

LEGISLATIVE BULLETIN

Something Completely Different

Like everyone else in 2020, the New Hampshire General Court encountered unprecedented challenges, leading to an ending that no one could have imagined a few months earlier. The legislative process shut down abruptly and entirely on March 13 and remained mostly closed for two months. When committees finally were able to meet—remotely—it was too late to act on all but a small number of bills.

To salvage something of the 2020 legislative session, House and Senate leaders determined their priorities and attached language from much of the legislation that had died to the few bills that were still alive. The result was an unusual number of “Christmas tree” bills, with lots of unrelated “ornaments” attached to them. As an example, by the time one bill made it to the finish line, it had been decorated with provisions addressing, among many other things: establishment of an offshore wind commission; the price of Lucky 7 tickets; membership of the child fatality review committee; licensing of cardiac electrophysiology specialists and cardiovascular invasive specialists; the age for sales and possession of tobacco products; and emergency actions with respect to hazardous dams.

If you were following a specific bill that was still alive on March 13, the odds are you will find that the bill itself was laid on the table and went no further—but the language of that same bill may have made its way into one of the omnibus bills that ultimately passed. That fact won’t show up on the original bill’s docket, so you will know about it only if you found out about it through other means—like reading NHMA’s Legislative Bulletins!

In the end, only 39 bills were signed into law; in a typical year that number would be between 250 and 350. Even with all the amendments, the volume of legislation was a fraction of that in any normal year. For local government, this was both bad and good. The bad is that we were not able to achieve many significant improvements in municipal legislation; the good is that none of the most objectionable bills advanced, either.

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Among the most notable new laws is [Chapter 30 \(HB 1264\)](#), which codifies low maximum contaminant levels, previously contained in DES rules, for perfluorochemicals (PFAS) in drinking water and ambient groundwater. While this is of concern for municipalities, on the positive side the law also provides some state funding for municipal projects to reduce contaminant levels.

A couple other bills should make things a little easier for municipalities and local officials. [Chapter 8 \(HB 1129\)](#) allows a planning board to post notice of a hearing on a proposed zoning ordinance or amendment on the municipality’s internet website in lieu of publishing it in a newspaper of general circulation; and [Chapter 38 \(HB 1558\)](#) reduces from two-thirds to three-fifths the vote margin that is required to approve the issuance of a bond or note in a town with a traditional town meeting.

The legislature added several eleventh-hour amendments to address problems created by the Covid-19 pandemic. These were contained in [Chapter 8 \(HB 1129\)](#), allowing a town to follow an alternative procedure for its annual meeting in 2020 or 2021 and enabling towns with a June 30 fiscal year to make reasonable expenditures between July 1 and the date a budget is adopted; and in [Chapter 14 \(HB 1266\)](#), making changes to certain election laws. These changes are only temporary, designed to lapse when the current crisis is over—but we believe some of them ought to be made permanent in future legislation.

In the pages that follow you will find summaries of all new laws affecting municipal government, arranged by subject matter and in numerical order by chapter number. The summaries are brief and do not purport to explain the law in detail. Each summary is linked to the full text of the law, so be sure to read the law carefully and/or contact NHMA, or your local legal counsel, to make sure you understand it.

After such a strange year, and with a pandemic that is far from resolved, we can only speculate what 2021 will bring. We will approach it as always, ready to advance our top legislative priorities and to beat back any efforts to make the laws more burdensome. No doubt some adapting and improvising will be called for along the way.

Thank you to all the local officials and legislators who assisted in this year’s abbreviated legislative campaign; we hope next year will offer more opportunities and some semblance of normality, perhaps even a return to routine. And as always, we thank the rest of the NHMA staff for everything they do to support our legislative advocacy.

We wish everyone a pleasant fall. Look for our first Legislative Bulletin of the 2021 legislative session in late December. We also look forward to “seeing” you at our virtual Annual Conference on November 18, 19, and 20.



