:22, I, III, and IV shall apply to any license issued under this section. The sales and services of alcoholic beverages shall be in a clearly defined area. Applications for a license under this section shall be filed with the commission 15 working days before the date on which the license is needed.

II. For purposes of regulation, any person issued a license under paragraph I shall be subject to all applicable statutory provisions and rules adopted under this title, except as directed by this section. Any violations committed by a supplemental licensee shall be considered violations against the applicant’s annual or seasonal license.

III. No alcohol other than beverages, *specialty beverages*, and specialty beer shall be served under this license.

IV. Holders of a license issued under paragraph I may temporarily register beverages, *specialty beverages*, and specialty beer not currently registered for sale in New Hampshire. Registration shall be on forms provided by the commission. Registration forms shall be filed with the commission and an administration fee of \$10 per brand registered shall be assessed. Temporary registration of beverages, *specialty beverages*, and specialty beer shall not be allowed once a registration form is filed with the commission. Any temporary registration filed under this paragraph shall expire upon the termination of the event or shall not exceed 3 consecutive days, whichever is longer.

V. Beverages, *specialty beverages*, and *specialty beer* registered with the commission under paragraph IV shall be purchased by the holder of the license. Additionally, fees of \$.30 per gallon of beverages or specialty beer, *or a fee of 5 percent of the wholesale price per case of any specialty beverage*, purchased under this paragraph shall be paid to the commission by the licensee within 10 business days of the expiration of the license. Payment shall be accompanied by any forms and documentation required by the commission.

VI. Beverages, *specialty beverages*, and *specialty beer* purchased under paragraph V which are partially consumed or not consumed shall be returned to the supplier for credit or shall be destroyed.

VII. Notwithstanding any other provision of this chapter, holders of beverage manufacturer, beverage vendor, wholesaler, and brew pub licenses or any other industry member not licensed in New Hampshire may furnish draft beer equipment and/or representatives to dispense and promote their beverages, *specialty beverages*, and *specialty beer* at licensed beer festivals.

VIII.(a) No license shall be issued under paragraph I unless the applicant obtains:

(1) Official approval of the chief of the local fire department as to the safety of the location; and

(2) Official approval of the local health department concerning sanitary conditions; and

(3) Official approval of the local police department as to the accessibility and public safety of the location and the event.

(b) Written statements from such officials shall accompany the application for a license issued under paragraph I. The selectmen, city council, city manager, or town administrator may at their discretion, assign police officers to the location of the event where alcoholic beverages are served.

IX. Notwithstanding any other provision of law, the commission or its investigators may suspend, without warning, any license issued under paragraph I, if in their opinion, such continued sale or service of alcoholic beverages is contrary to the public interest.

4 Fees; Beer and Specialty Beverage Festival. Amend RSA 178:29, I, Beer Festival by replacing it with the following:

Beer *and Specialty Beverage* Festival

One-day \$ 250

Two-day \$ 300

Three-day \$ 350

2022-1799s

AMENDED ANALYSIS

This bill:

I. Removes the production and manufacturing requirements from the definition of “beverage manufacturer retail outlet.”

II. Prohibits licensed carriers from transporting any liquor, wine, or beverage from a person without a direct shipper permit at any time.

III. Repeals provisions for multi-year liquor licenses.

IV. Allows holders of a beer festival license to also sell specialty beverages.

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

Senator Daniels offered a Floor Amendment.

Sen. Daniels, Dist 11

May 4, 2022

2022-1946s

08/04

Floor Amendment to HB 1039

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

AN ACT relative to the definition of “beverage manufacturer retail outlet,” certain liquor licenses and fees, including beer and specialty beverage festival licenses, relative to direct to consumer shipments of alcohol.

Amend the bill by replacing all after section 4 with the following:

5 Direct to Consumer Shipments of Alcohol to New Hampshire Residents. Amend RSA 178:27-b, I to read as follows:

I.(a) Notwithstanding any other provision of law to the contrary, any business licensed under this chapter as a beverage manufacturer, nano brewery, brew pub, wine manufacturer, liquor manufacturer or beverage distributor may apply for a direct to consumer shipping permit from the commission. The permit shall authorize the holder to sell and deliver [alcohol] *alcoholic* beverages to consumers 21 years of age or older located within the state of New Hampshire and businesses licensed by the commission for on-sale and off-sale of alcoholic beverages. *The permit shall also authorize the licensee to deliver alcohol manufactured or distributed under their license to consumers 21 years of age or older residing in New Hampshire by means of vehicles registered to the New Hampshire licensee and holding a carrier license under RSA 178:14.* There shall be no fee to obtain a shipping permit under this section. *Nothing in this paragraph shall relieve the licensee of their obligation to comply with the record keeping and reporting requirements of this section when shipping products directly to legal age New Hampshire consumers by means of a third party holding a carrier license under RSA 178:14. Direct to consumer permittees or carriers shall not ship into areas of the state where alcoholic beverages may not be lawfully sold. Shipments of any other products shall be considered unlicensed shipments under the provisions of RSA 178:1, I.*

(b) Any individual engaged in the delivery of alcoholic beverages pursuant to this section shall be an employee who regularly receives a W-2 from the licensee and is at least 21 years of age. During deliveries conducted under this section, the person making the delivery shall obtain a signed receipt from the consumer. Consumers who appear visibly intoxicated or who a reasonable

and prudent person would know are intoxicated, who do not produce identification verifying the consumer's age, or who fail to sign a receipt shall not be entitled to his or her delivery of alcoholic beverages.

(c) No holder of a direct to consumer shipping permit shall deliver any alcoholic beverages to any college, university, or school, whether public or private, located within the state. No holder of a direct to consumer shipping permit shall deliver any alcoholic beverages to any public library, public playground, or public park.

6 Alcoholic Beverages; Transportation of Beverages and Wine. Amend RSA 179:15, III(a)(4) to read as follows:

(4) All beverages and wines transported pursuant to RSA 179:15, II shall be transported in their original, manufactured, sealed containers [and shall consist of no greater than 192 ounces of malt beverage or 1.5 liters of sparkling or still wine];

7 Repeal. RSA 178:23, IV-V, relative to fees for multi-year licenses, are repealed.

8 Effective Date.

I. Sections 5-6 of this act shall take effect July 1, 2022.

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

2022-1946s

AMENDED ANALYSIS

This bill:

I. Removes the production and manufacturing requirements from the definition of "beverage manufacturer retail outlet."

II. Prohibits licensed carriers from transporting any liquor, wine, or beverage from a person without a direct shipper permit at any time.

III. Repeals provisions for multi-year liquor licenses.

IV. Allows holders of a beer festival license to also sell specialty beverages.

V. Allows the delivery of alcohol to consumers by means of vehicles registered to a New Hampshire licensee who holds a carrier license.

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

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

EDUCATION

HB 1639, relative to the youth risk behavior survey in schools.

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

Senate Education

April 27, 2022

2022-1855s

10/05

Amendment to HB 1639

Amend the bill by replacing section 1 with the following:

1 School Districts; Youth Risk Behavior Survey. Amend RSA 186:11, IX-d to read as follows:

IX-d. Require School Districts to Adopt a Policy Governing the Administration of Non-academic Surveys or Questionnaires to Students. The policy shall require school districts to notify a parent or legal guardian of a non-academic survey or questionnaire and its purpose. The policy shall provide that no student shall be required to volunteer for or submit to a non-academic survey or questionnaire, as defined in this paragraph, without written consent of a parent or legal guardian unless the student is an adult or an emancipated minor. ***In addition to the written notice, the school district may provide notice electronically to a student's parent or legal guardian.*** The policy shall include an exception from the consent requirement for the youth risk behavior survey [developed by the Centers for Disease Control and Prevention]. The policy shall also allow a parent or legal guardian to opt-out of the youth risk behavior survey [developed by the Centers for Disease Control and Prevention] ***either in writing or electronically.*** The school district shall make such

surveys or questionnaires available, at the school and on the school or school district's website, for review by a student's parent or legal guardian, **and provide written and electronic notification to addresses as known by the district at the time of notification** at least [19] **14** days prior to distribution to students. In this paragraph, "non-academic survey or questionnaire" means surveys, questionnaires, or other documents designed to elicit information about a student's social behavior, family life, religion, politics, **race**, sexual orientation, sexual activity, drug use, or any other information not related to a student's academics.

2022-1855s

AMENDED ANALYSIS

This bill provides for written or electronic notice of the youth risk behavior survey before administering the survey to students.

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.

ENERGY AND NATURAL RESOURCES

HB 1299, relative to the process for the importation of wildlife and creating an appeal process for denials of permits.

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

Energy and Natural Resources

April 25, 2022

2022-1752s

04/10

Amendment to HB 1299

Amend the bill by replacing section 2 with the following:

2 General Provisions as to Fish and Game; Import, Possession or Release of Wildlife. Amend RSA 207:14, I to read as follows:

I.(a) No person shall import, possess, sell, exhibit, or release any live marine species or wildlife, or the eggs or progeny thereof, without first obtaining a permit from the executive director except as permitted under title XVIII. The executive director shall have the authority to determine the time period and any other conditions governing the issuance of such permit. ~~[The executive director may refuse to issue a permit if he determines that such issuance may pose significant disease, genetic, ecological, environmental, health, safety, or welfare risks to persons, marine species or wildlife.]~~ **A person may import, possess, sell, exhibit, or release any live marine species or wildlife, or the eggs or progeny thereof, after first obtaining a permit from the executive director, except as otherwise provided in Title XVIII. The chief of the wildlife division shall respond to a request for a permit within 60 days of a submission for a final request. The permit shall be granted within 60 days of the request, unless the executive director determines that issuing a permit may pose a significant disease, genetic, ecological, environmental, health, safety, or welfare risks to persons, marine species, or wildlife.**

(b) Any person who is denied a permit under subparagraph (a) may appeal the decision in writing to the fish and game commission within 60 days of the denial. The executive director shall respond to the appeal within 60 days.

(c) The executive director shall adopt rules pursuant to RSA 541-A to implement the provisions of this paragraph.

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

Senator Avard offered a Floor Amendment.

Sen. Avard, Dist 12

April 27, 2022

2022-1866s

04/05

Floor Amendment to HB 1299

Amend the bill by replacing section 2 with the following:

2 General Provisions as to Fish and Game; Import, Possession or Release of Wildlife. Amend RSA 207:14, I to read as follows:

I.(a) No person shall import, possess, sell, exhibit, or release any live marine species or wildlife, or the eggs or progeny thereof, without first obtaining a permit from the executive director except as permitted under title XVIII. The executive director shall have the authority to determine the time period and any other conditions governing the issuance of such permit. ~~[The executive director may refuse to issue a permit if he determines that such issuance may pose significant disease, genetic, ecological, environmental, health, safety, or welfare risks to persons, marine species or wildlife.]~~ ***The chief of the wildlife division shall respond to a request for a permit within 60 days of a submission for a final request. The permit shall be granted within 60 days of the request, unless the executive director determines that issuing a permit may pose a significant disease, genetic, ecological, environmental, health, safety, or welfare risks to persons, marine species, or wildlife.***

(b) Any person who is denied a permit under subparagraph (a) may appeal the decision in writing to the executive director within 60 days of the denial. The executive director shall respond to the appeal within 60 days.

(c) The executive director shall adopt rules pursuant to RSA 541-A to implement the provisions of this paragraph.

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

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

JUDICIARY

HB 254, relative to the placement of minors in secure settings.

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

Senate Judiciary

April 27, 2022

2022-1843s

05/04

Amendment to HB 254

Amend the bill by replacing section 5 with the following:

5 New Subparagraph; Delinquent Children; Dispositional Hearing. Amend RSA 169-B:19, I by inserting after subparagraph (l) the following new subparagraph:

(m)(1) Notwithstanding the provisions of RSA 169-B:19, I(j), a court may commit the minor to the custody of the department of health and human services for the remainder of minority if:

(A) The minor is found delinquent:

(i) For an offense which would be a felony if committed by an adult; or

(ii) For an offense which would be a class A misdemeanor if committed by an adult and the minor has previously been adjudicated delinquent under this chapter for at least 3 offenses which would be felonies or class A misdemeanors if committed by an adult; and

(B) The court finds that there is no placement or set of supervision and treatment services other than secure confinement:

(i) That will protect the public from a substantial risk of serious bodily injury;

(ii) That will protect the public from a substantial risk of significant loss, damage, or destruction of property; or

(iii) That, given the seriousness of the minor's criminal conduct, constitutes an appropriate disposition under all the circumstances; or

(C) Pursuant to a plea agreement entered into by a minor with consultation of counsel, and the court makes express findings that this disposition is in the best interest of the minor.

(2) A court's finding pursuant to subparagraphs (1)(A) and (1)(B) is only sufficient to support secure confinement if it is made by clear and convincing evidence following either a stipulation by the parties or a hearing. Further, the court's finding shall include written case-specific findings which identify the evidence relied upon and the basis for the determination that secure confinement is necessary. Commitment under this subparagraph may only be made if the minor has not waived the right to counsel at any stage of the proceedings.

