

LEGISLATIVE COMMITTEE MINUTES

SB146

Bill as
Introduced

SB 146-FN - AS INTRODUCED

2021 SESSION

21-0255
08/04

SENATE BILL **146-FN**
AN ACT adopting omnibus legislation relative to the environment.
SPONSORS: Sen. Watters, Dist 4
COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill adopts legislation relative to:

- I. Establishing the coastal program administered by the department of environmental services.
- II. Establishing a statewide solid waste disposal reduction goal.
- III. Prohibiting incineration of PFAS in New Hampshire.
- IV. The prevention of zoonotic disease transmission.
- V. Tidal waters.
- VI. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.
- VII. The acquisition and preservation of agricultural land for food producing in the land and community heritage program.
- VIII. Class 2 obligations under the electric renewable portfolio standards.
- IX. Public use of coastal shorelands.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to the environment.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Sponsorship. This act consists of the following proposed legislation:

2 Part I. LSR 21-0255, establishing the coastal program administered by the department of
3 environmental services, sponsored by Sen. Watters, Prime/Dist 4; Sen. Gannon, Dist 23; Sen. Gray,
4 Dist. 6; Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Edgar, Rock 21; Rep. Spang, Straf
5 6.

6 Part II. LSR 21-0256, establishing a statewide solid waste disposal reduction goal,
7 sponsored by Sen. Watters, Prime/Dist 4; Sen. D'Allesandro, Dist 20; Sen. Rosenwald, Dist 13; Sen.
8 Prentiss, Dist 5; Sen. Perkins Kwoka, Dist 21; Sen. Whitley Dist 15; Sen. Sherman, Dist 24; Rep.
9 Ebel, Merr 5; Rep. Grassie, Straf 11; and Rep. Murray, Hills 22.

10 Part III. LSR 21-0842, prohibiting incineration of PFAS in New Hampshire, sponsored by
11 Sen. Watters, Prime/Dist 4; Sen. Soucy, Dist 18; Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13;
12 Sen. Carson, Dist 14; Sen Gannon, Dist 23; Sen. Perkins Kwoka, Dist 21; Sen. Cavanaugh, Dist 16;
13 Sen. Bradley, Dist 3; Rep. Spang, Straf 6; and Rep. Rung, Hills 21.

14 Part IV. LSR 21-0926, relative to the prevention of zoonotic disease transmission, sponsored
15 by Sen. Watters, Prime/Dist 4; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; and Rep. Bixby, Straf
16 17.

17 Part V. LSR 21-0927, relative to tidal waters, sponsored by Sen. Watters, Prime/Dist 4; Sen.
18 Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Cushing, Rock 21; and Rep. Simpson, Rock 36.

19 Part VI. LSR 21-0823, establishing a surcharge on certain saltwater licenses and
20 establishing a fund for derelict fishing gear and coastal cleanup, sponsored by Sen. Watters,
21 Prime/Dist 4; Sen. Perkins Kwoka, Dist 21; Sen. Sherman, Dist 24; and Rep. Spang, Straf 6.

22 Part VII. LSR 21-1022, relative to the acquisition and preservation of agricultural land for
23 food producing in the land and community heritage program, sponsored by Sen. Bradley, Prime/Dist
24 3.

25 Part VIII. LSR 21-1054, relative to class 2 obligations under the electric renewable portfolio
26 standards, sponsored by Sen. Perkins Kwoka, Prime/Dist. 21; Sen. Watters, Dist. 4; Sen. Sherman,
27 Dist. 24; and Rep. McWilliams, Merr. 27.

28 Part IX. LSR 21-1062, relative to public use of coastal shorelands, sponsored by Sen.
29 Sherman, Prime/Dist 24; Sen. Soucy, Dist 18; Rep. Murray, Rock 24; and Rep. Cushing, Rock 21.

30 2 Legislation Enacted. The general court hereby enacts the following legislation:

31 PART I

1 Establishing the coastal program administered by the department of environmental services.

2 1 New Chapter; Coastal Program and Fund. Amend RSA by inserting after chapter 485-H the
3 following new chapter:

4 CHAPTER 485-I

5 COASTAL PROGRAM AND FUND

6 485-I:1 Statement of Policy. The water and related land resources of New Hampshire's coastal
7 and estuarine environments have significant ecological, commercial, cultural, and recreational
8 values for the state and its citizens. Therefore, it is the policy of the state to ensure the continued
9 viability and improved resiliency of these environments and communities in which they are located
10 as valued ecologic, economic, public health and safety, and social assets for the benefit of current and
11 future generations.

12 485-I:2 Program Established. There is established within the department of environmental
13 services the New Hampshire coastal program to implement 16 U.S.C. section 1452, the Coastal Zone
14 Management Act. It is the intent of the state to encourage and assist state and federal agencies and
15 coastal zone municipalities in the sustainable use of the land and water resources of the coastal zone
16 giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for
17 compatible economic development. The coastal program should encourage and assist to support:

18 I. The protection of natural resources, including wetlands, floodplains, coastal and
19 estuarine waters, beaches, sand dunes, and fish and wildlife and their habitat within the coastal
20 zone.

21 II. The management of coastal development to minimize the loss of life and property caused
22 by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas
23 and in areas likely to be affected by or vulnerable to sea level rise, ground water rise, and saltwater
24 intrusion, and by the destruction of natural protective features such as beaches, sand dunes, and
25 wetlands.

26 III. The management of coastal development to improve, safeguard, and restore the quality
27 of coastal waters, and to protect natural resources and existing uses of those waters.

28 IV. Public access to the coasts for recreation purposes.

29 V. The redevelopment of deteriorating urban waterfronts and ports, and sensitive
30 preservation and restoration of historic, cultural, and esthetic coastal features.

31 VI. The coordination and simplification of procedures in order to ensure expedited
32 governmental decision making for the management of coastal resources.

33 VII. Continued consultation and coordination with, and the giving of adequate
34 consideration to the views of affected state and federal agencies.

35 VIII. The giving of timely and effective notification of, and opportunities for, public and
36 local government participation in coastal management decision making.

1 IX. Comprehensive planning, conservation, and management for living marine resources,
2 including planning for the siting of pollution control and aquaculture facilities within the coastal
3 zone, and improved coordination between state and federal coastal zone management agencies and
4 state and wildlife agencies.

5 X. The study and development of plans for addressing the adverse effects upon the coastal
6 zone in accordance with the updating of storm surge, sea-level rise, precipitation and other relevant
7 projections recommending in the coastal risks and hazards commission 2014 report "Sea-Level Rise,
8 Storm Surges, and Extreme Precipitation in Coastal New Hampshire: Analysis of Past and Projected
9 Trends" in RSA 483-B:22, I.

10 485-I:3 Federal Consistency. The coastal program established under this chapter shall be the
11 entity charged with implementing 16 U.S.C section 1456 and 15 C.F.R. Part 930.

12 485-I:4 Coastal Fund.

13 I. There is hereby established in the state treasury the coastal fund which shall be kept
14 distinct and separate from all other funds. All moneys in the fund shall be nonlapsing and
15 continually appropriated to the department of environmental services for the purposes of this
16 chapter.

17 II. The commissioner may apply for and accept, from any source, gifts; donations of money;
18 grants; federal, local, private, and other matching funds and incentives; and interests in land for the
19 purposes of this chapter. The moneys collected under this paragraph shall be deposited in the fund
20 established under paragraph I.

21 III. The commissioner shall make rules relative to the distribution of money from the
22 coastal fund for the New Hampshire coastal program established in RSA 485-I:2.

23 2 Effective Date. Part I of this act shall take effect July 1, 2021.

24 PART II

25 Establishing a statewide solid waste disposal reduction goal.

26 1 Solid Waste Disposal Reduction Goal. Amend RSA 149-M:2 to read as follows:

27 149-M:2 *Solid Waste Disposal* Reduction Goal.

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

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

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

24 2 State Solid Waste Disposal Reduction Goal. Amend the introductory paragraph of RSA 149-
 25 M:29, II to read as follows:

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

31 3 State Solid Waste Plan. Amend RSA 149-M:29, I to read as follows:

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

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

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

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

3 4 Effective Date. Part II of this act shall take effect 60 days after its passage.

4 PART III

5 Prohibiting incineration of PFAS in New Hampshire.

6 1 New Section; Prohibition on Incinerating Class B Firefighting Foam. Amend RSA 154 by
7 inserting after section 8-c the following new section:

8 154:8-d Prohibition on Incinerating Class B Firefighting Foam.

9 I. In this section:

10 (a) "Incineration" includes but is not limited to burning, combustion, pyrolysis,
11 gasification, thermal oxidation (including flameless and regenerative), acid recovery
12 furnace/oxidizer, ore roaster, cement kiln, lightweight aggregate kiln, industrial furnace, boiler and
13 process heater.

14 (b) "Class B firefighting foam" means foam designed for flammable liquid fires.

15 (c) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals" means a class of
16 fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

17 II. No person, local government, or state agency shall incinerate Class B firefighting foam
18 which contains PFAS chemicals until the department determines that no out-of-state facility will
19 accept this waste and can ensure the air emissions and associated residuals and their disposal shall
20 not pose a threat to public health or the environment and reports such finding to all local
21 governments and state agencies.

22 III. Whenever PFAS-containing waste, leachate, or sludge is being incinerated in New
23 Hampshire, the air emissions and associated residuals shall be evaluated by the department of
24 environmental services to ensure disposal shall not pose a threat to public health or the
25 environment.

26 2 New Chapters; Perfluorinated Chemicals; Plastics Advisory Council. Amend RSA by inserting
27 after chapter 149-Q the following new chapters:

28 CHAPTER 149-R

29 PERFLUORINATED CHEMICALS; PLASTICS ADVISORY COUNCIL

30 149-R:1 Findings. Fluorinated chemicals are extremely persistent in the environment, leach
31 into food, and can be taken up from soil into food. In 2016, the FDA rescinded its approval for use of
32 three such fluorinated chemicals from food contact materials due to associated heightened risks of
33 cancer, toxicity, and other health effects. Other PFAS chemicals have similar chemical structures,
34 and may pose similar risks.

35 149-R:2 Definitions. In this chapter:

1 I. "Fluorinated chemical," "perfluorinated chemical," or "PFAS" means a class of fluorinated
2 organic compounds containing at least one fully fluorinated carbon atom, also known as
3 perfluoroalkyl and polyfluoroalkyl substances, or PFAS chemicals.

4 II. "Food packaging" means a package that is designed for direct food contact, including a
5 food or beverage product that is contained in a food package or to which a food package is applied, a
6 packaging component of a food package, and plastic disposable gloves used in commercial or
7 institutional food service.

8 III. "Intentionally added" means the addition of a chemical in a product that serves an
9 intended function in the product component.

10 IV. "Package" means a container providing a means of marketing, protecting, or handling a
11 product and shall include a unit package, an intermediate package, and a shipping container.
12 "Package" also means unsealed receptacles, such as carrying cases, crates, cups, pails, rigid foil and
13 other trays, wrappers and wrapping films, bags, and tubs.

14 V. "Packaging component" means an individual assembled part of a package, such as any
15 interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings,
16 closures, inks, and labels.

17 149-R:3 Prohibition on Certain Packaging Containing PFAS.

18 I. Beginning January 1, 2023, producers or manufacturers of food packaging materials shall
19 report to the department of environmental services the presence of PFAS or other toxic chemicals
20 that are not Biodegradable Products Institute's (BPI) certified in such materials. The department of
21 environmental services shall maintain a list of reported packaging.

22 II. Beginning January 1, 2024, a person shall not manufacture, sell, offer for sale, distribute
23 for sale, or distribute for use in this state a food package to which PFAS have been intentionally
24 added in any amount.

25 III. Beginning January 1, 2024 producers and manufacturers of plastic, fiber, and paper food
26 packaging materials shall not import, use, or offer for sale any packaging materials labeled or
27 represented as compostable that are not certified by the BPI or packaging that contains PFAS or
28 other toxic materials demonstrated to be harmful for human consumption. No packaging shall claim
29 to be compostable if it contains PFAS chemicals.

30 IV. Beginning January 1, 2024, no materials containing PFAS shall be labeled compostable
31 or accepted for composting in New Hampshire. The department of environmental services shall use
32 the BPI standard for fluorinated chemicals effective January 1, 2020 to determine acceptable
33 compostable materials. Products shall not claim to be BPI certified, whether on the product itself, or
34 on a product's packaging or marketing materials, unless it meets all conditions of the rule, including
35 no intentionally added fluorinated chemicals and a test report showing less than 100 ppm total
36 fluorine, or a higher standard approved by the department. Items such as paper wrappings and

1 other food packaging that contain PFAS chemicals not marketed as compostable and thus not
2 subject to BPI certification are prohibited.

3 V. The department of environmental services shall designate a material "fluorinated
4 chemical free" if an item contains no intentionally added fluorinated chemicals beyond a
5 department-determined acceptable threshold, as determined in rules adopted by the department
6 under RSA 541-A, and is certified by the BPI or other third party as recognized by the department,
7 or standards developed by the department of environmental services, or is made entirely of natural
8 fiber.

9 149-R:4 Rulemaking. The commissioner of the department of environmental services shall
10 make rules under RSA 541-A relative to:

11 I. All forms and reports necessary to administer the requirements of this chapter.

12 II. Standards for maximum contaminant levels of fluorinated chemicals in food packaging
13 and paper wrappings used for compost.

14 III. Processes for determining a material is fluorinated chemical free.

15 149-R:5 Penalties.

16 I. The commissioner may issue an order to any person in violation of this chapter, any rule
17 adopted under this chapter or any condition in any exemption granted under this chapter to comply
18 with the chapter, the rule or condition, and may require such remedial measures as may be
19 necessary.

20 II. The commissioner may request the attorney general to bring a civil action in superior
21 court for appropriate relief, including a temporary or permanent injunction, or both, to enforce any
22 provision of this chapter, any rule adopted under this chapter, any condition in any exemption
23 granted under this chapter, or any order issued pursuant to this chapter.

24 CHAPTER 149-S

25 PLASTICS ADVISORY COUNCIL

26 149-S:1 Findings and Purpose.

27 I. The general court finds and declares that, since 1950, global annual production of plastics
28 has increased from 2,000,000 tons to over 381,000,000 tons; that approximately one third of all
29 plastics produced are single-use plastics, which are plastics designed to be used only once and then
30 thrown away; and that an estimated 100 billion single-use plastic carryout bags and 25 billion
31 styrofoam plastic coffee cups are thrown away in the United States each year.

32 II. The general court further finds that, in 2017, only 8.4 percent of plastics in the United
33 States were recycled; that most single-use plastics are disposed of in landfills, are incinerated, or
34 become litter in waterways and oceans; that plastics released in the environment do not biodegrade,
35 but instead break down into smaller pieces, known as microplastics, which accumulate in the
36 natural environment and are eaten by fish and other marine life; and that microplastic pollution

1 moves through natural food webs and accumulates in fish and shellfish tissues, which means
2 microplastics and associated pollutants can move into the food chain.

3 III. The general court further finds that approximately 8,000,000 tons of plastic end up in
4 the oceans annually; that, without action, scientists estimate that by 2050 the mass of plastic
5 pollution in the ocean will exceed the mass of fish; that currently, that one study found plastics in
6 the gut of every sea turtle examined and in 90 percent of seabirds examined; and that plastics have
7 been known to cause death or reproductive failure in sea turtles, birds, and other organisms that
8 ingest plastic.

9 IV. The general court further finds that, as plastics break down through photodegradation,
10 they release harmful chemicals such as bisphenol A (BPA) into the environment that have been
11 linked to health problems in humans; that these chemicals enter the food chain when consumed by
12 marine life; and that single-use plastic waste creates visual pollution, degrades water quality, and
13 impacts the tourism, fishing, and shipping industries, all of which are major contributors to the New
14 Hampshire economy.

15 149-S:2 Plastics Advisory Council Established. There is established in the department of
16 environmental services the plastics advisory council. The council shall consider emerging scientific
17 research on health and environmental effects of plastics, recycling practices, and ways to reduce or
18 eliminate single-use plastics and plastic waste in the state.

19 149-S:3 Plastics Advisory Council; Membership.

20 I. The council shall consist of members as follows:

21 (a) The commissioner of the department of environmental services, or designee.

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

23 (c) One member representing the environmental community, appointed by the governor.

24 (d) One member representing stores and food service businesses in the state, appointed
25 by the governor.

26 (e) One member representing the polystyrene foam industry, appointed by the governor.

27 (f) One member representing the recycling industry, appointed by the governor.

28 (g) One member representing local governments, appointed by the New Hampshire
29 Municipal Association.

30 (h) A toxicologist, epidemiologist, or environmental health professor from the University
31 of New Hampshire, appointed by the chancellor.

32 II. The term of office of each public member shall be 3 years. Each member shall serve until
33 a successor has been appointed and qualified, and vacancies shall be filled in the same manner as
34 the original appointments for the remainder of the unexpired term. A member may be reappointed
35 to the council. The members of the council shall serve without compensation.

36 III. The council shall organize as soon as practicable following the appointment of its
37 members and shall select a chairperson and a vice-chairperson from among its members, as well as a

1 secretary who need not be a member of the council. A majority of the membership of the council
2 shall constitute a quorum for the transaction of council business. The council may meet and hold
3 hearings at the place or places it designates.

4 149-S:4 Plastics Advisory Council; Duties.

5 I. The council shall report on December 1 of each calendar year on its activities and
6 recommendations to the governor, the speaker of the house of representatives, the senate president,
7 and chairpersons of the senate energy and natural resources committee and the house environment
8 committee.

9 II. The council shall also study the environmental and public health impacts of single-use
10 plastics and micro-plastics; healthy and environmentally-friendly alternatives to single-use plastics;
11 strategies and policies to increase the recyclability of plastics and reduce the amount of plastic
12 entering the environment; the technological feasibility of increasing recycled content of consumer
13 plastics and expanding the types of plastics that may be manufactured from recycled material; and
14 ways to enhance the development and expansion of markets of post-consumer recycled plastic,
15 including state and local purchasing and procurement practices.

16 III. The council shall recommend to the legislature and state departments ways to reduce
17 the use of plastics and the amount of plastic entering the environment, and increase the rate of
18 recycling of plastics, and shall identify threats to human and environmental health, including
19 animal and aquatic species, due to plastics.

20 3 PFAS Standards. Amend RSA 149-M:32 to read as follows:

21 149-M:32 Statement of Purpose. The general court finds that the presence of heavy metals *and*
22 *(perfluorinated substances) PFAS* in packaging is to be considered a matter of concern in
23 connection with the overall solid waste stream because such metals *and PFAS* are likely to be
24 present in leachate when packaging is landfilled or in emissions when packaging is incinerated. The
25 general court further finds that lead, cadmium, mercury, [~~and~~] hexavalent chromium, *and PFAS* on
26 the basis of available scientific and medical evidence, are of particular concern and that elimination
27 of the addition of these heavy metals *and PFAS* to packaging is a desirable first step in reducing the
28 toxicity of packaging waste. Further, the general court finds that such a reduction in the toxicity of
29 packaging waste should be accomplished without impeding or discouraging the expanded use of
30 recycled materials in the production of packaging and its components.

31 4 Compost; PFAS. Amend RSA 149-M:4, IV to read as follows:

32 IV. "Compost" means a stable, humus-like substance which is derived from a process
33 involving the biological decomposition of any readily biodegradable material, such as animal
34 manure, garbage, yard waste, septage, sludge, or other organic solid wastes, and which can be
35 beneficially re-used for land application. *Compost shall not include packaging or other items*
36 *containing PFAS. Materials may be certified compostable by the Biodegradable Product*

1 *Institute or other third party recognized by the department, or is a napkin, stirrer, splash*
2 *stick, cocktail stick, toothpick, or utensil made entirely of natural fiber.*

3 5 New Paragraph; Per and Polyfluoroalkyl Substances. Amend RSA 149-M:33 by inserting after
4 paragraph VIII the following new paragraph:

5 IX. "Per and polyfluoroalkyl substances (PFAS) a class of fluorinated organic chemicals
6 containing at least one fully fluorinated carbon atom.

7 6 Exemptions. Amend RSA 149-M:35, I(b) and (c) to read as follows:

8 (b) Those packages or packaging components to which lead, cadmium, mercury, **PFAS**
9 **in food packaging**, or hexavalent chromium have been added in the manufacturing, forming,
10 printing, or distribution process in order to comply with health or safety requirements of federal law,
11 provided that the manufacturer of a package or packaging component petitions the commissioner for
12 an exemption from the provisions of this subdivision for a particular package or packaging
13 component based upon compliance with health or safety requirements of federal law. The
14 commissioner may grant an exemption for no more than 2 years and such an exemption may, upon
15 reapplication for exemption and meeting the criterion for exemption under this paragraph, be
16 renewed at 2-year intervals.

17 (c) A package or packaging component in which lead, cadmium, mercury, **PFAS in food**
18 **packaging** or hexavalent chromium have been added in the manufacturing, forming, printing, or
19 distribution process for which there is no feasible alternative, provided that the manufacturer of a
20 package or packaging component shall petition the commissioner for an exemption from the
21 provisions of this subdivision for a particular package or packaging component based upon this
22 criterion and shall submit such documentation as is necessary to support the request for the
23 exemption. The commissioner may grant an exemption for no more than 2 years if warranted by the
24 circumstances, provided that such an exemption may, upon reapplication for exemption and meeting
25 the criterion for exemption under this paragraph, be renewed at 2-year intervals. For purposes of
26 this paragraph, a use for which there is no feasible alternative is one in which the petitioner
27 conclusively demonstrates that the regulated substance is essential to the protection, safe handling,
28 or function of the package's contents and that technical constraints preclude the substitution of other
29 materials. "No feasible alternative" does not include use of any of the regulated metals for the
30 purposes of marketing.

31 7 Exemptions. Amend RSA 149-M:35, I(h) to read as follows:

32 (h) A package or packaging component that is glass or ceramic which has a vitrified
33 label that, when tested in accordance with Toxicity Characteristic Leaching Procedure, test Method
34 1311, published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA
35 Publication SW-846, does not exceed one part per million for cadmium, 5 parts per million for lead,
36 or 5 parts per million for total chromium. Mercury **and PFAS in food packaging**, shall not be
37 exempted by this provision.

1 8 Effective Date. Part III of this act shall take effect 60 days after its passage.

2 PART IV

3 Relative to the prevention of zoonotic disease transmission.

4 1 Findings. The general court finds:

5 I. Zoonotic disease can spread from animals to humans, with an estimated 3 out of 4 new or
6 emerging diseases being zoonotic in nature. Evidence indicates that many of the worst epidemics
7 and pandemics in recent decades have been zoonotic in origin, including COVID-19, ebola virus,
8 avian influenza, swine influenza, Middle East respiratory syndrome, human immunodeficiency
9 virus, and severe acute respiratory syndrome.

10 II. Wildlife trafficking and trade has been shown to contribute to the transmission and
11 pervasiveness of zoonotic diseases. The COVID-19 pandemic has underscored the immense loss of
12 human life and economic disruption that zoonotic disease can cause. The COVID-19 pandemic has
13 spurred other states to introduce legislation to ban the importation of wildlife and live animal
14 markets, which could shift those activities to New Hampshire.

15 III. New Hampshire's existing laws and rules do not adequately address the evolving risks
16 and novel zoonotic pathogens that threaten public health, food security, biological diversity and
17 economic security.

18 2 New Sections; Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission.
19 Amend RSA 207 by inserting after section 14-a the following new sections:

20 207:14-b Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission.

21 I. The fish and game commission shall make rules under RSA 541-A under which it shall
22 compile a list of animals and fish that shall not be imported or transported into this state due to risk
23 of zoonotic disease transmission by December 31, 2021. In creating the list, the commission shall
24 consult with the department of health and human services, the state veterinarian, and scientific or
25 educational institutions, making decisions that are informed by the best available science. The list
26 shall include all identified species that scientific evidence suggests could readily transmit zoonotic
27 diseases. An identified species may be excluded from the list if, pursuant to paragraph III, the
28 commission finds that the importation restriction on a species is not necessary.

29 II. The commission shall place an animal or fish on the list if it determines that prohibiting
30 the importation or transportation of such animal or fish into the state is necessary to protect the
31 public health and safety, native wildlife or fish, or agricultural interests of the state.

32 III. The commission shall remove an animal or fish from the list if it determines that
33 prohibiting the importation or transportation of such animal or fish into the state is not necessary to
34 protect public health and safety, native wildlife or fish, or agricultural interests of the state.

35 207:14-c Penalties.

36 I. A person shall not import into this state or transport within this state an animal or fish on
37 the list established under RSA 207:14-b, I.

1 II. The commission shall suspend any existing licenses issued by the commission of a person
2 guilty of violating paragraph I.

3 III.(a) Notwithstanding paragraph I, an institution of higher education as defined in 20
4 U.S.C. section 1001, a zoo, or wildlife rehabilitation center operated under a valid permit issued by
5 the commission may apply to the commission for an exemption from paragraph I, for the purposes of
6 scientific research, education or rehabilitation, in order to import an animal or fish on the list
7 established under RSA 207:14-b. The commission shall review such applications and may grant
8 such exemptions upon review as determined by rules on a case-by-case basis. For any animal or fish
9 on the list made under RSA 207:14-b, I the commission shall require the applicant to demonstrate
10 biosafety equipment and protocols necessary to safely handle such animal or fish. Decisions of the
11 commission are subject to appeal.

12 (b) The commission:

13 (1) Shall develop and make available on a commission website an application form.

14 (2) May require an applicant to submit additional information the commission deems
15 necessary.

16 (3) May establish fees for acceptance and processing of the applications.

17 3 New Chapter; Live Animal Markets. Amend RSA by inserting after chapter 428 the following
18 new chapter:

19 CHAPTER 428-A

20 LIVE ANIMAL MARKETS

21 428-A:1 Definitions. In this chapter:

22 I. "Animal" means a domestic animal, a household pet, or a wild animal in captivity.

23 II. "Live animal market" means a retail food market where, in the regular course of
24 business, animals are stored alive and sold to consumers for the purpose of human consumption.

25 III. "Live wildlife market" means a market at which non-native wildlife is stored alive and
26 sold for the purpose of human consumption, including but not limited to wholesalers, restaurants,
27 online platforms, and other contexts where individuals offer to buy and sell non-native wildlife.

28 IV. "Taxon" means a taxonomic group, such as a species, family, or class.
29 regulations.

30 428-A:2 Operation of Live Animal Markets.

31 I. During the operation of a live animal market:

32 (a) No animal shall be dismembered, flayed, cut open, or have its skin, scales, feathers,
33 or shell removed while such animal is still alive.

34 (b) No live animal shall be confined, held, or displayed in a manner that results, or is
35 likely to result, in injury, starvation, dehydration, or suffocation of such animal.

1 (c) No animal shall be offered for sale at a live animal market that is an invasive species
2 or of a taxon known or likely to be responsible for zoonotic transmission of a disease, as determined
3 by the fish and game commission under RSA 207:14-b.

4 (d) Wildlife species shall not be caged, handled, or transported with livestock or domestic
5 animals, and shall not be sold in spaces near livestock or domestic animals.

6 (e) Wildlife species showing signs of illness shall not be permitted to be sold in live
7 animal markets.

8 (f) No bat, rodent or primate species shall be sold in live animal markets.

9 II. The fish and game commission may inspect the records of sellers at live animal markets
10 to ensure compliance with the fish and game commission's own rules.

11 428-A:3 Regulation of Live Animal Markets. The department of agriculture, markets, and food
12 shall adopt rules under RSA 541-A governing the storing and sale of animals for live animal
13 markets.

14 428-A:4 Exceptions.

15 I. This chapter shall not prohibit livestock markets or the sale or offer for sale of livestock
16 that are currently allowed under New Hampshire law.

17 II. This chapter shall not prohibit seafood or shellfish markets or the sale or offer for sale of
18 seafood or shellfish that are currently allowed under New Hampshire law.

19 428-A:5 Penalties.

20 I. Any person who violates this chapter:

21 (a) Shall be issued a written warning in a language that is understood by the person
22 receiving such warning for a first violation.

23 (b) For any subsequent violation, shall be guilty of a class A misdemeanor, punishable
24 by a fine of at least \$250, but not exceeding \$1,000.

25 4 Effective Date. Part IV of this act shall take effect January 1, 2022.

26 PART V

27 Establishing the coastal program administered by the department of environmental services.

28 1 Tidal Waters. Amend RSA 485-A:8, V to read as follows:

29 V. Tidal waters utilized for swimming purposes shall contain not more than either a
30 geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100
31 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring. *The*
32 *operation and sampling of facilities subject to permits under the National Pollutant*
33 *Discharge and Elimination System are not subject to the provisions of the National*
34 *Shellfish Sanitation Program except as may be required by the department.*

35 *V-a. In accordance with RSA 487:34, [These] those* tidal waters used for growing or
36 taking of shellfish for human consumption shall, in addition to the foregoing requirements, be in

1 accordance with the criteria recommended under the National Shellfish Program Manual of
2 Operation, United States Department of Food and Drug Administration.

3 2 Effective Date. Part V of this act shall take effect 60 days after its passage.

4 PART VI

5 Establishing the coastal program administered by the department of environmental services.

6 1 New Subparagraph; Application of Receipts; Derelict Fishing Gear, Coastal Cleanup, and
7 Fishing For Energy Fund Established. Amend RSA 6:12, I(b) by inserting after subparagraph (364)
8 the following new subparagraph:

9 (365) Moneys deposited into the derelict fishing gear, coastal cleanup, and fishing for
10 energy fund established in RSA 211:77.

11 2 New Paragraph; Litter Control Law; Penalties. Amend RSA 163-B:4 by inserting after
12 paragraph I the following new paragraph:

13 I-a. Any fines collected under this section for littering in coastal waters or beaches and for
14 abandoning fishing gear shall be credited to the derelict fishing gear, coastal cleanup, and fishing for
15 energy fund established in RSA 211:77.

16 3 New Paragraph; Lobsters and Crabs; Surcharge Added. Amend RSA 211:18 by inserting after
17 paragraph III-b the following new paragraph:

18 III-c. The executive director shall establish a surcharge on each class of license issued under
19 paragraph III-a of not more than \$25 nor less than \$10 to be deposited in the derelict fishing gear,
20 coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and shall adopt rules
21 for implementing and collecting the surcharge. Any person who satisfactorily demonstrates to the
22 executive director that he or she is participating in a coastal cleanup program shall not be required
23 to pay the surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine
24 satisfactory participation in a coastal cleanup program and to account for licensees who are exempt
25 from the surcharge each year.

26 4 Nonresident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-a, II to
27 read as follows:

28 II. The fee for an annual license shall be set by the executive director pursuant to RSA
29 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
30 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
31 by diving. *The executive director shall establish a surcharge on each license issued under
32 this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing
33 gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and
34 shall adopt rules for implementing and collecting the surcharge. Any person who
35 satisfactorily demonstrates to the executive director that he or she is participating in a
36 coastal cleanup program shall not be required to pay the surcharge. The executive
37 director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in*

1 *a coastal cleanup program and to account for licensees who are exempt from the surcharge*
2 *each year.*

3 5 Resident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-b, II to read
4 as follows:

5 II. The fee for such annual license shall be set by the executive director pursuant to RSA
6 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
7 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
8 by diving. *The executive director shall establish a surcharge on each license issued under*
9 *this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing*
10 *gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and*
11 *shall adopt rules for implementing and collecting the surcharge. Any person who*
12 *satisfactorily demonstrates to the executive director that he or she is participating in a*
13 *coastal cleanup program shall not be required to pay the surcharge. The executive*
14 *director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in*
15 *a coastal cleanup program and to account for licensees who are exempt from the surcharge*
16 *each year.*

17 6 Commercial Shrimp License; Surcharge Added. Amend RSA 211:49-e, II to read as follows:

18 II. The fees for the northern shrimp resident and nonresident licenses shall be set by the
19 executive director pursuant to RSA 206:10, I. *The executive director shall establish a*
20 *surcharge on each license issued under this section of not more than \$25 nor less than \$10*
21 *to be deposited in the derelict fishing gear, coastal gear cleanup, and fishing for energy*
22 *fund established in RSA 211:77, and shall adopt rules for implementing and collecting the*
23 *surcharge. Any person who satisfactorily demonstrates to the executive director that he or*
24 *she is participating in a coastal cleanup program shall not be, required to pay the*
25 *surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine*
26 *satisfactory participation in a coastal cleanup program and to account for licensees who*
27 *are exempt from the surcharge each year.*

28 7 Aquaculture; Surcharge Added. Amend RSA 211:62-e, II-b to read as follows:

29 II-b. The executive director shall adopt rules, pursuant to RSA 541-A, for the issuance of 5-
30 year licenses under this section to oyster aquaculture operations in the Great Bay estuary, and the
31 fees, terms, and conditions therefor as authorized under paragraph II-a. *The executive director*
32 *shall establish a surcharge on each license issued under this section of not more than \$25*
33 *nor less than \$10 to be deposited in the derelict fishing gear, coastal gear cleanup, and*
34 *fishing for energy fund established in RSA 211:77, and shall adopt rules for implementing*
35 *and collecting the surcharge. Any person who satisfactorily demonstrates to the executive*
36 *director that he or she is participating in a coastal cleanup program shall not be required*
37 *to pay the surcharge. The executive director shall adopt rules pursuant to RSA 541-A to*

1 *determine satisfactory participation in a coastal cleanup program and to account for*
2 *licensees who are exempt from the surcharge each year.*

3 8 New Subdivision; Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund.
4 Amend RSA 211 by inserting after section 76 the following new subdivision:

5 Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund

6 211:77 Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund Established.
7 There is hereby established in the state treasury a separate fund to be known as the derelict fishing
8 gear, coastal gear cleanup, and fishing for energy fund. The fund shall be administered by the
9 executive director and shall be nonlapsing and continually appropriated to the executive director for
10 the purposes of this section. The executive director shall credit to this fund all federal moneys, state
11 funds appropriated, fines or settlements for derelict fishing gear or other items, and fines for
12 littering in coastal waters or beaches collected under RSA 163-B:4. The executive director may
13 accept and expend all funds, including any gifts, grants, or donations made to the fund. The moneys
14 in the fund shall be used establish and support new and existing programs to retrieve and dispose of
15 derelict fishing gear, to conduct periodic coastal cleanup programs for the removal of derelict fishing
16 gear and marine trash, and to support recycling efforts for fishing gear and other marine trash. In
17 this section, "derelict fishing gear" means lost, discarded, or abandoned fishing gear.