Margaret M.L. Byrnes
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TABLE OF CONTENTS

I.	CLERKS; ELECTIONS; TOWN MEETING; OFFICIAL BALLOT; CHARTERS	4
	<i>Alternative Town Meeting Procedure for 2020 and 2021. Chapter 8 (HB 1129)</i>	
	<i>Temporary Changes to Election Laws. Chapter 14 (HB 1266)</i>	
	<i>Ballot-Counting Devices and Write-In Votes. Chapter 23 (SB 283)</i>	
	<i>Clarification of Election Procedures. Chapter 35 (SB 44)</i>	
	<i>Electioneering at Polling Place. Chapter 36 (SB 45)</i>	
	<i>Reduced Vote Margin to Approve Bond Issue. Chapter 38 (HB 1558)</i>	
II.	INTERGOVERNMENTAL RELATIONS; RETIREMENT; STATE BUDGET	5
	<i>Funding for Substance Use Disorders in Nashua. Chapter 16 (HB 1230)</i>	
	<i>Possible Adjustment to Block Grant Formula. Chapter 33 (HB 1182)</i>	
III.	MUNICIPAL ADMINISTRATION AND FINANCE MANAGEMENT; LEGAL MATTERS; ECONOMIC DEVELOPMENT; MANDATES; RIGHT-TO-KNOW LAW; LABOR	5
	<i>Temporary Spending Authority for Fiscal Year Towns. Chapter 8 (HB 1129)</i>	
	<i>Broadband Infrastructure Bonds and Communications Districts. Chapter 28 (HB 1111)</i>	
	<i>Restriction on Criminal History Questions in Hiring Process. Chapter 31 (HB 253)</i>	
	<i>Reduced Vote Margin to Approve Bond Issue. Chapter 38 (HB 1558)</i>	
IV.	PLANNING AND ZONING	6
	<i>Electronic Notice of Hearing on Zoning Adoption or Amendment. Chapter 8 (HB 1129)</i>	
V.	ENVIRONMENTAL REGULATION AND PROTECTION; SOLID/HAZARDOUS WASTE ...	6
	<i>Perfluorochemicals (PFAS) Omnibus Bill. Chapter 30 (HB 1264)</i>	
VI.	PUBLIC SAFETY; POLICE; FIRE; BUILDING/HEALTH INSPECTION	6
	<i>Criminal Justice Omnibus Bill. Chapter 12 (HB 1645)</i>	
	<i>Fire Marshal Assistance on Government-Owned Projects; Recovery Housing. Chapter 37 (HB 1245)</i>	
VII.	PUBLIC WORKS; WATER & SEWER; ROADS AND HIGHWAYS; AIRPORTS; RAILS	7
	<i>Perfluorochemicals (PFAS) Omnibus Bill. Chapter 30 (HB 1264)</i>	
	<i>Block Grants; 10-Year Highway Plan; Non-Traditional Vehicles; Airport Fees for Transportation Network Companies. Chapter 33 (HB 1182)</i>	
	<i>Additional Requirements for Large Groundwater Withdrawals. Chapter 37 (HB 1245)</i>	
VIII.	TAXES; ASSESSING AND COLLECTIONS; EXEMPTIONS; CURRENT USE	8
	<i>Veterans Disabled Property Tax Exemptions. Chapter 1 (HB 130)</i>	
	<i>Notice of Lease of DOT Property. Chapter 33 (HB 1182)</i>	
IX.	WELFARE; EDUCATION; LIBRARIES; HUMAN SERVICES; HOUSING; CEMETERIES	8
	<i>Funding for Substance Use Disorders in Nashua. Chapter 16 (HB 1230)</i>	
	<i>Registration and Certification of Recovery Houses. Chapter 37 (HB 1245)</i>	
X.	UTILITIES	9
	<i>Net Metering for Municipal Aggregators. Chapter 21 (SB 166)</i>	
	<i>Broadband Infrastructure Bonds and Communications Districts. Chapter 28 (HB 1111)</i>	
XI.	EDUCATION FUNDING	9
	<i>Extended Reporting Date for Commission to Study School Funding. Chapter 7 (SB 558)</i>	

