

LEGISLATIVE BULLETIN

Not So Bad in the End

The 2021 legislative session was the strangest and most challenging in many years. After the 2020 session ended with the abrupt shutdown of the state house and Legislative Office Building, the entire 2021 session was played out in the shadow of the pandemic. The buildings remained closed to the public until June, and all hearings and committee meetings were conducted virtually.

If the legislative logistics were difficult, the legislation itself was worse. A strong anti-local government streak became apparent very early, and it was clear that municipalities would be playing defense all year. Bills specifically designed to harm local government, which would have been killed quietly in any other year, came out of House committees with Ought to Pass votes. Committees gave favorable recommendations to bills that, among other things, would have:

- Imposed a constitutional 2 percent tax cap in every municipality;
- Severely limited the authority of city councils to enact ordinances;
- Allowed gunfire on any municipal property and penalized local officials who try to regulate such activity;
- Eliminated immunity for municipal employees and officials for innocent mistakes in the performance of their duties;
- Micromanaged the municipal budgeting process by imposing needlessly complex requirements.

Happily, none of those bills survived. Through the efforts of many local officials, supportive legislators, and NHMA staff, several of the worst bills were killed on the House floor, and the ones that remained were killed or substantially modified in the Senate. Considering the dire outlook early in the year, the absence of any new laws that seriously harm local government is a great success.

Final Legislative Bulletin
September 7, 2021

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And in the end, we did better than break even. Apart from dispatching all the bad bills, the legislature enacted some new laws that made modest improvements:

- Through the budget process, the meals and rooms tax statute was amended to require distribution of 30 percent of the revenue to municipalities—not the 40 percent that was originally guaranteed, but far better than what has actually been distributed over the past several decades.
- After a disturbing supreme court decision threatened the confidentiality of communications between municipalities and their legal counsel, the legislature quickly amended RSA 91-A to clarify that those records are exempt from disclosure.
- A broadband matching grant initiative was established to help municipalities expand broadband coverage.
- The net metering capacity limit for “municipal hosts” was increased from one megawatt to five megawatts.
- A pilot program for the use of electronic poll books to check in voters at state and municipal elections was made permanent.
- Numerous small changes were made to improve municipal budgeting, finance, and tax collection processes.

As always, the work of local officials was critical in achieving these successes, and we thank you all for your support. The coming year, unfortunately, looks to be at least equally challenging, and we will need to continue to call upon your efforts.

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 chapter number 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.

Thank you again for all your efforts. We wish everyone a pleasant fall. Look forward to our first Legislative Bulletin of the 2022 legislation session in mid- to late December.



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

Audit of Windham House of Representatives Election Results. [Chapter 2](#) (SB 43) authorizes a forensic audit (already completed) of the ballot counting machines and their memory cards and the hand tabulations of ballots regarding the 2020 general election in Windham for the Rockingham County District 7 House of Representatives seats. **Statute amended: None. Effective date (hereinafter “E.D.”) April 12, 2021.**

Local Option for Sports Betting. [Chapter 13](#) (HB 354) makes the language of the question for local adoption of sports betting the same as the language of the question for local adoption of keno. **Statute amended: RSA 287-I:6, I(c). E.D. July 1, 2021.**

Tax Cap Exclusions Require Supermajority Vote. [Chapter 88](#) (SB 52) provides that certain items that are excluded from a tax cap provision in a city or town charter must be approved by a supermajority as determined in the charter. **Statutes amended: RSA 49-B:13, II-a; 49-C:33, I(d); 49-D:3, I(e). E.D. August 20, 2021.**

Absentee Voting by Prisoners. [Chapter 96](#) (HB 555) amends the voter registration and absentee voting statutes to clarify that a person confined in a penal institution for a misdemeanor or while awaiting trial is entitled to vote by absentee ballot. **Statutes amended: RSA 654:2-a, III; 657:4, I; 657:7, II(a). E.D. August 30, 2021.**

Electronic Poll Books. [Chapter 101](#) (SB 46) authorizes municipalities to use electronic poll book devices for voter registration and check-in for elections, subject to certain requirements. This makes permanent what had been a trial program that otherwise would have expired on January 1, 2023. **Statute amended: RSA 652:27. E.D. August 30, 2021.**

Capital Reserve Funds for Lease/Purchase Agreements. [Chapter 105](#) (SB 87) allows a capital reserve fund to be used to make payments under a lease/purchase agreement, regardless of whether the agreement contains an “escape” or “non-appropriation” clause. **Statute amended: RSA 35:15, III. E.D. August 30, 2021. See also sections III, VII.**

Voter Who Registers Without Photo ID Must Be Photographed. [Chapter 111](#) (HB 523) requires that if a person registers to vote by using a qualified voter affidavit or a sworn statement on the election day registration form in lieu of providing an approved voter identification, the supervisors of the checklist, city or town clerk, or election day official must take a photograph of the person. The photograph must be retained in the same manner as a qualified voter affidavit. **Statutes amended: RSA 654:12; 659:13. E.D. September 7, 2021.**

Modified Residence Criteria for Polling Place Workers. [Chapter 125](#) (HB 476) allows assistant moderators in towns with more than one polling place to be residents of the town, rather than the “voting district covered by the additional polling place.” It also requires that assistant moderators and assistant clerks in cities live in the ward which they serve. **Statutes amended: RSA 658:14; 658:18. E.D. September 12,. See also section XI.**

Clerk Must Provide Daily Report of Candidate Filings. [Chapter 127](#) (HB 77) requires city and town clerks to provide a daily summary to the secretary of state of all declarations of candidacy received by the

clerk for the office of state representative. The summaries must be submitted electronically and include the name and address of each candidate. Daily reports are required only on days the clerk's office is open and receives filings. **Statute amended: RSA 658:18. E.D. September 21, 2021.**