18 9 Effective Date.

19 I. Sections 3-7 of part VI of this act shall take effect January 1, 2022.

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

21 PART VII

22 Establishing the coastal program administered by the department of environmental services.

23 1 Land and Community Investment Program Established. Amend RSA 227-M:3 to read as
24 follows:

25 227-M:3 Land and Community Heritage Investment Program Established. There is hereby
26 established the New Hampshire land and community heritage investment program. The program
27 shall acquire resource assets, through voluntary negotiations with property owners and utilization of
28 all available federal, state, local, private, and other matching funds and incentives. The program
29 shall also provide funding for restoration and rehabilitation of cultural and historical resources and
30 for certain costs associated with the acquisition of resource assets. All deeds or other documents
31 evidencing purchase of any fee interest or other easement interest in resources under this chapter
32 shall be drawn and held in the name of the municipality, other political subdivision, or qualified
33 publicly-supported nonprofit corporation purchasing the interest through the use of program funds.
34 All easement interests and legal obligations that are attached in perpetuity to any property shall be
35 recorded in the deed. The state of New Hampshire shall hold an executory interest in all easement
36 interests acquired by the program and held by municipalities, other political subdivisions, or
37 qualifying nonprofit corporations. There shall be no power by the state of New Hampshire to take

1 any resource by eminent domain, nor shall any funds made available by this program be used to take
2 by eminent domain except in cases involving the voluntary quieting of title. All acquisition projects
3 shall involve a willing seller and willing buyer, or a willing donor of resource assets. **Acquisition**
4 **and preservation of agricultural land for food production shall be a priority for this**
5 **program.**

6 2 Effective Date. Part VII of this act shall take effect 60 days after its passage.

7 PART VIII

8 Relative to class 2 obligations under the electric renewable portfolio standards.

9 1 Electric Renewable Portfolio Standard; Minimum Standards. Amend the footnote to RSA 362-
10 F:3 to read as follows:

11 *Class I increases an additional 0.9 percent per year from 2015 through 2025. A set percentage of
12 the class I totals shall be satisfied annually by the acquisition of renewable energy certificates from
13 qualifying renewable energy technologies producing useful thermal energy as defined in RSA 362-
14 F:2, XV-a. The set percentage shall be 0.4 percent in 2014, 0.6 percent in 2015, 0.8 percent in 2016,
15 and increased annually by 0.2 percent per year from 2017 through 2023, after which it shall remain
16 unchanged. Class II shall increase to 0.5 percent beginning in 2018, 0.6 percent beginning in 2019,
17 [~~and~~] 0.7 percent beginning in 2020, **2.2 percent beginning in 2021, 3.0 percent beginning in**
18 **2022, 3.8 percent beginning in 2023, 4.6 percent beginning in 2024, and 5.4 percent**
19 **beginning in 2025**[~~-otherwise~~]. Classes [~~H~~] **III-IV** shall remain at the same percentages from 2015
20 through 2025 except as provided in RSA 362-F:4, [~~V-VI~~] **VI. The requirements for classes I-II are**
21 **subject to the provisions of RSA 362-F:4, V.**

22 2 New Section; Minimum Electric Renewable Portfolio Standards; Exemption Period for Certain
23 Electrical Supply Contracts. Amend RSA 362-F by inserting after section 3 the following new
24 section:

25 362-F:3-a Exemption Period for Certain Electrical Supply Contracts.

26 I. The increases in the annual purchase percentages under RSA 362-F:3 applicable to class
27 II for 2021 and thereafter as compared to the class II annual purchase percentages in effect as of
28 January 1, 2021, shall not apply to the megawatt-hours delivered during the contract term under
29 any electrical power supply contract entered into before the effective date of this section, provided
30 that the contract term in effect before such effective date has not been extended or otherwise
31 increased after that date.

32 II. Providers shall inform the commission by July 1 of each year, through July 1, 2022, of all
33 such exempted contracts, including but not limited to, the execution date and expiration date of the
34 contract, the basis for exemption under this section, and if applicable, the annual megawatt-hours
35 supplied and exempted, or the annual amount of exempted methane gas certificates and the basis for
36 exemption. All such information filed with the commission shall be exempt from the provisions of
37 RSA 91-A:5, IV.

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- Page 18 -

1 3 Effective Date. Part VIII of this act shall take effect 60 days after its passage.

2 PART IX

3 Relative to public use of coastal shorelands.

4 1 Public Trust Shorelands; Mean High Tide Line. Amend RSA 483-C:1, V to read as follows:

5 V. The high water mark which bounds the shoreward extent of the public trust shorelands
6 in New Hampshire, excluding abnormal storm events, means ~~[the furthest landward limit reached~~
7 ~~by the highest tidal flow, commonly referred to as the highest spring or highest "syzygy" tide~~
8 ~~occurring during the 19-year Metonic cycle]~~ ***the average height of all the high waters over a***
9 ***complete tidal cycle commonly referred to as the mean high tide line.*** The landward trace of
10 the high water mark in New Hampshire is established by the tidal station data within the
11 contemporary 19-year "National Tidal Datum Epoch" for Portland, Maine, Casco Bay (NOS MAINE
12 841 8150) as that data is transposed to New Hampshire tidal stations by the "differences" tidal
13 constant established by the National Ocean Service (NOS) of the National Oceanic and Atmospheric
14 Administration (NOAA) for New Hampshire tidal stations and published in the annual "Tide Tables
15 High and Low Water Predictions, East Coast of North and South America, Including Greenland".
16 The contemporary 19-year National Tidal Datum Epoch is the national tidal database maintained by
17 NOS of NOAA.

18 2 Effective Date. Part IX of this act shall take effect upon its passage.

**SB 146-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT adopting omnibus legislation relative to the environment.

PART I Establishing the coastal program administered by the department of environmental services.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Coastal Fund			

METHODOLOGY:

The Department of Environmental Service states the part of the bill establishes a coastal program to be administered by the Department and establishes a nonlapsing, continually appropriated coastal fund. The coastal fund would consist of funds from any source including gifts; donations of money; grants; federal, local, private, and other matching funds and incentives and interests in land for the purposes of the proposed chapter. The Department indicates the coastal program currently administered by the Department is federally funded. Additional state expenditures would only occur if additional funding is identified and deposited into the new fund. County and local entities could be the recipients of grants if the state receives money for the fund, however, this is not required by the bill. The Department states, because there is no specific funding source proposed in the bill, revenue and expenditures in the proposed coastal fund cannot be determined. County and local expenditures are not required for this legislation.

AGENCIES CONTACTED:

Department of Environmental Services

PART II Establishing a statewide solid waste disposal reduction goal.

This part of the bill has no fiscal impact.

PART III Prohibiting incineration of PFAS in New Hampshire.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General [] Education [X] Highway [X] Other - Various Government Funds			

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

The Department of Environmental Services indicates this bill could result in an indeterminable increase in State, county and local expenditures, depending on the interpretation of the definition of "Incineration" and the undefined term "PFAS containing waste, leachate, or sludge". Proposed RSA 154:8-d, II could increase costs to local and state entities for disposal of Class B firefighting foam. The bill may also increase costs to certain municipal wastewater treatment facilities for handling of sludge and/or leachate determined to contain PFAS (For example, the City of Manchester operates a sludge incinerator). The Department indicates municipal waste streams often contain items that have been coated to enhance water or grease repellency such as clothing, furniture, carpet and food containers. If under this bill, municipal waste were interpreted to be "PFAS containing", the cost of disposal to local, county and state entities may increase depending on the results of determinations made by the Department as required.

AGENCIES CONTACTED:

Department of Environmental Services

PART IV Relative to the prevention of zoonotic disease transmission.

FISCAL IMPACT: [X] State [X] County [] Local [] None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0

Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This part of the bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Class A Misdemeanor	\$78	\$78
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department

would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

AGENCIES CONTACTED:

Judicial Branch, Department of Justice, Judicial Council, and New Hampshire Association of Counties

PART V Relative to tidal waters.

This part of the bill has no fiscal impact.

PART VI Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source	<input type="checkbox"/> General Fund <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund			

METHODOLOGY:

This part of the bill establishes a non-lapsing, continually appropriated dedicated fund called the derelict fishing gear, coastal cleanup, and fishing for energy fund, which will be used for new and existing programs relative to certain coastal cleanup efforts. In addition to any future available federal funds, state appropriations, or other grants, gifts, or donations, under this bill revenue from fines for littering in coastal waters or beaches, or abandoning fishing gear, as well as a new surcharge on certain fishing licenses (lobster and crab, commercial salt water, commercial shrimp, and aquaculture) would be credited to the fund. While, it is not known how much littering fine revenue may be diverted from the general fund to the new dedicated fund, as the number of qualifying littering offenses cannot be estimated, the Fish and Game Department estimates the potential revenue from the surcharge on certain licenses would range from \$8,600 to \$21,500. This range is based on 860 current licenses and a surcharge of \$10 to \$25 (surcharge will be set by the rulemaking process, as well as a method for individuals to avoid the surcharge by demonstrating participation in a coastal cleanup program). Expenditures in FY 2022 and beyond are indeterminable and would be limited to available funds.

AGENCIES CONTACTED:

Fish and Game Department

PART VII Relative to the acquisition and preservation of agricultural land for food producing in the land and community heritage program.

This part of the bill has no fiscal impact.

PART VIII Relative to class 2 obligations under the electric portfolio standards.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	Indeterminable	Indeterminable	Indeterminable
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input checked="" type="checkbox"/> Highway <input checked="" type="checkbox"/> Other-Renewable Energy Fund, Various Government Funds			

COUNTY:

Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

LOCAL:

Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

The Public Utilities Commission (PUC) indicates this part of the bill modifies the annual Renewable Portfolio Standard (RPS) compliance target for Class II (new solar). The revised requirements begin for compliance (calendar) year 2021 and are as follows:

- 2.2 percent beginning in 2021,
- 3.0 percent beginning in 2022,
- 3.8 percent beginning in 2023,
- 4.6 percent beginning in 2024, and
- 5.4 percent beginning in 2025.

This part of the bill further states that Classes III and IV shall remain at the same percentages from 2015 through 2025 except as provided in RSA 362-F:4, VI, and the requirements for classes

I-II are subject to the provisions of RSA 362-F:4, V. RSA 362-F:4, V and VI provide the Commission the authority to accelerate, delay, or modify Class requirements after notice and hearing. The part also provides an exemption from the Class II increases in the annual purchase percentages for certain electrical supply contracts.

The Commission indicates New Hampshire's competitive electricity providers and electric distribution utilities include Eversource, Liberty Utilities, Unitil Energy Systems, Inc. and the New Hampshire Electric Cooperative. These providers must obtain renewable energy certificates (RECs) for each of the four classes as a set percentage of their retail electric load. One REC represents one megawatt-hour of electricity or the equivalent amount of thermal energy (3,412,000 Btu), generated from a renewable source. The RPS is a market-based policy and RECs are bought and sold in a regional market administered by NEPOOL (New England Power Pool). If electricity providers cannot, or choose not to, purchase or obtain sufficient RECs to comply with the RPS law, they must make alternative compliance payments (ACPs) to the Renewable Energy Fund (REF). The REF supports grant and rebates programs which incentivize the development of renewable energy projects.

The ACP rate serves as a ceiling price in the market for RECs. Generally, REC prices trading at or near the ACP rate indicate an under supply of RECs in the market, whereas RECs trading well below the ACP rate indicate an ample supply of RECs in the market. The supply of RECs is dependent upon the state and regional development, interconnection (electric only) and certification of renewable energy facilities. ACP rates are defined by RPS Class and are adjusted annually. Pursuant to RSA 362-F:6, II-a and Puc 2503.04(d), the Commission annually computes the percentage credit for Class I and Class II based on the capacity of the customer-sited sources that are net metered and are not certified to create Class I or II RECs (Class II Credit).

The Commission states several factors must be considered when estimating this part of the bill's revenue and expenditure impacts to state, county and local governments. These factors include supply of RECs, market prices for RECs, the ACP rates, regional RPS policies, and the Class I & II Credit. Assuming no change in the state, local or county governments' electricity usage, with the passage of this bill, expenditures for electricity may increase. If there is an insufficient supply of RECs for providers to meet their RPS requirements, ACPs would be made into the Renewable Energy Fund thereby increasing the revenue to state, county and local governments (i.e., REF). The REF supports grant and rebates programs which state, county and local governments could utilize to develop of renewable energy projects. Nonetheless, the amount of revenue and expenditures to state, county, and local governmental entities as a result of this bill over each of the next 4 fiscal years is indeterminable.

AGENCIES CONTACTED:

Public Utilities Commission

PART IX Relative to public use of coastal shorelines.

This part of the bill has no fiscal impact.

SB 146-FN - AS AMENDED BY THE SENATE

03/18/2021 0791s

2021 SESSION

21-0255

08/04

SENATE BILL **146-FN**

AN ACT adopting omnibus legislation relative to the environment.

SPONSORS: Sen. Watters, Dist 4

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Establishing the coastal program administered by the department of environmental services.
- II. Establishing a statewide solid waste disposal reduction goal.
- III. The prevention of zoonotic disease transmission.
- IV. Tidal waters.
- V. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.
- VI. Public use of coastal shorelands.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to the environment.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Sponsorship. This act consists of the following proposed legislation:

2 Part I. LSR 21-0255, establishing the coastal program administered by the department of
3 environmental services, sponsored by Sen. Watters, Prime/Dist 4; Sen. Gannon, Dist 23; Sen. Gray,
4 Dist. 6; Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Edgar, Rock 21; Rep. Spang, Straf
5 6.

6 Part II. LSR 21-0256, establishing a statewide solid waste disposal reduction goal,
7 sponsored by Sen. Watters, Prime/Dist 4; Sen. D'Allesandro, Dist 20; Sen. Rosenwald, Dist 13; Sen.
8 Prentiss, Dist 5; Sen. Perkins Kwoka, Dist 21; Sen. Whitley Dist 15; Sen. Sherman, Dist 24; Rep.
9 Ebel, Merr 5; Rep. Grassie, Straf 11; and Rep. Murray, Hills 22.

10 Part III. LSR 21-0926, relative to the prevention of zoonotic disease transmission, sponsored
11 by Sen. Watters, Prime/Dist 4; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; and Rep. Bixby, Straf
12 17.

13 Part IV. LSR 21-0927, relative to tidal waters, sponsored by Sen. Watters, Prime/Dist 4;
14 Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Cushing, Rock 21; and Rep. Simpson,
15 Rock 36.

16 Part V. LSR 21-0823, establishing a surcharge on certain saltwater licenses and establishing
17 a fund for derelict fishing gear and coastal cleanup, sponsored by Sen. Watters, Prime/Dist 4; Sen.
18 Perkins Kwoka, Dist 21; Sen. Sherman, Dist 24; and Rep. Spang, Straf 6.

19 Part VI. LSR 21-1062, relative to public use of coastal shorelands, sponsored by Sen.
20 Sherman, Prime/Dist 24; Sen. Soucy, Dist 18; Rep. Murray, Rock 24; and Rep. Cushing, Rock 21.

21 2 Legislation Enacted. The general court hereby enacts the following legislation:
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23 PART I

24 Establishing the coastal program administered by the department of environmental services.

25 1 New Chapter; Coastal Program and Fund. Amend RSA by inserting after chapter 485-H the
26 following new chapter:

27 CHAPTER 485-I

28 COASTAL PROGRAM AND FUND

29 485-I:1 Statement of Policy. The water and related land resources of New Hampshire's coastal
30 and estuarine environments have significant ecological, commercial, cultural, and recreational
31 values for the state and its citizens. Therefore, it is the policy of the state to ensure the continued

1 viability and improved resiliency of these environments and communities in which they are located
2 as valued ecologic, economic, public health and safety, and social assets for the benefit of current and
3 future generations.

4 485-I:2 Program Established. There is established within the department of environmental
5 services the New Hampshire coastal program to implement 16 U.S.C. section 1452, the Coastal Zone
6 Management Act. It is the intent of the state to encourage and assist state and federal agencies and
7 coastal zone municipalities in the sustainable use of the land and water resources of the coastal zone
8 giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for
9 compatible economic development. The coastal program should encourage and assist to support:

10 I. The protection of natural resources, including wetlands, floodplains, coastal and
11 estuarine waters, beaches, sand dunes, and fish and wildlife and their habitat within the coastal
12 zone.

13 II. The management of coastal development to minimize the loss of life and property caused
14 by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas
15 and in areas likely to be affected by or vulnerable to sea level rise, ground water rise, and saltwater
16 intrusion, and by the destruction of natural protective features such as beaches, sand dunes, and
17 wetlands.

18 III. The management of coastal development to improve, safeguard, and restore the quality
19 of coastal waters, and to protect natural resources and existing uses of those waters.

20 IV. Public access to the coasts for recreation purposes.

21 V. The redevelopment of deteriorating urban waterfronts and ports, and sensitive
22 preservation and restoration of historic, cultural, and esthetic coastal features.

23 VI. The coordination and simplification of procedures in order to ensure expedited
24 governmental decision making for the management of coastal resources.

25 VII. Continued consultation and coordination with, and the giving of adequate
26 consideration to the views of affected state and federal agencies.

27 VIII. The giving of timely and effective notification of, and opportunities for, public and
28 local government participation in coastal management decision making.

29 IX. Comprehensive planning, conservation, and management for living marine resources,
30 including planning for the siting of pollution control and aquaculture facilities within the coastal
31 zone, and improved coordination between state and federal coastal zone management agencies and
32 state and wildlife agencies.

33 X. The study and development of plans for addressing the adverse effects upon the coastal
34 zone in accordance with the updating of storm surge, sea-level rise, precipitation and other relevant
35 projections recommending in the coastal risks and hazards commission 2014 report "Sea-Level Rise,
36 Storm Surges, and Extreme Precipitation in Coastal New Hampshire: Analysis of Past and Projected
37 Trends" in RSA 483-B:22, I.

1 485-I:3 Federal Consistency. The coastal program established under this chapter shall be the
2 entity charged with implementing 16 U.S.C section 1456 and 15 C.F.R. Part 930.

3 485-I:4 Coastal Fund.

4 I. There is hereby established in the state treasury the coastal fund which shall be kept
5 distinct and separate from all other funds. All moneys in the fund shall be nonlapsing and
6 continually appropriated to the department of environmental services for the purposes of this
7 chapter.

8 II. The commissioner may apply for and accept, from any source, gifts; donations of money;
9 grants; federal, local, private, and other matching funds and incentives; and interests in land for the
10 purposes of this chapter. The moneys collected under this paragraph shall be deposited in the fund
11 established under paragraph I.

12 III. The commissioner shall make rules relative to the distribution of money from the
13 coastal fund for the New Hampshire coastal program established in RSA 485-I:2.

14 2 Effective Date. Part I of this act shall take effect July 1, 2021.
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16 PART II

17 Establishing a statewide solid waste disposal reduction goal.

18 1 Solid Waste Disposal Reduction Goal. Amend RSA 149-M:2 to read as follows:

19 149-M:2 *Solid Waste Disposal* Reduction Goal.

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

30 II. ~~[In exercising any and all powers conferred upon the department under this chapter, the~~
31 ~~department shall use and consider criteria relevant to the waste reduction goal and disposal~~
32 ~~hierarchy established in RSA 149 M:2 and 149 M:3. The department shall not take any action~~
33 ~~relative to the 40 percent weight reduction goal which causes the municipalities organized under~~
34 ~~RSA 53 A and 1986, 139 or RSA 53 B to violate or incur penalties under legal obligations existing on~~
35 ~~June 26, 1990.]~~ *The general court further declares a goal to reduce the quantity by weight of*
36 *solid waste disposed in landfills and incinerators by 25 percent by the year 2030, and by 45*
37 *percent by the year 2050. For the purposes of this goal, disposal reduction targets shall*

1 *apply, on a combined basis, to disposal of municipal solid waste and construction and*
2 *demolition debris, and shall be measured against baseline quantities of these wastes*
3 *disposed of in the year 2018. For the purposes of this goal only, municipal solid waste*
4 *means solid waste generated at residences, commercial or industrial establishments, and*
5 *institutions, but excludes automobile scrap and other motor vehicle waste, infectious*
6 *waste, asbestos waste, contaminated soil and other absorbent media, sludge, industrial*
7 *process waste, and ash other than ash from household stoves. Disposal reduction may be*
8 *achieved through source reduction as well as diversion including but not limited to reuse,*
9 *recycling, and composting. For the purposes of this section "goal" shall not establish a*
10 *mandate.*

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

17 2 State Solid Waste Disposal Reduction Goal. Amend the introductory paragraph of RSA 149-
18 M:29, II to read as follows:

19 II. [~~At least every~~] *Beginning* October 1, 2023 [~~of every odd-numbered~~] *and every odd-*
20 *numbered year thereafter*, the department shall prepare a report on the level of achievement in
21 reaching the [~~40 percent diversion~~] goal established in RSA 149-M:2 and on proposed strategies for
22 achieving the goal and any proposed changes to the goal. The report shall contain information
23 regarding:

24 3 State Solid Waste Plan. Amend RSA 149-M:29, I to read as follows:

25 I. Beginning October 1, [~~1998~~] 2022, *in accordance with the state waste planning*
26 *update schedule requirements of this section dating to October 1, 1998*, and every [~~6~~] 10 years
27 thereafter, the department shall update the state's solid waste plan, *which shall be made*
28 *available for public review and comment before final publication, and which shall*
29 *contain, at minimum, the following elements:*

30 (a) *Goals, strategies, and actions to reduce solid waste generation through*
31 *source reduction, to increase diversion through methods such as reuse, recycling and*
32 *composting, and to achieve the state's solid waste disposal reduction goal, with such efforts*
33 *incorporating the principles of the solid waste management hierarchy established in RSA*
34 *149-M:3.*

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

1 **(c) Goals, strategies, and actions necessary to maintain and ensure adequate**
2 ***disposal capacity for management of waste generated in New Hampshire.***

3 4 Effective Date. Part II of this act shall take effect 60 days after its passage.

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PART III

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Relative to the prevention of zoonotic disease transmission.

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1 Findings. The general court finds:

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I. Zoonotic disease can spread from animals to humans, with an estimated 3 out of 4 new or emerging diseases being zoonotic in nature. Evidence indicates that many of the worst epidemics and pandemics in recent decades have been zoonotic in origin, including COVID-19, ebola virus, avian influenza, swine influenza, Middle East respiratory syndrome, human immunodeficiency virus, and severe acute respiratory syndrome.

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II. Wildlife trafficking and trade has been shown to contribute to the transmission and pervasiveness of zoonotic diseases. The COVID-19 pandemic has underscored the immense loss of human life and economic disruption that zoonotic disease can cause. The COVID-19 pandemic has spurred other states to introduce legislation to ban the importation of wildlife and live animal markets, which could shift those activities to New Hampshire.

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III. New Hampshire needs to prepare for the emergence and management of novel zoonotic pathogens that may threaten public health, food security, biological diversity and economic security.

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2 New Section; Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. Amend RSA 207 by inserting after section 14-a the following new section:

207:14-b Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. The fish and game department shall monitor available information on animals and fish, not currently restricted under state and federal wildlife trafficking laws, that if transported into the state, will risk zoonotic disease transmission. The department may consult as needed with the department of health and human services, the state veterinarian, and scientific and educational institutions. The department shall make recommendation to the legislature on any legislation or rules needed for import or other restrictions on identified species, and to the governor if an emergency order is deemed necessary.

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3 New Chapter; Live Animal Markets. Amend RSA by inserting after chapter 428 the following new chapter:

CHAPTER 428-A

LIVE ANIMAL MARKETS

428-A:1 Definitions. In this chapter:

I. "Animal" means a domestic animal, a household pet, or a wild animal in captivity.

1 II. "Live animal market" means a retail food store or other site subject to RSA 143:2 and
2 RSA 143:3 where, in the regular course of business, animals are stored alive and sold to consumers
3 for the purpose of human consumption.

4 III. "Live wildlife market" means a market at which non-native wildlife is stored alive and
5 sold for the purpose of human consumption, including but not limited to wholesalers, restaurants,
6 online platforms, and other contexts where individuals offer to buy and sell non-native wildlife.

7 IV. "Taxon" means a taxonomic group, such as a species, family, or class, known or likely to
8 be responsible for zoonotic transmission of a disease, as determined by the director under RSA
9 207:14-b.

10 428-A:2 Operation of Live Animal Markets. During the operation of a live animal market:

11 I. No animal shall be offered for sale at a live animal market that is of a taxon known or
12 likely to be responsible for zoonotic transmission of a disease, as determined by the director under
13 RSA 207:14-b.

14 II. Wildlife species that are identified as known or likely carriers of zoonotic disease under
15 RSA 207:14-b shall not be caged, handled, or transported with livestock or domestic animals, and
16 shall not be sold in spaces near livestock or domestic animals.

17 III. Wildlife species that are identified as known or likely carriers of zoonotic disease under
18 RSA 207:14-b shall not be permitted to be sold in a live animal market or a live wildlife market.

19 IV. In addition to wildlife covered by federal statues on wildlife trafficking, no bat, rodent, or
20 primate species shall be sold in live animal markets.

21 428-A:3 Regulation of Live Animal Markets. The department of agriculture, markets, and food
22 shall adopt rules under RSA 541-A governing the storing and sale of animals for live animal markets
23 and live wildlife markets.

24 428-A:4 Exceptions.

25 I. This chapter shall not prohibit livestock markets or the sale or offer for sale of livestock
26 that are currently allowed under New Hampshire law.

27 II. This chapter shall not prohibit seafood or shellfish markets or the sale or offer for sale of
28 seafood or shellfish that are currently allowed under New Hampshire law.

29 428-A:5 Penalties. Any person who violates this chapter:

30 I. Shall be issued a written warning in a language that is understood by the person receiving
31 such warning for a first violation.

32 II. For any subsequent violation, shall be guilty of a class B misdemeanor, punishable by a
33 fine of at least \$250, but not exceeding \$1,000.

34 4 Effective Date. Part III of this act shall take effect January 1, 2022.

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36 PART IV.

37 Establishing the coastal program administered by the department of environmental services.

1 1 Tidal Waters. Amend RSA 485-A:8, V to read as follows:

2 V. Tidal waters utilized for swimming purposes shall contain not more than either a
3 geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100
4 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring.
5 Those tidal waters used for growing or taking of shellfish for human consumption shall, ~~in addition~~
6 ~~to the foregoing requirements, be in accordance with the criteria recommended under the National~~
7 ~~Shellfish Program Manual of Operation, United States Department of Food and Drug~~
8 ~~Administration]~~ **not exceed a geometric mean most probable number (MPN) of 14 organisms**
9 **per 100 ml for fecal coliform, nor shall more than 10 percent of the samples exceed an MPN**
10 **of 28 per 100 ml for fecal coliform, or other values of equivalent protection based on**
11 **sampling and analytical methods used by the department of environmental services**
12 **shellfish program and approved in the latest revision of the National Shellfish Sanitation**
13 **Program, Guide For The Control of Molluscan Shellfish.**

14 2 Effective Date. Part IV of this act shall take effect 60 days after its passage.

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16 PART V

17 Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing
18 gear and coastal cleanup.

19 1 New Subparagraph; Application of Receipts; Derelict Fishing Gear, Coastal Cleanup, and
20 Fishing For Energy Fund Established. Amend RSA 6:12, I(b) by inserting after subparagraph (364)
21 the following new subparagraph:

22 (365) Moneys deposited into the derelict fishing gear, coastal cleanup, and fishing for
23 energy fund established in RSA 211:77.

24 2 New Paragraph; Litter Control Law; Penalties. Amend RSA 163-B:4 by inserting after
25 paragraph I the following new paragraph:

26 I-a. Any fines collected under this section for littering in coastal waters or beaches and for
27 abandoning fishing gear shall be credited to the derelict fishing gear, coastal cleanup, and fishing for
28 energy fund established in RSA 211:77.

29 3 New Paragraph; Lobsters and Crabs; Surcharge Added. Amend RSA 211:18 by inserting after
30 paragraph III-b the following new paragraph:

31 III-c. The executive director shall establish a surcharge on each class of license issued under
32 paragraph III-a of not more than \$25 nor less than \$10 to be deposited in the derelict fishing gear,
33 coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and shall adopt rules
34 for implementing and collecting the surcharge. Any person who satisfactorily demonstrates to the
35 executive director that he or she is participating in a coastal cleanup program shall not be required
36 to pay the surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine

1 satisfactory participation in a coastal cleanup program and to account for licensees who are exempt
2 from the surcharge each year.

3 4 Nonresident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-a, II to
4 read as follows:

5 II. The fee for an annual license shall be set by the executive director pursuant to RSA
6 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
7 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
8 by diving. *The executive director shall establish a surcharge on each license issued under
9 this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing
10 gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and
11 shall adopt rules for implementing and collecting the surcharge. Any person who
12 satisfactorily demonstrates to the executive director that he or she is participating in a
13 coastal cleanup program shall not be required to pay the surcharge. The executive
14 director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in
15 a coastal cleanup program and to account for licensees who are exempt from the surcharge
16 each year.*

17 5 Resident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-b, II to read
18 as follows:

19 II. The fee for such annual license shall be set by the executive director pursuant to RSA
20 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
21 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
22 by diving. *The executive director shall establish a surcharge on each license issued under
23 this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing
24 gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and
25 shall adopt rules for implementing and collecting the surcharge. Any person who
26 satisfactorily demonstrates to the executive director that he or she is participating in a
27 coastal cleanup program shall not be required to pay the surcharge. The executive
28 director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in
29 a coastal cleanup program and to account for licensees who are exempt from the surcharge
30 each year.*

31 6 Commercial Shrimp License; Surcharge Added. Amend RSA 211:49-e, II to read as follows:

32 II. The fees for the northern shrimp resident and nonresident licenses shall be set by the
33 executive director pursuant to RSA 206:10, I. *The executive director shall establish a
34 surcharge on each license issued under this section of not more than \$25 nor less than \$10
35 to be deposited in the derelict fishing gear, coastal gear cleanup, and fishing for energy
36 fund established in RSA 211:77, and shall adopt rules for implementing and collecting the
37 surcharge. Any person who satisfactorily demonstrates to the executive director that he or*

1 *she is participating in a coastal cleanup program shall not be required to pay the*
2 *surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine*
3 *satisfactory participation in a coastal cleanup program and to account for licensees who*
4 *are exempt from the surcharge each year.*

5 7 Aquaculture; Surcharge Added. Amend RSA 211:62-e, II-b to read as follows:

6 II-b. The executive director shall adopt rules, pursuant to RSA 541-A, for the issuance of 5-
7 year licenses under this section to oyster aquaculture operations in the Great Bay estuary, and the
8 fees, terms, and conditions therefor as authorized under paragraph II-a. *The executive director*
9 *shall establish a surcharge on each license issued under this section of not more than \$25*
10 *nor less than \$10 to be deposited in the derelict fishing gear, coastal gear cleanup, and*
11 *fishing for energy fund established in RSA 211:77, and shall adopt rules for implementing*
12 *and collecting the surcharge. Any person who satisfactorily demonstrates to the executive*
13 *director that he or she is participating in a coastal cleanup program shall not be required*
14 *to pay the surcharge. The executive director shall adopt rules pursuant to RSA 541-A to*
15 *determine satisfactory participation in a coastal cleanup program and to account for*
16 *licensees who are exempt from the surcharge each year.*

17 8 New Subdivision; Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund.
18 Amend RSA 211 by inserting after section 76 the following new subdivision:

19 Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund

20 211:77 Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund Established.
21 There is hereby established in the state treasury a separate fund to be known as the derelict fishing
22 gear, coastal gear cleanup, and fishing for energy fund. The fund shall be administered by the
23 executive director and shall be nonlapsing and continually appropriated to the executive director for
24 the purposes of this section. The executive director shall credit to this fund all federal moneys, state
25 funds appropriated, fines or settlements for derelict fishing gear or other items, and fines for
26 littering in coastal waters or beaches collected under RSA 163-B:4. The executive director may
27 accept and expend all funds, including any gifts, grants, or donations made to the fund. The moneys
28 in the fund shall be used establish and support new and existing programs to retrieve and dispose of
29 derelict fishing gear, to conduct periodic coastal cleanup programs for the removal of derelict fishing
30 gear and marine trash, and to support recycling efforts for fishing gear and other marine trash. In
31 this section, "derelict fishing gear" means lost, discarded, or abandoned fishing gear.