(3) If there is a diagnosis or other evidence that a minor committed under this subparagraph may have a serious emotional disturbance or other behavioral health disorder, the minor shall, with the consent of the minor and the minor's family, be referred to a care management entity pursuant to RSA 135-F:4, III. The care management entity shall develop and oversee the implementation of a care plan for the minor, intended to reduce, if possible, the period of commitment. Commitment may include, but is not limited to, placement by the department of health and human services at a facility certified for the commitment of minors pursuant to RSA 169-B:19, VI, administrative release to parole pursuant to RSA 621:19, or administrative release consistent with the cap on youth development center population under RSA 621:10, provided that the appropriate juvenile probation and parole officer is notified.

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

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3
May 2, 2022
2022-1908s
05/04

Floor Amendment to HB 254

Amend RSA 169-B:14, I(e)(3)(A) as inserted by section 2 of the bill by replacing it with the following:

(A) For delinquency charges which may ~~[not]~~ form the basis for commitment under RSA 169-B:19, I(j) **or RSA 169-B:19, I(m); or**

Amend the bill by replacing section 3 with the following:

3 Delinquent Children; Release or Detention Pending Adjudicatory Hearing. RSA 169-B:14, I(e)(3) is repealed and reenacted to read as follows:

(3) Secure detention shall not be ordered for delinquency charges which may not form the basis for commitment under RSA 169-B:19, I(j) or RSA 169-B:19, I(m).

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

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

HB 1103, relative to certain assets in a divorce proceeding.
Ought to Pass, Vote 5-0. Senator Carson for the committee.

Senator Gannon offered a Floor Amendment.

Sen. Gannon, Dist 23
Sen. Prentiss, Dist 5
May 5, 2022
2022-1965s
07/04

Floor Amendment to HB 1103

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

2 Divorce; Property Settlement; Tangible Property. Amend RSA 458:16-a, II-a to read as follows:

II-a. Tangible property shall include animals. In such cases, the property settlement shall address the care and ownership of the parties' animals, taking into consideration the animals' wellbeing. ***Upon petition of either party, the court may review and modify the property settlement agreed to previously only as it pertains to this paragraph.***

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

2022-1965s

AMENDED ANALYSIS

This bill provides that, in a divorce proceeding, the court shall not require a party to sell a marital asset if the party is able to compensate the other party for his or her interest in it and the sale is not required for an equitable division of the marital property. This bill also allows for either party to petition the court for a modification of a property settlement in regards to the parties' animals.

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.

PRESIDENT MORSE: We will now take up the bills that were Special Ordered.

FINANCE

HB 103-FN, establishing a dental benefit under the state Medicaid program.

Ought to Pass, Vote 6-0. Senator Rosenwald for the committee.

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

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

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

The following Senators voted No: (None)

Roll Call, Yeas: 23 - Nays: 0. Adopted, bill ordered to Third Reading.

HB 275, relative to the declaration of a state of emergency.

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

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

HB 1604-FN, including state medical facilities in the statute providing medical freedom in immunizations.

Ought to Pass, Vote 6-0. Senator Hennessey for the committee.

Senator Avarad offered a Floor Amendment.

Sen. Avarad, Dist 12

May 5, 2022

2022-1972s

10/08

Floor Amendment to HB 1604-FN

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

AN ACT including state medical facilities in the statute providing medical freedom in immunizations, and relative to licensure of case management service providers.

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

2 Home Health Care Provider; Reference to Case Management Agency Added. Amend RSA 151:2-b, I to read as follows:

I. "Home health care provider" means any organization, business entity, or subdivision thereof, ***including a case management agency***, whether public or private, whether operated for profit or not, which is engaged in arranging or providing, directly or through contract arrangement, one or more of the following: nursing services, home health aide services, or other therapeutic and related services which may include, but shall not be limited to, physical and occupational therapy, speech pathology, nutritional services, medical social services, personal care services, and homemaker services, which may be of a preventive, therapeutic, rehabilitative, health guidance or supportive nature to persons in their places of residence.

2022-1972s

AMENDED ANALYSIS

This bill requires state hospitals and medical facilities to grant religious and medical exemptions from vaccination requirements, provided that any request for a medical exemption shall include the supporting documentation required by federal regulation. The bill also includes case management agencies in the definition of home health care providers licensed as health facilities.

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

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

HB 1661-FN-L, relative to regional career technical education agreements and relative to an appropriation for preliminary work for a new legislative parking garage.

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

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

Sen. Hennessey, Dist 1

May 5, 2022

2022-1966s

04/08

Floor Amendment to HB 1661-FN-LOCAL

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

AN ACT relative to regional career technical education agreements, relative to an appropriation for preliminary work for a new legislative parking garage, and establishing an extraordinary need grant for schools.

Amend the bill by replacing all after section 6 with the following:

7 New Section; Extraordinary Need Grants for Schools. Amend RSA 198 by inserting after section 40-e the following new section:

198:40-f Extraordinary Need Grants.

I. In addition to aid for the cost of the opportunity for an adequate education provided under RSA 198:40-a, each year the commissioner shall calculate an extraordinary need grant for schools and provide that amount of aid to a municipality's school districts as follows:

(a) A municipality with an equalized valuation per pupil eligible to receive a free or reduced-priced meal of \$1,000,000 or less shall receive \$650 per pupil eligible to receive a free or reduced-price meal in the municipality's ADMR.

(b) A municipality with an equalized valuation per pupil eligible to receive a free or reduced-price meal between \$1,000,001 and \$5,999,999 shall receive a grant equal to \$0.00013 for each dollar of difference between its equalized valuation per pupil eligible to receive a free or reduced-price meal and \$6,000,000, per pupil eligible to receive a free or reduced-price meal in the municipality's ADMR.

(c) A municipality with an equalized valuation per pupil eligible to receive a free or reduced-price meal of \$6,000,000 or more shall not receive an extraordinary need grant.

II. Extraordinary need grants shall be distributed pursuant to RSA 198:42.

III. In this section, "equalized valuation per pupil eligible to receive a free or reduced-price meal" means a municipality's equalized valuation, excluding properties subject to taxation under RSA 82 and RSA 83-F, as determined by the department of revenue administration, that was the basis for the local tax assessment in the determination year, divided by the school district's kindergarten through grade 12 ADMR in the determination year eligible to receive a free or reduced-price meal.

8 New Subparagraph; Determination of Final Adequate Education Grants. Amend RSA 198:41, I by inserting after subparagraph (d) the following new subparagraph:

(e) Add the municipality's extraordinary need grant pursuant to RSA 198:40-f.

9 Education Aid; Fiscal Year 2023. Amend 2021, 91:52 to read as follows:

91:52 Conditional Differential Aid Calculation For Pupils Eligible for a Free or Reduced Price Meal; Fiscal Year 2023.

I. If, as of any of the dates set forth in RSA 198:41, V, VI, or VII, either (a) the state of New Hampshire is in a declared state of emergency pursuant to RSA 4:45 as it relates to the COVID-19 pandemic or (b) the U.S. Department of Agriculture has not rescinded the Child Nutrition Covid-19 Waivers enacted in response

to the pandemic, or both, then the department of education shall, in consultation with the governor, determine whether the alternative differential aid calculation set forth in paragraph II is required for fiscal year 2023 when making the required estimate or final determination described in RSA 198:41, V, VI, or VII as applicable.

II. Upon making a determination that the alternative differential aid calculation applies pursuant to paragraph I, the department of education shall divide each pupil in the ADMA who is eligible for a free or reduced price meal by the average daily member in [~~attendance (ADMA)~~ **residence (ADMR)**], defined in RSA 198:38, for each district and town for school year 2019-2020. The percentage shall be applied to the [~~ADMA~~ **ADMR**] for school year 2021-2022 to establish a new calculation of [~~ADMA~~ **ADMR**] for who is eligible for a free or reduced price meal. The greater of the [~~ADMA~~ **ADMR**] of pupils who are eligible for a free or reduced price meal for school year 2021-2022 and the new calculation based on the 2019-2020 school year percentage shall be used to calculate the differential aid under RSA 198:40-a, II(b) [~~and~~], relief aid under RSA 198:40-e, **and extraordinary need grants under RSA 198:40-f**.

10 Effective Date.

I. Sections 1-5 and sections 7-9 of this act shall take effect July 1, 2022.

II. Section 6 of this act shall take effect June 30, 2022.

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

2022-1966s

AMENDED ANALYSIS

This bill requires sending district schools and career and technical education (CTE) centers to enter into an agreement to include scheduling, access, transportation, and credits for CTE students; makes an appropriation for preliminary design, engineering, and site work for a new legislative parking garage and for costs for relocating the department of justice; and establishes an extraordinary need grant for schools in addition to regular adequate education grants and relief grants.

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

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

May 5, 2022

2022-1976s

05/04

Floor Amendment to HB 1661-FN-LOCAL

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

AN ACT relative to regional career technical education agreements, relative to an appropriation for preliminary work for a new legislative parking garage, and relative to health and human services.

Amend the bill by replacing all after section 6 with the following:

7 New Subparagraph; State Treasurer and State Accounts; Application of Receipts; Special Fund for Administration of Opioid Treatment Programs. Amend RSA 6:12, I(b) by inserting after subparagraph (382) the following new subparagraph:

(383) Moneys deposited in the special fund for administration of opioid treatment programs established in RSA 172:8-c.

8 New Section; New Hampshire Substance Use Disorder Services System; Special Fund for Administration of Opioid Treatment Programs. Amend RSA 172 by inserting after section 8-b the following new section:

172:8-c Special Fund for Administration of Opioid Treatment Programs. There is hereby established a special fund for administration of opioid treatment programs. The fund shall be composed of fees collected by the commissioner in accordance with RSA 172:14, II, and shall be used to carry out the provisions of this chapter including, but limited to, acting upon the application for the certification, permit, or training of opioid treatment programs. The fund shall be nonlapsing and shall be continually appropriated to the commissioner for the purposes of this chapter to support program operations for certification and administration of the department of health and human services oversight of opioid treatment programs.

9 Department of Health and Human Services; Developmental Services; Pilot Program.

I. For the fiscal year ending June 30, 2023, the department of health and human services, division of long term supports and services, shall implement a pilot program to provide services for individuals with developmental disabilities, between 18 and 21 years of age, who are enrolled in school and determined eligible for developmental services that are not the responsibility of the local education agency, another state agency, or another division of the department. Participation in the pilot program shall be limited to not more than 20 eligible individuals. The department may adopt rules under RSA 541-A relative to implementation and administration of the pilot program.

II. For purposes of the pilot program, the local education agency, all state agencies, and divisions of the department involved with an individual seeking services shall, with the consent of the individual or the individual's guardian, provide information to the area agency and participate in the individual's service planning. The area agency shall provide such information to the department.

III. In addition, the department shall use the information provided in accordance with paragraph II to make the final determination as to whether the services requested are the legal responsibility of the local education agency, another state agency, or another division of the department.

IV. For individuals deemed eligible pursuant to paragraph I, the time period between completion of the individual service agreement, pursuant to RSA 171-A:12, and the allocation by the department of the funds needed to perform the services required by the agreement shall not exceed 90 calendar days.

V. On or before February 1, 2023, the department shall provide a detailed report of the pilot program to the senate health and human services committee, the senate finance committee, the house children and family law committee, the house health, human services and elderly affairs committee, and the house finance committee. The report shall include data on utilization, including the number of individuals seeking services in accordance with paragraph I, the number of individuals provided services as part of the pilot program, the types of specific services provided for each individual, the total cost of the services provided, and other relevant information necessary to assess the pilot program for statewide expansion as part of the state budget for the biennium ending June 30, 2025.

VI. There is hereby appropriated to the department of health and human services the sum of \$2,800,000, for the fiscal year ending June 30, 2023, for the purpose of implementing the pilot program for developmental services established in this section. This appropriation shall be nonlapsing and continually appropriated to the department. Additionally, the department may accept and expend any applicable federal funds, and any gifts, grants, or donations that may be available for the purposes of the pilot program. In the event of any remaining funds not otherwise expended after reaching the cap of serving 20 eligible individuals under the pilot program, the department may allocate funding and provide services to additional eligible individuals. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

167:17-a Unauthorized Payments; Recovery by State. Any sums paid to or on behalf of any person under the provisions of RSA 167 as a result of any false statement, misrepresentation or concealment of or failure to disclose the receipt of property, wages, income or resources by such person or by any person legally liable for his or her support may be recovered through administrative or judicial process, in an action brought by the state or the commissioner of the department of health or human services, or his or her designee, against such person. The commissioner of the department of health and human services shall recover any unauthorized payments pursuant to applicable federal and state law by either reasonably adjusting current and future grant amounts received by the person violating the provisions of this section, or through repayment to the department during such time the person is not currently receiving public assistance. A person who knowingly, and with malfeasance, assists a recipient or another person in obtaining an overpayment shall be jointly and severally liable for the overpayment unless prohibited by federal law.

11 Repeal. The following are repealed:

I. RSA 126-A:4-a, relative to the health care plan report.

II. 2019, 346:348, relative to quarterly reporting on Medicaid rate increases.

12 Department of Health and Human Services; Medicaid Family Planning Services Report. Amend RSA 126-A:5, XXII to read as follows:

XXII. The commissioner shall fully implement expanded coverage of Medicaid family planning services as required by RSA 126-A:4-c no later than July 1, 2013. At the time of implementation, the state's Medicaid plan shall be amended to enable the state to accept federal matching funds. As provided in RSA 126-A:4-c, the department shall ensure that the state realizes the 90 percent federal Medicaid match available for the family planning services. If the traditional claims payment systems are unavailable for implementation within the time frame indicated in this paragraph, the commissioner shall manually process the payment of claims or contract with a third party administrator to ensure timely provider payment capacity and uninterrupted access to eligible recipients. At least 30 days in advance of program implementation, the commissioner shall conduct an outreach effort to all participating Medicaid family planning providers to distribute guidance and technical assistance regarding patient enrollment procedures, eligibility criteria, and covered medical services and supplies. Within 60 days after program implementation as required under this paragraph ~~and annually thereafter~~, the commissioner shall make a report relative to the Medicaid family planning services program to the joint legislative fiscal committee.