New Voter Checklist Verification Procedures. [Chapter 137 \(HB 285\)](#) makes several changes to the voter checklist statutes to ensure that checklists are updated due to deaths and address changes. It also requires a municipality that receives an inventory of property transfer under RSA 74:18 to forward the buyer's and seller's names and addresses to the supervisors of the checklist. **Statutes amended: RSA 5-C:4; 74:18; 261:55; 654:37, :45. E.D. September 21, 2021.**

Procedure for Adding Names to Voter Checklist. [Chapter 175 \(SB 31\)](#) provides that when an applicant to register to vote lists a previous place of registration on the voter registration form, the supervisors of the checklist will enter that information into the statewide centralized voter registration database. It repeals the requirement to forward a copy of the registration form to the supervisors of the checklist in the municipality of the applicant's last voting address if that address was in another New England state. The secretary of state will provide information on individuals who report being previously registered in another state to the chief elections officer of that state. When supervisors of the checklist receive notice through the centralized voter registration database that a voter has registered in another state, they will remove that voter from the checklist unless they have evidence that the notice is inaccurate. The new law also modifies the absentee ballot affidavit. **Statutes amended: RSA 654:13; 657:7. E.D. August 30, 2021, for absentee ballot affidavit change; September 28, 2021, for voter checklist procedure.**

Municipality Must Provide Electronic List of Absentee Ballot Requests. [Chapter 187 \(HB 326\)](#) modifies the requirement that a town or city clerk, upon request by a candidate whose name appears on an election ballot, provide a list of absentee voter applicants. Under the new law, the list must, if so requested, be supplied electronically from the information in the statewide centralized voter registration database. **Statute amended: RSA 657:15, II. E.D. October 9, 2021.**

II. INTERGOVERNMENTAL RELATIONS; RETIREMENT; STATE BUDGET

Reporting by Retirement System Investment Committee. [Chapter 5 \(HB 173\)](#) requires the New Hampshire Retirement System's independent investment committee to include a description of investment fees in its quarterly report to the board of trustees, and requires that the committee's quarterly and annual reports be made available for public inspection on the retirement system's internet website. **Statute amended: RSA 100-A:15. E.D. June 22, 2021.**

Biennial State Operating Budget and Trailer Bill. [Chapter 90 \(HB 1\)](#) and [Chapter 91 \(HB 2\)](#) comprise the state operating budget appropriations and the trailer bill with statutory changes necessary to implement the budget for the two-year period July 1, 2021, through June 30, 2023. All sections explained below have an **effective date of July 1, 2021.** See also sections II, III, IV, VI, and VII.

- \$188 million over the biennium in meals and rooms tax distribution through the creation of a new treasury "dedicated fund" to which 30 percent of total meals and rooms tax revenue will be deposited for distribution to towns and cities (a \$50.5 million increase over the 2020-21 biennium).
- \$15.6 million state aid grant (SAG) funding for 160 previously approved water pollution control projects in 56 communities—source of funding is fiscal year 2021 budget surplus.
- \$0 SAGs for the 11 wastewater projects completed prior to December 31, 2019, held back from receiving available funding in the current budget.

- \$0 for SAGs for the 110 wastewater projects identified by the Department of Environmental Services as eligible under RSA 486 in fiscal years 2022-23. Chapter 91 (HB 2) places a moratorium on all projects completed after December 31, 2019.
- \$0 for revenue sharing under RSA 31-A. That program is suspended for the 2022-2023 biennium, as it has been in every budget since 2009.
- \$34.3 million and \$35.4 million in fiscal years 2022 and 2023, respectively, for highway block grants (\$2.8 million less than amounts distributed in the 2020-21 budget).
- \$6.8 million each year for municipal bridge aid, equal to the previous budget amount.
- \$3.25 million for highway construction aid for 1.97 miles of Calef Hill Road in Tilton.
- \$1 million for matching grants to local law enforcement agencies to assist with the purchase, maintenance, and replacement of body-worn and dashboard cameras.

In addition, there is a \$100 million reduction to the state education property tax, to be funded by education trust fund reserves. This will reduce all property taxpayers' state education tax amount by 27.5 percent for fiscal year 2023 only.

Broadband Matching Grants. [Chapter 91 \(HB 2\)](#) also establishes a broadband matching grant initiative within the Department of Business and Economic Affairs, the purpose of which is to provide matching grants to broadband providers, political subdivisions, and communications districts to improve broadband availability. Projects are eligible for grants up to 50 percent of total eligible costs (as defined in the new law). The department will adopt rules relative to grant applications and procedures. Projects under construction at the time of application are not eligible, but projects in the planning states are. Funding for the grants will come from state appropriations, grants and donations, and federal funds for internet expansion that are not committed to other programs. **Statute enacted: RSA 12-O:61 through :63. E.D. July 1, 2021. (Note: [Chapter 123 \(SB 85\)](#) is substantially the same; however, section 455 of chapter 91 nullified that law, and these provisions in chapter 91 took its place.)**

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

Electronic Wage and Hour Records Authorized. [Chapter 9 \(HB 258\)](#) allows required employee wage and hour records to be created, signed, acknowledged, approved, and retained electronically. **Statute amended: RSA 279:27. E.D. June 22, 2021.**

Clarification of "Other Compensation" Requirement for Partial Day's Work. [Chapter 23 \(HB 303\)](#) clarifies that the law requiring an employee to be paid for at least two hours of work on any day that he or she reports to work at the employer's request does not apply to municipal or county employees. The existing statute exempts municipal and county employees as well as certain ski resort employees from the requirement, but requires that the ski resort employees receive "other compensation that is at least equal to their rate of pay." The "other compensation" requirement had sometimes been misinterpreted as applying to municipal and county employees as well. The amended law clarifies that it does not. **Statute amended: RSA 275:43-a. E.D. July 5, 2021.**