32 9 Effective Date.

33 I. Sections 3-7 of part V of this act shall take effect January 1, 2022.

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

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36 PART VI

37 Relative to public use of coastal shorelands.

1 1 Public Trust Shorelands; Mean High Tide Line. Amend RSA 483-C:1, V to read as follows:

2 V. The high water mark which bounds the shoreward extent of the public trust shorelands
3 in New Hampshire, excluding abnormal storm events, means [~~the furthest landward limit reached~~
4 ~~by the highest tidal flow, commonly referred to as the highest spring or highest "syzygy" tide~~
5 ~~occurring during the 19-year Metonic cycle~~] *the average height of all the high waters over a*
6 *complete tidal cycle commonly referred to as the mean high tide line.* The landward trace of
7 the high water mark in New Hampshire is established by the tidal station data within the
8 contemporary 19-year "National Tidal Datum Epoch" for Portland, Maine, Casco Bay (NOS MAINE
9 841 8150) as that data is transposed to New Hampshire tidal stations by the "differences" tidal
10 constant established by the National Ocean Service (NOS) of the National Oceanic and Atmospheric
11 Administration (NOAA) for New Hampshire tidal stations and published in the annual "Tide Tables
12 High and Low Water Predictions, East Coast of North and South America, Including Greenland".
13 The contemporary 19-year National Tidal Datum Epoch is the national tidal database maintained by
14 NOS of NOAA.

15 2 Effective Date. Part VI of this act shall take effect upon its passage.

SB 146-FN- FISCAL NOTE
 AS AMENDED BY THE SENATE (AMENDMENT #2021-0791s)

AN ACT adopting omnibus legislation relative to the environment.

PART I Establishing the coastal program administered by the department of environmental services.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Coastal Fund			

METHODOLOGY:

The Department of Environmental Service states the part of the bill establishes a coastal program to be administered by the Department and establishes a nonlapsing, continually appropriated coastal fund. The coastal fund would consist of funds from any source including gifts; donations of money; grants; federal, local, private, and other matching funds and incentives and interests in land for the purposes of the proposed chapter. The Department indicates the coastal program currently administered by the Department is federally funded. Additional state expenditures would only occur if additional funding is identified and deposited into the new fund. County and local entities could be the recipients of grants if the state receives money for the fund, however, this is not required by the bill. The Department states, because there is no specific funding source proposed in the bill, revenue and expenditures in the proposed coastal fund cannot be determined. County and local expenditures are not required for this legislation.

AGENCIES CONTACTED:

Department of Environmental Services

PART II Establishing a statewide solid waste disposal reduction goal.

This part of the bill has no fiscal impact.

PART III Relative to the prevention of zoonotic disease transmission.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input type="checkbox"/> Other			

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This part of the bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Class B Misdemeanor	\$55	\$55
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.		
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

AGENCIES CONTACTED:

Judicial Branch, Department of Justice, Judicial Council, and New Hampshire Association of Counties

PART IV Establishing the coastal program administered by the department of environmental services (Relative to tidal waters.)

This part of the bill has no fiscal impact.

PART V Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source	<input type="checkbox"/> General Fund <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund			

METHODOLOGY:

This part of the bill establishes a non-lapsing, continually appropriated dedicated fund called the derelict fishing gear, coastal cleanup, and fishing for energy fund, which will be used for new and existing programs relative to certain coastal cleanup efforts. In addition to any future available federal funds, state appropriations, or other grants, gifts, or donations, under this bill revenue from fines for littering in coastal waters or beaches, or abandoning fishing gear, as well as a new surcharge on certain fishing licenses (lobster and crab, commercial salt water, commercial shrimp, and aquaculture) would be credited to the fund. While, it is not known how much littering fine revenue may be diverted from the general fund to the new dedicated fund, as the number of qualifying littering offenses cannot be estimated, the Fish and Game Department estimates the potential revenue from the surcharge on certain licenses would range from \$8,600 to \$21,500. This range is based on 860 current licenses and a surcharge of \$10 to \$25 (surcharge will be set by the rulemaking process, as well as a method for individuals to avoid the surcharge by demonstrating participation in a coastal cleanup program). Expenditures in FY 2022 and beyond are indeterminable and would be limited to available funds.

AGENCIES CONTACTED:

Fish and Game Department

PART VI Relative to public use of coastal shorelands.

This part of the bill has no fiscal impact.

SB 146-FN - AS AMENDED BY THE HOUSE

03/18/2021 0791s
4Jun2021... 1573h

2021 SESSION

21-0255
08/04

SENATE BILL

146-FN

AN ACT adopting omnibus legislation relative to the environment.

SPONSORS: Sen. Watters, Dist 4

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Establishing the coastal program administered by the department of environmental services.
- II. Establishing a statewide solid waste disposal reduction goal.
- III. The prevention of zoonotic disease transmission.
- IV. Tidal waters.
- V. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.
- VI. Public use of coastal shorelands.
- VII. Addressing impacts to other water users from new sources of water for community water systems.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 146-FN - AS AMENDED BY THE HOUSE

03/18/2021 0791s
4Jun2021... 1573h

21-0255
08/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to the environment.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Sponsorship. This act consists of the following proposed legislation:

2 Part I. LSR 21-0255, establishing the coastal program administered by the department of
3 environmental services, sponsored by Sen. Watters, Prime/Dist 4; Sen. Gannon, Dist 23; Sen. Gray,
4 Dist. 6; Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Edgar, Rock 21; Rep. Spang, Straf
5 6.

6 Part II. Extending the deadline for the PFAS firefighting foam take-back program.

7 Part III. LSR 21-0926, relative to the prevention of zoonotic disease transmission, sponsored
8 by Sen. Watters, Prime/Dist 4; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; and Rep. Bixby, Straf
9 17.

10 Part IV. LSR 21-0927, relative to tidal waters, sponsored by Sen. Watters, Prime/Dist 4;
11 Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Cushing, Rock 21; and Rep. Simpson,
12 Rock 36.

13 Part V. LSR 21-0823, establishing a surcharge on certain saltwater licenses and establishing
14 a fund for derelict fishing gear and coastal cleanup, sponsored by Sen. Watters, Prime/Dist 4; Sen.
15 Perkins Kwoka, Dist 21; Sen. Sherman, Dist 24; and Rep. Spang, Straf 6.

16 Part VI. LSR 21-1062, relative to public use of coastal shorelands, sponsored by Sen.
17 Sherman, Prime/Dist 24; Sen. Soucy, Dist 18; Rep. Murray, Rock 24; and Rep. Cushing, Rock 21.

18 Part VII. HB 235, addressing impacts to other water users from new sources of water for
19 community water systems, sponsored by Rep. M. Pearson, Rock 34; Rep. Guthrie, Rock 13; Rep.
20 Green, Rock 13; Rep. Welch, Rock 13; Rep. Hobson, Rock 35; Rep. Weyler, Rock 13; Rep. Salloway,
21 Straf 5; and Sen. Birdsell, Dist 19

22 2 Legislation Enacted. The general court hereby enacts the following legislation:

23

24

PART I

25 Establishing the coastal program administered by the department of environmental services.

26 1 New Chapter; Coastal Program and Fund. Amend RSA by inserting after chapter 485-H the
27 following new chapter:

28

CHAPTER 485-I

29

COASTAL PROGRAM AND FUND

1 485-I:1 Statement of Policy. The water and related land resources of New Hampshire's coastal
2 and estuarine environments have significant ecological, commercial, cultural, and recreational
3 values for the state and its citizens. Therefore, it is the policy of the state to ensure the continued
4 viability and improved resiliency of these environments and communities in which they are located
5 as valued ecologic, economic, public health and safety, and social assets for the benefit of current and
6 future generations.

7 485-I:2 Program Established. There is established within the department of environmental
8 services the New Hampshire coastal program to implement 16 U.S.C. section 1452, the Coastal Zone
9 Management Act. It is the intent of the state to encourage and assist state and federal agencies and
10 coastal zone municipalities in the sustainable use of the land and water resources of the coastal zone
11 giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for
12 compatible economic development. The coastal program should encourage and assist to support:

13 I. The protection of natural resources, including wetlands, floodplains, coastal and
14 estuarine waters, beaches, sand dunes, and fish and wildlife and their habitat within the coastal
15 zone.

16 II. The management of coastal development to minimize the loss of life and property caused
17 by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas
18 and in areas likely to be affected by or vulnerable to sea level rise, ground water rise, and saltwater
19 intrusion, and by the destruction of natural protective features such as beaches, sand dunes, and
20 wetlands.

21 III. The management of coastal development to improve, safeguard, and restore the quality
22 of coastal waters, and to protect natural resources and existing uses of those waters.

23 IV. Public access to the coasts for recreation purposes.

24 V. The redevelopment of deteriorating urban waterfronts and ports, and sensitive
25 preservation and restoration of historic, cultural, and esthetic coastal features.

26 VI. The coordination and simplification of procedures in order to ensure expedited
27 governmental decision making for the management of coastal resources.

28 VII. Continued consultation and coordination with, and the giving of adequate
29 consideration to the views of affected state and federal agencies.

30 VIII. The giving of timely and effective notification of, and opportunities for, public and
31 local government participation in coastal management decision making.

32 IX. Comprehensive planning, conservation, and management for living marine resources,
33 including planning for the siting of pollution control and aquaculture facilities within the coastal
34 zone, and improved coordination between state and federal coastal zone management agencies and
35 state and wildlife agencies.

36 X. The study and development of plans for addressing the adverse effects upon the coastal
37 zone in accordance with the updating of storm surge, sea-level rise, precipitation and other relevant

1 projections recommending in the coastal risks and hazards commission 2014 report "Sea-Level Rise,
2 Storm Surges, and Extreme Precipitation in Coastal New Hampshire: Analysis of Past and Projected
3 Trends" in RSA 483-B:22, I.

4 485-I:3 Federal Consistency. The coastal program established under this chapter shall be the
5 entity charged with implementing 16 U.S.C section 1456 and 15 C.F.R. Part 930.

6 485-I:4 Coastal Fund.

7 I. There is hereby established in the state treasury the coastal fund which shall be kept
8 distinct and separate from all other funds. All moneys in the fund shall be nonlapsing and
9 continually appropriated to the department of environmental services for the purposes of this
10 chapter.

11 II. The commissioner may apply for and accept, from any source, gifts; donations of money;
12 grants; federal, local, private, and other matching funds and incentives; and interests in land for the
13 purposes of this chapter. The moneys collected under this paragraph shall be deposited in the fund
14 established under paragraph I.

15 III. The commissioner shall make rules relative to the distribution of money from the
16 coastal fund for the New Hampshire coastal program established in RSA 485-I:2.

17 2 Effective Date. Part I of this act shall take effect July 1, 2021.

18
19 PART II

20 Extending the deadline for the PFAS firefighting foam take-back program.

21 1 Extending the Deadline for PFAS Firefighting Foam Take-Back Program. Amend RSA 154:8-
22 b, VIII to read as follows:

23 VIII. The department shall survey municipalities throughout the state on the quantitative
24 stock of legacy foams and determine the cost of instituting a take-back program for the purpose of
25 safe and contained disposal. The development and processing of the survey shall be subject to rules
26 adopted by the commissioner of the department of environmental services pursuant to RSA 541-A.
27 On or before December 1, 2020, the department shall submit a report of its findings and any
28 recommendations for proposed legislation to the president of the senate, the speaker of the house of
29 representatives, the senate clerk, the house clerk, the governor, and the state library. Beginning on
30 July 1, [~~2021~~] 2023, the department shall institute a take-back program of legacy foams for the
31 purpose of safe and contained disposal.

32 2 Effective Date. Part II of this act shall take effect upon its passage.

33
34 PART III

35 Relative to the prevention of zoonotic disease transmission.

36 1 Findings. The general court finds:

1 I. Zoonotic disease can spread from animals to humans, with an estimated 3 out of 4 new or
2 emerging diseases being zoonotic in nature. Evidence indicates that many of the worst epidemics
3 and pandemics in recent decades have been zoonotic in origin, including COVID-19, ebola virus,
4 avian influenza, swine influenza, Middle East respiratory syndrome, human immunodeficiency
5 virus, and severe acute respiratory syndrome.

6 II. Wildlife trafficking and trade has been shown to contribute to the transmission and
7 pervasiveness of zoonotic diseases. The COVID-19 pandemic has underscored the immense loss of
8 human life and economic disruption that zoonotic disease can cause. The COVID-19 pandemic has
9 spurred other states to introduce legislation to ban the importation of wildlife and live animal
10 markets, which could shift those activities to New Hampshire.

11 III. New Hampshire needs to prepare for the emergence and management of novel zoonotic
12 pathogens that may threaten public health, food security, biological diversity and economic security.

13 2 New Section; Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission.
14 Amend RSA 207 by inserting after section 14-a the following new section:

15 207:14-b Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. The
16 fish and game department shall monitor available information on animals and fish, not currently
17 restricted under state and federal wildlife trafficking laws, that if transported into the state, will
18 risk zoonotic disease transmission. The department may consult as needed with the department of
19 health and human services, the state veterinarian, and scientific and educational institutions. The
20 department shall make recommendation to the legislature on any legislation or rules needed for
21 import or other restrictions on identified species, and to the governor if an executive order is deemed
22 necessary.

23 3 New Chapter; Live Animal Markets. Amend RSA by inserting after chapter 428 the following
24 new chapter:

25 CHAPTER 428-A

26 LIVE ANIMAL MARKETS

27 428-A:1 Definitions. In this chapter:

28 I. "Animal" means a domestic animal, a household pet, or a wild animal in captivity.

29 II. "Live animal market" means a retail food store or other site subject to RSA 143:2 and
30 RSA 143:3 where, in the regular course of business, animals are stored alive and sold to consumers
31 for the purpose of human consumption.

32 III. "Live wildlife market" means a market at which non-native wildlife is stored alive and
33 sold for the purpose of human consumption, including but not limited to wholesalers, restaurants,
34 online platforms, and other contexts where individuals offer to buy and sell non-native wildlife.

35 IV. "Taxon" means a taxonomic group, such as a species, family, or class, known or likely to
36 be responsible for zoonotic transmission of a disease, as determined by the director under RSA
37 207:14-b.

1 428-A:2 Operation of Live Animal Markets. During the operation of a live animal market:

2 I. No animal shall be offered for sale at a live animal market that is of a taxon known or
3 likely to be responsible for zoonotic transmission of a disease, as determined by the director under
4 RSA 207:14-b.

5 II. Wildlife species that are identified as known or likely carriers of zoonotic disease under
6 RSA 207:14-b shall not be caged, handled, or transported with livestock or domestic animals, and
7 shall not be sold in spaces near livestock or domestic animals.

8 III. Wildlife species that are identified as known or likely carriers of zoonotic disease under
9 RSA 207:14-b shall not be permitted to be sold in a live animal market or a live wildlife market.

10 IV. In addition to wildlife covered by federal statutes on wildlife trafficking, no bat, rodent, or
11 primate species shall be sold in live animal markets.

12 428-A:3 Regulation of Live Animal Markets. The department of agriculture, markets, and food
13 shall adopt rules under RSA 541-A governing the storing and sale of animals for live animal markets
14 and live wildlife markets.

15 428-A:4 Exceptions.

16 I. This chapter shall not prohibit livestock markets or the sale or offer for sale of livestock
17 that are currently allowed under New Hampshire law.

18 II. This chapter shall not prohibit seafood or shellfish markets or the sale or offer for sale of
19 seafood or shellfish that are currently allowed under New Hampshire law.

20 428-A:5 Penalties. Any person who violates this chapter:

21 I. Shall be issued a written warning in a language that is understood by the person receiving
22 such warning for a first violation.

23 II. For any subsequent violation, shall be guilty of a class B misdemeanor, punishable by a
24 fine of at least \$250, but not exceeding \$1,000.

25 4 Effective Date. Part III of this act shall take effect January 1, 2022.

26
27 PART IV

28 Establishing the coastal program administered by the department of environmental services.

29 1 Tidal Waters. Amend RSA 485-A:8, V to read as follows:

30 V. Tidal waters utilized for swimming purposes shall contain not more than either a
31 geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100
32 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring.
33 Those tidal waters used for growing or taking of shellfish for human consumption shall, ~~in addition~~
34 ~~to the foregoing requirements, be in accordance with the criteria recommended under the National~~
35 ~~Shellfish Program Manual of Operation, United States Department of Food and Drug~~
36 ~~Administration]~~ *not exceed a geometric mean most probable number (MPN) of 14 organisms*
37 *per 100 ml for fecal coliform, nor shall more than 10 percent of the samples exceed an MPN*

1 *of 28 per 100 ml for fecal coliform, or other values of equivalent protection based on*
2 *sampling and analytical methods used by the department of environmental services*
3 *shellfish program and approved in the latest revision of the National Shellfish Sanitation*
4 *Program, Guide For The Control of Molluscan Shellfish.*

5 2 Effective Date. Part IV of this act shall take effect 60 days after its passage.

7 PART V

8 Establishing a surcharge on certain saltwater licenses and
9 establishing a fund for derelict fishing gear and coastal cleanup.

10 1 New Subparagraph; Application of Receipts; Derelict Fishing Gear and Coastal Cleanup Fund
11 Established. Amend RSA 6:12, I(b) by inserting after subparagraph (364) the following new
12 subparagraph:

13 (365) Moneys deposited into the derelict fishing gear and coastal cleanup fund
14 established in RSA 211:77.

15 2 New Paragraph; Litter Control Law; Penalties. Amend RSA 163-B:4 by inserting after
16 paragraph I the following new paragraph:

17 I-a. Any fines collected under this section for littering in coastal waters or beaches and for
18 abandoning fishing gear shall be credited to the derelict fishing gear and coastal cleanup fund
19 established in RSA 211:77.

20 3 New Paragraph; Lobsters and Crabs; Surcharge Added. Amend RSA 211:18 by inserting after
21 paragraph III-b the following new paragraph:

22 III-c. The executive director shall establish a surcharge on each class of license issued under
23 paragraph III-a of not more than \$25 nor less than \$10 to be deposited in the derelict fishing gear
24 and coastal cleanup fund, established in RSA 211:77, and shall adopt rules for implementing and
25 collecting the surcharge. Any person who satisfactorily demonstrates to the executive director that
26 he or she is participating in a coastal cleanup program shall not be required to pay the surcharge.
27 The executive director shall adopt rules pursuant to RSA 541-A to determine satisfactory
28 participation in a coastal cleanup program and to account for licensees who are exempt from the
29 surcharge each year.

30 4 Nonresident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-a, II to
31 read as follows:

32 II. The fee for an annual license shall be set by the executive director pursuant to RSA
33 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
34 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
35 by diving. *The executive director shall establish a surcharge on each license issued under*
36 *this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing*
37 *gear and coastal cleanup fund established in RSA 211:77, and shall adopt rules for*

1 *implementing and collecting the surcharge. Any person who satisfactorily demonstrates to*
2 *the executive director that he or she is participating in a coastal cleanup program, or the*
3 *sea urchin or scallop fishery, shall not be required to pay the surcharge. The executive*
4 *director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in*
5 *a coastal cleanup program and to account for licensees who are exempt from the surcharge*
6 *each year.*

7 5 Resident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-b, II to read
8 as follows:

9 II. The fee for such annual license shall be set by the executive director pursuant to RSA
10 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
11 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
12 by diving. *The executive director shall establish a surcharge on each license issued under*
13 *this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing*
14 *gear and coastal cleanup fund established in RSA 211:77, and shall adopt rules for*
15 *implementing and collecting the surcharge. Any person who satisfactorily demonstrates to*
16 *the executive director that he or she is participating in a coastal cleanup program, or the*
17 *sea urchin or scallop fishery, shall not be required to pay the surcharge. The executive*
18 *director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in*
19 *a coastal cleanup program and to account for licensees who are exempt from the surcharge*
20 *each year.*

21 6 Aquaculture; Surcharge Added. Amend RSA 211:62-e, II-b to read as follows:

22 II-b. The executive director shall adopt rules, pursuant to RSA 541-A, for the issuance of 5-
23 year licenses under this section to oyster aquaculture operations in the Great Bay estuary, and the
24 fees, terms, and conditions therefor as authorized under paragraph II-a. *The executive director*
25 *shall establish a surcharge on each license issued under this section of not more than \$25*
26 *nor less than \$10 to be deposited in the derelict fishing gear and coastal cleanup fund*
27 *established in RSA 211:77, and shall adopt rules for implementing and collecting the*
28 *surcharge. Any person who satisfactorily demonstrates to the executive director that he or*
29 *she is participating in a coastal cleanup program shall not be required to pay the*
30 *surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine*
31 *satisfactory participation in a coastal cleanup program and to account for licensees who*
32 *are exempt from the surcharge each year.*

33 7 New Subdivision; Derelict Fishing Gear and Coastal Cleanup Fund. Amend RSA 211 by
34 inserting after section 76 the following new subdivision:

35 Derelict Fishing Gear and Coastal Cleanup Fund

36 211:77 Derelict Fishing Gear and Coastal Cleanup Fund Established. There is hereby
37 established a separate fund to be known as the derelict fishing gear and coastal cleanup fund. The

1 fund shall be administered by the executive director and shall be nonlapsing and continually
2 appropriated to the executive director for the purposes of this section. The executive director shall
3 credit to this fund all federal moneys, state funds appropriated, fines or settlements for derelict
4 fishing gear or other items, and fines for littering in coastal waters or beaches collected under RSA
5 163-B:4. The executive director may accept and expend all funds, including any gifts, grants, or
6 donations made to the fund. The moneys in the fund shall be used to establish and support new and
7 existing programs to retrieve and dispose of derelict fishing gear, to conduct periodic coastal cleanup
8 programs for the removal of derelict fishing gear and marine trash, and to support recycling efforts,
9 for fishing gear and other marine trash. In this section, "derelict fishing gear" means lost, discarded,
10 or abandoned fishing gear.

11 8 Effective Date.

12 I. Sections 3-6 of part V of this act shall take effect January 1, 2022.

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

14
15 PART VI

16 Relative to public use of coastal shorelands.

17 1 Public Trust Shorelands; Mean High Tide Line. Amend RSA 483-C:1, V to read as follows:

18 V. The high water mark which bounds the shoreward extent of the public trust shorelands
19 in New Hampshire, excluding abnormal storm events, means ~~[the furthest landward limit reached~~
20 ~~by the highest tidal flow, commonly referred to as the highest spring or highest "syzygy" tide~~
21 ~~occurring during the 19-year Metonic cycle]~~ **the average height of all the high waters over a**
22 **complete tidal cycle commonly referred to as the mean high tide line.** The landward trace of
23 the high water mark in New Hampshire is established by the tidal station data within the
24 contemporary 19-year "National Tidal Datum Epoch" for Portland, Maine, Casco Bay (NOS MAINE
25 841 8150) as that data is transposed to New Hampshire tidal stations by the "differences" tidal
26 constant established by the National Ocean Service (NOS) of the National Oceanic and Atmospheric
27 Administration (NOAA) for New Hampshire tidal stations and published in the annual "Tide Tables
28 High and Low Water Predictions, East Coast of North and South America, Including Greenland".
29 The contemporary 19-year National Tidal Datum Epoch is the national tidal database maintained by
30 NOS of NOAA.

31 2 Effective Date. Part VI of this act shall take effect upon its passage.

32
33 PART VII

34 Addressing impacts to other water users from new sources of water for community water systems.

35 1 New Section; Small Groundwater Withdrawals. Amend RSA 485-C by inserting after section
36 25 the following new section:

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- Page 9 -

1 485-C:26 Groundwater Withdrawals Less than 57,600 Gallons Over Any 24-Hour Period for
2 Community Water Systems. The department shall adopt rules pursuant to RSA 541-A specifying
3 criteria and procedures to ensure a groundwater withdrawal less than 57,600 gallons over any 24-
4 hour period from a new source of water for a community water system as defined by RSA 485:1-a
5 and subject to RSA 485:8 does not cause an unmitigated impact to an existing private water supply
6 well in accordance with RSA 485-C:21, V-c(a) or RSA 485-C:21, V-c(c).

7 2 Effective Date. Part VII of this act shall take effect 60 days after its passage.

SB 146-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2021-0791s)

AN ACT adopting omnibus legislation relative to the environment.

PART I Establishing the coastal program administered by the department of environmental services.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Coastal Fund			

METHODOLOGY:

The Department of Environmental Service states the part of the bill establishes a coastal program to be administered by the Department and establishes a nonlapsing, continually appropriated coastal fund. The coastal fund would consist of funds from any source including gifts; donations of money; grants; federal, local, private, and other matching funds and incentives and interests in land for the purposes of the proposed chapter. The Department indicates the coastal program currently administered by the Department is federally funded. Additional state expenditures would only occur if additional funding is identified and deposited into the new fund. County and local entities could be the recipients of grants if the state receives money for the fund, however, this is not required by the bill. The Department states, because there is no specific funding source proposed in the bill, revenue and expenditures in the proposed coastal fund cannot be determined. County and local expenditures are not required for this legislation.

AGENCIES CONTACTED:

Department of Environmental Services

PART II Establishing a statewide solid waste disposal reduction goal.

This part of the bill has no fiscal impact.

PART III Relative to the prevention of zoonotic disease transmission.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input type="checkbox"/> Other			

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This part of the bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Class B Misdemeanor	\$55	\$55
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.		
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

AGENCIES CONTACTED:

Judicial Branch, Department of Justice, Judicial Council, and New Hampshire Association of Counties

PART IV Establishing the coastal program administered by the department of environmental services (Relative to tidal waters.)

This part of the bill has no fiscal impact.

PART V Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source	<input type="checkbox"/> General Fund <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other: Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund			

METHODOLOGY:

This part of the bill establishes a non-lapsing, continually appropriated dedicated fund called the derelict fishing gear, coastal cleanup, and fishing for energy fund, which will be used for new and existing programs relative to certain coastal cleanup efforts. In addition to any future available federal funds, state appropriations, or other grants, gifts, or donations, under this bill revenue from fines for littering in coastal waters or beaches, or abandoning fishing gear, as well as a new surcharge on certain fishing licenses (lobster and crab, commercial salt water, commercial shrimp, and aquaculture) would be credited to the fund. While, it is not known how much littering fine revenue may be diverted from the general fund to the new dedicated fund, as the number of qualifying littering offenses cannot be estimated, the Fish and Game Department estimates the potential revenue from the surcharge on certain licenses would range from \$8,600 to \$21,500. This range is based on 860 current licenses and a surcharge of \$10 to \$25 (surcharge will be set by the rulemaking process, as well as a method for individuals to avoid the surcharge by demonstrating participation in a coastal cleanup program). Expenditures in FY 2022 and beyond are indeterminable and would be limited to available funds.

AGENCIES CONTACTED:

Fish and Game Department

PART VI Relative to public use of coastal shorelands.

This part of the bill has no fiscal impact.

CHAPTER 208
SB 146-FN - FINAL VERSION

03/18/2021 0791s
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06/24/2021 2072EBA

2021 SESSION

21-0255
08/04

SENATE BILL **146-FN**

AN ACT adopting omnibus legislation relative to the environment.

SPONSORS: Sen. Watters, Dist 4

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Establishing the coastal program administered by the department of environmental services.
- II. Establishing a statewide solid waste disposal reduction goal.
- III. The prevention of zoonotic disease transmission.
- IV. Tidal waters.
- V. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.
- VI. Public use of coastal shorelands.
- VII. Addressing impacts to other water users from new sources of water for community water systems.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears ~~[in brackets and struck through]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 208
SB 146-FN - FINAL VERSION

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to the environment.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 208:1 Sponsorship. This act consists of the following proposed legislation:

2 Part I. LSR 21-0255, establishing the coastal program administered by the department of
3 environmental services, sponsored by Sen. Watters, Prime/Dist 4; Sen. Gannon, Dist 23; Sen. Gray,
4 Dist. 6; Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Edgar, Rock 21; Rep. Spang, Straf
5 6.

6 Part II. Extending the deadline for the PFAS firefighting foam take-back program.

7 Part III. LSR 21-0926, relative to the prevention of zoonotic disease transmission, sponsored
8 by Sen. Watters, Prime/Dist 4; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; and Rep. Bixby, Straf
9 17.

10 Part IV. LSR 21-0927, relative to tidal waters, sponsored by Sen. Watters, Prime/Dist 4;
11 Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Cushing, Rock 21; and Rep. Simpson,
12 Rock 36.

13 Part V. LSR 21-0823, establishing a surcharge on certain saltwater licenses and establishing
14 a fund for derelict fishing gear and coastal cleanup, sponsored by Sen. Watters, Prime/Dist 4; Sen.
15 Perkins Kwoka, Dist 21; Sen. Sherman, Dist 24; and Rep. Spang, Straf 6.

16 Part VI. LSR 21-1062, relative to public use of coastal shorelands, sponsored by Sen.
17 Sherman, Prime/Dist 24; Sen. Soucy, Dist 18; Rep. Murray, Rock 24; and Rep. Cushing, Rock 21.

18 Part VII. HB 235, addressing impacts to other water users from new sources of water for
19 community water systems, sponsored by Rep. M. Pearson, Rock 34; Rep. Guthrie, Rock 13; Rep.
20 Green, Rock 13; Rep. Welch, Rock 13; Rep. Hobson, Rock 35; Rep. Weyler, Rock 13; Rep. Salloway,
21 Straf 5; and Sen. Birdsell, Dist 19

22 208:2 Legislation Enacted. The general court hereby enacts the following legislation:

23 PART I

24 Establishing the coastal program administered by the department of environmental services.

25 208:1 New Chapter; Coastal Program and Fund. Amend RSA by inserting after chapter 485-H
26 the following new chapter:

27 CHAPTER 485-I

28 COASTAL PROGRAM AND FUND

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1 485-I:1 Statement of Policy. The water and related land resources of New Hampshire's coastal
2 and estuarine environments have significant ecological, commercial, cultural, and recreational
3 values for the state and its citizens. Therefore, it is the policy of the state to ensure the continued
4 viability and improved resiliency of these environments and communities in which they are located
5 as valued ecologic, economic, public health and safety, and social assets for the benefit of current and
6 future generations.

7 485-I:2 Program Established. There is established within the department of environmental
8 services the New Hampshire coastal program to implement 16 U.S.C. section 1452, the Coastal Zone
9 Management Act. It is the intent of the state to encourage and assist state and federal agencies and
10 coastal zone municipalities in the sustainable use of the land and water resources of the coastal zone
11 giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for
12 compatible economic development. The coastal program should encourage and assist to support:

13 I. The protection of natural resources, including wetlands, floodplains, coastal and
14 estuarine waters, beaches, sand dunes, and fish and wildlife and their habitat within the coastal
15 zone.

16 II. The management of coastal development to minimize the loss of life and property caused
17 by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas
18 and in areas likely to be affected by or vulnerable to sea level rise, ground water rise, and saltwater
19 intrusion, and by the destruction of natural protective features such as beaches, sand dunes, and
20 wetlands.

21 III. The management of coastal development to improve, safeguard, and restore the quality
22 of coastal waters, and to protect natural resources and existing uses of those waters.

23 IV. Public access to the coasts for recreation purposes.

24 V. The redevelopment of deteriorating urban waterfronts and ports, and sensitive
25 preservation and restoration of historic, cultural, and esthetic coastal features.

26 VI. The coordination and simplification of procedures in order to ensure expedited
27 governmental decision making for the management of coastal resources.

28 VII. Continued consultation and coordination with, and the giving of adequate
29 consideration to the views of affected state and federal agencies.

30 VIII. The giving of timely and effective notification of, and opportunities for, public and
31 local government participation in coastal management decision making.

32 IX. Comprehensive planning, conservation, and management for living marine resources,
33 including planning for the siting of pollution control and aquaculture facilities within the coastal
34 zone, and improved coordination between state and federal coastal zone management agencies and
35 state and wildlife agencies.

36 X. The study and development of plans for addressing the adverse effects upon the coastal
37 zone in accordance with the updating of storm surge, sea-level rise, precipitation and other relevant

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1 projections recommending in the coastal risks and hazards commission 2014 report "Sea-Level Rise,
2 Storm Surges, and Extreme Precipitation in Coastal New Hampshire: Analysis of Past and Projected
3 Trends" in RSA 483-B:22, I.