13 New Paragraph; Child Protection Act; Issuance of Summons and Notice. Amend RSA 169-C:8 by inserting after paragraph I the following new paragraph:

I-a. If the location of the parent or parents is unknown as set forth in an affidavit filed with the court in which the petitioner describes its efforts to locate the parent or parents, the court may, upon request of the petitioner, order the petitioner to provide notice by publication once a week for 2 successive weeks in a newspaper of general circulation where that person was last domiciled or by certified mail at the last known address. Notwithstanding the time limits in paragraph I, if service by publication is ordered, the preliminary hearing should not be later than 40 days from the date the petition is filed and no sooner than 7 days from the last date of publication. The need for service by publication shall constitute extraordinary circumstances to extend the time for an adjudicatory hearing, pursuant to RSA 169-C:15, III(d).

14 Child Protection Act; Preliminary Hearing. Amend RSA 169-C:15, IV to read as follows:

IV. The court shall determine whether each parent summoned~~[-having custody or control of the child,]~~ understands the possible consequences to parental rights should the court find that the child is abused or neglected. Each person shall sign a statement stating that such person understands the consequences to parental rights. Such statement shall be in a form to be determined by the court.

15 New Subparagraph; Residential Care and Child-Placing Agency Licensing; Definition. Amend RSA 170-E:25, II by inserting after subparagraph (f) the following new subparagraph:

(g)(1) "Kinship care home" means a type of foster home in which an individual or individuals are licensed to provide care exclusively to kin. There shall be a maximum of 6 children including the children living in the home and children received for child care who are related to the residents.

(2) Notwithstanding the limit of 6 children under subparagraph (g)(1), if the kinship care family is willing and able to take a sibling or a group of siblings of a child already in their care, and the department has concluded that the kinship care family is able to provide for the safety, permanency, and well-being of the child or children, the department may place the sibling or group of siblings in the kinship care home.

16 New Paragraph; Residential Care and Child-Placing Agency Licensing; Definition of Kin Added. Amend RSA 170-E:25 by inserting after paragraph X the following new paragraph:

X-a. "Kin" means a child or children who for which there is a connection or history between a child or their parents and another responsible adult, including but not limited to related adults.

17 New Paragraph; State Registry and Criminal Records Check for Foster Family Homes, Institutions, and Child-Placing Agencies. Amend RSA 170-E:29 by inserting after paragraph V the following new paragraph:

VI. A kinship care home shall be considered a foster family home for purposes of this section.

18 Residential Care and Child-Placing Agency Licensing; Issuance. Amend RSA 170-E:31, I to read as follows:

I. Licenses shall be issued in such form and manner as prescribed by rules adopted by the commissioner under RSA 541-A and, for foster family homes, **kinship care homes**, and specialized care, shall be valid for 2 years from the date issued, unless revoked by the department, or voluntarily surrendered by the licensee, or subject to conditions attached to the license which provide for a shorter license period than 2 years.

19 New Paragraph; Residential Care and Child-Placing Agency Licensing; Record of Licenses. Amend RSA 170-E:33 by inserting after paragraph II the following new paragraph:

III. For kinship family care licenses, the name of the children for which the license is issued shall be confidential and exempt from RSA 91-A.

20 Residential Care and Child-Placing Agency Licensing; Issuance. Amend RSA 170-E:45, II to read as follows:

II. Foster family homes *and kinship care homes* which have not been licensed but which have been asked to receive children by the department or another child-placing agency on an emergency basis shall not be subject to the penalty provided in subparagraph I(a). The exemption provided in this paragraph is valid for a period of [30] **180** days from the date of placement of the child in the home.

21 Child Protection Act; Jurisdiction, Continued Jurisdiction, Modification. Amend RSA 169-C:4, III to read as follows:

III. When a custody *or supervision* award has been made pursuant to this chapter, said order shall not be modified or changed, nor shall another order affecting the *custody or legal* status of the child, *including a guardianship order pursuant to RSA 463*, be issued *without the consent of the court in this proceeding*.

22 Adoption; Consequences of Surrender. Amend RSA 170-B:11, II to read as follows:

II. Except in cases where one parent will remain a parent, upon approval of a surrender of a minor executed by the parent, the court shall issue an order granting temporary care, custody, and control of the child to the prospective adoptive parents or where applicable, *guardianship of the person* to the department or agency. The temporary order shall impose upon the prospective adoptive parents or the department or agency, the responsibility for the support and medical and other care of the minor child. The temporary order shall not be valid for longer than 6 months, unless otherwise ordered by the court, and, with the exception of adoptions in which the department or an agency is involved, shall cease upon the granting of the interlocutory decree of adoption. In adoptions in which the department or an agency is involved, during the interlocutory period, the department or agency shall continue to have [a legal relationship] *guardianship of the person*, giving it responsibility for oversight of the support, medical, and other care of the minor child.

23 Department of Health and Human Services; Preventative Health Care Benefits; Medicaid Program. The commissioner of the department of health and human services shall, if necessary, submit a Title XIX Medicaid state plan amendment to the federal Centers for Medicare and Medicaid Services to establish and provide preventative health care benefits under the state Medicaid program for nicotine cessation, transitional care management, chronic care management, diabetes prevention program, and screening, brief intervention, and referral to treatment (SBIRT) services. In addition, the commissioner may adopt rules under RSA 541-A relative to the preventative health care benefits described in this section.

24 Public Assistance to Blind, Aged, or Disabled Persons, and to Dependent Children. Amend RSA 167:6, IX to read as follows:

IX. For purposes hereof, a person with a disability between 18 and 64 years of age who is eligible to participate in the work incentive program, known as Medicaid for employed adults with disabilities (MEAD), shall be eligible for medical assistance as medically needy or categorically needy. ~~[The department of health and human services shall establish a sliding fee scale for participants to contribute to the cost of such medical assistance.]~~ Participants in the MEAD program shall be employed at the time of enrollment, and may remain enrolled during temporary unemployment for medical reasons or other good cause.

25 Public Assistance to Blind, Aged, or Disabled Persons, and to Dependent Children. Amend RSA 167:6, IX-a to read as follows:

IX-a. A person with a disability age 65 and older who is eligible to participate in the work incentive program, known as Medicaid for employed older adults with disabilities (MOAD), shall be eligible for medical assistance as medically needy or categorically needy but not to exclude Medicare coverage. ~~[The department of health and human services shall establish a sliding fee scale for participants to contribute to the cost of such medical assistance.]~~ Participants in the MOAD program shall be employed at the time of enrollment, and may remain enrolled during temporary unemployment for medical reasons or other good cause.

26 Domestic Relations; Medical Assistance Recipient; Notice of Petition for Spousal Support. Amend RSA 458:19-c, II, to read as follows:

II. The department of health and human services shall have the opportunity to address the court in any proceeding under this section if the court, ***or the department, upon motion to the court***, has concerns relative to:

(a) The impact on the recipient of any period of Medicaid ineligibility that would result from the allocation of income or assets;

(b) Whether the ward has been the victim of a crime or has been or is at risk of being abused, neglected, or exploited within the meaning of RSA 161-F:43; or

(c) The cost of the recipient's care to be paid by Medicaid as the result of the proposed allocation of income or assets.

27 New Paragraph; Domestic Relations; Medical Assistance Recipient; Notice of Petition for Spousal Support. Amend RSA 458:19-c to insert after paragraph II the following new paragraph:

III. No petition of spousal support shall be enforceable against the department as it relates to eligibility for medical assistance unless the petitioner provides a copy of the petition to the department at least 14 days prior to filing with the court.

28 Guardians and Conservators; Estate Planning by Guardian. Amend the introductory paragraph on RSA 464-A:26-a, VII, to read as follows:

VII. The department of health and human services, the county attorney, and the department of justice shall be notified and shall have the opportunity to address the court in any proceeding under this section if the court, ***or the department, upon motion to the court***, has concerns relative to:

29 New Paragraph; Guardians and Conservators; Estate Planning by Guardian. Amend RSA 464-A:26-a, VII by inserting after paragraph VII the following new paragraph:

VIII. No petition of spousal support shall be enforceable against the department as it relates to eligibility for medical assistance unless the petitioner provides a copy of the petition to the department at least 14 days prior to filing with the court.

30 New Section; Uniform Civil Liability for Support; Medical Assistance Recipient; Notice of Petition for Spousal Support. Amend RSA 546-A by inserting after section 7 the following new section:

546-A:7-a Medical Assistance Recipient; Notice of Petition for Spousal Support.

I. The department of health and human services, the county attorney, and the department of justice shall be notified and shall have the opportunity to address the court in any proceeding under this chapter if the court or department of health and human services has concerns relative to:

(a) The impact on the ward of any period of Medicaid ineligibility that would result from the proposed gift;

(b) Whether the ward has been the victim of a crime or has been or is at risk of being abused, neglected, or exploited within the meaning of RSA 161-F:43; or

(c) The cost of the ward's care to be paid by Medicaid as the result of the proposed gift or income reallocation.

II. No petition of spousal support shall be enforceable against the department as it relates to eligibility for medical assistance unless the petitioner provides a copy of the petition to the department at least 14 days prior to filing with the court.

31 Department of Health and Human Services; Medicaid Program; Personal Care Attendants.

I. The commissioner of the department of health and human services shall, if necessary, submit a Title XIX Medicaid state plan amendment to the federal Centers for Medicare and Medicaid Services to authorize family caregivers or legally responsible persons of Medicaid recipients to serve as personal care attendants under the state Medicaid program. In addition, the commissioner may adopt rules under RSA 541-A relative to the ability of family caregivers and others to serve as personal care attendants for Medicaid recipients.

II. There is hereby appropriated to the department of health and human services the sum of \$700,000 for the fiscal year ending June 30, 2023, for the purpose of implementing this section. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

32 Department of Health and Human Services; Eligibility for Assistance. Amend RSA 167:4, I(b) to read as follows:

(b) *To the extent permissible under federal law*, in the case of an applicant for public assistance or medical assistance who has made an assignment or transfer of assets to an individual for less than fair market value within 60 months or in the case of transfers of real estate, or transfers of assets to a trust or portions of a trust that are treated as assets disposed of by the individual within 60 months immediately preceding the date of application or while the application is pending, or in the case of a recipient of public assistance or medical assistance who makes such an assignment or transfer while in receipt of the assistance, the assistance sought shall only be granted or continue to be granted in accordance with rules establishing restrictions and eligibility criteria for such cases as adopted by the commissioner of the department of health and human services under RSA 541-A, subject to applicable federal regulations and waiver approval, if any, and review by the oversight committee on health and human services, established in RSA 126-A:13. The oversight committee on health and human services shall make a report to the legislative fiscal committee which shall have final approval authority.

33 New Subparagraph; Departmental Administration; Registry Identification Cards. Amend RSA 126-X:4, II by inserting after subparagraph (g) the following new subparagraph:

(h) An attestation on a form issued by the department stating that the applicant has not been convicted of a felony offense. This attestation shall be subject to the penalties set forth in RSA 641:3 for unsworn falsification and this shall be noted on the form issued by the department. In addition, a designated caregiver shall promptly inform the department if convicted of a felony offense subsequent to being issued a registry identification card.

34 Repeal. RSA 126-X:4, II-a and II-b, relative to criminal background checks for caregivers, are repealed.

35 Departmental Administration; Registry Identification Cards. Amend RSA 126-X:4, III to read as follows:

III. The department shall verify the information contained in an application or renewal submitted pursuant to this section. The department shall approve or deny ~~[an]~~ **a complete** application or renewal for a qualifying patient within 15 days of receipt of the application. The department shall approve or deny ~~[an]~~ **a complete** application or renewal to serve as a designated caregiver within 15 days of receipt of the application ~~[and the criminal history records check results]~~. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or if the applicant previously had a registry identification card revoked for violating the provisions of this chapter or rules adopted by the department, or if the department determines that the information provided was falsified or did not meet the requirements of this chapter or rules adopted by the department. The department shall notify an applicant of the denial of an application. An applicant who is aggrieved by a department decision may request an administrative hearing at the department.

36 Alternative Treatment Centers; Requirements. Amend RSA 126-X:8, IV(a) to read as follows:

IV.(a) ~~[An alternative treatment center shall conduct]~~ A state and federal criminal records check **shall be required** for every person seeking to become a principal officer, board member, agent, volunteer, or employee **of an alternative treatment center** before the person begins working at the alternative treatment center pursuant to RSA ~~[126-X:4, II-a]~~ **126-X:8, IV-a**. An alternative treatment center shall not allow any person to be an alternative treatment center agent who:

- (1) Was convicted of a felony or felony drug-related offense; or
- (2) Is under 21 years of age.