Municipalities May Invest Funds in Certain Out-of-State Banks. [Chapter 65 \(HB 545\)](#) allows a municipality (or other political subdivision) to invest its funds in any federally insured bank, provided that in the case of a bank chartered under the laws of another state, the other state permits a New Hampshire-

chartered bank to accept deposit of public funds from that state and the out-of-state satisfies certain other requirements. **Statutes amended (among others): RSA 6:8; 31:25, :25-a, :26, :27, :36; 34:5; 35:9; 41:29; 48:16. E.D. August 3, 2021.**

Use of Electronic Records and Signatures. [Chapter 67](#) (HB 302) amends RSA 294-E to state that the secretary of state and the Department of Information Technology *may create standards* by which a governmental agency may use electronic records, rather than stating that they *shall determine whether* a governmental agency may do the same. It also provides that nothing in the statute shall be construed to prevent municipalities from using electronic records or signatures. **Statute amended: RSA 294-E:17, :18. E.D. August 9, 2021.**

Extension of Workers' Compensation Presumption for Heart and Lung Disease. [Chapter 83](#) (HB 385) extends to age 70 (from age 65) the workers' compensation benefits from the prima facie presumption that heart or lung disease in a firefighter is occupationally related. **Statute amended: RSA 281-A:17, I(c). E.D. August 17, 2021.**

ARPA Funds Treated as Unanticipated Revenue. [Chapter 91](#) (HB 2) provides that funds received by municipalities from the American Rescue Plan Act of 2021 may be considered unanticipated revenue under RSA 31:95-b and may be accepted and expended as provided in that section regardless of whether a municipality has adopted the section. **Statute amended: None. E.D. July 1, 2021.**

Person Who Damages Highway Is Liable for Full Replacement Cost. [Chapter 91](#) (HB 2) also provides that anyone who damages a highway will be liable to the state or municipality, as the case may be, for full and current replacement costs, not reduced for depreciation, of protective barriers and any structure or device that is part of the highway. **Statute amended: RSA 236:39. E.D. July 1, 2021.**

Certain Government Teachings and Programs Prohibited. [Chapter 91](#) (HB 2) also prohibits public employers from instructing employees or others on certain concepts regarding age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin. **Statute enacted: RSA 354-A:29 through :40. E.D. June 25, 2021.**

Broadband Matching Grants. [Chapter 91](#) (HB 2) also establishes a broadband matching grant initiative within the Department of Business and Economic Affairs, the purpose of which is to provide matching grants to broadband providers, political subdivisions, and communications districts to improve broadband availability. Projects are eligible for grants up to 50 percent of total eligible costs (as defined in the new law). The department will adopt rules relative to grant applications and procedures. Projects under construction at the time of application are not eligible, but projects in the planning states are. Funding for the grants will come from state appropriations, grants and donations, and federal funds for internet expansion that are not committed to other programs. **Statute enacted: RSA 12-O:61 through :63. E.D. July 1, 2021. (Note: [Chapter 123](#) (SB 85) is substantially the same; however, section 455 of chapter 91 nullified that law, and these provisions in chapter 91 took its place.)**

Capital Reserve Funds for Lease/Purchase Agreements. [Chapter 105](#) (SB 87) allows a capital reserve fund to be used to make payments under a lease/purchase agreement, regardless of whether the agreement contains an "escape" or "non-appropriation" clause. **Statute amended: RSA 35:15, III. E.D. August 30, 2021.**

Fee for Uncollectible Payments to Municipalities. [Chapter 105](#) (SB 87) also authorizes a city or town to charge a \$25 fee for any remittance, "whether by check or electronic means," issued for the payment of taxes, fees, licenses, or municipal services, that is returned to the municipality as uncollectible. The

municipality may also collect all protest, bank, and legal fees to cover the cost of collecting the debt. Previous law allowed for collection of these fees only when the remittance was made by check. **Statute amended: RSA 80:56. E.D. August 30, 2021.**

Expenditure of Funds from Water Wheeling. **Chapter 105 (SB 87)** also allows a town that is governed by RSA 49-D:3, I (town council form of government) to use funds from the collection of water wheeling charges derived from intermunicipal agreements to expend a portion of those funds for maintenance and improvement of sewer systems, capital reserve funds for the water or sewer system, expansion or replacement of natural gas lines, and certain other economic development purposes. **Statute amended: RSA 38:29. E.D. August 30, 2021.**

Village Districts Subject to Right-to-Know Law. **Chapter 118 (SB 84)** amends the village district statute to state that any “legislative body, governing body, board, commission, or committee” of a village district is a “public body” for purposes of the Right-to-Know Law. This is not a substantive change in the law, just a more specific statement of the law under RSA 91-A:1-a, VI(d), which states that any such body of a “political subdivision”—which includes a village district—is a public body. **Statute enacted: RSA 52:11-b. E.D. September 7, 2021.**

Prohibition on Mandatory Covid-19 Vaccinations. **Chapter 131 (HB 220)** prohibits mandating a Covid-19 vaccination to secure, receive, or access public facilities, public benefits, or any public service from the State or its subdivisions. However, the prohibition does not apply to treatment ordered by the Department of Health and Human Services, involuntary emergency admissions, or treatment authorized by guardians, county nursing homes, the state hospital, any medical provider operated by the state or its subdivisions, or treatment by the Department of Corrections if a direct threat exists. The new law also establishes a legislative committee to study the policy of medical intervention, including immunizations. **Statute enacted: RSA 141-C:1-a. E.D. July 23, 2021.**