I. CLERKS; ELECTIONS; TOWN MEETING; OFFICIAL BALLOT; CHARTERS

Alternative Town Meeting Procedure for 2020 and 2021. [Chapter 8](#) (HB 1129) allows a town to follow an alternative procedure for its annual meeting in 2020 or 2021 if it is unable to hold an in-person meeting due to the novel coronavirus (Covid-19). The procedure, to be adopted at the option of the governing body, requires the governing body to hold a live virtual meeting during which warrant articles are discussed. After receiving comments from the public, the governing body holds a second virtual meeting at which it may amend warrant articles. The articles as amended are then printed on the official ballot and a separate ballot, and voters cast their ballots at a drive-up meeting. For the meeting to be effective, the voters must vote in favor of a question on the ballot to approve the procedure. **Statutes amended: None. Effective Date (hereinafter abbreviated “E.D.”) July 10, 2020. See also sections III, IV.**

Temporary Changes to Election Laws. [Chapter 14](#) (HB 1266) makes temporary changes to certain election laws. Among other things, it allows a voter to use the absentee registration process and obtain an absentee ballot due to concerns about Covid-19; authorizes the secretary of state to alter the statutory requirements for polling place arrangement; and allows for partial processing of absentee ballots before election day. All changes are effective only for the 2020 election year. **Statutes amended or added: RSA 657:18; 657:18-a; 658:9; 659:49; 659:49-b; 659:55-a. E.D. July 17, 2020; repealed effective January 1, 2021.**

Ballot-Counting Devices and Write-In Votes. [Chapter 23](#) (SB 283) requires the secretary of state, by November 1, 2020, to study the use of high-speed, optical/digital scan ballot counting equipment for use in conducting post-election audits of electronic ballot counting devices, and modifies the requirements for electronic ballot-counting devices. It also clarifies the procedure for counting write-in votes when an electronic ballot counting device is used. **Statutes amended or added: RSA 656:42; 656:45; 659:64-a. E.D. July 17, 2020.**

Clarification of Election Procedures. [Chapter 35](#) (SB 44) clarifies several election procedures, primarily to make the statutes consistent with existing practice. Among other things, it clarifies that anyone waiting in line to register or vote at the time the polls close on election day must be permitted to register and/or vote, including anyone waiting in a line of cars due to inadequate parking or traffic congestion. It also clarifies that if the supply of official ballots is exhausted on election day, unused absentee ballots are to be used, and if that supply is exhausted, photocopies of an official election day ballot are to be used. **Statutes amended: RSA 655:25; 658:33; 659:12; 659:24; 659:36; 659:70; 659:88; 659:91-a. E.D. September 26, 2020.**

Electioneering at Polling Place. [Chapter 36](#) (SB 45) clarifies the law relative to electioneering at the polling place, codifying some existing practices. Among other things, it clarifies the definition of electioneering, requires the moderator to establish one or more no-electioneering corridors at each entrance to the polling place and to designate a preferred area for electioneering, and prohibits affixing electioneering signs to the building or grounds and leaving electioneering signs unattended. It also allows an authorized official to remove a vehicle that has been parked or left unattended on election day for longer than three hours in an area designated for voters who are temporarily present for the purpose of voting. **Statutes added or amended: RSA 262:32; 652:16-h; 659:43; 659:44. E.D. January 1, 2020.**

Reduced Vote Margin to Approve Bond Issue. [Chapter 38](#) (HB 1558) reduces from two-thirds to three-fifths the vote margin that is required for a town meeting to approve the issuance of a bond or note in a town that has not adopted the official ballot referendum (SB 2) form of town meeting. (The required margin in an SB 2 town was already three-fifths.) **Statutes amended: RSA 33:8; 374-B:2; 374-B:3; 374-B:12. E.D. September 27, 2020.**