37 New Paragraph; Alternative Treatment Centers; Requirements; Criminal Background Check. Amend RSA 126-X:8 by inserting after paragraph IV the following new paragraph:

IV-a.(a) A person applying to be an alternative treatment center agent shall submit directly to the department of safety a criminal history records release form, as provided by the New Hampshire division of state police, authorizing the release of any felony convictions to the department. The applicant shall submit with the release form a complete set of electronic fingerprints taken by a qualified law enforcement agency or an authorized employee of the department of safety. In the event that the first set of fingerprints is invalid for whatever reason, a second set of fingerprints shall be necessary in order to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearances showing no felony convictions from every city, town, or county where the person has lived during the past 5 years. The division of state police shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation.

Upon completion of the records check, the division of state police shall report to the department whether or not there are any felony convictions. The department shall maintain the confidentiality of criminal history record information received pursuant to this section. The applicant shall bear the cost of a criminal history records check.

(b) Notwithstanding subparagraph IV(a), an alternative treatment center may make a conditional offer of employment and allow a person to begin working at or for the alternative treatment center while the results of the state and federal criminal history records check are pending, provided that:

(1) Prior to beginning employment, the person completes a statement stating that the person does not have any felony convictions in this or any other state, and such statement shall be subject to the penalties set forth in RSA 641:3 for unsworn falsification, which shall be noted on the form issued by the department; and

(2) The conditional employment granted shall be revoked immediately if the criminal history records check results show any felony convictions in this or any other state.

38 Lead Paint Poisoning Prevention and Control; Investigations. Amend the introductory paragraph of RSA 130-A:5, I to read as follows:

I. The commissioner shall investigate cases of lead poisoning in children reported under RSA 141-A whose blood lead level meets or exceeds 5 micrograms per deciliter of whole venous blood~~[-as reported on 2 separate tests except that a blood lead level may be designated as elevated by the health care provider when the level reported meets or exceeds 5 micrograms per deciliter on the first venous test. With such a declaration, a second test shall not be required].~~ The commissioner may also conduct investigations when there is reason to believe that a lead exposure hazard, as defined in RSA 130-A:1, XVI(b) and (d), for a child exists. Such investigations shall include, but not be limited to:

39 Public Health; Food Service Licensure; Exemptions. Amend RSA 143-A:5, IV to read as follows:

IV. Recreation camps inspected and licensed under RSA [149] **170-E, including recreation camps that offer food to camp families or alumni in the 45 days prior to or after the camp operating season.**

40 Compensation of Certain State Officers; Health and Human Services Positions Amended. Amend the following position in RSA 94:1-a, I(b), grade DD to read as follows:

DD Department of health and human services ~~[administrator, family strengthening and child well-being initiatives]~~ **business improvement administrator**

41 Department of Health and Human Services; Shift Differential Payments; Recovery Forgiveness; Appropriation.

I. Any shift differential payments made on or before July 1, 2021, which were inadvertently paid due to administrative error to certain clinical staff at New Hampshire hospital and the Glencliff home, shall be forgiven in full. This section shall preclude any recovery action by the state against those individuals for such payments.

II. Any clinical staff at New Hampshire hospital and the Glencliff home who did not receive the shift differential payments described in paragraph I, shall receive such payments retroactively. The department of health and human services, in coordination with the department of administrative services, may provide the retroactive payments without the approval of governor and council or the fiscal committee of the general court.

III. The sum of \$29,000 for the fiscal year ending June 30, 2023, is appropriated to the department of health and human services for the purpose of providing shift-differential payments to clinical staff at New Hampshire hospital and the Glencliff home, as described in paragraph II. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

42 Department of Health and Human Services; Inpatient Treatment of Children's Behavioral Health; Positions Established. There are hereby established within the department of health and human services, 6 full-time, unclassified positions to manage inpatient treatment of children's behavioral health, in the division for behavioral health services. Subject to the completion of process and procedures of the joint committee on employee classification, established in RSA 14:14-c, the department shall transfer the existing 6 non-classified employees established for the same purposes to the newly established unclassified positions set forth in this section; and, thereafter, the department shall eliminate the 6 non-classified positions.

43 New Paragraph; Compensation of Certain State Officers; Salary Adjustment for Recruitment or Retention. Amend RSA 94:3-b by inserting after paragraph I the following new paragraph:

I-a. Notwithstanding any other provisions of law to the contrary, for any expenditure more than \$10,000 under this paragraph, upon the request of an appointing authority submitted to the commissioner of administrative services for review and evaluation and upon approval by the joint committee on employee classification, the governor and council is hereby authorized, upon a finding by them that it is in the best interests of the state and is necessary in order to recruit and retain or recruit or retain qualified personnel, to make recruitment or retention bonuses for classified clinical positions at New Hampshire hospital and the Glenclyff home. The department of health and human services, in conjunction with the department of administrative services, is authorized to make any expenditure less than or equal to \$10,000 under this paragraph.

44 Department of Health and Human Services; Office of Reimbursement; Duties. Amend RSA 126-A:34, I(a) to read as follows:

(a) Review and investigate all records of the New Hampshire hospital, [~~Laconia developmental services;~~] the secure psychiatric unit, the Glenclyff home, and [~~the Anna Philbrook center~~] ***facilities that provide child inpatient psychiatric treatment within the state mental health system***, relative to expenses incurred by patients, residents, or clients at such institutions, facilities, or programs or expenses incurred by patients, residents, or clients receiving care, treatment, services, or maintenance at the direction of the commissioner of health and human services, and make recommendations to the commissioner and to the respective superintendents or directors of such institutions, facilities, or programs as to the rates to be charged for the care, treatment, and maintenance of such patients, residents, or clients.

45 Department of Health and Human Services; Liability for Expenses and Hearing on Liability. Amend RSA 126-A:40, I(a) to read as follows:

(a) Whenever the court issues an order for evaluation, care, or treatment of a child at [~~the Philbrook center~~] ***a facility that provides child inpatient psychiatric treatment within the state mental health system*** pursuant to RSA 169-B, 169-C, or 169-D, the expenses of such evaluation, care, or treatment shall be borne by the department, except as otherwise provided in this section.

46 Department of Health and Human Services; Liability for Expenses and Hearing on Liability. Amend RSA 126-A:40, III to read as follows:

III. The office of reimbursements, acting on behalf of the [~~New Hampshire hospital~~] ***department of health and human services***, is authorized to compromise or reduce any expense to be charged to the state.

47 Department of Health and Human Services; Limiting Use of Child Restraint Practices; Definitions. Amend RSA 126-U:1, III(d)(1) to read as follows:

(1) [~~The Anna Philbrook center;~~] ***Facilities providing inpatient psychiatric treatment within the state mental health system.***

48 Department of Health and Human Services; New Hampshire Mental Health Services System; References to Anna Philbrook Center Removed. Amend the subdivision heading and the introductory paragraph of RSA 135-C:64 to read as follows:

~~[Anna Philbrook Center]~~ ***Child Inpatient Psychiatric Treatment Facility***

135-C:64 [~~Philbrook Center~~] ***Child Inpatient Psychiatric Treatment Facility***; Purpose. The commissioner shall maintain behavioral health services for children and adolescents in one or more facilities [~~on the New Hampshire hospital campus, or other locations to be determined~~] ***as designated*** by the commissioner. All services for children and adolescents shall be appropriate for each child's developmental stage and shall address the educational, supervisory, and clinical needs of each child. The purposes of child and adolescent services shall include but not be limited to:

49 New Hampshire Mental Health Services System; Reference to Anna Philbrook Center Removed. Amend RSA 135-C:65 to read as follows:

135-C:65 Admission Limitation. Children subject to proceedings in juvenile court may be admitted to [~~the Philbrook center~~] ***a child inpatient psychiatric treatment facility within the state mental health system*** for evaluation, care, or treatment only upon prior approval of the commissioner or designee.

50 New Hampshire Mental Health Services System; Reference to Anna Philbrook Center Removed. Amend RSA 135-C:66 to read as follows:

135-C:66 Access of Records. Notwithstanding any other provisions of law, records regarding children [~~placed at Philbrook center~~] ***receiving child inpatient psychiatric treatment at a facility within the state***

mental health system, pursuant to RSA 169-B, 169-C, or 169-D shall be exchanged between employees of the department to facilitate coordinated care for those children and their families. The confidentiality of such information shall be maintained according to applicable law.

51 New Hampshire Mental Health Services System; Reference to Anna Philbrook Center Removed. Amend RSA 135-C:67 to read as follows:

135-C:67 Admission and Discharge. The commissioner shall adopt rules relative to eligibility criteria and procedures for admission to and discharge from ~~[the Philbrook center]~~ **facilities within the state mental health system that provide inpatient psychiatric treatment to children.**

52 Delinquent Children; Determination of Competence. Amend RSA 169-B:20, V to read as follows:

V. A competency evaluation may be conducted by an entity approved by the commissioner of health and human services, which may include an agency ~~[other than the Philbrook center]~~, a psychiatrist, or psychologist licensed in the state of New Hampshire. The commissioner shall adopt standards establishing the process for approval as an examiner as well as the qualifications required for approval, which shall be based on generally accepted standards for forensic psychiatrists and psychologists.

53 Delinquent Children; Liability for Expenses Incurred. Amend RSA 169-B:40, I(b) to read as follows:

(b) Subparagraph (a) shall not apply to expenses incurred for special education and related services, or to expenses incurred for evaluation, care, and treatment of the minor ~~[at the Philbrook center]~~ **when receiving child inpatient psychiatric treatment within the state mental health system**, or to expenses incurred for the cost of accompanied transportation.

54 Delinquent Children; Liability for Expenses Incurred. Amend RSA 169-B:40, III to read as follows:

III. The office of reimbursements acting on behalf of ~~[Laconia developmental services and the New Hampshire hospital]~~ **the department of health and human services** is authorized to compromise or reduce any expense to be charged to the state **under this section.**

55 Child Protection Act; Preliminary Disposition. Amend RSA 169-C:16, III to read as follows:

III. The court may at any time order the child, parents, guardian, custodian, or household member subject to the petition or ex parte order, to submit to a mental health evaluation, or undergo a physical examination or treatment, with a written assessment being provided to the court. The court may order that the child, who is the subject of the petition or the family or both be evaluated by a mental health center or any other psychiatrist, psychologist or psychiatric social worker or family therapist or undergo physical examination or treatment with a written assessment provided to the court. Evaluations performed at ~~[the Philbrook center]~~ **a facility providing child inpatient psychiatric treatment within the state mental health system** may occur only upon receiving prior approval for such evaluation from the commissioner of the department of health and human services, or designee.

56 Child Protection Act; Liability for Expenses. Amend RSA 169-C:27, I(b)(2) to read as follows:

(2) Expenses incurred for evaluation, care, and treatment of ~~[the child at the New Hampshire hospital]~~ **a child receiving inpatient psychiatric treatment within the state mental health system;** or

57 Child Protection Act; Liability for Expenses. Amend RSA 169-C:27, IV to read as follows:

IV. The office of reimbursements acting on behalf of ~~[Laconia developmental services and the New Hampshire hospital]~~ **the department of health and human services** is authorized to compromise or reduce any expense to be charged to the state **under this section.**

58 Children in Need of Services; Adjudicatory Hearing. Amend RSA 169-D:14, III to read as follows:

III. If the court finds the child is in need of services, it shall, unless a report done on the same child less than 3 months previously is on file, order the department of health and human services or other appropriate agency to make an investigation and written report consisting of, but not limited to, the home conditions, school record and the mental, physical and social history of the child including sibling relationships and residences for the purpose of preserving relationships between siblings who are separated as a result of court ordered placement. Evaluations performed at ~~[the Philbrook center]~~ **a facility providing child inpatient psychiatric treatment within the state mental health system** may occur only upon receiving prior approval for such evaluation from the commissioner of the department of health and human services or designee. When ordered by the court, such investigation shall include a physical and mental examination of the child, parents, guardian,

or person having custody. The court may order a substance abuse evaluation of the child, parents, guardian, or person having custody. Any substance abuse evaluation of the parent, guardian, or person having custody of the child shall be conducted by a provider contracted with the bureau of substance abuse services, or a provider paid by the parent, guardian, or person having custody of the child. The cost of said evaluation shall be paid by private insurance, if available, or otherwise by the person undergoing the evaluation, to whom the evaluation shall be provided free or at a reduced cost if the person is of limited means. The court shall inform the parents, guardian, or person having custody and child of their right to object to the physical examination, mental health evaluation, or substance abuse evaluation. Objections shall be submitted in writing to the court having jurisdiction within 5 business days after notification of the time and place of the examination or evaluation. The court may excuse the child, parents, guardian, or person having custody upon good cause shown. No disposition order shall be made by the court without first reviewing the investigation report, if ordered.

59 Children in Need of Services; Determination of Competence. Amend RSA 169-D:18-a, I to read as follows:

I. At any point during the proceedings, the court may, either on its own motion or that of any of the parties, order the child to submit to a mental health evaluation for the purpose of determining whether the child is competent to have committed the offenses or acts alleged in the petition. The evaluation shall be completed within 60 days of the date of such order and shall be conducted by an agency ~~[other than the Philbrook center]~~ which is approved by the commissioner of health and human services, or conducted by a psychologist licensed in New Hampshire or a qualified psychiatrist, or by ~~[the Philbrook center]~~ **a facility providing child inpatient psychiatric treatment within the state mental health system** only upon receiving prior approval for admission of the child for such evaluation by the commissioner of the department of health and human services. The evaluation shall be submitted to the court in writing prior to the hearing on the merits.