4 485-I:3 Federal Consistency. The coastal program established under this chapter shall be the
5 entity charged with implementing 16 U.S.C section 1456 and 15 C.F.R. Part 930.

6 485-I:4 Coastal Fund.

7 I. There is hereby established in the state treasury the coastal fund which shall be kept
8 distinct and separate from all other funds. All moneys in the fund shall be nonlapsing and
9 continually appropriated to the department of environmental services for the purposes of this
10 chapter.

11 II. The commissioner may apply for and accept, from any source, gifts; donations of money;
12 grants; federal, local, private, and other matching funds and incentives; and interests in land for the
13 purposes of this chapter. The moneys collected under this paragraph shall be deposited in the fund
14 established under paragraph I.

15 III. The commissioner shall adopt rules relative to the distribution of money from the
16 coastal fund for the New Hampshire coastal program established in RSA 485-I:2.

17 208:2 Effective Date. Part I of this act shall take effect July 1, 2021.

PART II

Extending the deadline for the PFAS firefighting foam take-back program.

19 208:1 Extending the Deadline for PFAS Firefighting Foam Take-Back Program. Amend RSA
20 154:8-b, VIII to read as follows:
21

22 VIII. The department shall survey municipalities throughout the state on the quantitative
23 stock of legacy foams and determine the cost of instituting a take-back program for the purpose of
24 safe and contained disposal. The development and processing of the survey shall be subject to rules
25 adopted by the commissioner of the department of environmental services pursuant to RSA 541-A.
26 On or before December 1, 2020, the department shall submit a report of its findings and any
27 recommendations for proposed legislation to the president of the senate, the speaker of the house of
28 representatives, the senate clerk, the house clerk, the governor, and the state library. Beginning on
29 July 1, ~~2021~~ 2023, the department shall institute a take-back program of legacy foams for the
30 purpose of safe and contained disposal.

31 208:2 Effective Date. Part II of this act shall take effect upon its passage.

PART III

Relative to the prevention of zoonotic disease transmission.

34 208:1 Findings. The general court finds:

35 I. Zoonotic disease can spread from animals to humans, with an estimated 3 out of 4 new or
36 emerging diseases being zoonotic in nature. Evidence indicates that many of the worst epidemics
37 and pandemics in recent decades have been zoonotic in origin, including COVID-19, ebola virus,

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1 avian influenza, swine influenza, Middle East respiratory syndrome, human immunodeficiency
2 virus, and severe acute respiratory syndrome.

3 II. Wildlife trafficking and trade has been shown to contribute to the transmission and
4 pervasiveness of zoonotic diseases. The COVID-19 pandemic has underscored the immense loss of
5 human life and economic disruption that zoonotic disease can cause. The COVID-19 pandemic has
6 spurred other states to introduce legislation to ban the importation of wildlife and live animal
7 markets, which could shift those activities to New Hampshire.

8 III. New Hampshire needs to prepare for the emergence and management of novel zoonotic
9 pathogens that may threaten public health, food security, biological diversity and economic security.

10 208:2 New Section; Prohibited Import of Animals and Fish; Risk of Zoonotic Disease
11 Transmission. Amend RSA 207 by inserting after section 14-b the following new section:

12 207:14-c Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. The
13 fish and game department shall monitor available information on animals and fish, not currently
14 restricted under state and federal wildlife trafficking laws, that if transported into the state, will
15 risk zoonotic disease transmission. The department may consult as needed with the department of
16 health and human services, the state veterinarian, and scientific and educational institutions. The
17 department shall make recommendation to the legislature on any legislation or rules needed for
18 import or other restrictions on identified species, and to the governor if an executive order is deemed
19 necessary.

20 208:3 Effective Date. Part III of this act shall take effect January 1, 2022.

21 PART IV

22 Establishing the coastal program administered by the department of environmental services.

23 208:1 Tidal Waters. Amend RSA 485-A:8, V to read as follows:

24 V. Tidal waters utilized for swimming purposes shall contain not more than either a
25 geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100
26 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring.
27 Those tidal waters used for growing or taking of shellfish for human consumption shall, ~~in addition~~
28 ~~to the foregoing requirements, be in accordance with the criteria recommended under the National~~
29 ~~Shellfish Program Manual of Operation, United States Department of Food and Drug~~
30 ~~Administration]~~ **not exceed a geometric mean most probable number (MPN) of 14 organisms**
31 **per 100 ml for fecal coliform, nor shall more than 10 percent of the samples exceed an MPN**
32 **of 28 per 100 ml for fecal coliform, or other values of equivalent protection based on**
33 **sampling and analytical methods used by the department of environmental services**
34 **shellfish program and approved in the latest revision of the National Shellfish Sanitation**
35 **Program, Guide For The Control of Molluscan Shellfish.**

36 208:2 Effective Date. Part IV of this act shall take effect 60 days after its passage.

37 PART V

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1 Establishing a surcharge on certain saltwater licenses and
2 establishing a fund for derelict fishing gear and coastal cleanup.

3 208:1 New Subparagraph; Application of Receipts; Derelict Fishing Gear and Coastal Cleanup
4 Fund Established. Amend RSA 6:12, I(b) by inserting after subparagraph (364) the following new
5 subparagraph:

6 (365) Moneys deposited into the derelict fishing gear and coastal cleanup fund
7 established in RSA 211:77.

8 208:2 New Paragraph; Litter Control Law; Penalties. Amend RSA 163-B:4 by inserting after
9 paragraph I the following new paragraph:

10 I-a. Any fines collected under this section for littering in coastal waters or beaches and for
11 abandoning fishing gear shall be credited to the derelict fishing gear and coastal cleanup fund
12 established in RSA 211:77.

13 208:3 New Paragraph; Lobsters and Crabs; Surcharge Added. Amend RSA 211:18 by inserting
14 after paragraph III-b the following new paragraph:

15 III-c. The executive director shall establish a surcharge on each class of license issued under
16 paragraph III-a of not more than \$25 nor less than \$10 to be deposited in the derelict fishing gear
17 and coastal cleanup fund, established in RSA 211:77, and shall adopt rules for implementing and
18 collecting the surcharge. Any person who satisfactorily demonstrates to the executive director that
19 he or she is participating in a coastal cleanup program shall not be required to pay the surcharge.
20 The executive director shall adopt rules pursuant to RSA 541-A to determine satisfactory
21 participation in a coastal cleanup program and to account for licensees who are exempt from the
22 surcharge each year.

23 208:4 Nonresident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-a, II
24 to read as follows:

25 II. The fee for an annual license shall be set by the executive director pursuant to RSA
26 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
27 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
28 by diving. *The executive director shall establish a surcharge on each license issued under
29 this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing
30 gear and coastal cleanup fund established in RSA 211:77, and shall adopt rules for
31 implementing and collecting the surcharge. Any person who satisfactorily demonstrates to
32 the executive director that he or she is participating in a coastal cleanup program, or the
33 sea urchin or scallop fishery, shall not be required to pay the surcharge. The executive
34 director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in
35 a coastal cleanup program and to account for licensees who are exempt from the surcharge
36 each year.*

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1 208:5 Resident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-b, II to
2 read as follows:

3 II. The fee for such annual license shall be set by the executive director pursuant to RSA
4 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
5 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
6 by diving. *The executive director shall establish a surcharge on each license issued under
7 this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing
8 gear and coastal cleanup fund established in RSA 211:77, and shall adopt rules for
9 implementing and collecting the surcharge. Any person who satisfactorily demonstrates to
10 the executive director that he or she is participating in a coastal cleanup program, or the
11 sea urchin or scallop fishery, shall not be required to pay the surcharge. The executive
12 director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in
13 a coastal cleanup program and to account for licensees who are exempt from the surcharge
14 each year.*

15 208:6 Aquaculture; Surcharge Added. Amend RSA 211:62-e, II-b to read as follows:

16 II-b. The executive director shall adopt rules, pursuant to RSA 541-A, for the issuance of 5-
17 year licenses under this section to oyster aquaculture operations in the Great Bay estuary, and the
18 fees, terms, and conditions therefor as authorized under paragraph II-a. *The executive director
19 shall establish a surcharge on each license issued under this section of not more than \$25
20 nor less than \$10 to be deposited in the derelict fishing gear and coastal cleanup fund
21 established in RSA 211:77, and shall adopt rules for implementing and collecting the
22 surcharge. Any person who satisfactorily demonstrates to the executive director that he or
23 she is participating in a coastal cleanup program shall not be required to pay the
24 surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine
25 satisfactory participation in a coastal cleanup program and to account for licensees who
26 are exempt from the surcharge each year.*

27 208:7 New Subdivision; Derelict Fishing Gear and Coastal Cleanup Fund. Amend RSA 211 by
28 inserting after section 76 the following new subdivision:

Derelict Fishing Gear and Coastal Cleanup Fund

29 211:77 Derelict Fishing Gear and Coastal Cleanup Fund Established. There is hereby
30 established a separate fund to be known as the derelict fishing gear and coastal cleanup fund. The
31 fund shall be administered by the executive director and shall be nonlapsing and continually
32 appropriated to the executive director for the purposes of this section. The executive director shall
33 credit to this fund all federal moneys, state funds appropriated, fines or settlements for derelict
34 fishing gear or other items, and fines for littering in coastal waters or beaches collected under RSA
35 163-B:4. The executive director may accept and expend all funds, including any gifts, grants, or
36 donations made to the fund. The moneys in the fund shall be used to establish and support new and
37

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1 existing programs to retrieve and dispose of derelict fishing gear, to conduct periodic coastal cleanup
2 programs for the removal of derelict fishing gear and marine trash, and to support recycling efforts
3 for fishing gear and other marine trash. In this section, "derelict fishing gear" means lost, discarded,
4 or abandoned fishing gear.

5 208:8 Effective Date.

6 I. Sections 3-6 of part V of this act shall take effect January 1, 2022.

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

8 PART VI

9 Relative to public use of coastal shorelands.

10 208:1 Public Trust Shorelands; Mean High Tide Line. Amend RSA 483-C:1, V to read as follows:

11 V. The high water mark which bounds the shoreward extent of the public trust shorelands
12 in New Hampshire, excluding abnormal storm events, means [~~the furthest landward limit reached~~
13 ~~by the highest tidal flow, commonly referred to as the highest spring or highest "syzygy" tide~~
14 ~~occurring during the 19-year Metonic cycle]~~ ***the average height of all the high waters over a***
15 ***complete tidal cycle commonly referred to as the mean high tide line.*** The landward trace of
16 the high water mark in New Hampshire is established by the tidal station data within the
17 contemporary 19-year "National Tidal Datum Epoch" for Portland, Maine, Casco Bay (NOS MAINE
18 841 8150) as that data is transposed to New Hampshire tidal stations by the "differences" tidal
19 constant established by the National Ocean Service (NOS) of the National Oceanic and Atmospheric
20 Administration (NOAA) for New Hampshire tidal stations and published in the annual "Tide Tables
21 High and Low Water Predictions, East Coast of North and South America, Including Greenland".
22 The contemporary 19-year National Tidal Datum Epoch is the national tidal database maintained by
23 NOS of NOAA.

24 208:2 Effective Date. Part VI of this act shall take effect upon its passage.

25 PART VII

26 Addressing impacts to other water users from new sources of water for community water systems.

27 208:1 New Section; Small Groundwater Withdrawals. Amend RSA 485-C by inserting after
28 section 25 the following new section:

29 485-C:26 Groundwater Withdrawals Less than 57,600 Gallons Over Any 24-Hour Period for
30 Community Water Systems. The department shall adopt rules pursuant to RSA 541-A specifying
31 criteria and procedures to ensure a groundwater withdrawal less than 57,600 gallons over any 24-
32 hour period from a new source of water for a community water system as defined by RSA 485:1-a
33 and subject to RSA 485:8 does not cause an unmitigated impact to an existing private water supply
34 well in accordance with RSA 485-C:21, V-c(a) or RSA 485-C:21, V-c(c).

35 208:2 Effective Date. Part VII of this act shall take effect 60 days after its passage.

36

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Approved: August 10, 2021

Effective Date:

Pt. I eff. July 1, 2021

Pt. II eff. August 10, 2021

Pt. III eff. January 1, 2022

Pt. IV eff. October 9, 2021

Pt. V eff. I. Sec. 3-6 eff January 1, 2022

II. Rem. eff August 10, 2021

Pt. VI eff. August 10, 2021

Pt. VII eff: October 9, 2021

Amendments

Amendment to SB 146-FN

1 Amend the bill by replacing Part III with the following:

2

3

PART III

4

An Act prohibiting incineration of PFAS in New Hampshire.

5

6

1 New Section; Prohibition on Incinerating Class B Firefighting Foam. Amend RSA 154 by inserting after section 8-c the following new section:

7

8

154:8-d Prohibition on Incinerating Class B Firefighting Foam.

9

I. In this section:

10

(a) "Incineration" includes but is not limited to burning, combustion, pyrolysis, gasification, thermal oxidation (including flameless and regenerative), acid recovery furnace/oxidizer, ore roaster, cement kiln, lightweight aggregate kiln, industrial furnace, boiler and process heater.

11

12

13

14

(b) "Class B firefighting foam" means foam designed for flammable liquid fires.

15

16

(c) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

17

18

19

20

II. No person, local government, or state agency shall incinerate Class B firefighting foam which contains PFAS chemicals until the department determines that no out-of-state facility will accept this waste and determines their disposal does not pose a threat to public health or the environment and reports such finding to all local governments and state agencies.

21

22

23

24

III. Whenever PFAS-containing waste, leachate, or sludge is being incinerated in New Hampshire, the department of environmental services shall determine disposal does not pose a threat to public health or the environment and reports such finding to all local governments and state agencies.

25

26

2 New Chapter; Perfluorinated Chemicals. Amend RSA by inserting after chapter 149-Q the following new chapter:

27

28

CHAPTER 149-R

PERFLUORINATED CHEMICALS

29

30

31

149-R:1 Findings. Fluorinated chemicals are extremely persistent in the environment, leach into food, and can be taken up from soil into food. In 2016, the FDA rescinded its approval for use of three such fluorinated chemicals from food contact materials due to associated heightened risks of

Amendment to SB 146-FN

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1 cancer, toxicity, and other health effects. Other PFAS chemicals have similar chemical structures,
2 and may pose similar risks.

3 149-R:2 Definitions. In this chapter:

4 I. "Fluorinated chemical," "perfluorinated chemical," or "PFAS" means a class of fluorinated
5 organic compounds containing at least one fully fluorinated carbon atom, also known as
6 perfluoroalkyl and polyfluoroalkyl substances, or PFAS chemicals.

7 II. "Food packaging" means a package that is designed for direct food contact, including a
8 food or beverage product that is contained in a food package or to which a food package is applied, a
9 packaging component of a food package, and plastic disposable gloves used in commercial or
10 institutional food service.

11 III. "Intentionally added" means the addition of a chemical in a product that serves an
12 intended function in the product component.

13 IV. "Package" means a container providing a means of marketing, protecting, or handling a
14 product and shall include a unit package, an intermediate package, and a shipping container.
15 "Package" also means unsealed receptacles, such as carrying cases, crates, cups, pails, rigid foil and
16 other trays, wrappers and wrapping films, bags, and tubs.

17 V. "Packaging component" means an individual assembled part of a package, such as any
18 interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings,
19 closures, inks, and labels.

20 149-R:3 Prohibition on Certain Packaging Containing PFAS.

21 I. Beginning January 1, 2023, producers or manufacturers of food packaging materials shall
22 report to the department of environmental services the presence of PFAS or other toxic chemicals
23 that are not Biodegradable Products Institute's (BPI) certified in such materials. The department of
24 environmental services shall maintain a list of reported packaging.

25 II. Beginning January 1, 2024, a person shall not manufacture, sell, offer for sale, distribute
26 for sale, or distribute for use in this state a food package to which PFAS have been intentionally
27 added in any amount, unless it has been certified by the Biodegradable Products Institute (BPI).

28 III. Beginning January 1, 2024 producers and manufacturers of plastic, fiber, and paper food
29 packaging materials shall not import, use, or offer for sale any packaging materials labeled or
30 represented as compostable that are not certified by the BPI or packaging that contains PFAS or
31 other toxic materials demonstrated to be harmful for human consumption. No packaging without
32 BPI certification shall claim to be compostable if it contains PFAS chemicals.

33 IV. Beginning January 1, 2024, no materials containing PFAS shall be labeled compostable
34 or accepted for composting in New Hampshire unless it has been certified by the BPI. The
35 department of environmental services shall use the BPI standard for fluorinated chemicals effective
36 January 1, 2020 to determine acceptable compostable materials. Products shall not claim to be BPI
37 certified, whether on the product itself, or on a product's packaging or marketing materials, unless it

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1 meets all conditions of the rule, including no intentionally added fluorinated chemicals and a test
2 report showing less than 100 ppm total fluorine, or a higher standard approved by the department.
3 Items such as paper wrappings and other food packaging that contain PFAS chemicals not marketed
4 as compostable and thus not subject to BPI certification are prohibited.

5 149-R:4 Rulemaking. The commissioner of the department of environmental services shall
6 make rules under RSA 541-A relative to all forms and reports necessary to administer the
7 requirements of this chapter.

8 149-R:5 Penalties.

9 I. The commissioner may issue an order to any person in violation of this chapter, any rule
10 adopted under this chapter or any condition in any exemption granted under this chapter to comply
11 with the chapter, the rule or condition, and may require such remedial measures as may be
12 necessary.

13 II. The commissioner may request the attorney general to bring a civil action in superior
14 court for appropriate relief, including a temporary or permanent injunction, or both, to enforce any
15 provision of this chapter, any rule adopted under this chapter, any condition in any exemption
16 granted under this chapter, or any order issued pursuant to this chapter.

17 3 Findings and Purpose.

18 I. The general court finds and declares that, since 1950, global annual production of plastics
19 has increased from 2,000,000 tons to over 381,000,000 tons; that approximately one third of all
20 plastics produced are single-use plastics, which are plastics designed to be used only once and then
21 thrown away; and that an estimated 100 billion single-use plastic carryout bags and 25 billion
22 styrofoam plastic coffee cups are thrown away in the United States each year.

23 II. The general court further finds that, in 2017, only 8.4 percent of plastics in the United
24 States were recycled; that most single-use plastics are disposed of in landfills, are incinerated, or
25 become litter in waterways and oceans; that plastics released in the environment do not biodegrade,
26 but instead break down into smaller pieces, known as microplastics, which accumulate in the
27 natural environment and are eaten by fish and other marine life; and that microplastic pollution
28 moves through natural food webs and accumulates in fish and shellfish tissues, which means
29 microplastics and associated pollutants can move into the food chain.

30 III. The general court further finds that approximately 8,000,000 tons of plastic end up in
31 the oceans annually; that, without action, scientists estimate that by 2050 the mass of plastic
32 pollution in the ocean will exceed the mass of fish; that currently; that one study found plastics in
33 the gut of every sea turtle examined and in 90 percent of seabirds examined; and that plastics have
34 been known to cause death or reproductive failure in sea turtles, birds, and other organisms that
35 ingest plastic.

36 IV. The general court further finds that, as plastics break down through photodegradation,
37 they release harmful chemicals such as bisphenol A (BPA) into the environment that have been

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1 linked to health problems in humans; that these chemicals enter the food chain when consumed by
2 marine life; and that single-use plastic waste creates visual pollution, degrades water quality, and
3 impacts the tourism, fishing, and shipping industries, all of which are major contributors to the New
4 Hampshire economy.

5 4 Plastics Report; Department of Environmental Services.

6 I. The department of environmental services shall consider emerging scientific research on
7 human health and environmental effects, including effects on animal and aquatic species, of plastics,
8 and ways to reduce or eliminate single-use plastics and plastic waste that cause adverse effects. The
9 department of environmental services shall consult available studies, and, as necessary, with the
10 department of health and human services, the department of fish and game, and interested parties.

11 II. The department of environmental services shall report on the human health and
12 environmental effects of plastics and make any recommendations for legislative action or executive
13 action to the governor, the speaker of the house of representatives, the senate president, and
14 chairpersons of the senate energy and natural resources committee and the house environment
15 committee on December 1, 2022.

16 5 PFAS Standards. Amend RSA 149-M:32 to read as follows:

17 149-M:32 Statement of Purpose. The general court finds that the presence of heavy metals *and*
18 *(perfluorinated substances) PFAS* in packaging *not certified by the Biodegradable Products*
19 *Institute (BPI)* is to be considered a matter of concern in connection with the overall solid waste
20 stream because such metals *and PFAS* are likely to be present in leachate when packaging is
21 landfilled or in emissions when packaging is incinerated. The general court further finds that lead,
22 cadmium, mercury, [and] hexavalent chromium, *and PFAS, unless BPI certified*, on the basis of
23 available scientific and medical evidence, are of particular concern and that elimination of the
24 addition of these heavy metals *and PFAS* to packaging is a desirable first step in reducing the
25 toxicity of packaging waste. Further, the general court finds that such a reduction in the toxicity of
26 packaging waste should be accomplished without impeding or discouraging the expanded use of
27 recycled materials in the production of packaging and its components.

28 6 Compost; PFAS. Amend RSA 149-M:4, IV to read as follows:

29 IV. "Compost" means a stable, humus-like substance which is derived from a process
30 involving the biological decomposition of any readily biodegradable material, such as animal
31 manure, garbage, yard waste, septage, sludge, or other organic solid wastes, and which can be
32 beneficially re-used for land application. *Compost shall not include packaging or other items*
33 *containing PFAS, unless certified by the BPI. Materials may be certified compostable by*
34 *the Biodegradable Product Institute or is a napkin, stirrer, splash stick, cocktail stick,*
35 *toothpick, or utensil made entirely of natural fiber.*

36 7 New Paragraph; Per and Polyfluoroalkyl Substances. Amend RSA 149-M:33 by inserting after
37 paragraph VIII the following new paragraph:

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1 VIII-a. "Per and polyfluoroalkyl substances (PFAS)" means a class of fluorinated organic
2 chemicals containing at least one fully fluorinated carbon atom.

3 8 Exemptions. Amend RSA 149-M:35, I(b) and (c) to read as follows:

4 (b) Those packages or packaging components to which lead, cadmium, mercury, **PFAS**
5 **in food packaging unless BPI certified**, or hexavalent chromium have been added in the
6 manufacturing, forming, printing, or distribution process in order to comply with health or safety
7 requirements of federal law, provided that the manufacturer of a package or packaging component
8 petitions the commissioner for an exemption from the provisions of this subdivision for a particular
9 package or packaging component based upon compliance with health or safety requirements of
10 federal law. The commissioner may grant an exemption for no more than 2 years and such an
11 exemption may, upon reapplication for exemption and meeting the criterion for exemption under this
12 paragraph, be renewed at 2-year intervals.

13 (c) A package or packaging component in which lead, cadmium, mercury, **PFAS in food**
14 **packaging unless BPI certified**, or hexavalent chromium have been added in the manufacturing,
15 forming, printing, or distribution process for which there is no feasible alternative, provided that the
16 manufacturer of a package or packaging component shall petition the commissioner for an
17 exemption from the provisions of this subdivision for a particular package or packaging component
18 based upon this criterion and shall submit such documentation as is necessary to support the
19 request for the exemption. The commissioner may grant an exemption for no more than 2 years if
20 warranted by the circumstances, provided that such an exemption may, upon reapplication for
21 exemption and meeting the criterion for exemption under this paragraph, be renewed at 2-year
22 intervals. For purposes of this paragraph, a use for which there is no feasible alternative is one in
23 which the petitioner conclusively demonstrates that the regulated substance is essential to the
24 protection, safe handling, or function of the package's contents and that technical constraints
25 preclude the substitution of other materials. "No feasible alternative" does not include use of any of
26 the regulated metals for the purposes of marketing.

27 9 Exemptions. Amend RSA 149-M:35, I(h) to read as follows:

28 (h) A package or packaging component that is glass or ceramic which has a vitrified
29 label that, when tested in accordance with Toxicity Characteristic Leaching Procedure, test Method
30 1311, published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA
31 Publication SW-846, does not exceed one part per million for cadmium, 5 parts per million for lead,
32 or 5 parts per million for total chromium. Mercury **and PFAS in food packaging unless BPI**
33 **certified**, shall not be exempted by this provision.

34 10 Effective Date. Part III of this act shall take effect 60 days after its passage.

Amendment to SB 146-FN

1 Amend the bill by replacing Part IV with the following:

2

3

PART IV

4

Relative to the prevention of zoonotic disease transmission.

5

1 Findings. The general court finds:

6

I. Zoonotic disease can spread from animals to humans, with an estimated 3 out of 4 new or emerging diseases being zoonotic in nature. Evidence indicates that many of the worst epidemics and pandemics in recent decades have been zoonotic in origin, including COVID-19, ebola virus, avian influenza, swine influenza, Middle East respiratory syndrome, human immunodeficiency virus, and severe acute respiratory syndrome.

10

11

II. Wildlife trafficking and trade has been shown to contribute to the transmission and pervasiveness of zoonotic diseases. The COVID-19 pandemic has underscored the immense loss of human life and economic disruption that zoonotic disease can cause. The COVID-19 pandemic has spurred other states to introduce legislation to ban the importation of wildlife and live animal markets, which could shift those activities to New Hampshire.

15

16

III. New Hampshire needs to prepare for the emergence and management of novel zoonotic pathogens that may threaten public health, food security, biological diversity and economic security.

17

18

2 New Section; Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission.

19

Amend RSA 207 by inserting after section 14-a the following new section:

20

207:14-b Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. The fish and game department shall monitor available information on animals and fish, not currently restricted under state and federal wildlife trafficking laws, that if transported into the state, will risk zoonotic disease transmission. The department may consult as needed with the department of health and human services, the state veterinarian, and scientific and educational institutions. The department shall make recommendation to the legislature on any legislation or rules needed for import or other restrictions on identified species, and to the governor if an emergency order is deemed necessary.

24

25

26

27

28

3 New Chapter; Live Animal Markets. Amend RSA by inserting after chapter 428 the following new chapter:

29

30

CHAPTER 428-A

31

LIVE ANIMAL MARKETS

32

428-A:1 Definitions. In this chapter:

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- Page 2 -

1 I. "Animal" means a domestic animal, a household pet, or a wild animal in captivity.

2 II. "Live animal market" means a retail food store or other site subject to RSA 143:2 and
3 RSA 143:3 where, in the regular course of business, animals are stored alive and sold to consumers
4 for the purpose of human consumption.

5 III. "Live wildlife market" means a market at which non-native wildlife is stored alive and
6 sold for the purpose of human consumption, including but not limited to wholesalers, restaurants,
7 online platforms, and other contexts where individuals offer to buy and sell non-native wildlife.

8 IV. "Taxon" means a taxonomic group, such as a species, family, or class, known or likely to
9 be responsible for zoonotic transmission of a disease, as determined by the fish and game
10 commission under RSA 207:14-b.

11 428-A:2 Operation of Live Animal Markets. During the operation of a live animal market:

12 I. No animal shall be offered for sale at a live animal market that is of a taxon known or
13 likely to be responsible for zoonotic transmission of a disease, as determined by the director under
14 RSA 207:14-b.

15 II. Wildlife species that are identified as known or likely carriers of zoonotic disease under
16 RSA 207:14-b shall not be caged, handled, or transported with livestock or domestic animals, and
17 shall not be sold in spaces near livestock or domestic animals.

18 III. Wildlife species that are identified as known or likely carriers of zoonotic disease under
19 RSA 207:14-b shall not be permitted to be sold in a live animal market or a live wildlife market.

20 IV. In addition to wildlife covered by federal statutes on wildlife trafficking, no bat, rodent, or
21 primate species shall be sold in live animal markets.

22 428-A:3 Regulation of Live Animal Markets. The department of health and human services
23 shall adopt rules under RSA 541-A governing the storing and sale of animals for live animal markets
24 and live wildlife markets.

25 428-A:4 Exceptions.

26 I. This chapter shall not prohibit livestock markets or the sale or offer for sale of livestock
27 that are currently allowed under New Hampshire law.

28 II. This chapter shall not prohibit seafood or shellfish markets or the sale or offer for sale of
29 seafood or shellfish that are currently allowed under New Hampshire law.

30 428-A:5 Penalties. Any person who violates this chapter:

31 I. Shall be issued a written warning in a language that is understood by the person receiving
32 such warning for a first violation.

33 II. For any subsequent violation, shall be guilty of a class B misdemeanor, punishable by a
34 fine of at least \$250, but not exceeding \$1,000.

35 4 Effective Date. Part IV of this act shall take effect January 1, 2022.

Sen. Watters, Dist 4
March 1, 2021
2021-0551s
08/04

Amendment to SB 146-FN

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

2

3 1 Tidal Waters. Amend RSA 485-A:8, V to read as follows:

4 V. Tidal waters utilized for swimming purposes shall contain not more than either a
5 geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100
6 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring.
7 Those tidal waters used for growing or taking of shellfish for human consumption shall, ~~in addition~~
8 ~~to the foregoing requirements, be in accordance with the criteria recommended under the National~~
9 ~~Shellfish Program Manual of Operation, United States Department of Food and Drug~~
10 ~~Administration]~~ **not exceed a geometric mean most probable number (MPN) of 14 organisms**
11 **per 100 ml for fecal coliform, nor shall more than 10 percent of the samples exceed an MPN**
12 **of 28 per 100 ml for fecal coliform, or other values of equivalent protection based on**
13 **sampling and analytical methods used by the department of environmental services**
14 **shellfish program and approved in the latest revision of the National Shellfish Sanitation**
15 **Program, Guide For The Control of Molluscan Shellfish.**

Sen. Watters, Dist 4
March 8, 2021
2021-0667s
08/04

Amendment to SB 146-FN

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

2
3 1 Sponsorship. This act consists of the following proposed legislation:

4 Part I. LSR 21-0255, establishing the coastal program administered by the department of
5 environmental services, sponsored by Sen. Watters, Prime/Dist 4; Sen. Gannon, Dist 23; Sen. Gray,
6 Dist. 6; Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Edgar; Rock 21; Rep. Spang, Straf
7 6.

8 Part II. LSR 21-0256, establishing a statewide solid waste disposal reduction goal,
9 sponsored by Sen. Watters, Prime/Dist 4; Sen. D'Allesandro, Dist 20; Sen. Rosenwald, Dist 13; Sen.
10 Prentiss, Dist 5; Sen. Perkins Kwoka, Dist 21; Sen. Whitley, Dist 15; Sen. Sherman, Dist 24; Rep.
11 Ebel, Merr 5; Rep. Grassie, Straf 11; and Rep. Murray, Hills 22.

12 Part III. LSR 21-0926, relative to the prevention of zoonotic disease transmission, sponsored
13 by Sen. Watters, Prime/Dist 4; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; and Rep. Bixby, Straf
14 17.

15 Part IV. LSR 21-0927, relative to tidal waters, sponsored by Sen. Watters, Prime/Dist 4;
16 Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Cushing, Rock 21; and Rep. Simpson,
17 Rock 36.

18 Part V. LSR 21-0823, establishing a surcharge on certain saltwater licenses and establishing
19 a fund for derelict fishing gear and coastal cleanup, sponsored by Sen. Watters, Prime/Dist 4; Sen.
20 Perkins Kwoka, Dist 21; Sen. Sherman, Dist 24; and Rep. Spang, Straf 6.

21 Part VI. LSR 21-1054, relative to class 2 obligations under the electric renewable portfolio
22 standards, sponsored by Sen. Perkins Kwoka, Prime/Dist. 21; Sen. Watters, Dist. 4; Sen. Sherman,
23 Dist. 24; and Rep. McWilliams, Merr. 27.

24 Part VII. LSR 21-1062, relative to public use of coastal shorelands, sponsored by Sen.
25 Sherman, Prime/Dist 24; Sen. Soucy, Dist 18; Rep. Murray, Rock 24; and Rep. Cushing, Rock 21.

26 2- Legislation Enacted. The general court hereby enacts the following legislation:

27
28 PART I

29 Establishing the coastal program administered by the department of environmental services.

30 1 New Chapter; Coastal Program and Fund. Amend RSA by inserting after chapter 485-H the
31 following new chapter:

32 CHAPTER 485-I

COASTAL PROGRAM AND FUND

1
2 485-I:1 Statement of Policy. The water and related land resources of New Hampshire's coastal
3 and estuarine environments have significant ecological, commercial, cultural, and recreational
4 values for the state and its citizens. Therefore, it is the policy of the state to ensure the continued
5 viability and improved resiliency of these environments and communities in which they are located
6 as valued ecologic, economic, public health and safety, and social assets for the benefit of current and
7 future generations.

8 485-I:2 Program Established. There is established within the department of environmental
9 services the New Hampshire coastal program to implement 16 U.S.C. section 1452, the Coastal Zone
10 Management Act. It is the intent of the state to encourage and assist state and federal agencies and
11 coastal zone municipalities in the sustainable use of the land and water resources of the coastal zone
12 giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for
13 compatible economic development. The coastal program should encourage and assist to support:

14 I. The protection of natural resources, including wetlands, floodplains, coastal and
15 estuarine waters, beaches, sand dunes, and fish and wildlife and their habitat within the coastal
16 zone.