Municipal Budget Requirements. **Chapter 134 (HB 243)** establishes additional requirements for town budgets. It defines “sub-account” as “an optional level of accounting, one or more levels below the account level,” which, if used, must support the numbering classification system established in the uniform chart of accounts as established by the Department of Revenue Administration. Any detail included in sub-accounts must be made available for public inspection at the town’s budget hearing and must be included in the information provided to the budget committee, if there is one. The new law also requires the governing body to provide information to the budget committee in a format acceptable to the budget committee, but states that this requirement may be satisfied “by providing the assistance of a knowledgeable staff person who will attend the budget committee meetings with access to and the ability to provide the required information.” **Statute amended: RSA 32:3, :5, :17, :22. E.D. September 21, 2021.**

Right-to-Know Law: Attorney-Client Communications; List of Sealed Minutes; Virtual Meetings. **Chapter 163 (HB 108)** clarifies that records protected under the attorney-client privilege or the attorney work product doctrine are exempt from disclosure under the Right-to-Know Law. It also requires a public body to create and maintain a list of nonpublic session minutes that have been determined not to be subject to full public disclosure. The list must include the date and time of the nonpublic session, the specific exemption under RSA 91-A:3, II, relied upon for the nonpublic session, the date of the decision to withhold the minutes from public disclosure, and the date of any subsequent decision to make the minutes available.

In addition, the new law requires that minutes related to a nonpublic session held under RSA 91-A:3, II(d) (consideration of acquisition, sale, or lease of property) be made available as soon as possible after the transaction has closed or the public body has decided not to proceed with the transaction.

Finally, the law establishes a legislative committee “to review authorizing governing bodies of municipalities to hold virtual meetings and to study remote access to meetings under RSA 91-A.” The committee is to issue a report with any recommendations for legislation by November 1, 2021.

Statute amended: RSA 91-A:3, III; 91-A:5. E.D. July 30, 2021, for attorney-client and work product record exemption; September 28, 2021, for study committee; January 1, 2022, for nonpublic minutes provisions.

Minor Soft-Drink Sellers Exempt from Hawker/Peddler Licensing.* [Chapter 166](#) (HB 183) exempts a person under the age of 14 from any requirement to obtain a hawker or peddler’s license from a municipality to sell soft drinks on “family owned or leased property.” **Statute amended: RSA 31:102-a. E.D. September 28, 2021.*

Right-to-Know Law: Disclosure of Sealed Minutes.* [Chapter 172](#) (HB 566) creates a new entry (m) in the list of reasons to enter non-public session for the purpose of discussing whether to disclose minutes previously sealed. **Statute amended: RSA 91-A:3, II. E.D. January 1, 2021.*

Liquor Tastings Permitted at Farmers’ Markets.* [Chapter 173](#) (SB 18) includes liquor manufacturers in the list of alcohol makers who may offer samples for tastings at farmers’ markets, and allows in-state liquor manufacturers who produce fewer than 10,000 bottles per year to sell their product at farmers’ markets. **Statutes amended: RSA 178:6, IV, 179:44, II-a. E.D. September 28, 2021.*

Demolition of Town-Owned Buildings.* [Chapter 184](#) (HB 164) clarifies that selectmen in a town that has adopted the provisions of RSA 41:14-a have the authority not only to acquire and sell land and buildings, but to demolish or otherwise dispose of buildings, provided that the proposed demolition is first submitted to the appropriate boards and commissions for review and recommendation. It also adds a requirement that any proposed acquisition, sale, or demolition be submitted to the heritage commission and historic district commission, if any, for review and recommendation (if, in the case of a historic district commission, the property lies within a defined historic district). The change is effective in all towns in which the provisions of RSA 41:14-a have previously been adopted and remain in effect, without further action by the town. **Statute amended: RSA 41:14-a. E.D. October 9, 2021.*

Communications Districts and Broadband Bonds.* [Chapter 198](#) (SB 88) eliminates the requirement that two or more municipalities create a communications district planning committee upon a vote of their legislative bodies; such a committee may still be formed at the discretion of the governing bodies. It also makes several modifications to the process for requests for information and requests for proposals in connection with the issuance of a bond to finance broadband infrastructure. **Statutes amended: RSA 33:3-g; 53-G:2. E.D. October 9, 2021.*

Community Revitalization Tax Relief for Housing Development.* [Chapter 200](#) (SB 102) allows a municipality to designate a “residential property revitalization zone” and grant community revitalization tax relief under RSA 79-E to the owner of a residential property in the zone with not more than four units if the structure is at least 40 years old and if the owner significantly improves the quality, condition, or use of the structure. Separately, it allows a municipality to create “housing opportunity zones” and apply the community revitalization tax relief incentive to housing units constructed within a housing opportunity zone. To be eligible, at least one-third of the housing units constructed must be designated for households with an income of 80 percent or less of the area median income, or the housing units in a qualifying structure must be designated for households that are deemed to be of “very low, low, or moderate income” under RSA 204-C:57, IV. **Statutes enacted or amended: RSA 21-J:3; 79-E:2, :4-b, :4-c. E.D. October 9, 2021,*

for residential property revitalization zone provisions; April 1, 2022, for housing opportunity zone provisions. See also section VIII.