60 Children in Need of Services; Liability for Expenses. Amend RSA 169-D:29, I(b) to read as follows:

(b) Subparagraph (a) shall not apply to expenses incurred for special education and related services, or to expenses incurred for evaluation, care, and treatment of ~~[the child at the Philbrook center]~~ **a child receiving inpatient psychiatric treatment within the state mental health system** or to expenses incurred for the cost of accompanied transportation.

61 Children in Need of Services; Liability for Expenses. Amend RSA 169-D:29, IV to read as follows:

IV. The office of reimbursements acting on behalf of ~~[Laconia developmental services and the New Hampshire hospital]~~ **the department of health and human services** is authorized to compromise or reduce any expense to be charged to the state **under this section**.

62 Youth Services Center; Records. Amend RSA 621-A:7, I to read as follows:

I. Full and complete records shall be kept by the commissioner of the care and study of each child admitted to the youth services center. The records shall not be open to the inspection of any persons not on the staff of the commissioner except that such records shall be available, by court order, to any court having competent jurisdiction of the child in any matter pending in this state or to such person or persons as may be authorized by the court. Notwithstanding any other provision of law, exchange of medical or psychiatric records between ~~[the Philbrook center]~~ **a facility providing child inpatient psychiatric treatment within the state mental health system** and the department shall be permitted.

63 Emergency Treatment; Reference Change. Amend the introductory paragraph of RSA 135:21-b to read as follows:

135:21-b Emergency Treatment. A physician licensed in the state, a psychiatrist-supervised physician assistant licensed in this state, a psychiatric mental health advanced practice registered nurse, or a person acting under such physician's, psychiatrist-supervised physician assistant's, or advanced practice registered nurse's direction may administer a recognized and approved form of medical or psychiatric treatment which the physician, psychiatrist-supervised physician assistant, or psychiatric mental health advanced practice registered nurse reasonably believes will tend to promote the physical and mental health of a patient of the New Hampshire hospital, ~~[Laconia developmental services]~~ Glencliff home, any community mental health or developmental services program or treatment facility receiving state grants under RSA 171-A, or any other treatment facility designated as a receiving facility under RSA 135-C, when:

64 State Facilities Other Than New Hampshire Hospital; Reference Change. Amend RSA 135-C:4, I to read as follows:

I. The commissioner shall have charge of the property and concerns of any facility owned by the state which provides, or which may be established to provide, care and treatment to persons who have mental illness or developmental disabilities, including those subject to the exception set forth in paragraph I-a, with regard to the care and maintenance of the grounds and buildings located at the facility in Concord, known as New Hampshire hospital. Such facilities include, but are not limited to, facilities established at Glencliff known as Glencliff home ~~[and Laconia, known as Laconia developmental services]~~.

65 Child Protection Act; Institutional Abuse and Neglect; Reference Change. Amend RSA 169-C:37 to read as follows:

169-C:37 Institutional Abuse and Neglect. The department of justice shall be empowered to receive and investigate reports of institutional abuse or neglect at the youth development center, ~~[Laconia developmental services, and New Hampshire hospital]~~ **and any facility that provides child inpatient psychiatric treatment within the state mental health system**; and the department shall be empowered to receive and investigate reports of all other suspected instances of institutional abuse or neglect. Either the department of justice or the commissioner of the department or both may adopt rules consistent with this authority to investigate such reports and take appropriate action for the protection of children.

66 Guardians and Conservators; Conduct of Hearing; Reference Change. Amend RSA 464-A:8, III to read as follows:

III. The medical affidavit shall be evidence only of the proposed ward's inability to attend the hearing and shall not be considered in determining his or her incapacity. If the proposed ward is a patient at a county nursing home, **or** state hospital ~~[or Laconia developmental services]~~, the affidavit shall be by the medical director or medical superintendent of such county nursing home~~;~~ **or** state hospital~~;~~ ~~or developmental services]~~.

67 Child Day Care Licensing; State Registry and Criminal Records Check; Revocation of Registration and Withholding of State Funds. Amend RSA 170-E:7, IV-d to read as follows:

IV-d. The fee for a child care employment eligibility card issued under paragraph IV-a shall be ~~[\$50]~~ **\$25** and the card shall be valid for 5 years from the date of issuance, or a prorated amount of ~~[\$10]~~ **\$5** per year from the most recently completed criminal background check. A replacement card may be requested for a ~~[\$15]~~ **\$10** fee.

68 Residential Care and Child-Placing Agency Licensing; State Registry and Criminal Records Check for Child Care Institutions and Child Care Agencies. Amend RSA 170-E:29-a, VII(b) to read as follows:

(b) The fee for a residential child care employment eligibility card shall be ~~[\$50]~~ **\$25**, and the card shall be valid for 5 years from the date of issuance, or a prorated amount of ~~[\$10]~~ **\$5** per year from the most recently completed criminal background check. The fee for a replacement card shall be ~~[\$15]~~ **\$10**.

69 Child Day Care Licensing; Definitions. Amend RSA 170-E:2, IV(d) to read as follows:

(d) ~~["Day care nursery"]~~ **"Infant and toddler program"** means a child day care agency in which child day care is provided for any part of a day, for 5 or more children under the age of 3 years.

70 Child Day Care Licensing; Definitions. Amend RSA 170-E:2, XII to read as follows:

XII. "Regularly" or "on a regular basis" means supervision and care up to and including 7 days a week, whether paid or unpaid, for the following as defined in RSA 170-E:2, IV: (a) family day care home, (b) family group day care home, (c) group child day care center, (d) ~~[day care nursery]~~ **infant and toddler program**, (e) night care agency, (f) preschool program, and (g) school-age program.

71 Residential Care and Child-Placing Agency Licensing; Definition of Child Care Agency. RSA 170-E:25, II is repealed and reenacted to read as follows:

II. "Child care agency" means any person, corporation, partnership, voluntary association or other organization either established for profit or otherwise, who regularly receives for care one or more children, unrelated to the operator of the agency, apart from the parents, in any facility as defined in this subdivision and maintained for the care of children. The types of child care agencies are defined as follows:

(a) "Child care institution" means a child care agency where more than 12 children are received and maintained for 24-hour care for the purpose of providing them with care or training, or both. The term "child care institution" shall not include:

(1) Any state operated institution for child care or juvenile detention established by law.

(2) Any institution, home, place, or facility operating under a license pursuant to RSA 151:2.

(3) Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public elementary schools or high schools, or both, and which operates on a regular academic school year basis, and which is approved by the department of education.

(4) Any licensed recreation camp.

(b)(1) "Foster family home" means child care in a residence in which family care and training are provided on a regular basis for no more than 6 unrelated children, unless all the children are of common parentage. The maximum of 6 children includes the children living in the home and children received for child care who are related to the residents.

(2) If the limit of 6 children under subparagraph (a)(1) is reached, the foster family is willing and able to take a sibling or a group of siblings of a child already in their care, and the department has concluded that the foster family is able to provide for the safety, permanency, and well-being of the child or children, the department may, notwithstanding the limitations of subparagraph (a)(1), place the sibling or group of siblings in the foster family home.

(c) "Group home" means a child care agency which regularly provides specialized care for at least 5 but no more than 12 children who can benefit from residential living either on a short-term or long-term basis.

(d) "Independent living home" means a child care agency which regularly provides specialized services in adult living preparation in an experiential residential setting for persons 16 years of age or older who have a legal relationship with the department of health and human services and who can benefit from independent living training.

(e) "Specialized care" means a child care agency which regularly provides general care for children who are diagnosed as mentally ill, intellectually disabled, or physically disabled and who are determined to be in need of special mental treatment or nursing care, or both.

(f) "Homeless youth program" means a program, including any housing facilities utilized by such program, which receives any child for the purpose of providing services to facilitate independent living including all of the following program components: individual assessment, referral, housing, and case management. Such services may be provided directly by the agency or through one or more contracts for services.

72 Repeal. The following are repealed:

I. RSA 170-E:25, III, relative to the definition of child care institution.

II. RSA 170-E:25, VIII, relative to the definition of experiential/wilderness facility.

III. RSA 170-E:25, X, relative to the definition of independent living home.

73 Residential Care and Child-Placing Agency Licensing; Definitions. Amend RSA 170-E:25, VI to read as follows:

VI. "Corrective action plan" means a written proposal setting forth the procedures by which a child care agency[~~child care institution~~], or child-placing agency will come into compliance with the standards set by rule adopted by the commissioner under RSA 541-A and subject to the approval of the department. The proposal shall include the time needed to assure compliance and the steps proposed by the agency to reach compliance.

74 Residential Care and Child-Placing Agency Licensing; Definitions. Amend RSA 170-E:25, XI to read as follows:

XI. "License" means a complete license issued to an operator of a child care agency[~~child care institution~~] or child-placing agency, authorizing the licensee to operate in accordance with the term and conditions of the license, this subdivision, and the rules of the department.

75 Recreation Camp Licensing; Definitions. Amend RSA 170-E:55, I to read as follows:

I. "Recreation camp" means any place set apart for recreational purposes for boys and girls. It shall not apply to **preschool programs as defined in RSA 170-E:2**, private camps owned or leased for individual or family use, or to any camp operated for a period of less than 10 days in a year.

76 New Section; Residential Care and Child-Placing Agency Licensing; Transfer or Discharge. Amend RSA 170-E by inserting after section 42 the following new section:

170-E:42-a Transfer or Discharge of Residents.

I. In this section:

(a) "Discharge" means movement of a resident from a child care agency to a non-institutional setting or the termination of services by a child care agency when the child care agency ceases to be legally responsible for the care of the resident.

(b) "Transfer" means movement of a resident from one child care agency to another child care agency when legal responsibility for the care of the resident changes from the transferring to the receiving child care agency.

II. A resident shall be transferred or discharged after appropriate discharge planning only for medical reasons, for the resident's welfare or that of other residents, or if the child care agency ceases to operate.

III. Transfer or discharge of a resident from a child care agency shall in all instances be preceded by written notice which shall contain the following:

(a) The reason for the proposed transfer or discharge;

(b) The effective date of the proposed transfer or discharge;

(c) The location to which the resident is transferred or discharged; and

(d) The name, address, and telephone number of the office of the ombudsman, established under RSA 126-A:4, III, and the name, address, and telephone number of the federally-designated protection and advocacy agency for individuals with disabilities.

IV. Except as provided in paragraph V, written notice of transfer or discharge shall be given at least 30 days before the resident is transferred or discharged. A copy of the notice shall be placed in the resident's file and a copy shall be transmitted to the resident's parent or legal guardian and the agency responsible for the resident's placement.

V. Written notice as provided in paragraph III shall be given as soon as practicable before transfer or discharge in the following circumstances:

(a) If an emergency transfer or discharge is mandated by the resident's health care needs;

(b) If the transfer or discharge is mandated by the health or safety of other individual's in the child care agency;

(c) If the transfer or discharge is appropriate because the resident's needs cannot be met in the child care agency;

(d) If the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the child care agency;

(e) If the transfer or discharge is mandated by court order;

(f) If the resident has reached the age of 21; or

(g) If the resident has resided in the child care agency for less than 30 days.

VI. For the purposes of this section, "transfer" or "discharge" shall not include transfers or discharges initiated at the request of the resident's parent or legal guardian.

VII. If the resident's parent or legal guardian wishes to have the resident relocate to another child care agency or place, the resident shall be relocated according to the resident's parent's or legal guardian's wishes; provided that the resident's parent or legal guardian gives written notice of such relocation to the child care agency.

VIII. For the purposes of this section, transfer shall not include the temporary movement of a resident from a facility to a hospital or other location for emergency medical treatment.

IX. The provisions of this section shall not apply to foster family homes, as defined in RSA 170-E:25.

77 New Sections; Recreation Camp Licensing; Confidentiality and Investigations. Amend RSA 170-E by inserting after 66 the following new sections:

170-E:67 Confidentiality and Investigations. The department may request and shall receive cooperation from other state agencies in connection with investigations and licensure. The department shall strictly observe the confidentiality requirements of the agency from which it receives information.

170-E:68 License Suspension, Revocation, or Denial. The department may suspend, revoke, or deny any license if the license holder:

- I. Neglects or abuses children in his or her care;
- II. Does not comply with this subdivision or the rules adopted under this subdivision relative to the health and safety of children;
- III. Violates any provision of this subdivision, or is unable to meet and maintain standards adopted by the commissioner;
- IV. Substantially or repeatedly violates any provisions of the license issued;
- V. Furnishes or makes any misleading or any false statement or report to the department;
- VI. Refuses or fails to submit any reports or to make available to the department any records required by it in making an investigation of the facility for licensing purposes;
- VII. Refuses or fails to submit to an investigation or to the required visits by the department;
- VIII. Refuses or fails to admit authorized representatives of the department at any time the camp is in operation for the purpose of investigation or visit;
- IX. Fails to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for recreation camps as required under standards prescribed by rules adopted by the commissioner under RSA 541-A or as otherwise required by any law, rule, ordinance, or term of the license applicable to the location of such facility; or
- X. Retaliates against an employee who in good faith reports a suspected violation of the provisions of this subdivision and rules adopted under it.