17 II. The management of coastal development to minimize the loss of life and property caused
18 by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas
19 and in areas likely to be affected by or vulnerable to sea level rise, ground water rise, and saltwater
20 intrusion, and by the destruction of natural protective features such as beaches, sand dunes, and
21 wetlands.

22 III. The management of coastal development to improve, safeguard, and restore the quality
23 of coastal waters, and to protect natural resources and existing uses of those waters.

24 IV. Public access to the coasts for recreation purposes.

25 V. The redevelopment of deteriorating urban waterfronts and ports, and sensitive
26 preservation and restoration of historic, cultural, and esthetic coastal features.

27 VI. The coordination and simplification of procedures in order to ensure expedited
28 governmental decision making for the management of coastal resources.

29 VII. Continued consultation and coordination with, and the giving of adequate
30 consideration to the views of affected state and federal agencies.

31 VIII. The giving of timely and effective notification of, and opportunities for, public and
32 local government participation in coastal management decision making.

33 IX. Comprehensive planning, conservation, and management for living marine resources,
34 including planning for the siting of pollution control and aquaculture facilities within the coastal
35 zone, and improved coordination between state and federal coastal zone management agencies and
36 state and wildlife agencies.

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1 X. The study and development of plans for addressing the adverse effects upon the coastal
2 zone in accordance with the updating of storm surge, sea-level rise, precipitation and other relevant
3 projections recommending in the coastal risks and hazards commission 2014 report "Sea-Level Rise,
4 Storm Surges, and Extreme Precipitation in Coastal New Hampshire: Analysis of Past and Projected
5 Trends" in RSA 483-B:22, I.

6 485-I:3 Federal Consistency. The coastal program established under this chapter shall be the
7 entity charged with implementing 16 U.S.C section 1456 and 15 C.F.R. Part 930.

8 485-I:4 Coastal Fund.

9 I. There is hereby established in the state treasury the coastal fund which shall be kept
10 distinct and separate from all other funds. All moneys in the fund shall be nonlapsing and
11 continually appropriated to the department of environmental services for the purposes of this
12 chapter.

13 II. The commissioner may apply for and accept, from any source, gifts; donations of money;
14 grants; federal, local, private, and other matching funds and incentives; and interests in land for the
15 purposes of this chapter. The moneys collected under this paragraph shall be deposited in the fund
16 established under paragraph I.

17 III. The commissioner shall make rules relative to the distribution of money from the
18 coastal fund for the New Hampshire coastal program established in RSA 485-I:2.

19 2 Effective Date. Part I of this act shall take effect July 1, 2021.

20
21 PART II

22 Establishing a statewide solid waste disposal reduction goal.

23 1 Solid Waste Disposal Reduction Goal. Amend RSA 149-M:2 to read as follows:

24 149-M:2 **Solid Waste Disposal** Reduction Goal.

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

35 II. ~~[In exercising any and all powers conferred upon the department under this chapter, the~~
36 ~~department shall use and consider criteria relevant to the waste reduction goal and disposal~~
37 ~~hierarchy established in RSA 149 M:2 and 149 M:3. The department shall not take any action~~

1 relative to the 40 percent weight reduction goal which causes the municipalities organized under
2 RSA 53-A and 1986, 139 or RSA 53-B to violate or incur penalties under legal obligations existing on
3 June 26, 1990.] *The general court further declares a goal to reduce the quantity by weight of*
4 *solid waste disposed in landfills and incinerators by 25 percent by the year 2030, and by 45*
5 *percent by the year 2050. For the purposes of this goal, disposal reduction targets shall*
6 *apply, on a combined basis, to disposal of municipal solid waste and construction and*
7 *demolition debris, and shall be measured against baseline quantities of these wastes*
8 *disposed of in the year 2018. For the purposes of this goal only, municipal solid waste*
9 *means solid waste generated at residences, commercial or industrial establishments, and*
10 *institutions, but excludes automobile scrap and other motor vehicle waste, infectious*
11 *waste, asbestos waste, contaminated soil and other absorbent media, sludge, industrial*
12 *process waste, and ash other than ash from household stoves. Disposal reduction may be*
13 *achieved through source reduction as well as diversion including but not limited to reuse,*
14 *recycling, and composting.*

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

21 2 State Solid Waste Disposal Reduction Goal. Amend the introductory paragraph of RSA 149-
22 M:29, II to read as follows:

23 II. ~~[At least every]~~ *Beginning* October 1, 2023 ~~[of every odd numbered]~~ *and every odd-*
24 *numbered year thereafter*, the department shall prepare a report on the level of achievement in
25 reaching the ~~[40 percent diversion]~~ goal established in RSA 149-M:2 and on proposed strategies for
26 achieving the goal and any proposed changes to the goal. The report shall contain information
27 regarding:

28 3 State Solid Waste Plan. Amend RSA 149-M:29, I to read as follows:

29 I. Beginning October 1, ~~[1998]~~ 2022, *in accordance with the state waste planning*
30 *update schedule requirements of this section dating to October 1, 1998*, and every ~~[6]~~ 10 years
31 thereafter, the department shall update the state's solid waste plan, *which shall be made*
32 *available for public review and comment before final publication, and which shall*
33 *contain, at minimum, the following elements:*

34 (a) *Goals, strategies, and actions to reduce solid waste generation through*
35 *source reduction, to increase diversion through methods such as reuse, recycling and*
36 *composting, and to achieve the state's solid waste disposal reduction goal, with such efforts*

1 *incorporating the principles of the solid waste management hierarchy established in RSA*
2 *149-M:2 and RSA 149-M:3.*

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

5 *(c) Goals, strategies, and actions necessary to maintain and ensure adequate*
6 *disposal capacity for management of waste generated in New Hampshire.*

7 4 Effective Date. Part II of this act shall take effect 60 days after its passage.

8
9 PART III

10 Relative to the prevention of zoonotic disease transmission.

11 1 Findings. The general court finds:

12 I. Zoonotic disease can spread from animals to humans, with an estimated 3 out of 4 new or
13 emerging diseases being zoonotic in nature. Evidence indicates that many of the worst epidemics
14 and pandemics in recent decades have been zoonotic in origin, including COVID-19, ebola virus,
15 avian influenza, swine influenza, Middle East respiratory syndrome, human immunodeficiency
16 virus, and severe acute respiratory syndrome.

17 II. Wildlife trafficking and trade has been shown to contribute to the transmission and
18 pervasiveness of zoonotic diseases. The COVID-19 pandemic has underscored the immense loss of
19 human life and economic disruption that zoonotic disease can cause. The COVID-19 pandemic has
20 spurred other states to introduce legislation to ban the importation of wildlife and live animal
21 markets, which could shift those activities to New Hampshire.

22 III. New Hampshire needs to prepare for the emergence and management of novel zoonotic
23 pathogens that may threaten public health, food security, biological diversity and economic security.

24 2 New Section; Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission.
25 Amend RSA 207 by inserting after section 14-a the following new section:

26 207:14-b Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. The
27 fish and game department shall monitor available information on animals and fish, not currently
28 restricted under state and federal wildlife trafficking laws, that if transported into the state, will
29 risk zoonotic disease transmission. The department may consult as needed with the department of
30 health and human services, the state veterinarian, and scientific and educational institutions. The
31 department shall make recommendation to the legislature on any legislation or rules needed for
32 import or other restrictions on identified species, and to the governor if an emergency order is
33 deemed necessary.

34 3 New Chapter; Live Animal Markets. Amend RSA by inserting after chapter 428 the following
35 new chapter:

36 CHAPTER 428-A

37 LIVE ANIMAL MARKETS

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1 428-A:1 Definitions. In this chapter:

2 I. "Animal" means a domestic animal, a household pet, or a wild animal in captivity.

3 II. "Live animal market" means a retail food store or other site subject to RSA 143:2 and
4 RSA 143:3 where, in the regular course of business, animals are stored alive and sold to consumers
5 for the purpose of human consumption.

6 III. "Live wildlife market" means a market at which non-native wildlife is stored alive and
7 sold for the purpose of human consumption, including but not limited to wholesalers, restaurants,
8 online platforms, and other contexts where individuals offer to buy and sell non-native wildlife.

9 IV. "Taxon" means a taxonomic group, such as a species, family, or class, known or likely to
10 be responsible for zoonotic transmission of a disease, as determined by the director under RSA
11 207:14-b.

12 428-A:2 Operation of Live Animal Markets. During the operation of a live animal market:

13 I. No animal shall be offered for sale at a live animal market that is of a taxon known or
14 likely to be responsible for zoonotic transmission of a disease, as determined by the director under
15 RSA 207:14-b.

16 II. Wildlife species that are identified as known or likely carriers of zoonotic disease under
17 RSA 207:14-b shall not be caged, handled, or transported with livestock or domestic animals, and
18 shall not be sold in spaces near livestock or domestic animals.

19 III. Wildlife species that are identified as known or likely carriers of zoonotic disease under
20 RSA 207:14-b shall not be permitted to be sold in a live animal market or a live wildlife market.

21 IV. In addition to wildlife covered by federal statutes on wildlife trafficking, no bat, rodent, or
22 primate species shall be sold in live animal markets.

23 428-A:3 Regulation of Live Animal Markets. The department of health and human services
24 shall adopt rules under RSA 541-A governing the storing and sale of animals for live animal markets
25 and live wildlife markets.

26 428-A:4 Exceptions.

27 I. This chapter shall not prohibit livestock markets or the sale or offer for sale of livestock
28 that are currently allowed under New Hampshire law.

29 II. This chapter shall not prohibit seafood or shellfish markets or the sale or offer for sale of
30 seafood or shellfish that are currently allowed under New Hampshire law.

31 428-A:5 Penalties. Any person who violates this chapter:

32 I. Shall be issued a written warning in a language that is understood by the person receiving
33 such warning for a first violation.

34 II. For any subsequent violation, shall be guilty of a class B misdemeanor, punishable by a
35 fine of at least \$250, but not exceeding \$1,000.

36 4 Effective Date. Part III of this act shall take effect January 1, 2022.

37

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PART IV

1
2 Establishing the coastal program administered by the department of environmental services.

3 1 Tidal Waters. Amend RSA 485-A:8, V to read as follows:

4 V. Tidal waters utilized for swimming purposes shall contain not more than either a
5 geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100
6 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring.
7 Those tidal waters used for growing or taking of shellfish for human consumption shall, ~~in addition~~
8 ~~to the foregoing requirements, be in accordance with the criteria recommended under the National~~
9 ~~Shellfish Program Manual of Operation, United States Department of Food and Drug~~
10 ~~Administration]~~ **not exceed a geometric mean most probable number (MPN) of 14 organisms**
11 **per 100 ml for fecal coliform, nor shall more than 10 percent of the samples exceed an MPN**
12 **of 28 per 100 ml for fecal coliform, or other values of equivalent protection based on**
13 **sampling and analytical methods used by the department of environmental services**
14 **shellfish program and approved in the latest revision of the National Shellfish Sanitation**
15 **Program, Guide For The Control of Molluscan Shellfish.**

16 2 Effective Date. Part IV of this act shall take effect 60 days after its passage.

17
18 PART V

19 Establishing the coastal program administered by the department of environmental services.

20 1 New Subparagraph; Application of Receipts; Derelict Fishing Gear, Coastal Cleanup, and
21 Fishing For Energy Fund Established. Amend RSA 6:12, I(b) by inserting after subparagraph (364)
22 the following new subparagraph:

23 (365) Moneys deposited into the derelict fishing gear, coastal cleanup, and fishing for
24 energy fund established in RSA 211:77.

25 2 New Paragraph; Litter Control Law; Penalties. Amend RSA 163-B:4 by inserting after
26 paragraph I the following new paragraph:

27 I-a. Any fines collected under this section for littering in coastal waters or beaches and for
28 abandoning fishing gear shall be credited to the derelict fishing gear, coastal cleanup, and fishing for
29 energy fund established in RSA 211:77.

30 3 New Paragraph; Lobsters and Crabs; Surcharge Added. Amend RSA 211:18 by inserting after
31 paragraph III-b the following new paragraph:

32 III-c. The executive director shall establish a surcharge on each class of license issued under
33 paragraph III-a of not more than \$25 nor less than \$10 to be deposited in the derelict fishing gear,
34 coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and shall adopt rules
35 for implementing and collecting the surcharge. Any person who satisfactorily demonstrates to the
36 executive director that he or she is participating in a coastal cleanup program shall not be required
37 to pay the surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine

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1 satisfactory participation in a coastal cleanup program and to account for licensees who are exempt
2 from the surcharge each year.

3 4 Nonresident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-a, II to
4 read as follows:

5 II. The fee for an annual license shall be set by the executive director pursuant to RSA
6 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
7 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
8 by diving. *The executive director shall establish a surcharge on each license issued under
9 this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing
10 gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and
11 shall adopt rules for implementing and collecting the surcharge. Any person who
12 satisfactorily demonstrates to the executive director that he or she is participating in a
13 coastal cleanup program shall not be required to pay the surcharge. The executive
14 director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in
15 a coastal cleanup program and to account for licensees who are exempt from the surcharge
16 each year.*

17 5 Resident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-b, II to read
18 as follows:

19 II. The fee for such annual license shall be set by the executive director pursuant to RSA
20 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
21 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
22 by diving. *The executive director shall establish a surcharge on each license issued under
23 this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing
24 gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and
25 shall adopt rules for implementing and collecting the surcharge. Any person who
26 satisfactorily demonstrates to the executive director that he or she is participating in a
27 coastal cleanup program shall not be required to pay the surcharge. The executive
28 director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in
29 a coastal cleanup program and to account for licensees who are exempt from the surcharge
30 each year.*

31 6 Commercial Shrimp License; Surcharge Added. Amend RSA 211:49-e, II to read as follows:

32 II. The fees for the northern shrimp resident and nonresident licenses shall be set by the
33 executive director pursuant to RSA 206:10, I. *The executive director shall establish a
34 surcharge on each license issued under this section of not more than \$25 nor less than \$10
35 to be deposited in the derelict fishing gear, coastal gear cleanup, and fishing for energy
36 fund established in RSA 211:77, and shall adopt rules for implementing and collecting the
37 surcharge. Any person who satisfactorily demonstrates to the executive director that he or*

1 *she is participating in a coastal cleanup program shall not be required to pay the*
2 *surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine*
3 *satisfactory participation in a coastal cleanup program and to account for licensees who*
4 *are exempt from the surcharge each year.*

5 7 Aquaculture; Surcharge Added. Amend RSA 211:62-e, II-b to read as follows:

6 II-b. The executive director shall adopt rules, pursuant to RSA 541-A, for the issuance of 5-
7 year licenses under this section to oyster aquaculture operations in the Great Bay estuary, and the
8 fees, terms, and conditions therefor as authorized under paragraph II-a. *The executive director*
9 *shall establish a surcharge on each license issued under this section of not more than \$25*
10 *nor less than \$10 to be deposited in the derelict fishing gear, coastal gear cleanup, and*
11 *fishing for energy fund established in RSA 211:77, and shall adopt rules for implementing*
12 *and collecting the surcharge. Any person who satisfactorily demonstrates to the executive*
13 *director that he or she is participating in a coastal cleanup program shall not be required*
14 *to pay the surcharge. The executive director shall adopt rules pursuant to RSA 541-A to*
15 *determine satisfactory participation in a coastal cleanup program and to account for*
16 *licensees who are exempt from the surcharge each year.*

17 8 New Subdivision; Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund.
18 Amend RSA 211 by inserting after section 76 the following new subdivision:

19 Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund

20 211:77 Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund Established.
21 There is hereby established in the state treasury a separate fund to be known as the derelict fishing
22 gear, coastal gear cleanup, and fishing for energy fund. The fund shall be administered by the
23 executive director and shall be nonlapsing and continually appropriated to the executive director for
24 the purposes of this section. The executive director shall credit to this fund all federal moneys, state
25 funds appropriated, fines or settlements for derelict fishing gear or other items, and fines for
26 littering in coastal waters or beaches collected under RSA 163-B:4. The executive director may
27 accept and expend all funds, including any gifts, grants, or donations made to the fund. The moneys
28 in the fund shall be used establish and support new and existing programs to retrieve and dispose of
29 derelict fishing gear, to conduct periodic coastal cleanup programs for the removal of derelict fishing
30 gear and marine trash, and to support recycling efforts for fishing gear and other marine trash. In
31 this section, "derelict fishing gear" means lost, discarded, or abandoned fishing gear.

32 9 Effective Date.

33 I. Sections 3-7 of part V of this act shall take effect January 1, 2022.

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

35
36 PART VI

37 Relative to class 2 obligations under the electric renewable portfolio standards.

1 ~~occurring during the 19-year Metonic cycle]~~ ***the average height of all the high waters over a***
2 ***complete tidal cycle commonly referred to as the mean high tide line.*** The landward trace of
3 the high water mark in New Hampshire is established by the tidal station data within the
4 contemporary 19-year "National Tidal Datum Epoch" for Portland, Maine, Casco Bay (NOS MAINE
5 841 8150) as that data is transposed to New Hampshire tidal stations by the "differences" tidal
6 constant established by the National Ocean Service (NOS) of the National Oceanic and Atmospheric
7 Administration (NOAA) for New Hampshire tidal stations and published in the annual "Tide Tables
8 High and Low Water Predictions, East Coast of North and South America, Including Greenland".
9 The contemporary 19-year National Tidal Datum Epoch is the national tidal database maintained by
10 NOS of NOAA.

11 2 Effective Date. Part VII of this act shall take effect upon its passage.

2021-0667s

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Establishing the coastal program administered by the department of environmental services.
- II. Establishing a statewide solid waste disposal reduction goal.
- III. The prevention of zoonotic disease transmission.
- IV. Tidal waters.
- V. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.
- VI. Class 2 obligations under the electric renewable portfolio standards.
- VII. Public use of coastal shorelands.

Amendment to SB 146-FN

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

2

3 1 Sponsorship. This act consists of the following proposed legislation:

4 Part I. LSR 21-0255, establishing the coastal program administered by the department of
5 environmental services, sponsored by Sen. Watters, Prime/Dist 4; Sen. Gannon, Dist 23; Sen. Gray,
6 Dist. 6; Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Edgar, Rock 21; Rep. Spang, Straf
7 6.

8 Part II. LSR 21-0256, establishing a statewide solid waste disposal reduction goal,
9 sponsored by Sen. Watters, Prime/Dist 4; Sen. D'Allesandro, Dist 20; Sen. Rosenwald, Dist 13; Sen.
10 Prentiss, Dist 5; Sen. Perkins Kwoka, Dist 21; Sen. Whitley Dist 15; Sen. Sherman, Dist 24; Rep.
11 Ebel, Merr 5; Rep. Grassie, Straf 11; and Rep. Murray, Hills 22.

12 Part III. LSR 21-0926, relative to the prevention of zoonotic disease transmission, sponsored
13 by Sen. Watters, Prime/Dist 4; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; and Rep. Bixby, Straf
14 17.

15 Part IV. LSR 21-0927, relative to tidal waters, sponsored by Sen. Watters, Prime/Dist 4;
16 Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Cushing, Rock 21; and Rep. Simpson,
17 Rock 36.

18 Part V. LSR 21-0823, establishing a surcharge on certain saltwater licenses and establishing
19 a fund for derelict fishing gear and coastal cleanup, sponsored by Sen. Watters, Prime/Dist 4; Sen.
20 Perkins Kwoka, Dist 21; Sen. Sherman, Dist 24; and Rep. Spang, Straf 6.

21 Part VI. LSR 21-1062, relative to public use of coastal shorelands, sponsored by Sen.
22 Sherman, Prime/Dist 24; Sen. Soucy, Dist 18; Rep. Murray, Rock 24; and Rep. Cushing, Rock 21.

23 2 Legislation Enacted. The general court hereby enacts the following legislation:

24

25

PART I

26 Establishing the coastal program administered by the department of environmental services.

27 1 New Chapter; Coastal Program and Fund. Amend RSA by inserting after chapter 485-H the
28 following new chapter:

29

CHAPTER 485-I

30

COASTAL PROGRAM AND FUND

31 485-I:1 Statement of Policy. The water and related land resources of New Hampshire's coastal
32 and estuarine environments have significant ecological, commercial, cultural, and recreational

Amendment to SB 146-FN

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1 values for the state and its citizens. Therefore, it is the policy of the state to ensure the continued
2 viability and improved resiliency of these environments and communities in which they are located
3 as valued ecologic, economic, public health and safety, and social assets for the benefit of current and
4 future generations.

5 485-I:2 Program Established. There is established within the department of environmental
6 services the New Hampshire coastal program to implement 16 U.S.C. section 1452, the Coastal Zone
7 Management Act. It is the intent of the state to encourage and assist state and federal agencies and
8 coastal zone municipalities in the sustainable use of the land and water resources of the coastal zone
9 giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for
10 compatible economic development. The coastal program should encourage and assist to support:

11 I. The protection of natural resources, including wetlands, floodplains, coastal and
12 estuarine waters, beaches, sand dunes, and fish and wildlife and their habitat within the coastal
13 zone.

14 II. The management of coastal development to minimize the loss of life and property caused
15 by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas
16 and in areas likely to be affected by or vulnerable to sea level rise, ground water rise, and saltwater
17 intrusion, and by the destruction of natural protective features such as beaches, sand dunes, and
18 wetlands.

19 III. The management of coastal development to improve, safeguard, and restore the quality
20 of coastal waters, and to protect natural resources and existing uses of those waters.

21 IV. Public access to the coasts for recreation purposes.

22 V. The redevelopment of deteriorating urban waterfronts and ports, and sensitive
23 preservation and restoration of historic, cultural, and esthetic coastal features.

24 VI. The coordination and simplification of procedures in order to ensure expedited
25 governmental decision making for the management of coastal resources.

26 VII. Continued consultation and coordination with, and the giving of adequate
27 consideration to the views of affected state and federal agencies.

28 VIII. The giving of timely and effective notification of, and opportunities for, public and
29 local government participation in coastal management decision making.

30 IX. Comprehensive planning, conservation, and management for living marine resources,
31 including planning for the siting of pollution control and aquaculture facilities within the coastal
32 zone, and improved coordination between state and federal coastal zone management agencies and
33 state and wildlife agencies.

34 X. The study and development of plans for addressing the adverse effects upon the coastal
35 zone in accordance with the updating of storm surge, sea-level rise, precipitation and other relevant
36 projections recommending in the coastal risks and hazards commission 2014 report "Sea-Level Rise,

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1 Storm Surges, and Extreme Precipitation in Coastal New Hampshire: Analysis of Past and Projected
2 Trends" in RSA 483-B:22, I.

3 485-I:3 Federal Consistency. The coastal program established under this chapter shall be the
4 entity charged with implementing 16 U.S.C section 1456 and 15 C.F.R. Part 930.

5 485-I:4 Coastal Fund.

6 I. There is hereby established in the state treasury the coastal fund which shall be kept
7 distinct and separate from all other funds. All moneys in the fund shall be nonlapsing and
8 continually appropriated to the department of environmental services for the purposes of this
9 chapter.

10 II. The commissioner may apply for and accept, from any source, gifts; donations of money;
11 grants; federal, local, private, and other matching funds and incentives; and interests in land for the
12 purposes of this chapter. The moneys collected under this paragraph shall be deposited in the fund
13 established under paragraph I.

14 III. The commissioner shall make rules relative to the distribution of money from the
15 coastal fund for the New Hampshire coastal program established in RSA 485-I:2.

16 2 Effective Date. Part I of this act shall take effect July 1, 2021.

17
18 PART II

19 Establishing a statewide solid waste disposal reduction goal.

20 1 Solid Waste Disposal Reduction Goal. Amend RSA 149-M:2 to read as follows:

21 149-M:2 **Solid Waste Disposal** Reduction Goal.

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

32 II. ~~[In exercising any and all powers conferred upon the department under this chapter, the~~
33 ~~department shall use and consider criteria relevant to the waste reduction goal and disposal~~
34 ~~hierarchy established in RSA 149 M:2 and 149 M:3. The department shall not take any action~~
35 ~~relative to the 40 percent weight reduction goal which causes the municipalities organized under~~
36 ~~RSA 53-A and 1986, 139 or RSA 53-B to violate or incur penalties under legal obligations existing on~~
37 ~~June 26, 1990.]~~ **The general court further declares a goal to reduce the quantity by weight of**

1 *solid waste disposed in landfills and incinerators by 25 percent by the year 2030, and by 45*
2 *percent by the year 2050. For the purposes of this goal, disposal reduction targets shall*
3 *apply, on a combined basis, to disposal of municipal solid waste and construction and*
4 *demolition debris, and shall be measured against baseline quantities of these wastes*
5 *disposed of in the year 2018. For the purposes of this goal only, municipal solid waste*
6 *means solid waste generated at residences, commercial or industrial establishments, and*
7 *institutions, but excludes automobile scrap and other motor vehicle waste, infectious*
8 *waste, asbestos waste, contaminated soil and other absorbent media, sludge, industrial*
9 *process waste, and ash other than ash from household stoves. Disposal reduction may be*
10 *achieved through source reduction as well as diversion including but not limited to reuse,*
11 *recycling, and composting. For the purposes of this section "goal" shall not establish a*
12 *mandate.*

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

19 2 State Solid Waste Disposal Reduction Goal. Amend the introductory paragraph of RSA 149-
20 M:29, II to read as follows:

21 II. [~~At least every~~] *Beginning* October 1, 2023 [~~of every odd numbered~~] *and every odd-*
22 *numbered* year *thereafter*, the department shall prepare a report on the level of achievement in
23 reaching the [~~40 percent diversion~~] goal established in RSA 149-M:2 and on proposed strategies for
24 achieving the goal and any proposed changes to the goal. The report shall contain information
25 regarding:

26 3 State Solid Waste Plan. Amend RSA 149-M:29, I to read as follows:

27 I. Beginning October 1, [~~1998~~] 2022, *in accordance with the state waste planning*
28 *update schedule requirements of this section dating to October 1, 1998*, and every [6] 10 years
29 thereafter, the department shall update the state's solid waste plan, *which shall be made*
30 *available for public review and comment before final publication, and which shall*
31 *contain, at minimum, the following elements:*

32 (a) *Goals, strategies, and actions to reduce solid waste generation through*
33 *source reduction, to increase diversion through methods such as reuse, recycling and*
34 *composting, and to achieve the state's solid waste disposal reduction goal, with such efforts*
35 *incorporating the principles of the solid waste management hierarchy established in RSA*
36 *149-M:3.*

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

3 *(c) Goals, strategies, and actions necessary to maintain and ensure adequate*
4 *disposal capacity for management of waste generated in New Hampshire.*

5 4 Effective Date. Part II of this act shall take effect 60 days after its passage.

6
7 PART III

8 Relative to the prevention of zoonotic disease transmission.

9 1 Findings. The general court finds:

10 I. Zoonotic disease can spread from animals to humans, with an estimated 3 out of 4 new or
11 emerging diseases being zoonotic in nature. Evidence indicates that many of the worst epidemics
12 and pandemics in recent decades have been zoonotic in origin, including COVID-19, ebola virus,
13 avian influenza, swine influenza, Middle East respiratory syndrome, human immunodeficiency
14 virus, and severe acute respiratory syndrome.

15 II. Wildlife trafficking and trade has been shown to contribute to the transmission and
16 pervasiveness of zoonotic diseases. The COVID-19 pandemic has underscored the immense loss of
17 human life and economic disruption that zoonotic disease can cause. The COVID-19 pandemic has
18 spurred other states to introduce legislation to ban the importation of wildlife and live animal
19 markets, which could shift those activities to New Hampshire.

20 III. New Hampshire needs to prepare for the emergence and management of novel zoonotic
21 pathogens that may threaten public health, food security, biological diversity and economic security.

22 2 New Section; Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission.
23 Amend RSA 207 by inserting after section 14-a the following new section:

24 207:14-b Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. The
25 fish and game department shall monitor available information on animals and fish, not currently
26 restricted under state and federal wildlife trafficking laws, that if transported into the state, will
27 risk zoonotic disease transmission. The department may consult as needed with the department of
28 health and human services, the state veterinarian, and scientific and educational institutions. The
29 department shall make recommendation to the legislature on any legislation or rules needed for
30 import or other restrictions on identified species, and to the governor if an emergency order is
31 deemed necessary.

32 3 New Chapter; Live Animal Markets. Amend RSA by inserting after chapter 428 the following
33 new chapter:

34 CHAPTER 428-A

35 LIVE ANIMAL MARKETS

36 428-A:1 Definitions. In this chapter:

37 I. "Animal" means a domestic animal, a household pet, or a wild animal in captivity.

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1 II. "Live animal market" means a retail food store or other site subject to RSA 143:2 and
2 RSA 143:3 where, in the regular course of business, animals are stored alive and sold to consumers
3 for the purpose of human consumption.

4 III. "Live wildlife market" means a market at which non-native wildlife is stored alive and
5 sold for the purpose of human consumption, including but not limited to wholesalers, restaurants,
6 online platforms, and other contexts where individuals offer to buy and sell non-native wildlife.

7 IV. "Taxon" means a taxonomic group, such as a species, family, or class, known or likely to
8 be responsible for zoonotic transmission of a disease, as determined by the director under RSA
9 207:14-b.

10 428-A:2 Operation of Live Animal Markets. During the operation of a live animal market:

11 I. No animal shall be offered for sale at a live animal market that is of a taxon known or
12 likely to be responsible for zoonotic transmission of a disease, as determined by the director under
13 RSA 207:14-b.

14 II. Wildlife species that are identified as known or likely carriers of zoonotic disease under
15 RSA 207:14-b shall not be caged, handled, or transported with livestock or domestic animals, and
16 shall not be sold in spaces near livestock or domestic animals.

17 III. Wildlife species that are identified as known or likely carriers of zoonotic disease under
18 RSA 207:14-b shall not be permitted to be sold in a live animal market or a live wildlife market.

19 IV. In addition to wildlife covered by federal statues on wildlife trafficking, no bat, rodent, or
20 primate species shall be sold in live animal markets.

21 428-A:3 Regulation of Live Animal Markets. The department of agriculture, markets, and food
22 shall adopt rules under RSA 541-A governing the storing and sale of animals for live animal markets
23 and live wildlife markets.

24 428-A:4 Exceptions.

25 I. This chapter shall not prohibit livestock markets or the sale or offer for sale of livestock
26 that are currently allowed under New Hampshire law.

27 II. This chapter shall not prohibit seafood or shellfish markets or the sale or offer for sale of
28 seafood or shellfish that are currently allowed under New Hampshire law.

29 428-A:5 Penalties. Any person who violates this chapter:

30 I. Shall be issued a written warning in a language that is understood by the person receiving
31 such warning for a first violation.

32 II. For any subsequent violation, shall be guilty of a class B misdemeanor, punishable by a
33 fine of at least \$250, but not exceeding \$1,000.

34 4 Effective Date. Part III of this act shall take effect January 1, 2022.

35
36 **PART IV**

37 **Establishing the coastal program administered by the department of environmental services.**

Amendment to SB 146-FN

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1 Tidal Waters. Amend RSA 485-A:8, V to read as follows:

2 V. Tidal waters utilized for swimming purposes shall contain not more than either a
3 geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100
4 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring.
5 Those tidal waters used for growing or taking of shellfish for human consumption shall, ~~in addition~~
6 ~~to the foregoing requirements, be in accordance with the criteria recommended under the National~~
7 ~~Shellfish Program Manual of Operation, United States Department of Food and Drug~~
8 ~~Administration]~~ **not exceed a geometric mean most probable number (MPN) of 14 organisms**
9 **per 100 ml for fecal coliform, nor shall more than 10 percent of the samples exceed an MPN**
10 **of 28 per 100 ml for fecal coliform, or other values of equivalent protection based on**
11 **sampling and analytical methods used by the department of environmental services**
12 **shellfish program and approved in the latest revision of the National Shellfish Sanitation**
13 **Program, Guide For The Control of Molluscan Shellfish.**

14 2 Effective Date. Part IV of this act shall take effect 60 days after its passage.

15
16 PART V

17 Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing
18 gear and coastal cleanup.

19 1 New Subparagraph; Application of Receipts; Derelict Fishing Gear, Coastal Cleanup, and
20 Fishing For Energy Fund Established. Amend RSA 6:12, I(b) by inserting after subparagraph (364)
21 the following new subparagraph:

22 (365) Moneys deposited into the derelict fishing gear, coastal cleanup, and fishing for
23 energy fund established in RSA 211:77.

24 2 New Paragraph; Litter Control Law; Penalties. Amend RSA 163-B:4 by inserting after
25 paragraph I the following new paragraph:

26 I-a. Any fines collected under this section for littering in coastal waters or beaches and for
27 abandoning fishing gear shall be credited to the derelict fishing gear, coastal cleanup, and fishing for
28 energy fund established in RSA 211:77.