Committee to Compare OSHA and New Hampshire Safety and Health Standards. [Chapter 216 \(HB 448\)](#) creates a legislative committee to study and compare federal Occupational Safety and Health Act standards with the safety and health standards the New Hampshire Department of Labor uses for public sector employees. The committee will also survey public sector employers in New Hampshire to gain insight into the impact of adopting a state OSHA plan. The committee is to issue its findings and any recommendations for legislation by November 1, 2021. **Statute amended: None. E.D. August 17, 2021.**

Law Enforcement Candidate Background Check Changes. [Chapter 226 \(HB 530\)](#) requires employers from whom law enforcement agencies are requesting employment information for candidates applying to become law enforcement officers to release that information upon written request endorsed by the candidate. **Statutes amended: RSA 41:9-c. E.D. November 23, 2021.**

IV. PLANNING AND ZONING

Planning Board Deadline Extended. [Chapter 69 \(HB 332\)](#) extends the planning board's deadline by 30 days to act to approve, conditionally approve, or disapprove an application where the board determines that the development is one of regional impact. **Statute amended: RSA 676:4, I(c)(1). E.D. August 9, 2021.**

Office of Strategic Initiatives Transferred and Renamed. [Chapter 91 \(HB 2\)](#) repeals RSA 4-C, governing the Office of Strategic Initiatives. That office is transferred to the newly created Department of Energy and is renamed the Office of Planning and Development. **Statutes repealed, enacted, or amended: RSA 4-c; 12-O:53 - :60; various others. E.D. July 1, 2021.**

Non-Conforming Use Status for Summer Camps; Outdoor Dining for Certain Restaurants. [Chapter 121 \(SB 155\)](#) provides that any summer camp that was operating as a pre-existing, non-conforming use under an applicable zoning ordinance and either closed for the summer of 2020 and/or 2021 or was forced to operate for a shorter season or at a reduced capacity due to the COVID-19 pandemic will not lose its non-conforming use status as a result. It also allows a restaurant with a liquor license to expand into a shared space, such as a sidewalk or street, with the approval of local officials. The latter provision applies only with respect to compliance with liquor laws; it does not affect local land use requirements. **Statutes enacted or amended: RSA 674:74; 178:24. E.D. July 9, 2021.**

Restoration of Involuntarily Merged Lots. [Chapter 136 \(HB 284\)](#) eliminates the end date for owners of involuntarily merged lots to apply to their governing bodies to separate those lots. Existing law required owners to submit requests prior to December 31, 2021. **Statute amended: RSA 676:39-aa. E.D. September 21, 2021.**

Rules for Third-Party Inspections; Prohibition on Heating System Restrictions. [Chapter 224 \(SB 86\)](#) provides that if a planning board requires a third-party inspection during the construction process for an approved development, it must develop a scope for the inspection in consultation with the applicant. Alternatively, the board may require a signed certification from the site plan designer, in lieu of the inspection, stating that the project was built in accordance with the approved plans. Separately, the new law prohibits a municipality from adopting any regulation or practice that prohibits a person from installing a safe and commercially available heating or other energy system of the person's choice or engaging the services of an energy provider to do the same. **Statutes amended: RSA 676-4:b; 155-A:2; 674:51. E.D. October 23, 2021.**

V. ENVIRONMENTAL REGULATION AND PROTECTION; SOLID/HAZARDOUS WASTE

Londonderry Added to Commission on Perfluorinated Chemicals. [Chapter 22](#) (HB 256) adds representatives from Londonderry to the commission to investigate and analyze the environmental and public health impacts relating to releases of perfluorinated chemicals into the air, soil, and groundwater in Merrimack, Bedford, and Litchfield. **Statute amended: RSA 126-A:79-a. E.D. May 6, 2021.**

Limit on Shoreland Protection Act Fees. [Chapter 109](#) (HB 397) limits the permitting fee for applications for projects solely funded by municipal, county, state, or federal entities to a maximum of \$3,750. **Statute amended: RSA 483-B:5-b. E.D. July 1, 2021.**

Solid Waste Working Group. [Chapter 188](#) (HB 413) establishes a solid waste working group, including two members appointed by NHMA. The group's responsibilities, among others, are to assist the Department of Environmental Services in long-range planning for and the development of solutions to the state's solid waste management challenges; make recommendations for changes to the state's existing solid waste reduction, recycling, and management policies; and recommend methods to provide technical assistance and education to municipalities, schools, businesses, and the public regarding solid waste reduction, recycling, and management. The new law also establishes a new statewide solid waste disposal reduction goal. **Statutes enacted or amended: RSA 149-M:2, :29, 61. E.D. August 10, 2021, for working group; October 9, 2021, for disposal reduction goal.**

Amendment to PFAS Loan Fund Program. [Chapter 223](#) (HB 271) clarifies terminology related to per and polyfluoroalkyl substances (PFAS) and includes municipalities in the PFAS loan fund program to allow municipalities to access PFAS loan fund monies via the Department of Environmental Services' administration of the program. **Statutes amended: RSA 125-C:10-e; 485:16-e; multiple sections in RSA chapter 485-H. E.D. August 24, 2021.**

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

Additional Pistols Permitted for Taking Deer. [Chapter 6](#) (HB 192) adds the following pistols to those that are permitted for the taking of deer in certain towns and cities: .45 ACP (Automatic Colt Pistol), .460 Rowland, .45 Super, .50 AE (Action Express), .357 SIG Sauer, .327 Federal Magnum, and .400 Corbon. It also allows a pistol to be loaded with six rounds of ammunition, rather than the current limit of five. **Statute amended: RSA 208:3-d. E.D. June 22, 2021.**

Lever-Action Firearms Permitted for Taking Game. [Chapter 12](#) (HB 342) allows the taking of wildlife using certain lever-action firearms in areas where hunting is restricted to handguns or pistols. It also allows a semi-automatic rifle to be used with a magazine or clip holding six cartridges, rather than the current limit of five. **Statute amended: RSA 207:3. E.D. June 22, 2021.**

Recovery Houses May Receive Fire Code Exemption. [Chapter 26](#) (HB 377) allows the state fire marshal to grant exemptions from the state fire code to a recovery house that complies with rules of the Department of Health and Human Services for the voluntary registry of recovery houses or that is certified by the New Hampshire Coalition of Recovery Residences. The recovery house must comply with certain requirements, such as properly maintained heating and electrical systems, appropriate egress, evacuation plans, and minimum square footage per resident. The new law defines a recovery house as "a residence that

provides a safe, healthy, family-like, substance-free living environment that supports individuals in recovery from addiction and is centered on peer support and a connection to services that promote long-term recovery.” **Statute enacted: RSA 153:10-d. E.D. July 5, 2021.**