78 Department of Health and Human Services; Medicaid Reimbursement Rates for Hospital Birthing Services.

I. In order to ensure adequate access to labor services for women in New Hampshire, the department of health and human services shall increase the Medicaid reimbursement rate for facility-based birthing services provided at hospitals by 25 percent, in the aggregate, based on the rate in effect as of June 30, 2022.

II. The commissioner of health and human services shall have the discretion to implement the reimbursement increase to adjust for access risk geographically; provided that no critical access hospital or non-critical access hospital receives less than a 20 percent increase.

III. The sum of \$2,400,000 for the fiscal year ending June 30, 2023 is hereby appropriated to the department of health and human services for the purpose of increasing Medicaid reimbursement rates for hospital birthing services as provided in this section. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

79 New Paragraph; Out-of-State Providers; Consultation and Follow-up Care via Telehealth Permitted. Amend RSA 310-A:1-g by inserting after paragraph VI the following new paragraph:

VII. Physicians and physician assistants, governed by RSA 329 and RSA 328-D; advanced practice nurses, governed by RSA 326-B and registered nurses under RSA 326-B employed by home health care providers under RSA 151:2-b; midwives, governed by RSA 326-D; psychologists, governed by RSA 329-B; allied health professionals, governed by RSA 328-F; dentists, governed by RSA 317-A; mental health practitioners governed by RSA 330-A; community mental health providers employed by community mental health programs pursuant to RSA 135-C:7; alcohol and other drug use professionals, governed by RSA 330-C; and dietitians, governed by RSA 326-H shall be authorized to provide consultation services or follow-up care via telehealth to a patient who previously received services from the provider in the state where the provider is licensed.

80 Effective Date.

- I. Sections 1-5, 7-9, 24, 25, 31, 43, 67, 68, 77 and 78 of this act shall take effect July 1, 2022.
- II. Section 23 of this act shall take effect June 30, 2023.
- III. Sections 33-37 of this act shall take effect 30 days after its passage.
- IV. Sections 26, 32, and 38 of this act shall take effect 60 days after its passage.
- V. Sections 40-42 of this act shall take effect June 30, 2022.

VI. Sections 13 and 14 of this act shall take effect January 1, 2023.

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

2022-1976s

AMENDED ANALYSIS

This bill:

I. Requires sending district schools and career and technical education (CTE) centers to enter into an agreement to include scheduling, access, transportation, and credits for CTE students.

I-a. Makes an appropriation for preliminary design, engineering, and site work for a new legislative parking garage and for costs for relocating the department of justice.

I-b. Establishes a special fund for administration of opioid treatment programs.

II. Establishes a pilot program for individuals with developmental disabilities.

III. Permits a physician licensed in another state to provide consultation services or follow up care via telemedicine to an existing patient.

IV. Revises the department's authority to recover unauthorized payments by the state.

V. Repeals certain reporting requirements.

VI. Allows for alternative service of process under RSA 169-C when a child's parent cannot be located.

VII. Creates a separate category of foster care license for kinship care homes.

VIII. Grants the department guardianship of a child following surrender of parental rights under RSA 170-B.

IX. Expands the state Medicaid plan to include preventative health care benefits.

X. Removes the requirement that the department charge premiums for medical assistance provided under MEAD and MOAD.

XI. Allows the department to address the court in guardianship and spousal support cases involving Medicaid recipients or suspected victims of abuse or exploitation.

XII. Directs the department to submit a Medicaid state plan amendment to allow certain family caregivers or legally responsible persons of Medicaid recipients to serve as personal care attendants and makes an appropriation for this purpose.

XIII. Revises the "look back" period for Medicaid eligibility for long term care.

XIV. Removes the criminal background check requirement for designated caregivers in the therapeutic cannabis program and modifies the criminal background check requirement for alternative treatment center agents.

XV. Modifies the blood test requirement for purposes of lead paint poisoning prevention and control.

XVI. Clarifies the food service licensure exemption for recreational camps.

XVII. Revises childcare license definitions.

XVIII. Revises certain department of health and human services employee position titles.

XIX. Provides shift differential payments to clinical staff at New Hampshire hospital and the Glencliff home and makes an appropriation for this purpose.

XX. Establishes new positions for inpatient treatment of children's behavioral health.

XXI. Permits salary adjustments for recruitment or retention of classified clinical positions at New Hampshire hospital and the Glencliff home.

XXII. Removes references to the Anna Philbrook center, Laconia state school, and Laconia developmental services.

XXIII. Appropriates a portion of the funds received by the state from the Centene settlement to the department of health and human services for the purpose of completing the Medicaid Care Management SFY 2020 Risk Corridor calculation.

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

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3
May 5, 2022
2022-1973s
10/08

Floor Amendment to HB 1661-FN-LOCAL

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

AN ACT relative to regional career technical education agreements, relative to an appropriation for preliminary work for a new legislative parking garage, and relative to release of a defendant pending trial.

Amend the bill by replacing all after section 6 with the following:

7 Bail and Recognizances; Release of a Defendant Pending Trial. Amend RSA 597:2, I-III(a) to read as follows:

597:2 Release of a Defendant Pending Trial.

I. Except as provided in paragraph **III or** VI, upon the appearance before the court of a person charged with an offense, the court shall issue an order that, pending arraignment or trial, the person be:

- (a) Released on his or her personal recognizance or upon execution of an unsecured appearance bond, pursuant to the provisions of paragraph III;
- (b) Released on a condition or combination of conditions pursuant to the provisions of paragraph III;
- (c) Detained; or
- (d) Temporarily detained to permit revocation of conditional release pursuant to the provisions of paragraph VIII.

II. Except as provided in RSA 597:1-d, a person charged with a probation violation shall be entitled to a bail hearing. The court shall issue an order that, pending a probation violation hearing, the person be:

- (a) Released on his or her personal recognizance or upon execution of an unsecured appearance bond, pursuant to the provisions of paragraph III;
- (b) Released on a condition or combination of conditions pursuant to the provisions of paragraph III; or
- (c) Detained.

III. When considering whether to release or detain a person, the court **and, if applicable, a bail commissioner** shall consider the following issues:

- (a) Safety of the public or the defendant.

(1) Except as provided in RSA 597:1-c, a person who is charged with homicide under RSA 630; first degree assault under RSA 631:1; second degree assault under RSA 631:2; domestic violence under RSA 631:2-b; aggravated felonious sexual assault under RSA 632-A:2; felonious sexual assault under RSA 632-A:3; kidnapping under RSA 633:1; stalking under RSA 633:3-a; trafficking in persons under RSA 633:7; robbery under RSA 636:1, III; possession, manufacture, or distribution of child sexual abuse images under RSA 649-A; or computer pornography and child exploitation under RSA 649-B; shall not be brought before a bail commissioner and shall, upon arrest, be detained pending arraignment before the court. Arraignment shall occur no later than 24 hours after the arrest, Saturdays, Sundays, and legal holidays excluded, or no later than 36 hours after arrest if arrested between 8:00 a.m. and 1:00 p.m. and the person's attorney is unable to attend an arraignment on the same day, Saturdays, Sundays, and legal holidays excluded. At the person's appearance before the court, the court shall order that the person be detained pending trial if the court determines by clear and convincing evidence that release of the person is a danger to the public or themselves. In determining whether release will endanger the safety of that person or the public, the court may consider all relevant and material factors presented pursuant to paragraph IV. If the court does not find by clear and convincing evidence that the person must be detained, the court shall order the person released pursuant to paragraph I(a) or paragraph I(b), or, if applicable, temporarily detained pursuant to paragraph I(d).

(2) If a person is charged with any *other* criminal offense, an offense listed in RSA 173-B:1, I, or a violation of a protective order under RSA 458:16, III, or after arraignment, is charged with a violation of a protective order issued under RSA 173-B, the court may order preventive detention without bail, or, in the alternative, may order restrictive conditions including but not limited to electronic monitoring and supervision, only if the court determines by clear and convincing evidence that release will endanger the safety of that person or the public. In determining whether release will endanger the safety of that person or the public, the court may consider all relevant factors presented pursuant to paragraph IV.

8 Effective Date.

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

II. Section 7 of this act shall take effect January 1, 2023.

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

2022-1973s

AMENDED ANALYSIS

This bill requires sending district schools and career and technical education (CTE) centers to enter into an agreement to include scheduling, access, transportation, and credits for CTE students. The bill also makes an appropriation for preliminary design, engineering, and site work for a new legislative parking garage and for costs for relocating the department of justice. This bill also lists certain offenses which, if committed by the defendant, create a rebuttable presumption that a defendant is a danger to the public and shall be detained for up to 36 hours.

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

Senator Bradley offered a Floor Amendment.

Sen. Bradley, Dist 3

Sen. Perkins Kwoka, Dist 21

May 4, 2022

2022-1960s

10/04

Floor Amendment to HB 1661-FN-LOCAL

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

AN ACT relative to regional career technical education agreements, relative to an appropriation for preliminary work for a new legislative parking garage, and relative to training and procedures for zoning and planning boards and financial investments and incentives for affordable housing development.

Amend the bill by replacing all after section 6 with the following:

7 Local Land Use Boards; Training. RSA 673:3-a is repealed and reenacted to read as follows:

673:3-a Training. Any member of a zoning board of adjustment or planning board may complete training offered by the office of planning and development or another organization that provides similar training covering the processes, procedures, regulations, and statutes related to the board on which the member serves. The office of planning and development shall develop standard self-training materials and corresponding tests for zoning boards of adjustment and planning boards which shall be provided to members free of charge. The office of planning and development may provide other types of training, which may be designed in a variety of formats including, but not limited to, web-based, distance learning, or traditional classroom style. For purposes of this section, the term "member" includes regular and alternate members of zoning boards of adjustment and planning boards.

8 New Paragraph; Local Land Use Boards; Staff; Finance. Amend RSA 673:16 by inserting after paragraph II the following new paragraph:

III. Any fee which a city or town imposes on an applicant pursuant to this title shall be published in a location accessible to the public during normal business hours. Any fee not published in accordance with this paragraph at the time an applicant submits an application shall be considered waived for purposes of that application. A city or town may comply with the requirements of this section by publicly posting a list of fees at the city or town hall or by publishing a list of fees on the city or town's Internet website.

9 New Paragraph; Local Land Use Planning and Regulatory Powers; Zoning. Amend RSA 674:17 by inserting after paragraph III the following new paragraph:

IV. If a municipality allows an increased density, reduced lot size, expedited approval, or other dimensional or procedural incentive under this section for the development of housing for older persons, as defined and regulated pursuant to RSA 354-A:15, VIII, it shall allow the same incentive for the development of workforce housing as defined in RSA 674:58, IV. Beginning July 1, 2023, incentives established for housing for older persons shall be deemed applicable to workforce housing development, regardless of whether a local land use ordinance or regulation specifically provides for their application to workforce housing development.

10 Planning and Zoning; Administrative and Enforcement Procedures; Issuance of Decision. Amend RSA 676:3, I to read as follows:

I. The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. ***The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.*** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

11 New Paragraph; Powers of Zoning Board of Adjustment. Amend RSA 674:33 by inserting after paragraph VII the following new paragraph:

VIII. Upon receipt of any application for action pursuant to this section, the zoning board of adjustment shall begin formal consideration and shall approve or disapprove such application within 90 days of the date of receipt, provided that the applicant may waive this requirement and consent to such extension as may be mutually agreeable. If a zoning board of adjustment determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the board may, in its discretion, deny the application without prejudice, in which case the applicant may submit a new application for the same or substantially similar request for relief.

12 Workforce Housing; Definition. Amend RSA 674:58, IV to read as follows:

IV. "Workforce housing" means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. "Workforce housing" also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, ***or are subject to age restrictions***, shall not constitute workforce housing for the purposes of this subdivision.

13 Planning Board; Board's Procedures on Plats. Amend RSA 676:4, I(c) to read as follows:

(c)(1) The board shall, at the next regular meeting or within 30 days following the delivery of the application, for which notice can be given in accordance with the requirements of subparagraph (b), determine if a submitted application is complete according to the board's regulation and shall vote upon its acceptance. Upon determination by the board that a submitted application is incomplete according to the board's regulations, the board shall notify the applicant of the determination in accordance with RSA 676:3, which shall describe the information, procedure, or other requirement necessary for the application to be complete. Upon determination by the board that a submitted application is complete according to the board's regulations, the board shall begin formal consideration and shall act to approve, conditionally approve as provided in subparagraph (i), or disapprove within 65 days, subject to extension or waiver as provided in subparagraph (f). In the case of a determination by the board that the application is a development of regional impact requiring notice in accordance with RSA 36:57, III, the board shall have an additional 30 days to act to approve, conditionally approve, as provided in subparagraph (i), or disapprove. ~~Upon failure of the board to approve, conditionally approve, or disapprove the application, the selectmen or city council shall, upon request of the~~

applicant, immediately issue an order directing the board to act on the application within 30 days.] ***If the board determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension pursuant to subparagraph (f), the board may, in its discretion, deny the application without prejudice, in which case the applicant may resubmit the same or a substantially similar application.*** If the planning board does not act on the application within that [30-day] **65-day** time period, then [within 40 days of the issuance of the order,] the selectmen or city council shall certify on the applicant's application that the plat is approved pursuant to this paragraph[; unless within those 40 days the selectmen or city council has identified in writing some specific subdivision regulation or zoning or other ordinance provision with which the application does not comply]. Such a certification, citing this paragraph, shall constitute final approval for all purposes including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.