29 3 New Paragraph; Lobsters and Crabs; Surcharge Added. Amend RSA 211:18 by inserting after
30 paragraph III-b the following new paragraph:

31 III-c. The executive director shall establish a surcharge on each class of license issued under
32 paragraph III-a of not more than \$25 nor less than \$10 to be deposited in the derelict fishing gear,
33 coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and shall adopt rules
34 for implementing and collecting the surcharge. Any person who satisfactorily demonstrates to the
35 executive director that he or she is participating in a coastal cleanup program shall not be required
36 to pay the surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine

Amendment to SB 146-FN

- Page 8 -

1 satisfactory participation in a coastal cleanup program and to account for licensees who are exempt
2 from the surcharge each year.

3 4 Nonresident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-a, II to
4 read as follows:

5 II. The fee for an annual license shall be set by the executive director pursuant to RSA
6 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
7 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
8 by diving. *The executive director shall establish a surcharge on each license issued under
9 this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing
10 gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and
11 shall adopt rules for implementing and collecting the surcharge. Any person who
12 satisfactorily demonstrates to the executive director that he or she is participating in a
13 coastal cleanup program shall not be required to pay the surcharge. The executive
14 director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in
15 a coastal cleanup program and to account for licensees who are exempt from the surcharge
16 each year.*

17 5 Resident Commercial Salt Water License; Surcharge Added. Amend RSA 211:49-b, II to read
18 as follows:

19 II. The fee for such annual license shall be set by the executive director pursuant to RSA
20 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and
21 helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops
22 by diving. *The executive director shall establish a surcharge on each license issued under
23 this section of not more than \$25 nor less than \$10 to be deposited in the derelict fishing
24 gear, coastal gear cleanup, and fishing for energy fund established in RSA 211:77, and
25 shall adopt rules for implementing and collecting the surcharge. Any person who
26 satisfactorily demonstrates to the executive director that he or she is participating in a
27 coastal cleanup program shall not be required to pay the surcharge. The executive
28 director shall adopt rules pursuant to RSA 541-A to determine satisfactory participation in
29 a coastal cleanup program and to account for licensees who are exempt from the surcharge
30 each year.*

31 6 Commercial Shrimp License; Surcharge Added. Amend RSA 211:49-e, II to read as follows:

32 II. The fees for the northern shrimp resident and nonresident licenses shall be set by the
33 executive director pursuant to RSA 206:10, I. *The executive director shall establish a
34 surcharge on each license issued under this section of not more than \$25 nor less than \$10
35 to be deposited in the derelict fishing gear, coastal gear cleanup, and fishing for energy
36 fund established in RSA 211:77, and shall adopt rules for implementing and collecting the
37 surcharge. Any person who satisfactorily demonstrates to the executive director that he or*

1 *she is participating in a coastal cleanup program shall not be required to pay the*
2 *surcharge. The executive director shall adopt rules pursuant to RSA 541-A to determine*
3 *satisfactory participation in a coastal cleanup program and to account for licensees who*
4 *are exempt from the surcharge each year.*

5 7 Aquaculture; Surcharge Added. Amend RSA 211:62-e, II-b to read as follows:

6 II-b. The executive director shall adopt rules, pursuant to RSA 541-A, for the issuance of 5-
7 year licenses under this section to oyster aquaculture operations in the Great Bay estuary, and the
8 fees, terms, and conditions therefor as authorized under paragraph II-a. *The executive director*
9 *shall establish a surcharge on each license issued under this section of not more than \$25*
10 *nor less than \$10 to be deposited in the derelict fishing gear, coastal gear cleanup, and*
11 *fishing for energy fund established in RSA 211:77, and shall adopt rules for implementing*
12 *and collecting the surcharge. Any person who satisfactorily demonstrates to the executive*
13 *director that he or she is participating in a coastal cleanup program shall not be required*
14 *to pay the surcharge. The executive director shall adopt rules pursuant to RSA 541-A to*
15 *determine satisfactory participation in a coastal cleanup program and to account for*
16 *licensees who are exempt from the surcharge each year.*

17 8 New Subdivision; Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund.
18 Amend RSA 211 by inserting after section 76 the following new subdivision:

19 Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund

20 211:77 Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund Established.
21 There is hereby established in the state treasury a separate fund to be known as the derelict fishing
22 gear, coastal gear cleanup, and fishing for energy fund. The fund shall be administered by the
23 executive director and shall be nonlapsing and continually appropriated to the executive director for
24 the purposes of this section. The executive director shall credit to this fund all federal moneys, state
25 funds appropriated, fines or settlements for derelict fishing gear or other items, and fines for
26 littering in coastal waters or beaches collected under RSA 163-B:4. The executive director may
27 accept and expend all funds, including any gifts, grants, or donations made to the fund. The moneys
28 in the fund shall be used establish and support new and existing programs to retrieve and dispose of
29 derelict fishing gear, to conduct periodic coastal cleanup programs for the removal of derelict fishing
30 gear and marine trash, and to support recycling efforts for fishing gear and other marine trash. In
31 this section, "derelict fishing gear" means lost, discarded, or abandoned fishing gear.

32 9 Effective Date.

33 I. Sections 3-7 of part V of this act shall take effect January 1, 2022.

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

35
36 PART VI

37 Relative to public use of coastal shorelands.

Amendment to SB 146-FN

- Page 10 -

1 1 Public Trust Shorelands; Mean High Tide Line. Amend RSA 483-C:1, V to read as follows:

2 V. The high water mark which bounds the shoreward extent of the public trust shorelands
3 in New Hampshire, excluding abnormal storm events, means [~~the furthest landward limit reached~~
4 ~~by the highest tidal flow, commonly referred to as the highest spring or highest "syzygy" tide~~
5 ~~occurring during the 19-year Metonic cycle]~~ ***the average height of all the high waters over a***
6 ***complete tidal cycle commonly referred to as the mean high tide line.*** The landward trace of
7 the high water mark in New Hampshire is established by the tidal station data within the
8 contemporary 19-year "National Tidal Datum Epoch" for Portland, Maine, Casco Bay (NOS MAINE
9 841 8150) as that data is transposed to New Hampshire tidal stations by the "differences" tidal
10 constant established by the National Ocean Service (NOS) of the National Oceanic and Atmospheric
11 Administration (NOAA) for New Hampshire tidal stations and published in the annual "Tide Tables
12 High and Low Water Predictions, East Coast of North and South America, Including Greenland".
13 The contemporary 19-year National Tidal Datum Epoch is the national tidal database maintained by
14 NOS of NOAA.

15 2 Effective Date. Part VI of this act shall take effect upon its passage.

2021-0791s

AMENDED ANALYSIS

This bill adopts legislation relative to:

I. Establishing the coastal program administered by the department of environmental services.

II. Establishing a statewide solid waste disposal reduction goal.

III. The prevention of zoonotic disease transmission.

IV. Tidal waters.

V. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.

VI. Public use of coastal shorelands.

Committee Minutes

SENATE CALENDAR NOTICE

Energy and Natural Resources

Sen Kevin Avard, Chair
Sen Bob Giuda, Vice Chair
Sen James Gray, Member
Sen David Watters, Member
Sen Rebecca Perkins Kwoka, Member

Date: February 17, 2021

HEARINGS

Monday	03/01/2021	
(Day)	(Date)	
Energy and Natural Resources	REMOTE 000	1:00 p.m.
(Name of Committee)	(Place)	(Time)

1:00 p.m. **SB 146-FN** adopting omnibus legislation relative to the environment.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/92122517590>
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EXECUTIVE SESSION MAY FOLLOW

Sponsors:
SB 146-FN
Sen. Watters

Griffin Roberge 271-3042

Kevin A. Avard
Chairman

Senate Energy and Natural Resources Committee

Griffin Roberge 271-3042

SB 146-FN, adopting omnibus legislation relative to the environment.

Hearing Date: March 1, 2021.

Time Opened: 1:06 p.m.

Time Closed: 3:54 p.m.

Members of the Committee Present: Senators Avard, Giuda, Gray, Watters and Perkins Kwoka.

Members of the Committee Absent: None.

Bill Analysis: This bill adopts legislation relative to:

I. Establishing the coastal program administered by the department of environmental services.

II. Establishing a statewide solid waste disposal reduction goal.

III. Prohibiting incineration of PFAS in New Hampshire.

IV. The prevention of zoonotic disease transmission.

V. Tidal waters.

VI. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.

VII. The acquisition and preservation of agricultural land for food producing in the land and community heritage program.

VIII. Class 2 obligations under the electric renewable portfolio standards.

IX. Public use of coastal shorelands.

Sponsors:
Sen. Watters

Who supports the bill: Sonja Ahlberg; Neil Arnold; John Atherton; Bill Baber; Kristine Baber; Ken Barnes; Tim Barretto; Rebecca Beaulieu; Gerald Beck; Leslie Bergevin; Bruce Berk; Gordon Blakeney; Sandra Blanchard; Matthew Boulton; Senator Jeb Bradley, NH Senate District 3; Nancy Brennan; Ronald Briggs; Sarah Burcalow; Catherine Bushueff; Suzanne Butcher; Michael Carle, NH Water Pollution Control Association/Town of Hampton, NH; Senator Sharon Carson, NH Senate District 14; Lilian Carter; Michele Chalice; Steven Changaris, National Waste and Recycling Association; Valerie Chase; Tom Clancy; Denise Clark; Martha Clark; Elizabeth

Corell; Catherine Corkery, NH Sierra Club; Steve Couture, NH Department of Environmental Services; Dorothy Currier; Claudia Damon; Shawn Dean; Richard DeMark; Karen Dewey; Ted Diers, NH Department of Environmental Services; David Dinzeo; Bernice Dunlap; Representative Karen Ebel, Merrimack - District 5; Maureen Ellermann; Mary Ewell; Cheri Falk; Charles Farrell; James Fieseher; Deirdre Fitzgerald; Nicole Fordey; Ed Friedrich; John Gage; June Garen; Elizabeth Gibbs; Patricia Gingrich; Laurie Gordon; Robert Gordon; Nancy Greenwood; Lydia Hansberry; Bryant Hardwick; Sally Hatch; Phil Hatcher; Caitlyn Hatzell; Sam Hayden; Randy Hayes; Mel Hinebauch; Caitlyn Hines; Don House; Edward Hoyt; Janet Insolia; Nancy Jachim; Deborah Jakubowski; Dennis Jakubowski; Andrew Jones; Margaret Keeler; Nancy Kelley-Gillard; Robert Kiefner; Walter King; Catherine Koning; Joy Kubit; Ruth Larson; Deborah and Richard Leavitt; Amber Lessard; Janet Lucas; Patricia Martin; Brigid McNamee; Sarah Merrigan; Mindi Messmer; Madeleine Mineau, Clean Energy NH; Marc Morgan, City of Lebanon, NH; Wiltrud Mott-Smith; Theresa Mundy; Megan Murray; Betsey Neville; Jay Newton; Evan Oxenham; Representative Lee Oxenham, Sullivan - District 1; Representative Michael Pedersen, Hillsborough - District 32; Ruth Perencevich; Senator Rebecca Perkins Kwoka, NH Senate District 21; Brenda Perry; Charles Petruccelli; Maxine Petruccelli; Teresa Picard; Elizabeth-Anne Platt; Ann Podlipny; Steven Poggi, Waste Management, Inc.; Maureen Prohl; Barbara Pugh; Cora Quisumbing-King; Pamela Raley; James Randall; Laurie Rardin; Mary Raven; Donna and John Reardon; Annie Rettew; Susan Richman; John Russell; Paul Sanderson, NH Fish and Game Department; Judith Saum; Senator Tom Sherman, NH Senate District 24; Richard Spence; Susan Spence; Louise Spencer; Rob Spencer; Kathy and James Spielman; Madison Springfield; Diane St. Germain; Tom St. Martin; Representative Deb Stevens, Hillsborough - District 34; Benjamin Stinson; Jesse Stowell; Marie Straiton; Kelsey Sullivan; Katherine Surman; Thomas Tallon; Gale Taylor; James Taylor; Julie Thompson; Marianne Tilli-Pauling; Nigel Tilli-Pauling; Jeanne Torpey; Jim Verschueren; Cynthia Walter; Patricia and Raymond Waterman; Senator David Watters, NH Senate District 4; Janet Williams; Maura Willing; Mary Wyand; Susan Wyatt; Barbara and Eric Zaenglein.

Who opposes the bill: Catherine Beahm and Michael Fitzgerald, NH Department of Environmental Services; Paul Doscher; Tonda Groetzinger; Elizabeth Janeway; Cindy Kudlik; Fred McNeill; Erick Sawtelle; Shawn Swearingen and Omar Terrie, American Chemistry Council; Kevin Wilder.

Who is neutral on the bill: Reagan Bissonnette, Northeast Resource Recovery Association; Karen Cramton, Public Utilities Commission; David Creer, Business and Industry Association; Michael Bork and Michael Wimstt, NH Department of Environmental Services; Dijit Taylor, NH Land and Community Heritage Investment Program.

Summary of testimony on Part I, LSR 2021-0255, establishing the coastal program administered by the department of environmental services:

*Senator David Watters
NH Senate District 4*

- Part I is a reintroduction of SB 728-FN (2020). The bill was recommended “ought to pass” by a vote of 4-0 by the Senate Energy and Natural Resources Committee and passed in the Senate on a voice vote. However, SB 728-FN later died on the table in the House due to the outbreak of COVID-19.
- Part I establishes the Coastal Program in state statute, as well the Coastal Fund to receive federal funding and other grant funds. Having the Coastal Program in state statute will clarify the program’s mission and enable the state to receive federal funding from other sources.

- The Coastal Program is an existing federal program that is supported by federal statute and funding. Its purpose is to help local municipalities deal with environmental regulations passed by the state and federal government.
- The program has no regulatory authority – it is meant to only be a tool for municipalities to use for planning, sustainable development, and to address environmental issues. The Coastal Program would encourage and assist to support the protection of natural resources. The Program would also support the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas. The Program will also work to coordinate and simplify procedures to ensure expedited governmental decision making for the management of coastal resources.
- There are new flood maps to be expected from the Federal Emergency Management Agency (FEMA), which will help determine who may need flood insurance. The Coastal Program could offer homeowners and municipalities needed guidance in the coming years to address these emerging challenges.
- Senator Giuda said Part I creates the Coastal Fund and that the Fund can accept funding from various sources. He asked if Senator Watters envisioned the need for any state General Funds or any state-based funding in the future.
 - Senator Watters said he did not believe the Coastal Fund would ever need state funding. The Coastal Fund was not intended to be funded with state dollars, but the NH General Court could do so if it felt state funding was needed.

Steve Couture – provided written testimony

Coastal Program Administrator, Water Division, NH Department of Environmental Services (NHDES)

- NHDES requested and supports Part I.
- In 1972, Congress passed the Coastal Zone Management Act (CZMA) in recognition of the importance of the nation's coastal resources. The NHDES Coastal Program (NHDES-CP) gained federal approval in 1982. However, the program was never authorized under state law. It exists only as a grant-funded federal program. State authorization is needed to: 1) ensure that state law backs up any potential changes to federal law, and 2) more closely align federal consistency provisions with state regulations.
- The NHDES Coastal Program provides funding and staff assistance to towns and cities, and other local and regional groups who protect clean water, restore coastal habitats, and help make communities more resilient to flooding and other natural hazards. The NHDES-CP supports the region's economy by helping to preserve the environmental health of the coast and Great Bay and Hampton-Seabrook estuaries for fishing and shell fishing, and assisting with the maintenance of our ports, harbors and tidal rivers for commercial and recreational uses.
- Importantly, the NHDES-CP is charged with implementing Section 307 of the CZMA, known as the federal consistency provision, which is the formal mechanism to manage coastal uses and resources and to facilitate cooperation and coordination with federal agencies. The NHDES-CP administers the federal consistency review process to ensure that all federal activities affecting any land or water use, or natural resource in New Hampshire's coastal zone will be conducted in a manner consistent with the NHDES-CP's enforceable policies. These policies are essentially other state laws and regulations that fall within state jurisdiction. Federal consistency is the tool that requires federal agencies pay attention to state concerns.
- Federal consistency review could prove to be a critical tool as applied to offshore wind development in federal waters. Given the recent creation of the Gulf of Maine Offshore Wind Task Force, now is the right time to authorize the coastal program. This bill has the added benefit of solidifying the link between the National Oceanic and Atmospheric Administration's (NOAA) approved program, the enforceable policies (state laws and regulations), and the coastal program at NHDES as the lead state agency for CZMA issues. Part I alleviates legal uncertainty of NHDES federal consistency authority by codifying it in state statute to ensure that the state has the ability to defend decisions regarding federal actions in the coastal zone.
- Given the depth of services provided to NH's coastal communities, the NHDES-CP often seeks additional funds to meet critical natural resource management needs and has been successful at garnering competitive grants. NOAA reviews the NHDES-CP every five years. One consistent finding by NOAA in these reviews is the need for state and other financial resources to help address the coastal communities' management needs. If funds are obtained in the future, this fund will provide a mechanism to administer the funds for the state's coastal management priorities.

*Susan Richman
Durham, NH*

- In 2014, the Coastal Risks and Hazards Commission finalized a report that outlined past and projected trends of sea level rise, storm surges, and extreme precipitation in coastal New Hampshire. However, NH has addressed these challenges on a case by case basis.

Part I allows the state to conduct more long-range planning and to be a partner with coastal communities to address environmental impacts.

Summary of testimony on Part II, LSR 2021-0256, establishing a statewide solid waste disposal reduction goal:

*Senator David Watters
NH Senate District 4*

- Part II is a reintroduction of SB 591 (2020). The bill was recommended “ought to pass with amendment” by a vote of 4-0 by the Senate Energy and Natural Resources Committee and passed in the Senate on a voice vote. However, SB 591 later died on the table in the House due to the outbreak of COVID-19.
- Back in the 1990s, the state established a plan to reduce solid waste in NH. However, there was not sufficient staffing and funding at NHDES to keep the goal operational.
- There are concerns about the volume of waste coming into NH’s landfills, creating challenges on the state’s limited landfill capacity. There are issues with the global recycling market that make it difficult for municipalities to find outlets for recycling, causing municipalities to send their recycling to landfills. Municipalities have seen increases in tipping fees. The City of Dover has increased the cost of its Pay-As-You-Throw trash bags from \$1.90 to \$3.90.
- Part II would re-frame the state’s current waste reduction goal under RSA 149-M:2 into a solid waste disposal reduction goal. The new goal would reduce the quantity by weight of solid waste disposed in landfills and incinerators by 25% by 2030, and by 45% by 2050. These goals were recommended by NHDES. The goal will take into consideration the disposal of municipal solid waste and construction and demolition debris and be measured against 2018 baselines quantities. Municipal solid waste would constitute solid waste generated at residences, commercial or industrial establishments, and institutions, but exclude automobile scrap and other motor vehicle waste, infectious waste, asbestos waste, contaminated soil and other absorbent media, sludge, industrial process waste, and ash other than ash from household stoves. These types of waste came after close consultation with Casella, Waste Management, Inc., and other industries. The goal takes into consideration the solid waste management hierarchy under RSA 149-M:3.
- In Section 2, NHDES will offer biennial updates on the state’s level of achievement in reaching the solid waste disposal reduction goal and on proposed strategies for achieving that goal.
- In Section 3, NHDES will revise its state’s solid waste plan every ten years and outline ways goals and strategies for solid waste management, discuss opportunities to reduce solid waste generation, and discuss actions necessary to maintain adequate capacity for management of solid waste generated in NH.
- Representative Karen Ebel’s HB 413 (2021) would create a solid waste working group on solid waste management planning. HB 413 works in tandem with SB 591 to help develop long-term planning for achieving NH’s solid waste challenges and its solid waste disposal reduction goal.
- Senator Perkins Kwoka asked if SB 591 would enable municipalities to directly act to reduce solid waste generation in their jurisdiction.
 - Senator Watters said municipalities are seeing higher disposal costs, which are then passed down to local property taxpayers. The state solid waste plan would help municipalities address these challenges. The Northeast Resource Recovery Association (NRRA) offers a long of planning and grant opportunities to municipalities to address solid waste challenges. SB 591 focuses on source reduction and will help outline ways to reduce the amount of solid waste going into landfills.

*Representative Karen Ebel – provided written testimony
Merrimack – District 5*

- Served as the chair of the Committee to Study Recycling Streams and Solid Waste Management in New Hampshire via HB 617 (2019). The committee had a very active eight-week study with 14 hearings and over 50 stakeholders participating. The study committee’s report was very comprehensive.
- In mid-2019, China decided to stop taking solid waste from the United States where it had been recycled, particularly plastics and mixed paper. China’s action significantly altered global recycling markets, putting a strain on NH’s municipalities, businesses, and residents.
- NH faces many solid waste challenges: NH’s limited landfill capacity, lack of funding and staffing for NHDES’ Solid Waste Bureau, and changes in the global recycling market.

- The HB 617 Study Committee made many recommendations. Amongst the most important was redefining the state's solid waste disposal goal, which is unworkable and 20 years past due, and recasting the state's solid waste plan.
- Senator Watters asked if it would be fair to characterize Part II and HB 413 as working in tandem to develop long-term planning to address the state's solid waste challenges.
 - Representative Ebel said Senator Watters was correct. NH needs to preserve what limited landfill capacity it has left. NH takes in a lot of out-of-state waste, but NH cannot regulate that due to the Interstate Commerce Clause under the US Constitution. NH needs to prioritize source reduction.

Marc Morgan

Solid Waste Manager, City of Lebanon

- Supports the reframing of NH's waste reduction goal to make it measurable.
- One of the critical needs is identifying resource needs at NHDES. Part II has a lot of additional responsibilities for NHDES while it is currently strained in staff and funding.
- Expressed concern that Section 3 allows for a revision to the state's Solid Waste Plan every ten years, meaning the state cannot adequately address new and emerging challenges. A lot of things can change in ten years. For example, in the past ten years, NH's southern neighbors have changed the way they landfill certain waste, leading to more out-of-state waste coming into NH. VT has had several changes as well. A waste-to-energy plant has closed in NH. Global recycling markets and recycling collection methods are changing.
- Senator Watters noted Mr. Morgan's concern about Section 3. He explained that Section 2 outlined a biennial report on the state's progress in achieving its solid waste disposal reduction goal. If issues are identified, the NH General Court could act as needed.
 - Mr. Morgan said he understood Senator Watters' point. He said that a ten-year gap would make sense if more resources were given to NHDES.
- Senator Avard asked Mr. Morgan to elaborate on the Interstate Commerce Clause and what neighboring states are doing that has caused out-of-state solid waste to be landfilled in NH.
 - Mr. Morgan explained that the Interstate Commerce Clause prevents states from regulating interstate commerce. Solid waste is subject to interstate commerce, so states cannot restrict it. However, states can define how they receive solid waste. For example, MA changed the way they receive construction and demolition debris. This debris has to be processed before going to a landfill. There is a high cost to this process. NH does not have such a requirement, so NH is a low-cost option, leading to more waste coming into NH. There are techniques available to maintain compliance with the Interstate Commerce Clause, but NH needs to find the techniques that work for the state and local communities.
- Senator Avard asked how Part II helps NH.
 - Mr. Morgan said Part II helps NH identify crucial needs for the state and brings awareness to solid waste challenges. The costs of dealing with solid waste are increasing, making residents, businesses, and municipalities aware of solid waste issues. Increased tipping fees, as well as increased transportation costs to get solid waste to a landfill, drive costs up. Part II will identify some of the barriers in NH and compel policymakers to find ways to pay for resource needs.
- Senator Avard asked how much out-of-state waste is coming into NH and how that waste is impacting NH's landfill capacity.
 - Mr. Morgan said about 49% of solid waste landfilled in NH comes from out-of-state. About 70-75% of that waste comes from MA. Solid waste is a regional commodity and moves into areas where it is more affordable. Solid waste is complicated and expensive to manage.
- Senator Avard clarified that Part II can help clarify the problems that NH is not addressing.
 - Mr. Morgan said Senator Avard was correct. Some problems may come down to a lack of funding. Being proactive now would be better than kicking the problems into the future where the costs could be much higher.
- Senator Avard asked Mr. Morgan to elaborate on the NHDES' resource needs.
 - Mr. Morgan said he used to work in NHDES' Planning and Community Assistance Section. It was a five staff group that was nonregulatory and provided technical assistance. The Section addressed waste reduction needs. The issues raised in Part II used to be addressed by NHDES' in-house staff. Some immediate needs will be additional staffing at NHDES. There may need to be financial assistance opportunities through grants in the future. Restaffing the Solid Waste Bureau with non-regulatory staff would be a good first step.

Steven Changaris – provided written testimony

Northeast Region Vice President, National Waste and Recycling Association

- Refining the state's waste reduction goal is practical, aspirational, and achievable.
- Reiterated Representative Ebel and Mr. Morgan's comments about the importance of detailing the state's progress in achieving its solid waste goals and plans to address various solid waste challenges.

Steven Poggi

Area Director, Transfer and Disposal Operations, Waste Management, Inc. (WM)

- WM operates the Turnkey Recycling & Environmental Enterprises, or TREE, facility in Rochester, NH. WM also manages four solid waste transfer stations and roughly 200 solid waste trucks daily. WM manages roughly 40% of the solid waste and recycling that are generated in NH. WM was an active participant in the HB 617 Study Committee.
- Part II helps address some of the challenges in RSA 149-M and provide needed updates for regulators and the regulated community.
- Part II clarifies what types of waste should be reduced to reach the state's solid waste reduction disposal goals. This will avoid confusion in the future and allow the waste industry to target specific types of waste that have not been recycled. The reduction goal excludes waste that have already been recycled or waste that has no alternative except for landfilling, such as residuals from recycling operations at materials recovery facilities (MRFs) or scrap metal.

Reagan Bissonnette – provided written testimony

Executive Director, Northeast Resource Recovery Association (NRRA)

- NRRA is a recycling non-profit that helps municipalities manage their own recycling programs and reduce their waste. Over 80% of NH's municipalities are NRRA members.
- NRRA takes no position on SB 146.
- Solid waste disposal costs continue to rise in NH: the Northeast has the highest cost of disposal for municipal solid waste due to lack of available space for new or expanded landfills. Reducing solid waste disposed of in landfills will benefit municipalities and residents through cost savings.
- Solid waste disposal reduction goals must be measurable: Part II may give NHDES a better ability to measure and track progress toward the proposed goal.
- A waste characterization study would inform waste reduction strategies: it would be helpful to include, as part of the state's solid waste plan, a requirement for the state to complete a waste characterization study. This would involve an analysis of NH's current waste stream to determine the types of solid waste generated and how much of each type is disposed, recycled, or composted.
- Interim reports would be beneficial if the solid waste plan is updated every ten years: Part II indicates that the solid waste plan would be updated every ten years instead of the current six-year update. Much can change in ten years, especially if the state wants to achieve the proposed new solid waste reduction goals. Requiring an interim report every five years could be valuable to ensure process is being made toward NH's new goals.

Michael Nork – provided written testimony

Environmental Analyst, Solid Waste Management Bureau, NHDES

- Supports Part II.
- The state's current waste reduction goal in RSA 149-M:2 set a target to divert at least 40% of NH's solid waste from disposal by 2000. NHDES issued a report in October 2019 to provide a progress report on achieving this goal. NHDES concluded that current achievement of this goal is undetermined, due primarily to the difficulty in collecting and analyzing data that would enable NHDES to reliably measure and track progress.
- Part II reframes the goal to track changes in disposal overtime instead of changes in generation. This would simplify measurement of the goal because NH's active disposal facilities report the necessary data to NHES. Therefore, NHDES would able to use readily available data without need for complicated analyses.
- Mr. Nork commented on Ms. Bissonnette and Mr. Morgan's concerns about the ten-year interval for NHDES to revise the state's solid waste plan. The state's solid waste plan is meant to be an overarching framework in how to address solid waste in NH. The ten-year interval does not restrict NHDES from updating the solid waste plan more frequently. Part II would allow the state to issue a biennial report on the state's progress in achieving the state's solid waste disposal reduction goal. This biennial report would act as a check-in on the state's progress in meeting its goals and whether additional changes are needed to the state's solid waste plan.

- Mr. Nork acknowledged that there are resources issues at NHDES' Solid Waste Bureau.
- Suggested an amendment to page 4, line 32 to change 2021 to 2022 to give NHDES more time to complete its update for the state's solid waste plan.

Summary of testimony on Part III, LSR 2021-0842, prohibiting incineration of PFAS in New Hampshire:

Senator David Watters NH Senate District 4

- Offered amendment 2021-0501s, which replaced the entirety of Part III. Part III aims to address potential sources of PFAS contamination.
- Section 1 prohibits the incineration of Class B firefighting foam. There are many firefighting foams around the state because there is no place to dispose of them. There was some hope that these foams would be accepted at a facility in Copake, NY, but that has not worked out.
- Section 1 requires that no person, local government, or state agency shall incinerate Class B firefighting foam which contains PFAS chemicals until NHDES determines that no out-of-state facility can accept this waste and determines their disposal does not pose a threat to public health or the environment. Such findings will be reported to all local governments and state agencies.
- Section 1 also outlines that whenever PFAS-containing waste, leachate, or sludge is being incinerated in NH, the NHDES shall determine disposal does not pose a threat to public health or the environment. NHDES shall report such findings to all local governments and state agencies.
- Section 1 may need to be amended to allow a public comment period.
- Section 2 deals with PFAS in food packaging. PFAS could potentially leach out of the food packaging into the food stuff. Additionally, packaging containing PFAS could be included in the solid waste stream and cause threats to human health. The section requires food packagers to report to NHDES the presence of PFAS that are not Biodegradable Products Institute's (BPI) certified in such materials. Overtime, prohibitions develop on certain packaging containing PFAS. BPI is an institute that can certify that a manufacturer's packaging material is biodegradable. If a manufacturer's packaging is BPI certified, then the provisions in Section 2 do not apply to that manufacturer.
- Senator Watters noted that Ahold Delhaize USA recently announced a new sustainable chemistry commitment that restricts certain chemicals from products and packaging, such as PFAS, BPAs, Phthalates, and more. Other manufacturers will likely take similar steps over time.
- Sections 3 and 4 outlines concerns regarding the effect of plastics disposal on the environment and human health. As a member of the Coastal Marine Natural Resources and Environment Commission, Senator Watters noted how microfibers from plastics in the ocean are showing up in shellfish and other aquatic creatures. These animals are consumed, and the plastics are later found in human bodies and in newborns. Section 4 requires the NHDES to report on the human health and environmental effects of plastics and make recommendations for action to the NH General Court.
- Sections 5 to 9 include PFAS as a regulated substance in various toxic substance statutes. These statutory changes include an exclusion if the product is BPI certified.

Omar Terrie American Chemistry Council

- Supportive of the changes outlined in Senator Watters' amendment 2021-0501s but want to ensure the NHDES' report in Section 4 looks at having a toxicologist, ecological expert, and an exposure expert as part of the review. These are the type of specialists who would be able to inform NHDES about the human health and environmental effects of plastics. There is also a specialty around microplastics that is starting to form – NHDES should have the best data available
- Until the report is finalized, no other bills pertaining to plastics should be introduced. The NH General Court should have the opportunity to review that report before submitting any new legislation on the topic.
- Urge advanced recycling technologies be consider by NHDES when it comes to ways to reduce plastic waste and single-use plastic in the environment. These technologies are important to reach sustainability goals.

Shawn Swearingen – provided written testimony Director, Alliance for Telomer Chemistry Stewardship

- Recommend striking additional food packaging language that is presently covered by the FDA.

- Food packaging is strictly regulated by the FDA, and substances used in food packaging, known as food contact substances, must complete a rigorous review process before they may be sold or distributed in the US. The PFAS compounds currently authorized for use in food packaging in the US is supported by a robust body of scientific data that has been reviewed by the FDA.
- The FDA has recently undertaken a reassessment of PFAS. Manufacturers of a majority of PFAS products used in fiber-based food packaging agreed to a voluntary phase-out leading to the discontinuation of sales of these products for use in food packaging as of January 1, 2024. FDA concluded that this phase-out period is needed to avoid unnecessary food supply chain and market disruptions.
- Part III should allow for the continued sale, distribution, and use of affected products that are already in commerce in New Hampshire as of Part III's effective date
- Update definitions of PFAS, food packaging, and firefighting foam.
- Allow incineration to remain as the disposal method of AFFF.
 - Banning incineration is at best unnecessary and at worst would severely hamper ongoing clean-up. This language would prevent utilizing best available technology (thermal destruction) to manage and remediate priority PFAS substances – essentially undermining all existing clean-up efforts. The FY2020 National Defense Authorization Act required that DOD develop regulations and that EPA develop guidance for the management and disposal of PFAS. EPA is on track to finalize that guidance and this will be completed by the new Biden Administration.
 - Incineration (high-temperature thermal destruction) is a recognized best-available technology for treating and disposing of certain chemicals and wastes. Further, DOD recently testified to the House Subcommittee on Readiness that a ban on incineration would cause DOD to cease current cleanup and that incineration is recognized as best available technology for managing and safely destroying the specific DOD material.
- Senator Watters clarified that amendment 2021-0501s does not outright ban PFAS incineration, but that NHDES must certify that the incineration does not pose a threat to public health and the environment.
- Senator Watters noted that Part III's prohibition on certain packaging containing PFAS under RSA 149-R:3 lines up with the FDA's phase-out of PFAS products by January 1, 2024.
 - Mr. Swearingen said it would be preferred if there was additional language that allowed the phase-out window to be carried forward for items that remain in commerce at that time, such as restaurants and retailers who have those products in stock.
- Senator Watters noted that the federal government does not enforce everything that occurs in the state. It is sometimes beneficial to reference federal statute and give the state its own enforcement authority. He asked if it would be a problem if the state took its own course of action.
 - Mr. Swearingen said it would not be a problem. The FDA allowed for an 18-month window and some retailers came up with their own timeline, such as McDonald's.