Committee to Study Law Enforcement Response to Homelessness. [Chapter 39](#) (HB 286) establishes a committee comprising three members of the House and one of the Senate to study how law enforcement and the criminal justice system respond to homelessness in New Hampshire. The committee is to issue a report, including any recommendations for legislation, by November 1, 2021. **Statute amended: none. E.D. May 17, 2021.**

Body-Worn and Dashboard Camera Fund. [Chapter 91](#) (HB 2) establishes a fund within the Department of Safety for the purpose of encouraging local law enforcement agencies to equip officers with body-worn cameras and agency vehicles with dashboard cameras. The fund will provide matching grants to assist with the purchase, maintenance, and replacement of cameras and ongoing costs of maintenance and storage of data. The sum of \$1 million is appropriated to the fund for the 2022 fiscal year. **Statute amended: RSA 105-D:3. E.D. July 1, 2021.**

Destruction of Valueless Property Held By Law Enforcement. [Chapter 140](#) (HB 375) extends the authority to dispose of unreturnable property in law enforcement property rooms to sheriffs’ departments, and expands law enforcement’s authority to dispose of unreturnable property that is valueless rather than attempt to sell it via public auction. **Statute amended: RSA 471-C:13. E.D. September 21, 2021.**

Building Code and Fire Code Amendments. [Chapter 146](#) (SB 15) ratifies several amendments to the state building and fire codes that were previously approved by the Building Code Review Board and by the state fire marshal. **Statutes amended: None. E.D. July 23, 2021.**

Repeal of Fire Service Equipment Certification; Committee to Study Fire and Building Codes. [Chapter 150](#) (SB 106) repeals RSA 153:5-a, which had authorized the commissioner of safety to adopt rules for the voluntary certification of persons engaged in the inspection, installation, and servicing of fire extinguishing equipment, fire sprinkler systems, and fire alarm systems. It also establishes a legislative committee to study adopting changes to the state fire and building codes and to make recommendations for a process for adoption of new editions of model codes and amendments, including consideration of establishing a permanent statutory committee for that purpose. The committee is to issue its report, including any recommendations for proposed legislation, by November 1, 2021. **Statute repealed: RSA 153:5-a. E.D. July 23, 2021, for establishment of study committee; September 23, 2021, for repeal of RSA 153:5-a.**

Public Police Disciplinary Hearings; Exculpatory Evidence Schedule. [Chapter 225](#) (HB 471) makes police disciplinary hearings at the police standards and trainings public, unless the party seeking closure from public view can demonstrate that confidential information would be revealed that would outweigh the public’s interest in disclosure. It also authorizes the Department of Justice to create an exculpatory evidence schedule consisting of a public list of all current or former law enforcement officers whose personnel information contain potentially exculpatory evidence, and subject to the Right-to-Know Law. The Department of Justice must provide written notice to any officer on the list informing the officer of a time period to challenge inclusion on the list. (180 days for officers included on the list prior to April 30, 2018; 90 days for any officer added after April 30, 2018.) The statute also provides a mechanism for adding new officers’ names to the public list. **Statute amended: RSA 106-L:5; RSA 105:13-d. E.D. August 25, 202, for disciplinary hearings; September 24, 2021, for exculpatory evidence schedule.**

Law Enforcement Candidate Background Check Changes. [Chapter 226](#) (HB 530) requires employers from whom law enforcement agencies are requesting employment information for candidates applying to become law enforcement officers to release that information upon written request endorsed by the candidate. **Statutes amended: RSA 41:9-c. E.D. November 23, 2021.**

Prohibition on Heating System Restrictions. [Chapter 224](#) (SB 86) prohibits a municipality from adopting any regulation or practice that prohibits a person from installing a safe and commercially available heating or other energy system of the person's choice or engaging the services of an energy provider to do the same. **Statutes amended: RSA 676-4:b; 155-A:2; 674:51. E.D. October 23, 2021. See also section IV.**

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

Notice of Application for Solid Waste Permit. [Chapter 17](#) (HB 73) requires the Department of Environmental Services (DES) to provide notice of applications for solid waste permits on its website prior to issuance of those permits, in addition to the existing statutory requirement to publish notice in a newspaper. It also requires DES to implement a system for notifying the public and affected municipalities, including via the website notice. **Statute amended: RSA 149-M:7; RSA 149-M:9. E.D. July 5, 2021.**

Person Who Damages Highway Is Liable for Full Replacement Cost. [Chapter 91](#) (HB 2) provides that anyone who damages a highway will be liable to the state or municipality, as the case may be, for full and current replacement costs, not reduced for depreciation, of protective barriers and any structure or device that is part of the highway. **Statute amended: RSA 236:39. E.D. July 1, 2021.**

Committee to Study Rail Trail Best Management Practices. [Chapter 94](#) (HB 311) establishes a committee to develop best management practices for repurposing former rail beds into rail trails and for maintaining rail trails to limit exposure of possible contamination to users. **Statute amended: None. E.D. July 1, 2021.**

Expenditure of Funds from Water Wheeling. [Chapter 105](#) (SB 87) allows a town that is governed by RSA 49-D:3, I (town council form of government) to use funds from the collection of water wheeling charges derived from intermunicipal agreements to expend a portion of those funds for maintenance and improvement of sewer systems, capital reserve funds for the water or sewer system, expansion or replacement of natural gas lines, and certain other economic development purposes. **Statute amended: RSA 38:29. E.D. August 30, 2021. See also sections I, III.**