(2) Failure of the selectmen or city council to [issue an order to the planning board under subparagraph (1), or to] certify approval of the plat upon the planning board's failure to [comply with the order,] ***act within the required time period*** shall constitute grounds for the superior court, upon petition of the applicant, to issue an order approving the application [if the court determines that the proposal complies with existing subdivision regulations and zoning or other ordinances]. ***The superior court shall act upon such a petition within 30 days.*** If the court determines that the failure of the selectmen or the city council to act was not justified, the court may order the municipality to pay the applicant's reasonable costs, including attorney's fees, incurred in securing such order.

14 Planning Board; Board's Procedures on Plats. Amend RSA 676:4, I(f) to read as follows:

(f) ~~[The planning board may apply to the selectmen or city council for an extension not to exceed an additional 90 days before acting to approve or disapprove an application.]~~ The applicant may waive the requirement for planning board action within the time periods specified in subparagraph (c) and consent to such extension as may be mutually agreeable.

15 Planning and Zoning; Rehearing and Appeal Procedures; Court Review. Amend RSA 677:15, IV-V to read as follows:

IV. ~~[The court shall give any hearing under this section priority on the court calendar.]~~ ***Whenever an appeal to the superior court is initiated under this section, the court shall give the appeal priority on its calendar. Within 10 days of the certified record being filed with the court, the court shall schedule a hearing to be held within 90 days unless extended by agreement of all parties or by motion. The appellant shall file an opening brief 60 days before the hearing. The appellee shall file a response brief 30 days before the hearing. The appellant may file a reply brief 15 days before the hearing. The court shall issue a decision within 60 days after the hearing, unless the court has received an extension from the chief justice of the superior court.***

V. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review when there is an error of law or when the court is persuaded by the balance of probabilities, on the evidence before it, that said decision is unreasonable. Costs shall not be allowed against the municipality unless it shall appear to the court that the planning board acted in bad faith or with malice in making the decision appealed from.

VI. Whenever an appeal to the supreme court is initiated after superior court review, the supreme court shall give the appeal priority on its calendar and shall issue a final decision within 90 days of the date upon which oral argument has been conducted.

16 Planning and Zoning; Rehearing and Appeal Procedures; Priority. RSA 677:5 is repealed and reenacted to read as follows:

677:5 Priority. Whenever an appeal to the superior court is initiated under RSA 677:4, the court shall give the appeal priority on its calendar. Within 10 days of the certified record being filed with the court, the court shall schedule a hearing to be held within 90 days unless extended by agreement of all parties or by motion. The appellant shall file an opening brief 60 days before the hearing. The appellee shall file a response brief 30 days before the hearing. The appellant may file a reply brief 15 days before the hearing. The court shall issue a decision within 60 days after the hearing, unless the court has received an extension from the chief justice of the superior court.

17 New Subdivision; Fee Shifting and Posting of Bond. Amend RSA 677 by inserting after section 19 the following new subdivision:

Fee Shifting and Posting of Bond

677:20 Fee Shifting and Posting of Bond.

I. Whenever an appeal to the superior court is initiated under this chapter, the court may in its discretion require the person or persons appealing to file a bond with sufficient surety for such a sum as shall be fixed by the court to indemnify and save harmless the person or persons in whose favor the decision was rendered from damages and costs which he or she may sustain in case the decision being appealed is affirmed.

II. In any appeal initiated under this chapter the court may, subject to the provisions of this paragraph or any other provision of law, award attorney's fees and costs to the prevailing party. Costs and attorney's fees shall not be allowed against a local land use board unless it shall appear to the court that the board, in making the decision from which the appeal arose, acted with gross negligence, in bad faith, or with malice. Costs and attorney's fees shall not be allowed against the party appealing from the decision of a local land use board unless it shall appear to the court that said party acted in bad faith or with malice in appealing to court.

18 Municipal Economic Development and Revitalization Districts; Definition of Public Use. Amend RSA 162-K:2, IX-a to read as follows:

IX-a. "Public use" means:

(a)(1) The possession, occupation, and enjoyment of real property by the general public or governmental entities[;] .

(2) The acquisition of any interest in real property necessary to the function of a public or private utility or common carrier either through deed of sale or lease[;] .

(3) The acquisition of real property to remove structures beyond repair, public nuisances, structures unfit for human habitation or use, and abandoned property when such structures or property constitute a menace to health and safety[;and] .

(4) Private use that occupies an incidental area within a public use; provided, that no real property shall be condemned solely for the purpose of facilitating such incidental private use.

(5) The acquisition of real property to construct housing units which meet the definition of workforce housing contained in RSA 674:58, IV, whether or not such construction results from private development or private commercial enterprise. The municipality shall not acquire property for this purpose through the powers of eminent domain.

(b) Except as provided in subparagraphs (a)(2), [and] (4), ***and (5)*** of this paragraph, public use shall not include the public benefits resulting from private economic development and private commercial enterprise, including increased tax revenues and increased employment opportunities.

19 Municipal Economic Development and Revitalization Districts; District Establishment and Development Programs; Authority to Acquire, Construct, and Promote Residential Development and Housing Stock. Amend RSA 162-K:6, III(h) and (i) to read as follows:

(h) Lease all or portions of basements, ground and second floors of the public buildings constructed in the district; [and]

(i) Negotiate the sale or lease of property for private development if the development is consistent with the development program for the district[;] ; ***and***

(j) Acquire, construct, reconstruct, improve, alter, extend, operate, maintain or promote residential developments aimed at increasing the available housing stock within the municipality.

20 Community Revitalization Tax Relief; Duration of Tax Relief Period. Amend RSA 79-E:5, II to read as follows:

II. The governing body may, in its discretion, add up to an additional [2] ***4*** years of tax relief for a project that results in new residential units and up to [4] ***an additional 8*** years for a project that includes [affordable] housing ***that meets the definition of workforce housing in RSA 674:58, IV, and up to additional 8 years for a project that includes residential units located on the second story or higher of a building.***

21 Effective Date.

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

II. Section 7-12, 14, and 17-20 of this act shall take effect 60 days after its passage.

III. Sections 13, 15, and 16 of this act shall take effect January 1, 2023.

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

2022-1960s

AMENDED ANALYSIS

This bill requires sending district schools and career and technical education (CTE) centers to enter into an agreement to include scheduling, access, transportation, and credits for CTE students. The bill also makes an appropriation for preliminary design, engineering, and site work for a new legislative parking garage and for costs for relocating the department of justice and makes changes to the training and procedures for zoning and planning boards offered by the office of planning and development. Finally, this bill creates incentives and establishes requirements for workforce housing and affordable housing development.

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 Giuda.

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

The following Senators voted No: (None)

Roll Call, Yeas: 23 - Nays: 0. Adopted, bill ordered to Third Reading.

HEALTH AND HUMAN SERVICES

HB 1099, prohibiting the department of health and human services from requiring vaccine passports for services.

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

Senator Whitley offered a Floor Amendment.

Sen. Whitley, Dist 15

April 27, 2022

2022-1852s

05/04

Floor Amendment to HB 1099

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

AN ACT relative to medical freedom in immunizations and re-establishing the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Farmers Market Nutrition Program.

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

2 New Section; Special Supplemental Nutrition Program for WIC Farmers Market Nutrition Program. Amend RSA 132 by inserting after section 12-e the following new section:

132:12-f WIC Farmers' Market Nutrition Program. There is established in the department of health and human services the New Hampshire Farmers' Market Nutrition Program for participants in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). The program shall distribute food instruments to eligible WIC participants to redeem for locally grown fresh fruits, vegetables and herbs at authorized New Hampshire farmers' markets in compliance with 7 C.F.R. 248 that are redeemable only at designated New Hampshire farmers' markets. The commissioner shall adopt rules under RSA 541-A to implement this program.

3 Appropriation; WIC Farmers' Market Nutrition Program. There is hereby appropriated to the department of health and human services the sum of \$300,000 for the fiscal year ending June 30, 2023, which shall be nonlapsing, for the purpose of funding the WIC Farmers' Market Nutrition Program in RSA 132:12-f. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

4 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 July 1, 2022.

2022-1852s

AMENDED ANALYSIS

This bill:

I. Clarifies that no person shall be required to receive a Covid-19 vaccination in order receive benefits or services from the department of health and human services.

II. Re-establishes the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Farmers Market Nutrition Program and makes an appropriation for this purpose.

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

Senator Ricciardi offered a Floor Amendment.

Sen. Ricciardi, Dist 9

April 27, 2022

2022-1880s

05/10

Floor Amendment to HB 1099

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

AN ACT relative to medical freedom in immunizations and establishing an association health plan pilot program.

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

2 Association Health Plans; Pilot Program. No later than January 1, 2023, the commissioner shall develop and implement a pilot program for the establishment of association health plans (AHP). The pilot program shall include all state-mandated health plan coverage, and no state-mandated health plan coverage shall be exempt. Membership in an AHP may be based on profession, line of business, or geographic region, and shall be open to any eligible person regardless of age or health history or status. The pilot program shall be limited to 1,000 participants and shall comply with the United States Department of Labor AHP final rule published in 83 Fed. Reg. 28912 (June 21, 2018) codified at 29 C.F.R. 2510. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to eligibility, application, and selection procedures, and necessary operational provisions of the pilot program. No later than January 1, 2024, and annually thereafter, the commissioner shall submit a report on the status of the pilot program to the speaker of the house of representatives, the president of the senate, the governor, and the chairpersons of the house and senate standing committees with jurisdiction over insurance matters.

3 Repeal. Section 2 of this act, relative to the association health plan pilot program, is repealed.

4 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. Section 3 of this act shall take effect July 1, 2025.

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

2022-1880s

AMENDED ANALYSIS

This bill clarifies that no person shall be required to receive a Covid-19 vaccination in order receive benefits or services from the department of health and human services.

The bill also requires the insurance commissioner to establish a pilot program for association health plans.

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

Senator Prentiss offered a Floor Amendment.

Sen. Prentiss, Dist 5
Sen. Bradley, Dist 3
May 4, 2022
2022-1963s
05/04

Floor Amendment to HB 1099

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

AN ACT relative to medical freedom in immunizations and relative to expanding Medicaid to include certain postpartum health care services and making an appropriation therefor.

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

2 Title. Sections 2-4 of this act shall be known and may be cited as the “Healthy Moms, Healthy Babies Act of 2022”.

3 New Paragraph; Medicaid Enhancement for Children and Pregnant Women. Amend RSA 167:68 by inserting after paragraph III the following new paragraph:

IV.(a) Pursuant to the state option under the American Rescue Plan Act of 2021 to expand maternity care under Medicaid and section 1902(e)(16) of the Social Security Act (42 U.S.C. section 1396a(e)), the commissioner of the department of health and human services shall submit, no later than August 15, 2022, a Medicaid state plan amendment to the federal Centers for Medicare and Medicaid Services to establish and implement 12 months of continuous coverage for the entire postpartum period. This benefit shall be available to anyone who received medical assistance under the state plan for all pregnancy-related and postpartum medical assistance available under the state plan.

(b) The purpose of the program shall be, through ensuring continuous coverage for a 12-month postpartum period, to increase identification and mitigation of preventable pregnancy related and pregnancy associated morbidity and mortality, including those related to substance use disorder and mental illness.

(c) The medical assistance provided for a pregnant or postpartum woman under this section shall, consistent with Section 1902(e)(16) include all items and services covered under the state plan that are not less in amount, duration, or scope, or are determined by the Secretary to be substantially equivalent, to the medical assistance available for an individual described in subsection (a)(10)(A)(i); and be provided for the individual while pregnant and during the 12-month period that begins on the last day of the individual’s pregnancy and ends on the last day of the month in which such 12-month period ends.

(d) On January 1, 2023, the commissioner shall begin submitting quarterly reports to the oversight committee on health and human services, the legislative committees with jurisdiction over health and human services, and the governor regarding the department’s progress in obtaining and implementing the state plan amendment. The quarterly reports shall include the department’s plans for reducing administrative burdens for enrollees and the department’s efforts to expand access and participation to voluntary, evidence-based maternal home visiting programs, pursuant to subparagraph (a). Reports submitted under this paragraph shall also be posted on the department’s website.

(e) The department shall include in its biennial request for appropriations under RSA 9:4, not less than \$200,000 for each fiscal year, for the purpose of providing the postpartum health care services required under this paragraph.

4 Appropriation. The sum of \$200,000 for the biennium ending June 30, 2023 is hereby appropriated to the department of health and human services for the purpose of expanding postpartum health care services under the state Medicaid plan as provided in section 2 of this act. The governor shall determine if any discretionary funds appropriated in the American Rescue Plan Act of 2021, Public Law 117-2, or any other federal funds, can be used for this purpose, and the commissioner shall expend such federal funds for this purpose. Any remainder shall be appropriated from the general fund. The governor is authorized to draw a warrant for the general fund portion of such sum from any money in the treasury not otherwise appropriated.

5 Prospective Repeal. RSA 167:68, IV, relative to Medicaid coverage of postpartum health care services for a 12-month period, is repealed.

6 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. Section 5 of this act shall take effect March 31, 2027.

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

2022-1963s

AMENDED ANALYSIS

This bill clarifies that no person shall be required to receive a Covid-19 vaccination in order receive benefits or services from the department of health and human services.