II. INTERGOVERNMENTAL RELATIONS; RETIREMENT; STATE BUDGET

Funding for Substance Use Disorders in Nashua. [Chapter 16](#) (HB 1230) adds funding for substance use disorder services in Nashua to the purpose of a \$750,000 appropriation to the Department of Health and Human Services for fiscal years 2020 and 2021. Previous law only included the purpose of funding existing safe stations in Manchester. **Chapter law amended: 2019 N.H. Laws 346:352. E.D. July 17, 2020.**

Possible Adjustment to Block Grant Formula. [Chapter 33](#) (HB 1182) authorizes the Department of Transportation, with the approval of the joint legislative fiscal committee and the governor and executive council, to make highway block grant distributions to municipalities in excess of the standard 12 percent, but only up to the amount budgeted for fiscal year 2021, if the department receives significant additional federal funds as part of Covid-19 relief. In the event federal relief is not forthcoming, it authorizes the department to offset decreased highway fund revenues due to Covid-19 by temporarily suspending the highway and bridge betterment program under RSA 235:23-a (for state highways and bridges). **Statutes amended: None. E.D. September 22, 2020. See also sections VII, VIII.**

III. MUNICIPAL ADMINISTRATION AND FINANCE MANAGEMENT; LEGAL MATTERS; ECONOMIC DEVELOPMENT; MANDATES; RIGHT-TO-KNOW LAW; LABOR

Temporary Spending Authority for Fiscal Year Towns. [Chapter 8](#) (HB 1129) extends the provisions of RSA 32:13, II, to towns with a June 30 fiscal year, due to the state of emergency declared as a result of the novel coronavirus (Covid-19). This enables those towns to make expenditures between July 1 and the date a budget is adopted that are reasonable in light of prior years' appropriations and expenditures during the same period. **Statutes amended: None. E.D. July 20, 2020. See also sections I, IV.**

Broadband Infrastructure Bonds and Communications Districts. [Chapter 28](#) (HB 1111) makes changes to the requirements for a request for information when a municipality proposes issuing a bond for the development of broadband infrastructure. It also authorizes two or more municipalities to form communications districts and establishes a process and rules governing such districts. **Statutes amended or added: RSA 33:3-g; 38:38; 33-B:1; RSA ch. 53-G. E.D. July 22, 2020, for communications districts; September 20, 2020, for bond process.**

Restriction on Criminal History Questions in Hiring Process. [Chapter 31](#) (HB 253) prohibits an "employer" from including a question on any application for employment as to whether the applicant has ever been arrested, charged with, or convicted of any crime or violation, with certain exceptions. Separately, it prohibits any "public employer" from inquiring about a prospective employee's criminal history and from conducting a criminal record check prior to an initial interview. However, the new law defines both "employer" and "public employer" as "any department, agency, bureau, or administrative unit of the state of New Hampshire." It therefore does not appear to apply to municipalities. **Statutes added: RSA ch. 275-H; RSA 275:37-c. E.D. September 22, 2020.**

Reduced Vote Margin to Approve Bond Issue. [Chapter 38](#) (HB 1558) reduces from two-thirds to three-fifths the vote margin that is required for a town meeting to approve the issuance of a bond or note in a town that has not adopted the official ballot referendum (SB 2) form of town meeting. (The required margin in an SB 2 town was already three-fifths.) **Statutes amended: RSA 33:8; 374-B:2; 374-B:3; 374-B:12. E.D. September 27, 2020.**

IV. PLANNING AND ZONING

Electronic Notice of Hearing on Zoning Adoption or Amendment. [Chapter 8 \(HB 1129\)](#) allows a planning board to post notice of a hearing on a proposed zoning ordinance or amendment on the municipality's internet website in lieu of publishing it in a newspaper of general circulation. The notice or a link to it must appear prominently on the home page, and it must remain posted on the website until the hearing. Notice must still be posted in two other public places. **Statute amended: RSA 675:7. E.D. September 8, 2020. See also sections I, III.**