Commission on Enhanced Automation of Traffic Lights. [Chapter 141](#) (HB 423) establishes a commission to study the implementation of enhanced automation of traffic lights. The commission includes a representative from NHMA and is to issue a report and any recommendations for legislation by November 1, 2021. **Statute enacted: RSA 236:8-a. E.D. July 23, 2021.**

Liability for Full Replacement Cost Applies to Pending Claims. [Chapter 185](#) (HB 224), among other things, clarifies that the amendment to RSA 236:39 regarding liability for damages to highways (see chapter 91 above) applies to all pending claims, whether the damages were incurred before or after the effective date of that amendment. **Statute amended: RSA 236:39. E.D. October 9, 2021.**

Winter Road Maintenance Certification Option. [Chapter 204](#) (SB 131), among other things, allows a municipality to have its winter road maintenance program certified by the Department of Environmental Services. The municipality must ensure that each person operating under its supervision who applies salt to roadways receives the required training approved by the department. A program that is certified will be presumed to meet the standards under RSA 507-B:2-b for a “winter or inclement weather maintenance policy.” **Statutes enacted or amended: RSA 489-C:1, :2-a, :3, :5; 505-B:2-b. E.D. July 1, 2021.**

Amendment to PFAS Loan Fund Program. [Chapter 223](#) (HB 271) clarifies terminology related to per and polyfluoroalkyl substances (PFAS) and includes municipalities in the PFAS loan fund program to allow municipalities to access PFAS loan fund monies via the Department of Environmental Services’ administration of the program. **Statutes amended: RSA 125-C:10-e; 485:16-e; multiple sections in RSA chapter 485-H. E.D. August 24, 2021.**

Procedures for Small Groundwater Withdrawals. [Chapter 222](#) (HB 235) requires the Department of Environmental Services to adopt rules specifying criteria and procedures to ensure that new groundwater withdrawals of less than 57,600 gallons per day for community water systems do not cause unmitigated impacts to existing private water supplies. **Statute enacted: RSA 485-C:26. E.D. October 23, 2021.**

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

Adjustment of Estimated Property Tax for Changes Over 15 Percent. [Chapter 15](#) (HB 383) allows a municipality that uses semi-annual or quarterly property tax billing to apply to the Department of Revenue Administration to adjust the applicable fraction of the previous year’s tax rate by an amount sufficient to collect the appropriate amount of the estimated increase or decrease in taxes when there is a change of 15 percent or more in the amount of all property taxes to be raised for the current year as compared to the previous year. **Statutes amended: RSA 76:15-a, :15-aa. E.D. April 1, 2022.**

PILOT from Renewable Generation Facility Excluded from SWEPT Base. [Chapter 31](#) (HB 64) provides that payments in lieu of taxes with respect to a renewable generation facility under RSA 72:74 are excluded from the tax base used to determine the statewide education property tax base. **Statute amended: RSA 72:74. E.D. July 1, 2021.**

More Time to Notify Mortgagee of Tax Lien Execution. [Chapter 33](#) (HB 126) extends to 60 days (from 45) the period for a municipality to notify a mortgagee of the execution of a tax lien. **Statute amended: RSA 80:65. E.D. July 16, 2021.**

Increased Eligibility for Low- and Moderate-Income Tax Relief. [Chapter 95](#) (HB 486) increases the maximum income and property value for a homeowner to qualify for the low- and moderate-income homeowners’ property tax relief, which applies only to the statewide education property tax and is administered by the Department of Revenue Administration. **Statute amended: RSA 198:57, III & IV. E.D. August 30, 2021.**

Current Use Tax Rate Formula Not Confidential. [Chapter 102](#) (SB 48) makes the formula used by the Department of Revenue Administration to assist the current use board in its determination of current use tax rates, and all variables within that formula, a record not deemed confidential or privileged. **Statute amended: RSA 21-J:14, IV. E.D. August 30, 2021.**

Restoration of Involuntarily Merged Lots. [Chapter 136](#) (HB 284) eliminates the end date for owners of involuntarily merged lots to apply to their governing bodies to separate those lots. Existing law required

owners to submit requests prior to December 31, 2021. **Statute amended: RSA 676:39-aa. E.D. September 21, 2021.**

Commission to Study Equalization Rate. **Chapter 170 (HB 411)** establishes a commission to study the equalization rate used for the calculation of property tax abatements. Specifically, the commission is instructed to establish a method to eliminate the practice of using two separate equalization rates in two separate years, one for tax assessment purposes and one for tax appeal purposes, so that the same equalization rate will be used by the New Hampshire Board of Tax and Land Appeals, the superior court, and all municipalities. The commission is to issue a report, including any recommendations for legislation, by November 1, 2022. **Statute enacted: RSA 76:20-a. E.D. July 30, 2021.**

Tax Relief for Housing Development; Exemption for Renewable Generation Facilities and Energy Storage Systems. **Chapter 200 (SB 102)** allows a municipality to designate a “residential property revitalization zone” and grant community revitalization tax relief under RSA 79-E to the owner of a residential property in the zone with not more than four units if the structure is at least 40 years old and if the owner significantly improves the quality, condition, or use of the structure. Separately, it allows a municipality to create “housing opportunity zones” and apply the community revitalization tax relief incentive to housing units constructed within a housing opportunity zone. To be eligible, at least one-third of the housing units constructed must be designated for households with an income of 80 percent or less of the area median income, or the housing units in a qualifying structure must be designated for households that are deemed to be of “very low, low, or moderate income” under RSA 204-C:57, IV. The new law also allows a municipality to adopt a property tax exemption for a renewable generation facility and an electric energy storage system that (a) is located behind the retail meter of a “customer-generator,” or (b) is a “limited producer,” or (c) is operating pursuant to RSA 374-D:2. **Statutes enacted or amended: RSA 21-J:3; 72:27-a, :36, :86, :87; 79-E:2, :4-b, :4-c. E.D. October 9, 2021, for residential property revitalization zone provisions and property tax exemption; April 1, 2022, for housing opportunity zone provisions.**