David Creer – provided written testimony

Director of Public Policy, Business and Industry Association

- Opposed to Part III and spoke to Part III as introduced.
- Part III defines PFAS as “a class of fluorinated organic chemicals containing at least one fluorinated carbon atom,” which includes nearly 5,000 chemicals classified as PFAs instead of just the four PFAS chemicals currently regulated under state law. Most of those PFAS chemicals do not have any negative effect on health or the environment, but this bill would still require regular testing for these compounds if they are being incinerated.
- Further still, incineration is among the best ways to destroy PFAS rather than just collecting it. The language of this bill seems to encourage collection of PFAS rather than destruction, meaning that the state would be making a policy decision to collect PFAS to ship to another state and make it their problem rather than solving the issue ourselves.
- Part III bans all PFAS from food packaging. This section of the bill has a similar definition of PFAS that is expansive and includes nearly 5,000 PFAS compounds instead of the four already regulated by New Hampshire statute. Most of these compounds have been effective for their purpose while having no negative health or environmental effects. To ban them all would add unnecessary and overburdensome regulation on businesses all over the state.
- Part III also contains a section which establishes a Plastics Advisory Council but lacks representation from plastics manufacturers. The council should have more business representation from various industries that would be impacted by council's decisions, including manufacturers that use plastics.

- Senator Watters noted the Plastics Advisory Council was removed in amendment 2021-0501s. He also clarified that if the BPI certified a manufacturer's product, then the prohibition on food packaging does not apply.
 - Mr. Creer said he was not overly familiar with the BPI's list, but as Part III's Sections 1 and 2 were written, the definition of PFAS is overly expansive and could be confusing. If the PFAS definitions were limited to the four PFAS compounds that are regulated by state statute, some of BIA's concerns would be alleviated.

Michael Fitzgerald and Catherine Beahm – provided written testimony

Assistant Director, Air Resources Division, NHDES

State Implementation Plan Manager, Air Resources Division, NHDES

- Opposition to Section 1 in Part III as introduced.
- PFAS is an area of intensive emerging science and study on a national basis.
- Section 1 conflicts with RSA 125-C:10-e, which was passed via SB 309-FN (2018) to address the disclosure of PFAS contaminated drinking water supplies in Merrimack, NH because of Saint Gobain's operations:
 - RSA 125-C:10-e applies to existing and new or modified devices that emit to the air any "PFCs or precursors" that have caused or contributed to an exceedance of an ambient groundwater quality standard (AGQS) or surface water quality standard (SWQS) as a result of the deposition of any such PFCs or precursors from the air. RSA 125-C:10-e requires NHDES to determine which devices are subject to the statute and the owner of the device to apply for a permit to construct and install best available control technology (BACT).
 - RSA 125-C:10-e has a two-part requirement for sources that are subject to the regulation. First, BACT must be established pursuant to RSA 125-C:10-b, I(a). Second, the application of BACT cannot cause or contribute to or have the potential to cause or contribute to an exceedance of an AGQS or SWQS because of the deposition of the contaminant from the air. The statute also requires that BACT shall not result in emissions of any air contaminant that would exceed the emissions allowed by any applicable standard under RSA 125-C, Air Pollution Control or RSA 125-I, Air Toxic Control Act or rules adopted pursuant to either chapter.
 - Part III could potentially interfere or pose conflicts with the application of RSA 125-C:10-e to an existing facility permit in Merrimack, NH that is currently subject to appeal with the Air Resources Council and could create uncertainty in litigation related to the permit. NHDES feels that the existing statute is appropriate to control air emissions of PFAS from sources in NH and avoids the ambiguity, superfluous regulation, and potential conflicts posed by this legislation.
- Section 1 proposes an overly broad and potentially conflicting definition of "incineration" and does not provide adequate guidance for the vague requirement that the department determine that "...disposal shall not pose a threat to public health or the environment...". The interpretation of the undefined term "PFAS-containing waste, leachate, or sludge" could also potentially include municipal waste (which may include discarded clothing, furniture, carpets and food containers with water and/or grease resistant coatings containing PFAS) and leachate and sludge from municipal wastewater treatment operations (such as the Manchester sewage sludge incinerator) that could pose potentially significant additional costs with relatively minor environmental benefit.
- NHDES is unaware of any existing or proposed facilities in NH that could accept and adequately incinerate Class B firefighting foam containing PFAS. NHDES also recommends that the committee seek the advice of counsel relative to the potential constitutional commerce clause issues raised by requiring the department to determine that "no out-of-state facility will accept this waste" prior to any proposed incineration.
- The bill also expands the definition of Per- and polyfluoroalkyl substances (PFAS) in a much broader manner than the existing statute. Such language requires the NHDES to evaluate public health and environmental impacts for the complex universe of potentially thousands of PFAS compounds regardless of available science or standards.

Michael Wimsatt and Michael Nork – provided written testimony

Director, Waste Management Division, NHDES

Environmental Analyst, Solid Waste Management Bureau, NHDES

- Neutral on Section 2 and other subsequent sections in Part III as introduced, but NHDES has concerns regarding its ability to implement such provisions.
- Part III contains structural issues that are likely to result in unintended consequences:
 - Part III intends to amend NH's existing Toxics in Packaging law (RSA 149-N:32-40), but the amendments are incomplete. As written, this bill inserts the term PFAS to certain sections of the

Toxics in Packaging law but neglects to change the section of the law that would explicitly prohibit the use of PFAS in packaging. Instead, the bill establishes a separate chapter, RSA 149-R, which contains a prohibition on PFAS in packaging. NHDES believes this creates a confusing disconnect which may not have the desired effect and would ultimately make it more difficult for the NHDES to administer. Further, it is worth noting that the Toxics in Packaging Clearinghouse (TPCH), an interstate consortium of which New Hampshire is a member, just recently released updated model legislation to address use of PFAS in packaging. This model legislation took four years to develop through collaboration between states and industry stakeholders and provides a consistent framework that can be adopted nationally. NHDES believes that the TPCH model might better integrate into New Hampshire's existing Toxics in Packaging law and may be worth considering for future legislation.

- Additional resources would be required to enable NHDES to administer, implement, and enforce Part III's proposed requirements, but Part III does not make provisions for such resources.
 - NHDES is concerned that this bill would place new and expanded responsibilities on the Department for which it is not currently resourced. For example, the bill would establish a plastics advisory council under NHDES' charge that would study issues including the environmental and public health impacts of plastics in the environment, and strategies to increase the recyclability of single-use plastic packaging. Unfortunately, NHDES' pollution prevention and solid waste management programs are not currently structured to engage in this type of work. To do so would require additional staff and technical expertise that NHDES does not currently possess. Moreover, many of the matters that would be explored by the plastics advisory council proposed in this bill are global market issues over which New Hampshire, on its own, may have limited ability to influence. In consideration of this and given the shortage of state resources for robustly engaging in these issues, NHDES believes this kind of effort may be more effective as a regional or federal initiative.
- Senator Watters asked if NHDES would be open to a path for Part III that creates some level of state regulation when federal actions, as well as ongoing efforts by the TPCH, are taking place.
 - Director Wimsatt said that NHDES would conceptually support an approach but reiterated that there are many things occurring at the federal level and the TPCH. NHDES believes addressing PFAS is to get PFAS out of commerce. PFAS does have uses in safety and medical equipment, but is PFAS needed in a hamburger wrapper? NHDES is working to address PFAS problems. There are things move forward nationally to address this commerce issue. Using NHDES' limited resources to focus on these commerce issues just for NH would not be the best way forward. Things need to occur on a national and regional level to have an effect.

Summary of testimony on Part IV, LSR 2021-0926, relative to the prevention of zoonotic disease transmission:

*Senator David Watters
NH Senate District 4*

- Offered amendment 2021-0536s, which was the result of conversations between the NH Fish and Game Department (NHFG) and the NH Department of Agriculture, Markets, and Food (DAMF).
- Part IV enables NH to be prepared for zoonotic disease transmission. Zoonotic diseases can spread from animals to humans. Evidence indicates that many of the world's worst epidemics and pandemics have been zoonotic in origin, including COVID-19.
- Section 2 requires the NHFG to monitor available information on animals and fish, not currently restricted under state and federal wildlife trafficking laws, that if transported into the state, will risk zoonotic disease transmission. NHFG can consult with the NH Department of Health and Human Services (DHHS), the state veterinarian, and scientific and educational institutions. NHFG can make recommendations to the NH General Court on any legislation or rules needed for import or restrictions on identified species and to the governor if an emergency order is deemed necessary.
- Section 3 gives NHFG the ability to regulate live animal markets to minimize the spread of zoonotic diseases. No animal shall be offered for sale in a live animal market that is of a group or species known or likely responsible for zoonotic disease transmission as determined by the NHFG Executive Director. Wildlife species that are identified as known carriers of zoonotic disease are not to be caged, handled, sold, or transported with livestock or domestic animals, nor are these wild species permitted to be sold in a live animal market or live wildlife market. In addition to wildlife covered by federal statutes on wildlife trafficking, no bat, rodent, and primate species shall be sold in live animal markets.

- DHHS is permitted to adopt rules under RSA 541-A governing the storing and sale of animals for live animal markets and live wildlife markets.
- The provisions of Part IV are not meant to include livestock markets or seafood and shellfish markets.

Summary of testimony on Part V, LSR 2021-0927, relative to tidal waters:

Senator David Watters
NH Senate District 4

- Offered amendment 2021-0551s.
- Communities around the Great Bay – Dover, Rochester, Exeter, Newmarket, Portsmouth – have spent millions of dollars upgrading their wastewater treatment facilities to limit their nitrogen discharge. All these communities share the goal of cleaning up the Great Bay. Over the past few years, the EPA has issued new permits for these plants and demanded these communities do more to address their nitrogen discharge. These demands are far beyond what technology can offer. It is estimated that these plants produce nearly 40% of the nitrogen in Great Bay while the remainder comes from stormwater runoff and other nonpoint sources.
- An agreement was reached with the EPA in 2020 that allowed municipalities to look globally at all sources of nitrogen and encouraged these municipalities to try to reduce nitrogen at various places.
- Part V updates state statute relative to tidal waters under RSA 485-A:8, V. This part pertains to what levels fecal coliform are acceptable and how those levels are measured. This change will protect shellfish in the Great Bay and ensure that state regulation aligns with the ongoing work with the EPA.

Michael Carle – provided written testimony
President, NH Water Pollution Control Association (NHWPCA)

- In support of Part V and Senator Watters' amendment 2021-0551s.
- Part V addresses a recent change in how the EPA interprets RSA 485-A:8 in regard to how fecal bacteria is tested for at 13 facilities that discharge to tidal waters under the National Pollutant Discharge Elimination System (NPDES). EPA's strict interpretation of the state's rules and statutes requires that only a National Shellfish Sanitation Program (NSSP) approved method can be used to be in compliance with NPDES requirements in tidal waters.
- For many years, permittees in the seacoast have been testing for fecal bacteria in their discharge using a specific laboratory method called Colilert-18. This is a method approved by EPA for NPDES compliance. However, it is not a method approved by the NSSP. This leaves only one available method for testing that has been phased out of most labs in favor of more timely, accurate, and cost-effective methods. Part V will address this situation.
- Part V's language has been agreed upon with EPA and their attorneys to demonstrate that dischargers can meet both the requirements of both the EPA and the NSSP requirements, providing NHDES with timely and accurate data in order to protect NH's shellfish harvest using testing methods they have been invested in.

Ted Diers – provided written testimony
Administrator, Watershed Management Bureau, NHDES

- In support of Part V and Senator Watters' amendment 2021-0551s.
- Part V seeks to offer a cheap and simple testing method that provides the best protection for humans who consume shellfish. The changes to RSA 485-A:8 seek to bring state statute into compliance with the Clean Water Act and the NSSP.
- For many years, 13 permittees in the seacoast, based on information from NHDES and upon a permit waiver from EPA, have been testing for fecal bacteria in their tidal water discharge using a particular laboratory method called Colilert-18. This is a method that is approved by EPA for NPDES compliance. Unfortunately, it is not a method approved by the NSSP. A strict interpretation of the state's rules and statutes requires that only an NSSP-approved method can be used to be in compliance with NPDES requirements in tidal waters. Amendment 2021-0551s emulates what other states have done and will address this situation. Because the proposed language includes specific fecal bacteria criteria but does not specifically require a particular laboratory method, NHDES and EPA agree that the language will allow for greater flexibility in laboratory method selection, including the use of Colilert-18.
- It is important that permittees be allowed to continue to use this method for several reasons:
 - All of them have invested in the equipment and training to be able to apply this method in their own facilities without taking them to an outside laboratory.

- The only lab in the state that is certified to perform the NSSP methods is the State Public Health Lab. This means that, on a daily basis, permittees would be required to employ expensive courier services to take their samples either to Concord or to out-of-state private labs. Furthermore, the state lab may have limited capacity.
- The Colilert-18 method returns sample results faster than other methods, and because it is done in-house, alerts the facility to any lapses in treatment. This means that should a problem arise, the facility will immediately call the NSSP and begin the process of testing and potentially recalling any shellfish that may have been contaminated. This helps to ensure the safety of the consumer and the viability of the industry.

Summary of testimony on Part VI, LSR 2021-0823, establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup:

Senator David Watters

NH Senate District 4

- Part VI is a reintroduction of SB 712-FN (2020). The bill was recommended “ought to pass” by a vote of 4-0 by the Senate Energy and Natural Resources Committee and passed in the Senate on a voice vote. However, SB 712-FN later died on the table in the House due to the outbreak of COVID-19.
- Derelict fishing gear, such as traps, trap parts, rope, buoys, foam, and microplastics, can be the source of ocean plastics. Ocean plastics can show up in the marine environment and aquatic species. Once these aquatic species are harvested and consumed, these plastics can enter humans.
- Derelict fishing gear can also be a navigational hazard for fishermen and harvesters.
- A voluntary, annual event, the Coastal Trap Cleanup, has removed some 156 tons of fishing gear from NH's coastline to date. The cost for this one clean-up event (heavy equipment, dumpsters, etc.) is between \$1,300 to \$2,500. That cost has been shared with the NHFG, the NHDES, the Department of Natural and Cultural Resources (DNCR), and the National Sea Grant College Program.
- Proper disposal of derelict fishing gear has become more difficult - municipalities are not accepting or restricting the disposal of fishing gear or charging fishing industry members a high cost.
- NHFG has applied and received a grant through the Fishing for Energy Program and has a 30-yard roll off dumpster located at the Yankee Fishermen's Cooperative for the New Hampshire fishing community to use. The Program initially allowed for three transfers per year, however quickly expanded to the maximum allowed under the Program of four transfers per year as New Hampshire had nearly exceeded the three-dumpster transfer limit on a frequent basis.
- Part VI is a way to ensure these cleanup programs remain funded. Part IV establishes a surcharge on certain fishing licenses and establishes the Derelict Fishing Gear, Coastal Cleanup, and Fishing for Energy Fund (Fund). Section 2 directs any fines collected by the state from those who litter in coastal waters or beaches into the Fund.
- Sections 3-7 add a surcharge on the following licenses: lobster and crab, commercial (resident and nonresident) saltwater, commercial shrimp, and aquaculture. The surcharge would be set by NHFG through administrative rule but must be between \$10 and \$25. The focus is to get fishermen to participate in coastal cleanup programs. If a fisherman can demonstrate that he or she participated in a coastal cleanup program, the surcharge is waived by NHFG. This process will also be established by NHFG through administrative rulemaking.
- Section 8 establishes the Fund. The Fund can receive funds from various sources. Any moneys in the fund shall be used to establish and support new and existing programs to retrieve and dispose of derelict fishing gear.
- It is expected out-of-state license holders will likely pay the surcharge.
- Part VI is the result of NH Coastal Marine Natural Resources and Environmental Commission discussions and was recommended by Erik Anderson from the NH Commercial Fishermen's Association.

Summary of testimony on Part VII, LSR 2021-1022, relative to the acquisition and preservation of agricultural land for food producing in the land and community heritage program:

Senator Jeb Bradley

NH Senate District 3

- Part VII is a request of Rebecca Swaffield, a constituent of Senator Bradley's. Ms. Swaffield felt that the NH Land and Community Heritage Investment Program (LCHIP) should prioritize the acquisition and preservation of agricultural land for food production.
- Part VII inserts this prioritization in LCHIP's establishment section under RSA 227-M:3, giving the LCHIP's Board of Directors some discretion in awarding grants for land acquisition and preservation.
- Following discussions with DAMF Commissioner Shawn Jasper, Senator Bradley learned that the DAMF made a \$250,000 budget request for farmland acquisition and preservation in the FY22-23 state budget. Senator Bradley felt that appropriation may do more than the statutory change outlined in Part VII.
- Senator Bradley acknowledged some at LCHIP may have concerns with Part VII. He suggested that Part VII could be held back to ensure DAMF's \$250,000 budget request was approved.
- Senator Perkins Kwoka said she heard some concerns about Part VII. These individuals felt that farmland was already prioritized within LCHIP. She clarified that Senator Bradley felt Part VII could be retained in committee, but she was unsure whether Part VII could be retained as it was part of an omnibus bill.
 - Senator Bradley noted his support for LCHIP. He was unsure if there was a procedural way to save Part VII if it were dropped from SB 146-FN. If Part VII did not move forward, he hoped that DAMF's \$250,000 budget request was approved. Senator Bradley's intention was to include farm preservation in LCHIP's project consideration. He would welcome any opportunity to include Part VII's language in a way that does not upend any LCHIP's other project considerations.

Dijit Taylor – provided written testimony

Executive Director, LCHIP

- Neutral on Part VII, but noted some concerns.
- LCHIP's enabling legislation and rule already emphasize the importance of farmland, especially in RSA 227-M:2, V.
- LCHIP's grant selections demonstrate that the importance of farmland is taken into consideration.
 - More than 1/3 of all 200+ LCHIP grant awards for natural resource conservation conserve farmland, although farmland is one of only ten natural resource categories that are eligible for funding from LCHIP and about 8% of the land in the state.
 - LCHIP has helped with farmland conservation projects in 60 municipalities, which is about ¼ of all municipalities in the state.
 - During the five most recent LCHIP grant rounds (2016-2020), 86% of the natural resource applications with an agricultural component were awarded funding while the success rate for other natural resources projects was only 77%.
- DAMF Commissioner Jasper does not feel the proposed changes are needed.
- There is a proposed \$250,000 appropriation for agricultural land protection in Governor Sununu's proposed FY22-23 budget that provides concrete assistance to further farmland conservation.
- Removing Part VII from SB 146-FN would be the preferred course of action. However, LCHIP was willing to offer an amendment to RSA 227-M:2, V if there was strong interest in moving Part VII forward.

Summary of testimony on Part VIII, LSR 2021-1054, relative to class 2 obligations under the electric renewable portfolio standards:

Senator Rebecca Perkins Kwoka

NH Senate District 21

- Part VIII is an effort to advance NH's renewable energy goals under the state's Renewable Portfolio Standard (RPS). Part VIII increases the RPS obligations for Class II (new solar) each year until it maxes out at 5.4% in 2025.
- Increasing Class II obligations will increase the demand for renewable energy projects in NH, advance the private market for renewable energy credits (RECs), and create REC price stability.
- Part VIII builds on the progress of SB 129 (2017), which was the last time the RPS was altered.
- Senator Watters clarified increasing Class II obligations would create state assurance for renewable energy investors and help advance the growth and development of NH's solar industry.
 - Senator Perkins Kwoka said the RPS goals seek to provide a market for RECs, which act as an additional asset that a developer could sell. These RECs provide an additional income stream for renewable energy projects, which makes projects more affordable and creates a more stable regulatory environment.

- Senator Watters said the importance of having a robust REC market is that it helps renewable energy project developers of all kinds.
 - Senator Perkins Kwoka said different RPS classes affect different types of projects, but the RPS encourages the private market to invest in renewable energy projects.

*Bruce Berk – provided written testimony
Pittsfield, NH*

- Supports Part VIII as it will help promote a healthier future and good paying jobs.
- NH's solar market penetration is less than 1% while CT and MA exceed 10%. ME is also making significant strides in developing solar projects.
- A Synapse Energy 2020 report estimates that behind-the-meter solar saved as much as 11 cents per kWh for New England from 2014-2019. Solar can also offer immediate public health benefits and reduce CO2 emissions.

*Susan Richman
Durham, NH*

- Supports Part VIII. Reiterated Mr. Berk's testimony.

*David Creer – provided written testimony
Director of Public Policy, Business and Industry Association*

- Opposes Part VIII.
- Increasing Class II obligations forces utilities to purchase power from solar generation facilities, increasing the cost of electricity by millions of dollars annually for ratepayers, especially large energy users like businesses.
- Mr. Creer referenced that past legislation similar to Part VIII would increase the cost of electricity by \$300 million annually.

*Madeleine Mineau
Executive Director, Clean Energy NH*

- Supports Part VIII.
- The RPS is an important policy in NH to advance renewable energy projects and to provide funding to the Renewable Energy Fund (REF), which funds grant and rebate programs for renewable energy projects.
- While other RPS classes are well balanced, Class II's goals are very low compared to the supply. Through the third quarter of 2020, NH deployed enough solar to meet 0.88% of the state's electricity use. Currently, the goal is to get to 0.70% by 2025. MA has deployed 18%, while VT has deployed 14%.
- State statute also allows utilities to use a REC-sweeping credit. Any solar system that does not register to market their RECs are credited at no cost against an electric supplier's Class II obligation. That credit amounted to 0.46% in 2020, which made up a majority of an electric supplier's Class II obligation. This leads to a low demand for RECs while a high supply of RECs is available, resulting in a low value for Class II RECs.
- Senator Avard asked about the impact of increased solar penetration on NH's regional transmission costs.
 - Ms. Mineau explained that MA and VT are decreasing their peak demands, meaning those states will have a lower allocation of the regional transmission costs. NH is the only state in the region this is expected to have an increased peak demand, meaning NH will have to bear a higher portion of the regional transmission costs. NH is not keeping up with other New England states in investing in distributed energy generation sources and energy efficiency measures to reduce its peak demand.
- Senator Avard clarified that because NH is not making investments in reducing its peak demand, NH will assume a greater share of the regional transmission costs while other states will see a decrease in those costs.
 - Ms. Mineau said Senator Avard was correct. NH's lack of investment in local power means NH will have a greater dependence on power coming from the regional transmission system.
- Senator Avard asked if transmission costs are the largest portion of a resident's energy bill.
 - Ms. Mineau said transmission costs are not the largest part of an average energy bill, but transmission costs are the fastest growing.
- Senator Watters referenced Mr. Creer's testimony that said that increasing RPS obligations could cost \$300 million dollars annually. He asked if Ms. Mineau could comment.
 - Ms. Mineau said Mr. Creer's \$300 million dollar figure came from a previous bill, but she was not aware of what bill that was. Opponents of increasing RPS obligations will often cite the highest

possible cost to ratepayers. They do so by assuming that an electric supplier can only meet their RPS obligations through alternative compliance payments (ACPs). Should RECs be unavailable for an electric supplier to purchase, that supplier can make an ACP, which is the highest possible price for a given class's REC. The ACP for Class II is \$57.99. Class II RECs are trading around \$2-5. Citing a \$300 million price increase to ratepayers is an exaggeration.

Summary of testimony on Part IX, LSR 2021-1062, relative to public use of coastal shorelands:

Senator David Watters

NH Senate District 4

- Senator Watters introduced Part IX on behalf of Senator Sherman.
- Part XI makes a technical correction to RSA 483-C:1 regarding the definition of high water mark of public trust shorelands.
- The NH Supreme Court in *William Purdie vs. Attorney General* (1999) overturned the definition of the high water mark in this matter from the "syzygy" (the furthest landward limit reached by the highest tidal flow occurring during the 19-year Metonic cycle), to instead by the "mean high tide line" (average height of all the high waters over a complete tidal cycle).
- Part IX will bring state statute into line with this NH Supreme Court ruling.

Summary of testimony presented in support on entirety of SB 146-FN:

Cynthia Walter – provided written testimony

Dover, NH

- Part I – NH needs to receive federal and private grants to have effective coordination with the federal Coastal Zone Management Act.
- Part II – updating NH's solid waste planning can save money and protect natural resources.
- Part III – PFAS in plastic, the air, and food packaging should be regulated as soon as possible.
- Part IV – NH can be more proactive in confronting zoonotic diseases.
- Part V – limits to enterococci are a cost-effective way to protect people and seacoast economies.
- Part VI – will help handle derelict marine equipment to protect the environment and coast users.
- Part VII – could enhance local jobs and our home-grown agricultural economy.
- Part VIII – NH needs to update and expand Class II RECs to grow jobs in the renewable energy sector.
- Part IX – a better definition of the shoreline helps public and private land users.

Summary of opposition presented in support of entirety of SB 146-FN: None.

Neutral information presented on entirety of SB 146-FN: None.

GJR

Date Hearing Report completed: March 1, 2021.

Speakers

Name	Title	Representing	Position	Testifying
Beahm Catherine	State Agency Staff	Myself	Oppose	Yes
BERK BRUCE	A Member of the Public	Myself	Support	Yes
Bradley Jeb	An Elected Official	Jeb Bradley SD 3 Part VII	Support	Yes
Watters Senator David	An Elected Official	Myself (SD 4)	Support	Yes
Perkins Kwoka Senator Rebecca	An Elected Official	Myself (SD 21)	Support	Yes
Couture Steve	State Agency Staff	NH Department of Environmental Services	Support	Yes
Bissonnette Reagan	A Member of the Public	Northeast Resource Recovery Association	Neutral	Yes
Diers Ted	State Agency Staff	NHDES	Support	Yes
Fitzgerald Michael	State Agency Staff	Myself	Oppose	Yes
Poggi Steven	A Member of the Public	Waste Management Inc.	Support	Yes
Ebel Karen	An Elected Official	Merrimack Dist 5	Support	Yes
Nork Michael	State Agency Staff	NHDES	Neutral	Yes
Walter Cynthia	A Member of the Public	Myself	Support	Yes
McNeill Fred	A Member of the Public	City of Manchester	Oppose	Yes
Changaris Steven	A Lobbyist	Northern New England Chapter National Waste and Recycling Association	Support	Yes
Morgan Marc	A Member of the Public	Myself	Support	Yes
Taylor Dijit	State Agency Staff	LCHIP	Neutral	Yes
Terrie Omar	A Member of the Public	Myself as staff at American Chemistry Council	Oppose	Yes
Swearingen Shawn	A Member of the Public	Myself as staff of American Chemistry Council	Oppose	Yes
Richman Susan	A Member of the Public	Myself	Support	Yes
Creer David	A Lobbyist	BIA	Neutral	Yes
Mineau Madeleine	A Lobbyist	Clean Energy NH	Support	Yes
Wimsatt Mike	State Agency Staff	NHDES	Neutral	Yes
Carle Michael	A Member of the Public	NHWPCA/ Town of Hampton	Support	Yes
changaris steve	A Lobbyist	Myself	Support	Yes
Corkery Catherine	A Lobbyist	NH Sierra Club	Support	No
Messmer Mindi	A Member of the Public	Myself	Support	No
Podlipny Ann	A Member of the Public	Myself	Support	No
Atherton John	A Member of the Public	Myself	Support	No
Surman Katherine	A Member of the Public	Myself	Support	No
Russell John	A Member of the Public	Myself	Support	No
Wyatt Susan	A Member of the Public	Myself	Support	No
Waterman Raymond	A Member of the Public	Myself	Support	No
Waterman Patricia	A Member of the Public	Myself	Support	No
Mott-Smith Wiltrud	A Member of the Public	Myself	Support	No
Fitzgerald Deirdre	A Member of the Public	Myself	Support	No
Hansberry Lydia	A Member of the Public	Myself	Support	No
Baber Kristine	A Member of the Public	Myself	Support	No

Janeway Elizabeth C	A Member of the Public	Myself	Oppose	No
Currier Dorothy	A Member of the Public	Myself	Support	No
Farrell Charles	A Member of the Public	Myself	Support	No
Beck Gerald	A Member of the Public	Myself	Support	No
Oxenham Evan	A Member of the Public	Myself	Support	No
Jones Andrew	A Member of the Public	Myself	Support	No
Cramton Karen	State Agency Staff	PUC	Neutral	No
Sherman Senator Tom	An Elected Official	SD24	Support	No
Kiefner Robert	A Member of the Public	Myself	Support	No
Leavitt Richard	A Member of the Public	Myself	Support	No
Oxenham Lee	An Elected Official	Sullivan Co. District 1	Support	No
Clancy Tom	A Member of the Public	Myself	Support	No
Prohl Maureen	A Member of the Public	Myself	Support	No
Williams Janet	A Member of the Public	Myself	Support	No
Mundy Theresa	A Member of the Public	Myself	Support	No
Lessard Amber	A Member of the Public	Myself	Support	No
Blanchard Sandra	A Member of the Public	Myself	Support	No
Straiton Marie	A Member of the Public	Myself	Support	No
Hayden Sam	A Member of the Public	Myself	Support	No
Keeler Margaret	A Member of the Public	Myself	Support	No
Lucas Janet	A Member of the Public	Myself	Support	No
Carter Lilian	A Member of the Public	Myself	Support	No
Raley Pamela	A Member of the Public	Myself	Support	No
Newton Jay	A Member of the Public	Myself	Support	No
Boulton Matthew	A Member of the Public	Myself	Support	No
Tallon Thomas	A Member of the Public	Myself	Support	No
thompson julie	A Member of the Public	Myself	Support	No
Hines Caitlyn	State Agency Staff	Myself	Support	No
Fieseher James	A Member of the Public	Myself	Support	No
Petrucelli Charles	A Member of the Public	Myself	Support	No
House Don	A Member of the Public	Myself	Support	No
Rardin Laurie	A Member of the Public	Myself	Support	No
Insolia Janet	A Member of the Public	Myself	Support	No
hatch sally	A Member of the Public	Myself	Support	No
Burcalow Sarah	A Member of the Public	Myself	Support	No
Gage John	A Member of the Public	Myself	Support	No
Merrigan Sarah	A Member of the Public	Myself	Support	No
Kudlik Cindy	An Elected Official	Myself	Oppose	No
Baber Bill	A Member of the Public	Myself	Support	No

Saum Judith	A Member of the Public	Myself	Support	No
Raven Mary	A Member of the Public	Myself	Support	No
Groetzinger Tonda	A Member of the Public	Myself	Oppose	No
King Walter	A Member of the Public	Myself	Support	No
Platt Elizabeth-Anne	A Member of the Public	Myself	Support	No
Reardon John	A Member of the Public	Myself	Support	No
Springfield Madison	A Member of the Public	Myself	Support	No
Kelley-Gillard Nancy	A Member of the Public	Myself	Support	No
McNamee Brigid	A Member of the Public	Myself	Support	No
St Germain Diane	A Member of the Public	Myself	Support	No
Spielman Kathy	A Member of the Public	Myself	Support	No
Spielman James	A Member of the Public	Myself	Support	No
Hinebauch Mel	A Member of the Public	Myself	Support	No
Hoyt Edward	A Member of the Public	Myself	Support	No
Pedersen Michael	An Elected Official	Hillsborough 32	Support	No
Leavitt Deborah	A Member of the Public	Myself	Support	No
Garen June	A Member of the Public	Myself	Support	No
Hatzell Caitlyn	A Member of the Public	Myself	Support	No
Bergevin Leslie	A Member of the Public	Myself	Support	No
Ellermann Maureen	A Member of the Public	Myself	Support	No
Spence Susan	A Member of the Public	Myself	Support	No
Picard Teresa	A Member of the Public	Myself	Support	No
Clark Denise	A Member of the Public	Myself	Support	No
Briggs Ronald	A Member of the Public	Myself	Support	No
SAWTELLE ERICK	A Member of the Public	Myself	Oppose	No
Petrucelli Maxine	A Member of the Public	Myself	Support	No
Gordon Laurie	A Member of the Public	Myself	Support	No
Stevens Representative Deb	An Elected Official	My 10K constituents	Support	No
Dewey Karen	A Member of the Public	Myself	Support	No
Taylor Gale	A Member of the Public	Myself	Support	No
Taylor James	A Member of the Public	Myself	Support	No
Hardwick Bryant	A Member of the Public	Myself	Support	No
Gingrich Patricia	A Member of the Public	Myself	Support	No
Jachim Nancy	A Member of the Public	Myself	Support	No
Hayes Randy	A Member of the Public	Myself	Support	No
Clark Martha	A Member of the Public	Myself	Support	No
Chalice Michele	A Member of the Public	Myself	Support	No
Perencevich Ruth	A Member of the Public	Myself	Support	No
Dinzeo David	A Member of the Public	Myself	Support	No