V. ENVIRONMENTAL REGULATION AND PROTECTION; SOLID/HAZARDOUS WASTE

Perfluorochemicals (PFAS) Omnibus Bill. [Chapter 30 \(HB 1264\)](#) repeals the mandate that New Hampshire Department of Environmental Services (NHDES) set maximum contaminant levels (MCLs) for four specific PFAS compounds and instead mandates those MCLs as follows: perfluorooctanoic acid (PFOA) 12 parts per trillion (ppt), perfluorooctanesulfonic acid (PFOS) 15 ppt, perfluorohexanesulfonic acid (PFHxS) 18 ppt, perfluorononanoic acid (PFNA) 11 ppt. The new law authorizes the state treasurer to borrow up to \$50 million for a "PFAS Fund" to be administered by NHDES and authorizes NHDES to provide low-interest loans to community water systems, non-profit, non-transient public water systems, and publicly owned and non-profit wastewater and/or wastewater residual treatment or storage facilities for projects designed to reduce PFAS contamination below the MCLs. Up to 10% (but not more than \$5 million) of the loan principal may be forgiven under the same rules as established in RSA 486:14 for the Clean Water State Revolving Loan Program; and up to 50% of principal or, in the case of community projects, 60% of principal may be forgiven if the state receives money from its lawsuit against PFAS manufacturers, depending on the amount received from those lawsuits. Municipal immunity under RSA 507-B:9 is extended to specifically include PFAS contamination. The new law also changes the ambient groundwater quality standards to include the MCL established in the legislation. Finally, it authorizes the Commission on Seacoast Cancer Investigation to continue work until 2022 rather than lapsing in 2020. **Statutes amended or added: RSA 6:12; 6:13-e; 126-A:74; 197:5; 485:16-e; 485-C:6; 507-B:9; RSA ch. 485-H. E.D. July 23, 2020.**

VI. PUBLIC SAFETY; POLICE; FIRE; BUILDING/HEALTH INSPECTION

Criminal Justice Omnibus Bill. [Chapter 12 \(HB 1645\)](#), among other things, creates a requirement that law enforcement officers report assault, sexual assault, bribery, fraud, theft, tampering with evidence, tampering with a witness, use of a chokehold, or excessive and illegal use of force by other law enforcement officers to their chief of police. It also establishes a fund for psychological stability screening for candidates for certification as law enforcement officers, transfers money to that fund from the drug forfeiture fund, and allows the police standards and training council to reimburse the state or a political subdivision for psychological stability screening for candidates for certification as law enforcement officers. Finally, the new law defines and prohibits the use of chokeholds by law enforcement officers. **Statutes amended or added: RSA 6:12; 105:19; 106-L:9; 106-L:16; 318-B:17-b; 627:5. E.D. January 1, 2021.**

Fire Marshal Assistance on Government-Owned Projects; Recovery Housing. [Chapter 37 \(HB 1245\)](#) allows a municipality that has adopted a building code enforcement mechanism to request the services of the state fire marshal to conduct inspections and issue building permits and certificates of occupancy for projects owned by political subdivisions if the project requires specialized knowledge of the fire marshal or due to staffing limitations of the municipality. The fire marshal is not required to accept the request.

Separately, the new law requires the Department of Health and Human Services to adopt rules for a voluntary registration program for operators of “recovery housing” (previously referred to as “alcohol and drug free housing”). The rules will provide for certification based on national standards, a process for receiving complaints against certified recovery housing operators, and criteria by which the department may exclude a residence from the list of certified operators based on the frequency or severity of complaints. The department will designate an entity to serve as the certifying body. The law also establishes a legislative committee to study state and municipal authority governing recovery housing. **Statutes amended: RSA 155-A:2; 172-B:2. E.D. July 29, 2020.**