The bill also directs the department of health and human services to submit a state plan amendment to temporarily expand postpartum coverage under Medicaid, establishes a quarterly reporting requirement, and makes an appropriation to the department for this purpose. The program expansion is repealed March 31, 2027.

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

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

HB 1455, relative to state enforcement of federal vaccination mandates.

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

Health and Human Services

April 27, 2022

2022-1868s

05/04

Amendment to HB 1455

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

1 New Chapter; Employee Health Sovereignty. Amend RSA by inserting after chapter 275-H the following new chapter:

CHAPTER 275-I

EMPLOYEE HEALTH SOVEREIGNTY

275-I:1 State Enforcement of Federal Vaccination Mandates Prohibited.

I. This state shall not engage in the enforcement of, or any collaboration with the enforcement of, any federal law, order, or rule that effectively requires any person as a condition of his or her employment, or as a condition of any other activity, to submit proof of vaccination against COVID-19 or any variant thereof, or to submit more than once per month a negative test for COVID-19 or any variant thereof. No state or local government agency, and no official or employee thereof, shall enforce or assist in the enforcement or administration of any such law, order, or rule.

II. Such prohibited activities shall include:

(a) Investigating the violation of, or imposing any penalty for the violation of, any law, order, or rule addressed by paragraph I;

(b) Providing any assistance to any federal department or agency in investigating or penalizing the violation of any law, order, or rule addressed by paragraph I, either through personnel activity or through the use of any state or local government property; or

(c) Providing the COVID-19 vaccination status of any named individual to any federal department or agency, or engaging in any communication with any federal department or agency regarding any investigation into a violation of a law order, or rule addressed by paragraph I.

III. Paragraphs I and II of this section shall not apply to any health care facility, provider, or contractor subject to a federal vaccine requirement including the survey and certification policies and procedures under the authority of the department of health and human services, bureau of licensing and certification.

275-H:2 Severability. If any provision of this chapter or any application of such provision to any particular person or circumstance is held to be invalid by any court of law, the remainder of this chapter and any remaining application of its provisions to any other person or circumstance shall not be affected.

2 Effective Date. This act shall take effect upon 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 Giuda.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 13 - Nays: 10. Adopted, bill ordered to Third Reading.

HB 1606, making the state vaccine registry an opt-in program.

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

Health and Human Services

April 20, 2022

2022-1687s

05/08

Amendment to HB 1606

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

AN ACT relative to administration of the state immunization registry.

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

1 New Paragraph; Communicable Disease; Immunization Registry; Opportunity to Opt-out or Opt-in to the Registry. Amend RSA 141-C:20-f by inserting after paragraph II the following new paragraph:

II-a. Each patient, or the patient's parent or guardian if the patient is a minor, shall be given the opportunity to opt-out or opt-in to the immunization registry. No patient's personal data, such as name, address, date of birth, immunization, or vaccination information, shall be entered into the registry without the explicit, written or electronic consent of the patient, or the patient's parent or guardian.

2 Effective Date. This act shall take effect July 1, 2023.

2022-1687s

AMENDED ANALYSIS

This bill requires a patient to have the opportunity to opt-out or opt-in to the immunization registry. The bill also provides that a patient's personal data shall not be entered into the registry without their explicit consent.

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 Ricciardi.

The following Senators voted Yes: Hennessey, Giuda, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avard, Carson, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 13 - Nays: 10. Adopted, bill ordered to Third Reading.

JUDICIARY

HB 1178, prohibiting the state from enforcing any federal statute, regulation, or Presidential Executive Order that restricts or regulates the right of the people to keep and bear arms.

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

Senate Judiciary

April 27, 2022

2022-1845s

04/10

Amendment to HB 1178

Amend RSA 159-E:2 as inserted by section 1 of the bill by replacing it with the following:

159-E:2 Application. In light of the long-standing practice of cooperation between federal, state, and local law enforcement agencies, nothing in this chapter shall prevent a state, county, or local official from cooperating with or rendering aid or assistance to federal officials in any circumstance where there is reasonable suspicion to believe that a person who is the subject of an investigation for violation of federal firearms law covered by RSA 159-E:1 also has committed, is committing, or is about to commit a violation of New Hampshire law or a violation of a federal law, regulation, order, or practice not covered by RSA 159-E:1. Nothing in this chapter shall prevent a state, county, or local official from providing authorized federal officials, upon their request, with official state, county, or local records that are available to the public or which constitute criminal history records maintained by an agency of state, county, or local government, or taking any other action necessary to fulfill or comply with the state's obligations under the National Crime Prevention and Privacy Compact approved and ratified in RSA 106-B:14, III, provided that the provisions of this chapter shall not provide for the distribution of information required to be destroyed pursuant to 18 U.S.C. section 922(t)(2)(C). Nothing in this chapter shall prohibit the judicial branch from entering protective order information into law enforcement databases.

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 Avar, seconded by Senator Guida.

The following Senators voted Yes: Hennessey, Guida, Bradley, Gray, French, Ward, Ricciardi, Daniels, Avar, Carson, Birdsell, Gannon, Morse.

The following Senators voted No: Watters, Prentiss, Kahn, Rosenwald, Whitley, Cavanaugh, Soucy, D'Allesandro, Perkins Kwoka, Sherman.

Roll Call, Yeas: 13 - Nays: 10. Adopted, bill ordered to Third Reading.

MOTION TO REMOVE FROM THE TABLE

Senator Carson moved to remove HB 91-FN from the Table. Adopted.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 91-FN, relative to death benefits of first responders who die from suicide.

The pending motion is Refer to Interim Study.

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

Senator Carson moved Ought to Pass.

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

MOTION TO REMOVE FROM THE TABLE

Senator Carson moved to remove HB 1319-FN from the Table. Adopted.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1319-FN, relative to granting certain corrections personnel death benefits if killed in the line of duty.

The pending motion is Refer to Interim Study.

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

Senator Carson moved Ought to Pass.

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

SENATE CLERK'S NOTE: TECHNICAL AND ADMINISTRATIVE CORRECTIONS

The Clerk is authorized to make technical and administrative corrections which are necessary to reflect the intent of the Senate. Adopted.

MOTION TO ADJOURN FROM EARLY SESSION

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

Adopted. Adjournment from the Early Session.

LATE SESSION
ANNOUNCEMENTS

PRESIDENT MORSE: Let me just make one. Senator D'Allesandro kind of struck a chord tonight, a good one. I've had some pretty strong women in my life. My mom and my sister and obviously my wife, Susan and Emma, my daughter. I lost a strong woman on Tuesday. I called her Auntie Dot, she is Dorothy Rogers, ninety-two, lived a good life, but she was my Godmother and a great influence on me. So, I just want to be able to tell her family that the Senate's thoughts and prayers are with them. Thank you.

(The Chair recognized Senator Avard.)

SENATOR AVARD: Just real quick. Happy Mother's Day.

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

HB 91-FN, relative to death benefits of first responders who die from suicide.

HB 103-FN, establishing a dental benefit under the state Medicaid program.

HB 144, relative to absentee ballot request forms.

HB 254, relative to the placement of minors in secure settings.

HB 275, relative to the declaration of a state of emergency.

HB 314, relative to homestead food operation licensure.

HB 481-FN-A, establishing the office of the right-to-know ombudsman and making an appropriation therefor.

HB 490, relative to the definitions of "game camera" and "hunting day," relative to the use of game cameras, relative to the use of temporary tree stands or observation blinds, and relative to the definition of "firearm."

HB 536-FN, relative to death benefits for public works employees killed in the line of duty, and relative to workers' compensation offsets for certain retirement system benefits.

HB 1022, permitting pharmacists to dispense the drug Ivermectin by means of a standing order and establishing a commission to study the use of Ivermectin to treat Covid-19.

HB 1039, relative to the definition of "beverage manufacturer retail outlet," certain liquor licenses and fees, including beer and specialty beverage festival licenses, relative to direct to consumer shipments of alcohol.

HB 1048, relative to minimum nonforfeiture amounts under the standard nonforfeiture law for individual deferred annuities.

HB 1066-FN, requiring the commissioner of the department of environmental services to prepare a plan relative to cyanobacterial blooms in New Hampshire.

HB 1099, relative to medical freedom in immunizations, re-establishing the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Farmers Market Nutrition Program, establishing an association health plan pilot program, and relative to expanding Medicaid to include certain postpartum health care services and making an appropriation therefor.

HB 1103, relative to certain assets in a divorce proceeding.

HB 1118, relative to the determination of parental rights and responsibilities following the death of a child's parent or guardian.

HB 1132, relative to applications for a charter conversion school.

HB 1135, requiring a performance audit of the department of education, education freedom account program.

HB 1148, relative to prohibiting government entities subordinate to the state from restricting the types of fuel sources that may be used for energy.

HB 1174, relative to election challengers.

HB 1178, prohibiting the state from enforcing any federal statute, regulation, or Presidential Executive Order that restricts or regulates the right of the people to keep and bear arms.

HB 1185, relative to treatment of water contaminated with perfluorinated chemicals.

HB 1186, relative to companion animals during a declared state of emergency.

HB 1195, relative to public comment periods at school district meetings and meetings of the state board of education.

HB 1205, allowing the department of environmental services to have access to enhanced 911 information.

HB 1221-FN, relative to the rate of the business profits tax, and relative to payment by the state to political subdivisions of an amount equal to a portion of retirement system contributions of political subdivision employers.

HB 1236, relative to the legislative oversight committee for the education improvement and assessment program.

HB 1244-LOCAL, relative to parental consent to medical and dental treatments of children in schools.

HB 1258, relative to the implementation of the department of energy and relative to the definition of “municipal host” for purposes of limited electrical energy producers.

HB 1263, relative to prescribed studies on health, physical education, wellness, and personal finance literacy in schools.

HB 1270, repealing the legislative oversight committee to monitor the transformation of delivery of electric services.

HB 1280, prohibiting a parent’s refusal to vaccinate a child from being used as evidence in any proceeding to terminating parental rights and enacting the 2009 interstate compact for the placement of children.

HB 1285, relative to the multi-use energy data platform.

HB 1288, relative to the terms for certain officers and the names, duties, and funds of certain divisions within the department of administrative services.

HB 1293, relative to the design of sewage or waste disposal systems for a person’s own domicile, and relative to water well and sewage or waste disposal systems.

HB 1299, relative to the process for the importation of wildlife and creating an appeal process for denials of permits.

HB 1303, relative to causes for absolute divorce.

HB 1311, prohibiting persons charged with or convicted of certain assault or controlled drug possession violations from employment in a public school or being granted teaching credentials.

HB 1319-FN, relative to granting certain corrections personnel death benefits if killed in the line of duty.

HB 1331, relative to power line maintenance and construction.

HB 1367, relative to civics instruction in schools.

HB 1397, relative to the length of terms for Rockingham county officers and relative to the Gunstock area commission.

HB 1431-FN-LOCAL, establishing the parental bill of rights.

HB 1454-FN, relative to permits for the siting of new landfills.

HB 1455, relative to state enforcement of federal vaccination mandates.

HB 1476-FN, relative to release of a defendant pending trial.

HB 1503-FN, adopting the Uniform Commercial Code relative to controllable electronic records, relative to exempting the developer, seller, or facilitator of the exchange of an open blockchain token from certain securities laws and establishing state procurement policies intended to promote the use of American materials.

HB 1513-FN, relative to the definition of a child with a disability under special education laws and providing funding for special education costs for students over age 21 until their 22nd birthday.

HB 1526-FN, relative to income eligibility for in and out medical assistance.

HB 1535-FN, relative to a one-time allowance for certain state retirees.

HB 1547-FN, relative to per fluorinated chemical remediation in soil and procedures for certain hazardous waste generators.

HB 1548-LOCAL, relating to the sale of the Lakes Region Facility.

HB 1584-FN, establishing a capital improvement grant program for the benefit of state fairs and agricultural fairs.

HB 1587-FN-A, relative to determination of average final compensation under the retirement system and making an appropriation therefor.

HB 1597-FN, permitting arraignments for felonies and preliminary examinations to be heard in circuit court.

HB 1604-FN, including state medical facilities in the statute providing medical freedom in immunizations, and relative to licensure of case management service providers.

HB 1606, relative to administration of the state immunization registry.

HB 1624-FN-A, relative to students with disabilities participating in co-curricular activities and making an appropriation therefor.

HB 1625, repealing the prohibition on entering or remaining on a public way or sidewalk adjacent to a reproductive health care facility.

HB 1627-FN-A, establishing an education freedom account program administrator in the department of education and making an appropriation therefor.

HB 1639, relative to the youth risk behavior survey in schools.

HB 1661-FN-LOCAL, relative to regional career technical education agreements, an appropriation for preliminary work for a new legislative parking garage, health and human services, establishing an extraordinary need grant for schools, the release of a defendant pending trial, training and procedures for zoning and planning boards, and financial investments and incentives for affordable housing development.

HB 1662-FN, relative to the privacy obligations of the department of health and human services, an appropriation for housing expenses for homeless people and parameters thereof, electronic wage payments, and requiring online marketplaces to disclose certain information to consumers.

HB 1663, relative to requirements for home education students.

HB 1677-FN, relative to the administration and settlement of claims of abuse at the youth development center and making an appropriation therefor.

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 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.