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

Changes to Health Improvement Plan and Advisory Council. **Chapter 35 (HB 157)** revises components of the state health improvement plan and revises the membership and duties of the state health assessment and state health improvement plan advisory council. **Statute amended: RSA 126-A:87 and :88. E.D. May 17, 2021.**

Changes to Health Officer Statute. **Chapter 61 (HB 79)** substantially modifies RSA chapter 128, the town health officer statute. Among other things, it deletes the state residency requirement for a local health officer, clarifies that a deputy health officer serves the same term-of-office as the principal, adds a three-hour per year training requirement for health officers, requires a criminal background check prior to appointment, and adds a reporting requirement for the New Hampshire Health Officers Association regarding the readiness of local health officers to respond to potential health threats in New Hampshire. Chapter 61 also redefines the relationship between the Department of Health and Human Services (DHHS) and local health officers in relation to information about quarantine and isolation orders. **Statute amended: RSA chapter 128; RSA 141-C:10. E.D. August 3, 2021.**

Prohibition on Mandatory Covid-19 Vaccinations. **Chapter 131 (HB 220)** prohibits mandating a Covid-19 vaccination to secure, receive, or access public facilities, public benefits, or any public service from the State or its subdivisions. However, the prohibition does not apply to treatment ordered by the Department

of Health and Human Services, involuntary emergency admissions, or treatment authorized by guardians, county nursing homes, the state hospital, any medical provider operated by the state or its subdivisions, or treatment by the Department of Corrections if a direct threat exists. The new law also establishes a legislative committee to study the policy of medical intervention, including immunizations. **Statute enacted: RSA 141-C:1-a. E.D. July 23, 2021.**

Eviction Notice May Not Be Required for Rental Assistance. [Chapter 152](#) (SB 126) provides, among other things, that a municipality may not require the issuance of an eviction notice before providing rental assistance to a person in need under RSA 165. An eviction notice may be required to assist the applicant in documenting a need for emergency assistance, timely application and decision making, and referrals to other agencies that do require an eviction notice for consideration of additional rent arrearage assistance. **Statute enacted: RSA 165:4-c. E.D. July 23, 2021.**

Community Revitalization Tax Relief for Housing Development. [Chapter 200](#) (SB 102) allows a municipality to designate a “residential property revitalization zone” and grant community revitalization tax relief under RSA 79-E to the owner of a residential property in the zone with not more than four units if the structure is at least 40 years old and if the owner significantly improves the quality, condition, or use of the structure. Separately, it allows a municipality to create “housing opportunity zones” and apply the community revitalization tax relief incentive to housing units constructed within a housing opportunity zone. To be eligible, at least one-third of the housing units constructed must be designated for households with an income of 80 percent or less of the area median income, or the housing units in a qualifying structure must be designated for households that are deemed to be of “very low, low, or moderate income” under RSA 204-C:57, IV. **Statutes enacted or amended: RSA 21-J:3; 79-E:2, :4-b, :4-c. E.D. October 9, 2021, for residential property revitalization zone provisions; April 1, 2022, for housing opportunity zone provisions. See also section VIII.**

X. PUBLIC UTILITIES

Changes to Community Power; Net Metering Cap Increased. [Chapter 229](#) (HB 315) makes numerous changes to the community power law, RSA 53-E. It also allows a “municipal host” with generating capacity of up to five megawatts to take advantage of net metering. A municipal host is defined as a customer-generator that provides electricity exclusively to political subdivisions that are all located within the same utility franchise service territory. **Statutes amended: RSA 53-E, multiple sections; RSA 362-A:1-a; RSA 83-F:1. E.D. August 26, 2021.**

XI. SPECIAL ACTS

Tilton and Northfield May Redraw Boundary. [Chapter 1](#) (SB 30) authorizes the towns of Tilton and Northfield to change their boundary so that the island in the Winnepesaukee River known as Tilton Island, currently located in Northfield, would become part of Tilton. The change requires a two-thirds affirmative vote by each town at an annual town meeting subsequent to the passage of the act. **Statute amended: None. E.D. March 9, 2021.**

Audit of Windham House of Representatives Election Results. [Chapter 2](#) (SB 43) authorizes a forensic audit (already completed) of the ballot counting machines and their memory cards and the hand tabulations of ballots regarding the 2020 general election in Windham for the Rockingham County District 7 House of Representatives seats. **Statute amended: None. E.D. April 12, 2021.**

Claremont City Council to Appoint Police Commission. [Chapter 32](#) (HB 88) amends the law establishing the City of Claremont police commission to provide that the commission will be appointed by the city council, rather than by the city manager. **Statute amended: 1947 N.H. Laws 342:1. E.D. May 17, 2021.**

Changes to Manchester Retirement System. [Chapter 40](#) (HB 356) makes changes to the Manchester employees' contributory retirement system, including changes to comply with federal tax laws, revised provisions for filling vacancies on the board of trustees, and technical changes. **Statute amended: 1973 N.H. Laws chapter 218. E.D. May 17, 2021.**

Operation and Funding of Woodsville Fire District. [Chapter 124](#) (SB 26) modifies the law on the operation and funding of the Woodsville Fire District in relation to Highway Block Grants and audit requirements and directs that appropriations to the Woodsville Fire District shall be as directed by warrant articles duly voted at each annual Haverhill town meeting. **Statute amended: none. E.D. July 14, 2021.** (Note: [Chapter 91](#) (HB 2) (the budget trailer bill) contains identical language, with an effective date of July 1, 2021.)

Ratification of Middleton Town Meeting. [Chapter 125](#) (HB 476) ratifies the town meeting vote for the town of Middleton in March 2021. **Statutes amended: none. E.D. July 14, 2021. See also section I.**