VII. PUBLIC WORKS; WATER & SEWER; ROADS AND HIGHWAYS; AIRPORTS; RAILS

Perfluorochemicals (PFAS) Omnibus Bill. **Chapter 30 (HB 1264)** repeals the mandate that New Hampshire Department of Environmental Services (NHDES) set maximum contaminant levels (MCLs) for four specific PFAS compounds and instead mandates those MCLs as follows: perfluorooctanoic acid (PFOA) 12 parts per trillion (ppt), perfluorooctanesulfonic acid (PFOS) 15 ppt, perfluorohexanesulfonic acid (PFHxS) 18 ppt, perfluorononanoic acid (PFNA) 11 ppt. The new law authorizes the state treasurer to borrow up to \$50 million for a “PFAS Fund” to be administered by NHDES and authorizes NHDES to provide low-interest loans to community water systems, non-profit, non-transient public water systems, and publicly owned and non-profit wastewater and/or wastewater residual treatment or storage facilities for projects designed to reduce PFAS contamination below the MCLs. Up to 10% (but not more than \$5 million) of the loan principal may be forgiven under the same rules as established in RSA 486:14 for the Clean Water State Revolving Loan Program; and up to 50% of principal or, in the case of community projects, 60% of principal may be forgiven if the state receives money from its lawsuit against PFAS manufacturers, depending on the amount received from those lawsuits. Municipal immunity under RSA 507-B:9 is extended to specifically include PFAS contamination. The new law also changes the ambient groundwater quality standards to include the MCL established in the legislation. Finally, it authorizes the Commission on Seacoast Cancer Investigation to continue work until 2022 rather than lapsing in 2020. **Statutes amended or added: RSA 6:12; 6:13-e; 126-A:74; 197:5; 485:16-e; 485-C:6; 507-B:9; RSA ch. 485-H. E.D. July 23, 2020.**

Block Grants; 10-Year Highway Plan; Non-Traditional Vehicles; Airport Fees for Transportation Network Companies. **Chapter 33 (HB 1182)** authorizes the Department of Transportation, with the approval of the joint legislative fiscal committee and the governor and executive council, to make highway block grant distributions to municipalities in excess of the standard 12 percent, but only up to the amount budgeted for fiscal year 2021, if the department receives significant additional federal funds as part of Covid-19 relief. In the event federal relief is not forthcoming, it authorizes the department to offset decreased highway fund revenues due to Covid-19 by temporarily suspending the highway and bridge betterment program under RSA 235:23-a (for state highways and bridges). It also adopts the 2021-2030 Ten-Year Transportation Improvement Plan, with certain modifications.

In addition, the new law allows a “federally obligated” airport—*i.e.*, one that has accepted federal assistance—to charge transportation network companies a fee that is not greater than the fee charged to a taxicab service. Finally, **chapter 33** creates a commission to study the on-road use of non-traditional motor vehicles, such as all-terrain vehicles and golf carts. **Statutes amended: RSA 72:23; RSA 376-A:17. E.D. July 24, 2020, for block grant and highway fund adjustments, study commission, and 10-year improvement plan; September 22, 2020, for airport fee. See also section VIII.**

Additional Requirements for Large Groundwater Withdrawals. [Chapter 37](#) (HB 1245) requires an applicant for approval of a large groundwater withdrawal from a replacement well to provide hydrogeologic information to demonstrate that the withdrawal from the replacement well will not cause an unmitigated impact to any existing drinking water supply. The Department of Environmental Services will require that monitoring and mitigation plans be implemented when necessary to identify and mitigate the occurrence of such impacts or reduce the volume of the withdrawal, and will require that the withdrawal cease and desist if it causes unmitigated impacts to drinking water supply wells. An applicant for a large groundwater withdrawal from a replacement well must provide a copy of the application to the governing body of each municipality located within 4,000 feet of the proposed replacement well. **Statute amended: RSA 485-C:22. E.D. September 27, 2020. See also sections VI, IX.**

VIII. TAXES; ASSESSING AND COLLECTIONS; EXEMPTIONS; CURRENT USE

Veterans Disabled Property Tax Exemptions. [Chapter 1](#) (HB 130) provides that a veteran who is living in a specially adapted home that was acquired with the assistance of the Veterans Administration and who is 100 percent permanently and totally disabled and unemployable is eligible for the property tax exemption under RSA 72:36-a. The revised law requires that the veteran be “100 percent permanently and totally disabled” as prescribed in federal regulations governing total and permanent disability ratings and unemployability. The new law also reorders existing eligibility criteria for the exemption. **Statute amended: RSA 72:36-a. E.D. April 1, 2020.**

Notice of Lease of DOT Property. [Chapter 33](#) (HB 1182) exempts the Department of Transportation from the requirement in RSA 72:23 to provide assessing officials annually with a copy of any lease or other agreement that provides for the use or occupancy by others of land owned by the state. However, it requires the department, by April 15, 2021, to provide assessing officials with a copy of any lease in effect as of January 1, 2021, and to provide a copy of any new or renewed lease annually by April 15. The filing requirement does not apply to permits, licenses, or other non-lease agreements. **Statute amended: RSA 72:23. E.D. January 1, 2021. See also sections II, VII.**

IX. WELFARE; EDUCATION; LIBRARIES; HUMAN SERVICES; HOUSING; CEMETERIES

Funding for Substance Use Disorders in Nashua. [Chapter 16](#) (HB 1230) adds funding for substance use disorder services in Nashua to the purpose of a \$750,000 appropriation to the Department of Health and Human Services for fiscal years 2020 and 2021. Previous law only included the purpose of funding existing safe stations in Manchester. **Chapter law amended: 2019 N.H. Laws 346:352. E.D. July 17, 2020.**

Registration and Certification of Recovery Houses. [Chapter 37](#) (HB 1245) requires the Department of Health and Human Services to adopt rules for a voluntary registration program for operators of “recovery housing” (previously referred to as “alcohol and drug free housing”). The rules will provide for certification based on national standards, a process for receiving complaints against certified recovery housing operators, and criteria by which the department may exclude a residence from the list of certified operators based on the frequency or severity of complaints. The department will designate an entity to serve as the certifying body. The law also establishes a legislative committee to study state and municipal authority governing recovery housing. **Statute amended: RSA 172-B:2. E.D. July 29, 2020. See also sections VI, VII.**

X. UTILITIES

Net Metering for Municipal Aggregators. [Chapter 21 \(SB 166\)](#) authorizes municipal electricity aggregators under RSA 53-E to determine the terms and conditions of net metering arrangements with eligible customer-generators. Generation output purchased by the municipal aggregator must be accounted for as a reduction to the customer-generator's electricity supplier's wholesale load obligation for energy supply as a load service entity, net of any applicable line loss adjustments. **Statute amended: RSA 362-A:9, II. E.D. September 15, 2020.**

Broadband Infrastructure Bonds and Communications Districts. [Chapter 28 \(HB 1111\)](#) makes changes to the requirements for a request for information when a municipality proposes issuing a bond for the development of broadband infrastructure. It also authorizes two or more municipalities to form a communications district and establishes a process and rules governing such districts. **Statutes amended or added: RSA 33:3-g; 38:38; 33-B:1; RSA ch. 53-G. E.D. July 22, 2020, for communications districts; September 20, 2020, for bond process.**

XI. EDUCATION FUNDING

Extended Reporting Date for Commission to Study School Funding. [Chapter 7 \(SB 558\)](#) provides additional time for the Commission to Study School Funding to complete its work and establishes a new reporting deadline of January 10, 2021. **Statute amended: RSA 193-E:2-e, VII. E.D. May 10, 2020.**

2020 Final Legislative Bulletin Cross Reference				
CHAPTER LAW	BILL NO.		Bill NO.	CHAPTER LAW
1	HB 130		HB 130	1
7	SB 558		HB 253	31
8	HB 1129		HB 1111	28
12	HB 1645		HB 1129	8
14	HB 1266		HB 1182	33
16	HB 1230		HB 1230	16
21	SB 166		HB 1245	37
23	SB 283		HB 1264	30
28	HB 1111		HB 1266	14
30	HB 1264		HB 1558	38
31	HB 253		HB 1645	37
33	HB 1182		SB 44	35
35	SB 44		SB 45	36
36	SB 45		SB 166	21
37	HB 1245		SB 283	23
38	HB 1558		SB 558	7