Spencer Louise	A Member of the Public	Myself	Support	No
Spencer Rob	A Member of the Public	Myself	Support	No
Falk Cheri	A Member of the Public	Myself	Support	No
Damon Claudia	A Member of the Public	Myself	Support	No
Ewell Mary	A Member of the Public	Myself	Support	No
Corell Elizabeth	A Member of the Public	Myself	Support	No
Butcher Suzanne	A Member of the Public	Myself	Support	No
Gordon Robert	A Member of the Public	Myself	Support	No
Brennan Nancy	A Member of the Public	Myself	Support	No
barnes ken	A Member of the Public	Myself	Support	No
Greenwood Nancy	A Member of the Public	Myself	Support	No
Dunlap Bernice	A Member of the Public	Myself	Support	No
Dean Shawn	A Member of the Public	Myself	Support	No
Reardon Donna	A Member of the Public	Myself	Support	No
Wilder Kevin	A Member of the Public	Myself	Oppose	No
Carson Sharon	An Elected Official	Senate District 14 Part III LSR 21-0842	Support	No
Beaulieu Rebecca	A Member of the Public	Myself	Support	No
Stowell Jesse	A Member of the Public	Myself	Support	No
Wyand Mary	A Member of the Public	Myself	Support	No
Doscher Paul	A Member of the Public	Myself	Oppose	No
Sullivan Kelsey	A Member of the Public	Myself	Support	No
Murray Megan	An Elected Official	Hillsborough District 22	Support	No
Chase Valerie	A Member of the Public	Myself	Support	No
Neville Betsey	A Member of the Public	Myself	Support	No
blakeney gordon	A Member of the Public	Myself	Support	No
Larson Ruth	A Member of the Public	Myself	Support	No
Randall James	A Member of the Public	Myself	Support	No
Spence Richard	A Member of the Public	Myself	Support	No
Pugh Barbara	A Member of the Public	Myself	Support	No
Torpey Jeanne	A Member of the Public	Myself	Support	No
Sanderson Paul	State Agency Staff	NH Fish and Game Department	Support	No
Perry Brenda	A Member of the Public	Myself	Support	No
Zaenglein Barbara	A Member of the Public	Myself	Support	No
Zaenglein Eric	A Member of the Public	Myself	Support	No
QUISUMBING-KING Cora	A Member of the Public	Myself	Support	No
FRIEDRICH ED	A Member of the Public	Myself	Support	No
Verschueren Jim	A Member of the Public	Myself	Support	No
Willing Maura	A Member of the Public	Myself	Support	No
Martin Patricia	A Member of the Public	Myself	Support	No

Kubit Joy	A Member of the Public	Myself	Support	No
Koning Catherine	A Member of the Public	Myself	Support	No
Tilli-Pauling Marianne	A Member of the Public	Myself	Support	No
Tilli-Pauling Nigel	A Member of the Public	Myself	Support	No
Ahlberg Sonja	A Member of the Public	Myself	Support	No
Hatcher Phil	A Member of the Public	Myself	Support	No
Fordey Nicole	A Member of the Public	Myself	Support	No
Barretto Tim	A Member of the Public	Myself	Support	No
st.martin tom	A Member of the Public	Myself (from NH)	Support	No
Stinson Benjamin	A Member of the Public	Myself	Support	No
Rettew Annie	A Member of the Public	Myself	Support	No
Gibbs Elizabeth	A Member of the Public	Myself	Support	No
Bushueff Catherine	A Member of the Public	Myself	Support	No
Arnold Neil	A Member of the Public	Myself	Support	No
Jakubowski Deborah	A Member of the Public	Myself	Support	No
DeMark Richard	A Member of the Public	Myself	Support	No
jakubowski dennis	A Member of the Public	Myself	Support	No

Testimony

Griffin Roberge

From: Beauchesne, Suzanne <Suzanne.E.Beauchesne@des.nh.gov>
Sent: Wednesday, February 24, 2021 11:44 AM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Cc: William Gannon; Tom Sherman; Michael Edgar; Judith Spang; Couture, Steve; Diers, Ted; Pelletier, Rene; O'Donovan, Thomas
Subject: SB 146-Part I Letter of Testimony (and two attachments)
Attachments: SB 146 Part I LOT - NHDES-CP 022421.pdf; CoastalZoneMap.pdf; NH State Fact Sheet 2020.pdf

Dear Chairman Avard and Members of the Committee:

Attached is a letter of testimony from the NH Department of Environmental Services on SB 146, Part I relative to establishing the coastal program administered by the Department. Also attached is a NH Coastal Zone map as well as a NH Coastal Management fact sheet. Should you have questions about this testimony or need additional information, please feel free to contact Steve Couture, Coastal Program Administrator, Watershed Bureau of the NHDES Water Division. Mr. Couture can be reached via email at steven.couture@des.nh.gov or by calling 271-8801. Thank you. Suzanne

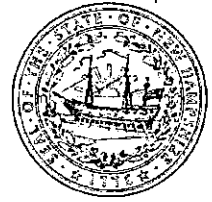
Stay Safe! Be Well!

Suzanne Beauchesne
Assistant to the Commissioner
NH Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03301
Phone: (603) 271-3449
Suzanne.Beauchesne@des.nh.gov

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The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 24, 2021

The Honorable Kevin Avard
Chairman, Energy and Natural Resources Committee
State House, Senate Chamber
Concord, NH 03301

RE: SB 146-FN (Part I)– Establishing the coastal program administered by the Department of Environmental Services.

Dear Chairman Avard and Members of the Committee:

Thank you for the opportunity to comment on SB 146-FN, Part I. This section of the bill proposes to create a state authorization for the federally-funded coastal program administered by the New Hampshire Department of Environmental Services (NHDES) and establishes a dedicated coastal fund. NHDES supports this legislation.

In 1972, Congress passed the Coastal Zone Management Act (CZMA) in recognition of the importance of the nation's coastal resources. The NHDES Coastal Program (NHDES-CP) gained federal approval in 1982. However, the program was never authorized under state law. It exists only as a grant-funded federal program. State authorization is needed to: 1) ensure that state law backs up any potential changes to federal law, and 2) more closely align federal consistency provisions with state regulations.

The NHDES Coastal Program provides funding and staff assistance to towns and cities, and other local and regional groups who protect clean water, restore coastal habitats, and help make communities more resilient to flooding and other natural hazards. The NHDES-CP supports the region's economy by helping to preserve the environmental health of the coast and Great Bay and Hampton-Seabrook estuaries for fishing and shell fishing, and assisting with the maintenance of our ports, harbors and tidal rivers for commercial and recreational uses.

Importantly, the NHDES-CP is charged with implementing Section 307 of the CZMA, known as the federal consistency provision, which is the formal mechanism to manage coastal uses and resources and to facilitate cooperation and coordination with federal agencies. The NHDES-CP administers the federal consistency review process to ensure that all federal activities affecting any land or water use, or natural resource in New Hampshire's coastal zone (map attached) will be conducted in a manner consistent with the NHDES-CP's enforceable policies. These policies are essentially other state laws and regulations that fall within state jurisdiction. Federal consistency is the tool that requires federal agencies pay attention to state concerns.

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The Honorable Kevin Avar
Chairman, Senate Energy and Natural Resources Committee
February 24, 2021
Page 2

Federal consistency review could prove to be a critical tool as applied to offshore wind development in federal waters. Given the recent creation of the Gulf of Maine Offshore Wind Task Force, now is the right time to authorize the coastal program. This bill has the added benefit of solidifying the link between the National Oceanic and Atmospheric Administration's (NOAA) approved program, the enforceable policies (state laws and regulations), and the coastal program at NHDES as the lead state agency for CZMA issues. This bill alleviates legal uncertainty of NHDES federal consistency authority by codifying it in state statute to ensure that the state has the ability to defend decisions regarding federal actions in the coastal zone.

Given the depth of services provided to NH's coastal communities, the NHDES-CP often seeks additional funds to meet critical natural resource management needs, and has been successful at garnering competitive grants. NOAA reviews the NHDES-CP every five years. One consistent finding by NOAA in these reviews is the need for state and other financial resources to help address the coastal communities' management needs. If funds are obtained in the future, this fund will provide a mechanism to administer the funds for the state's coastal management priorities.

Thank you again for the opportunity to comment on SB 146-FN, Part I. Should you have questions or need additional information, please feel free to contact Steve Couture, NHDES Water Division, Coastal Program Administrator, at steven.couture@des.nh.gov or 271-8801.

Sincerely,



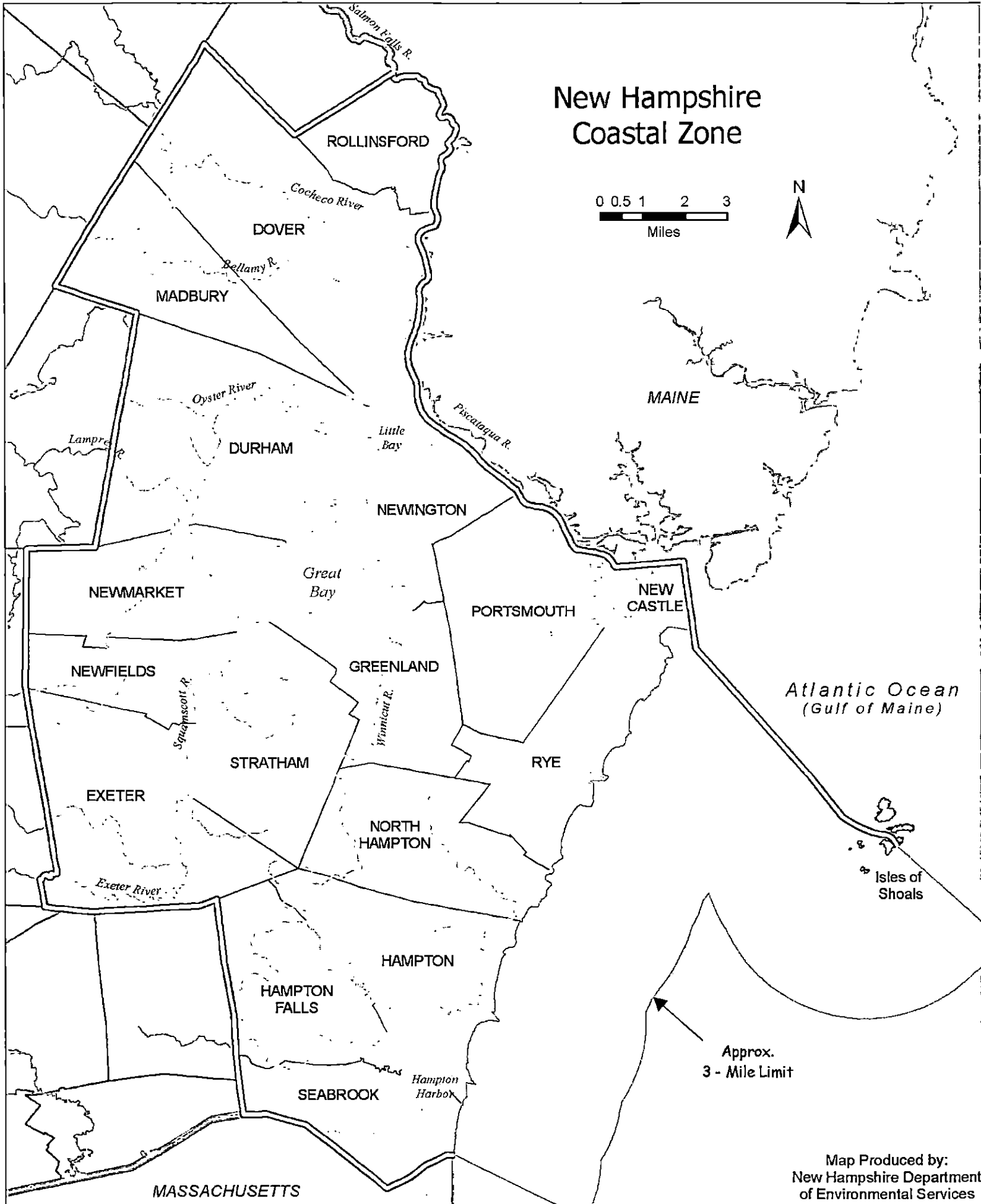
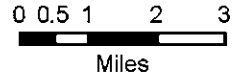
Robert R. Scott
Commissioner

Attachments: Coastal Zone Map
NH Coastal Management Fact Sheet

cc: Sponsors of SB 146 (Part I): Senators Watters, Sherman, Perkins Kwoka, Gray, Gannon
Representatives Spang, Edgar

The Honorable Kevin Avar
Chairman, Senate Energy and Natural Resources Committee
February 24, 2021
Page 2

New Hampshire Coastal Zone



Map Produced by:
New Hampshire Department
of Environmental Services

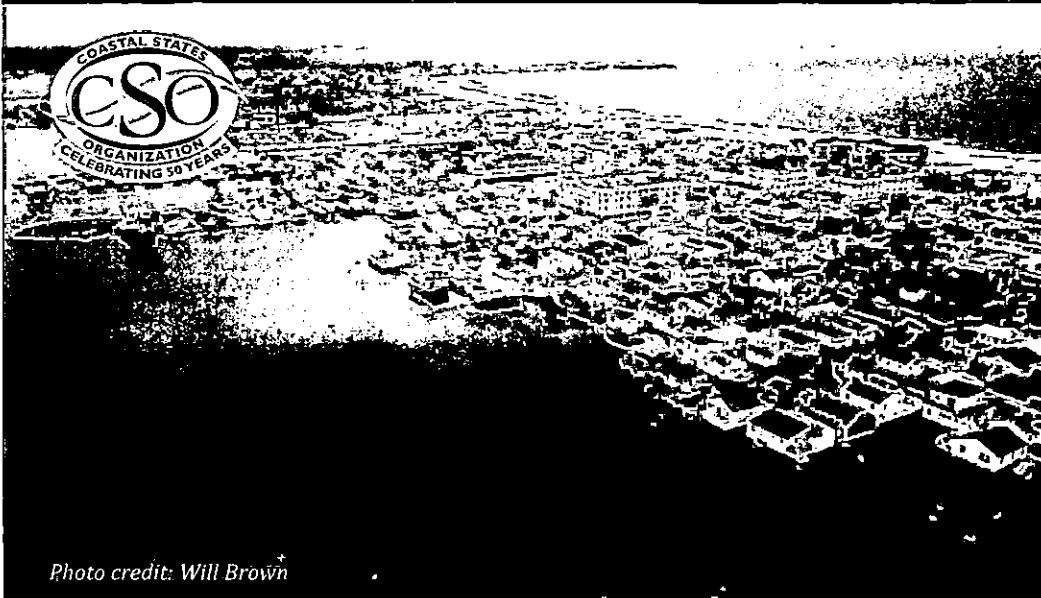


Photo credit: Will Brown

NEW HAMPSHIRE COASTAL MANAGEMENT

The Coastal Program protects clean water, restores coastal habitats, and helps make communities more resilient to flooding and other natural hazards through staff assistance and funding to 42 coastal towns and cities as well as other local and regional groups.



State Program in Action

- Developed and released new mapping products and data that characterize tidal crossings for use by community officials and road managers to enact strategic repairs and replacement of tidal crossing infrastructure and to identify high priority restoration and conservation opportunities at tidal crossings sites.
- Funded work by the Town of Newmarket for final design, engineering and permitting to replace a dramatically undersized and flood prone culvert at Lubberland Creek to accommodate sea level rise and 100-year storm events, enables marsh migration, improves fish passage and ensures safe passage during storm events.
- Worked with the Department of Environmental Services Wetlands Bureau to rewrite administrative rules that incorporate sea-level rise and resilience into a new tidal chapter of rules. As a result of Coastal Program input, the rules now include a project vulnerability assessment.

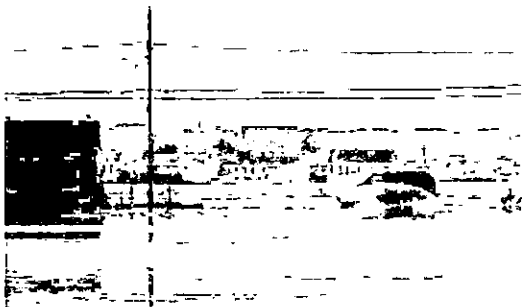
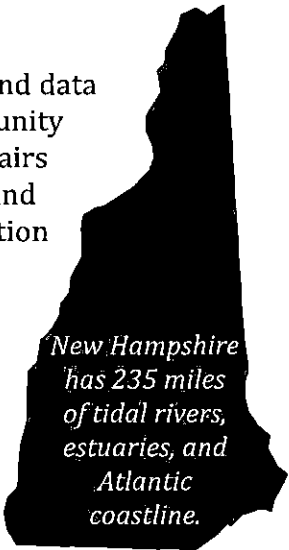


Photo credit: Mike Barron

Looking to the Future

The Coastal Program and NH Sea Grant will partner to develop a technical assistance program to assist and empower coastal landowners. Staff will conduct onsite assessments to help homeowners learn about potential actions that they can take to manage their own properties to mitigate storm and flood impacts. Potential landowner actions will also support dune and salt marsh habitats and the many benefits that they provide.

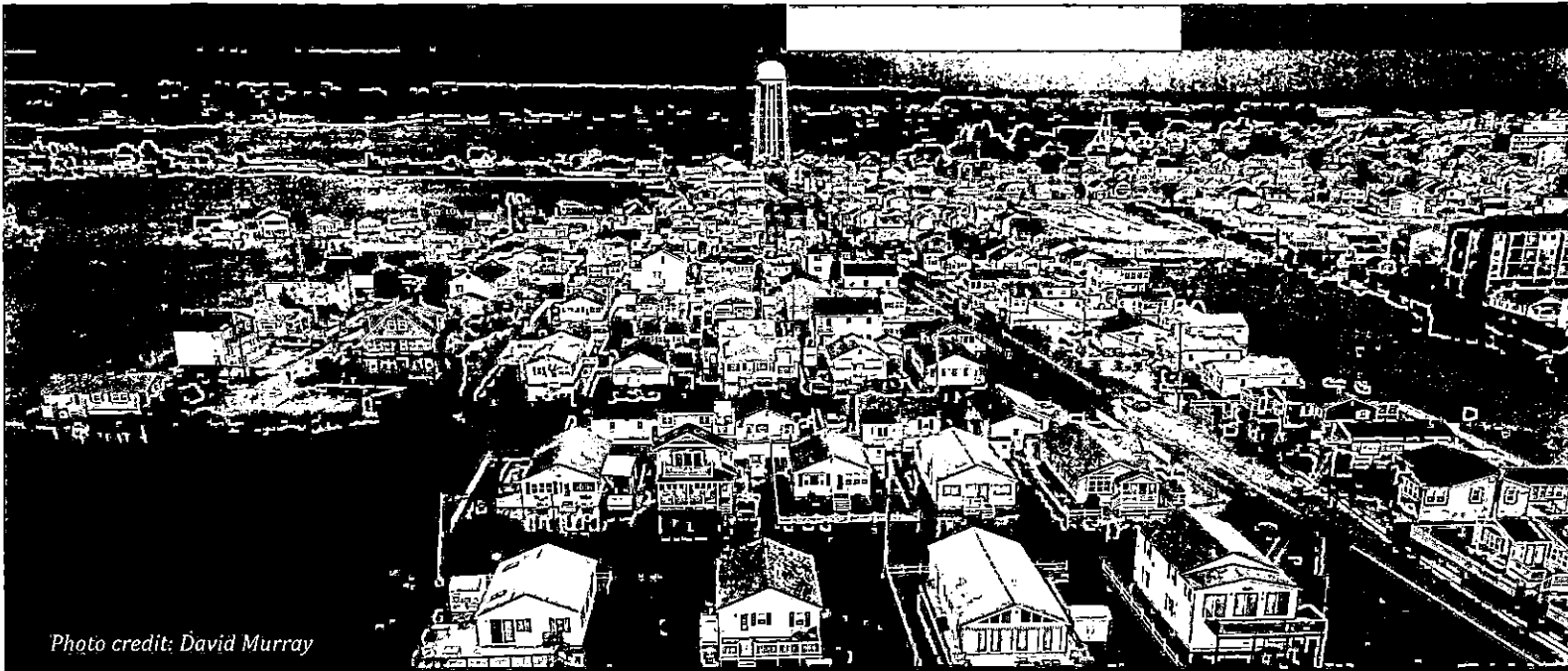


Photo credit: David Murray

HELPING PREPARE FOR COASTAL HAZARDS

Faced with increasingly frequent and severe coastal flooding, the Town of Hampton and its residents are working to prevent future flood damages and continue enjoying their beloved oceanfront community for years to come. The NHCP collaborated with the Seabrook-Hamptons Estuary Alliance and Town staff on multiple resilience building initiatives in 2019, including convening and facilitating Hampton's Coastal Hazards and Adaptation Team to guide long term adaptation planning; providing funding to develop the Vision and Coastal Hazards and Adaptation content for the Town's Master Plan update; and developing preliminary designs for nature-based strategies to mitigate coastal flooding in low-lying neighborhoods with a National Fish and Wildlife Federation Coastal Resilience grant. Together these projects comprise a creative, and multipronged approach for addressing coastal flooding in Hampton.

"Coming to grips with current and projected flooding in Hampton has required taking on issues that had not previously been explored, and finding ways to address questions, concerns, and fears that have been expressed across the community. The Coastal Program has been a great partner in developing the 'Building a Flood Smart Workshop' series for Hampton residents; applying for and securing grant funding from the Consensus Building Institute to introduce the concept of "managed retreat" in Hampton; and helping to develop the 'Coastal Hazards Adaptation Team,' which is a unique assembly of municipal officials that meets monthly to explore flooding issues and adaptation strategies in Hampton. Each of those efforts have been much more effective than they would have been without the Coastal Program's knowledge, guidance, and support."

– Jay Diener, President, Seabrook-Hamptons Estuary Alliance

FY20 Federal Funds: \$1,172,000
FY20 State & Local Matching Funds: \$1,095,000
FY20 Total: \$2,267,000

Steven Couture,
Coastal Program Administrator
New Hampshire Department of
Environmental Services
Phone: (603) 271-8801
Email: steven.couture@des.nh.gov



Coastal States Organization
50 F St., NW, Suite 570
Washington, DC 20001
(202) 800-0580
www.coastalstates.org

Website: <http://www.des.nh.gov/organization/divisions/water/wmb/coastal/>
Twitter: @NHDES; @nhcaw Facebook: @NHEnvironmentalServices, @nhcoastaladaptation
Instagram: @nhcoastaladaptation

Griffin Roberge

From: Beauchesne, Suzanne <Suzanne.E.Beauchesne@des.nh.gov>
Sent: Thursday, February 25, 2021 3:34 PM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Cc: Tom Sherman; Renny Cushing; Alexis Simpson; Diers, Ted; O'Donovan, Thomas; Pelletier, Rene
Subject: SB 146 Part V Letter of Testimony
Attachments: SB 146 Part V LOT - Tidal Waters 022521.pdf

Dear Chairman Avard and Members of the Committee:

Attached is a letter of testimony from the NH Department of Environmental Services on SB 146, Part V relative to tidal waters. Should you have questions about this testimony or need additional information, please feel free to contact Ted Diers, Watershed Management Bureau Administrator, NHDES Water Division. Mr. Diers can be reached via email at ted.diers@des.nh.gov or by calling 271-3289. Thank you. Suzanne

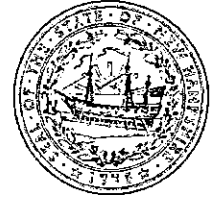
Stay Safe! Be Well!

Suzanne Beauchesne
Assistant to the Commissioner
NH Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03301
Phone: (603) 271-3449
Suzanne.Beauchesne@des.nh.gov

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The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 25, 2021

The Honorable Kevin Avard
Chairman, Energy and Natural Resources Committee
State House, Senate Chamber
Concord, NH 03301

RE: SB 146 – Part V – An Act regarding tidal waters

Dear Chairman Avard and Members of the Committee:

Thank you for the opportunity to comment on SB 146, Part V. This bill proposes to change the surface water quality standards for fecal bacteria as they relate to shell fishing uses. The NH Department of Environmental Services (NHDES) supports this legislation but believes that the language should be amended.

This issue stems from the recent issuance of discharge permits from the National Pollutant Discharge Elimination System (NPDES) for facilities in the seacoast area. Through EPA, the NPDES program issues permits for the discharge of pollutants into waters of the state. In the case of the 13 facilities (primarily municipal waste water treatment plants) that discharge to tidal waters, of particular concern with that discharge is contaminants that could impact the health of humans who consume shellfish. Fecal bacteria are one such concern. New Hampshire state law and regulations state that those tidal waters where shellfish could potentially be harvested are subject to the requirements of the National Shellfish Sanitation Program (NSSP), as administered by NHDES. This is an important requirement so that harvested shellfish can be sold by New Hampshire's nascent and rapidly expanding shellfish aquaculture industry. Certain regulations (see Env-Wq 1703.06 and Env-Wq Appendix E) require that limitations on fecal bacteria at these facilities be applied at the discharge point, or "end of pipe".

For many years the permittees in the seacoast, based on information from NHDES and upon a permit waiver from EPA, have been testing for fecal bacteria in their discharge using a particular laboratory method called Colilert-18. This is a method that is approved by EPA for NPDES compliance. Unfortunately, it is not a method approved by the NSSP. A strict interpretation of the state's rules and statutes requires that only an NSSP-approved method can be used to be in compliance with NPDES requirements in tidal waters. The proposed statute change in this bill will address this situation. Because the proposed language includes specific fecal bacteria criteria but does not specifically require a particular laboratory method, NHDES and EPA agree that the language will allow for greater flexibility in laboratory method selection, including the use of Colilert-18.

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The Honorable Kevin Avard
Chairman, Senate Energy and Natural Resources Committee
February 25, 2021

It is important that the permittees be allowed to continue to use this method for several reasons: 1) All of them have invested in the equipment and training to be able to apply this method in their own facilities without taking them to an outside laboratory; 2) the only lab in the state that is certified to perform the NSSP methods is the State Public Health Lab. This means that, on a daily basis, permittees would be required to employ expensive courier services to take their samples either to Concord or to out-of-state private labs. Furthermore, the state lab may have limited capacity. And, 3) the Colilert-18 method returns sample results faster than other methods, and because it is done in-house, alerts the facility to any lapses in treatment. This means that should a problem arise, the facility will immediately call the Shellfish Program and begin the process of testing and potentially recalling any shellfish that may have been contaminated. This helps to ensure the safety of the consumer and the viability of the industry.

Finally, NHDES has had multiple conversations with EPA and their attorneys about the proposed language. The consensus amongst those parties is that the current language in the bill will not be sufficient to solve the problem. In order to truly move past this issue, the language must demonstrate a way that dischargers can meet the requirements of both the EPA and the NSSP. Having now discussed this with EPA, we believe that replacing the proposed language with the following will allow for the more rational sampling approach to prevail:

"485-A:8 Standards for Classification of Surface Waters of the State. –

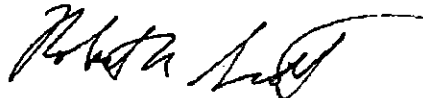
V. Tidal waters utilized for swimming purposes shall contain not more than either a geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring. Those tidal waters used for growing or taking of shellfish for human consumption shall, ~~in addition to the foregoing requirements, be in accordance with the criteria recommended under the National Shellfish Program Manual of Operation, United States Department of Food and Drug Administration,~~ **not exceed a geometric mean Most Probable Number (MPN) of 14 organisms per 100 ml for fecal coliform, nor shall more than 10% of the samples exceed an MPN of 28 per 100 ml for fecal coliform, or other values of equivalent protection based on sampling and analytical methods used by the NHDES Shellfish Program and approved in the latest revision of the National Shellfish Sanitation Program, Guide For The Control of Molluscan Shellfish."**

The state is also pursuing two other avenues to solve this issue. First, we have commenced a project to compare the EPA and NSSP methods to see if they yield similar results. This may ultimately result in having the Colilert-18 method approved for use in the NSSP. Second, we will look for any research that might exist that could determine the methods' equivalency so that communities could potentially seek a waiver in their current permit testing requirements. The first of these avenues is very lengthy and the second is uncertain, so this proposed statute change is necessary.

The Honorable Kevin Avar
Chairman, Senate Energy and Natural Resources Committee
February 25, 2021

Thank you again for the opportunity to comment on SB 146, Part V. Should you have questions or need additional information, please feel free to contact Ted Diers, Watershed Management Bureau Administrator at ted.diers@des.nh.gov or 603-271-3289.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Robert R. Scott
Commissioner

cc: Sponsors of SB 146, Part V:
Senators Watters, Sherman, Perkins Kwoka; Representatives Cushing, Simpson.

Griffin Roberge

From: Beauchesne, Suzanne <Suzanne.E.Beauchesne@des.nh.gov>
Sent: Friday, February 26, 2021 11:04 AM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Cc: Donna Soucy; Tom Sherman; Cindy Rosenwald; Sharon Carson; William Gannon; Kevin Cavanaugh; Jeb Bradley; Wimsatt, Mike; Nork, Michael; Fitzgerald, Michael; Wright, Craig
Subject: SB 146, Part III Letter of Testimony
Attachments: SB 146 Part III LOT - PFAS Incineration-Plastics 022621.pdf

Dear Chairman Avard and Members of the Committee:

Attached is a letter of testimony from the NH Department of Environmental Services on SB 146, Part III relative to prohibiting incineration of PFAS in NH. Should you have questions about this testimony or need additional information, please feel free to contact either Michael Nork, Solid Waste Management Bureau (michael.nork@des.nh.gov, 271-2936) or Michael Wimsatt, Waste Management Division Director (michael.wimsatt@des.nh.gov, 271-1997). Thank you. Suzanne

Stay Safe! Be Well!

Suzanne Beauchesne
Assistant to the Commissioner
NH Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03301
Phone: (603) 271-3449
Suzanne.Beauchesne@des.nh.gov

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The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 26, 2021

The Honorable Kevin Avard
Chairman, Senate Energy & Natural Resources Committee
State House, Room 103
Concord, NH 03301

**RE: SB 146, An Act Adopting Omnibus Legislation Relative to the Environment
Part III – Prohibiting Incineration of PFAS in New Hampshire**

Dear Chairman Avard and Members of the Committee:

Thank you for the opportunity to testify on SB 146, specifically the provisions in Part III of the bill related to prohibiting per- and polyfluoroalkyl substances (PFAS) in certain packaging, and establishing a plastics advisory council. While we support the intent of these provisions of the bill, for the reasons outlined in this letter, the New Hampshire Department of Environmental Services (NHDES) has concerns regarding its ability to implement such provisions.

It is NHDES' understanding that this bill would prohibit the distribution and use of food packaging that contains PFAS and would require the Department to collect information from packaging manufacturers regarding the PFAS content of their products. Additionally, this bill would prohibit packaging materials from being marketed as compostable if such materials contain PFAS or are not certified by the Biodegradable Products Institute (BPI). This bill would also effectively prohibit the composting of any materials (not just packaging items) that contain PFAS. Further, this bill would establish a plastics advisory council, convened by NHDES, to study issues related to the use of plastic packaging and consumer goods.

While NHDES recognizes that Part III of SB 146 attempts to address issues of significant public concern, the Department believes the bill suffers from two fundamental shortcomings: (1) it contains structural issues that are likely to result in unintended consequences, and (2) additional resources would be required to enable NHDES to administer, implement and enforce the proposed requirements, but the bill does not make provisions for such resources.

One structural issue with this bill is that it appears it was drafted with intent to amend New Hampshire's existing Toxics in Packaging law (RSA 149-M:32-40), but the amendments are incomplete. As written, this bill inserts the term PFAS to certain sections of the Toxics in Packaging law, but neglects to change the section of the law that would explicitly prohibit the use of PFAS in packaging. Instead, the bill establishes a separate chapter, RSA 149-R, which contains a prohibition on PFAS in packaging. NHDES believes this creates a confusing disconnect which may not have the desired effect and would ultimately make it more difficult for the Department to administer. Further, it is worth noting that the Toxics in Packaging Clearinghouse (TPCH), an interstate

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The Honorable Kevin Avar
Chairman, Senate Energy & Natural Resources Committee
February 26, 2021
Page 2

consortium of which New Hampshire is a member, just recently released updated model legislation to address use of PFAS in packaging. This model legislation took four years to develop through collaboration between states and industry stakeholders and provides a consistent framework that can be adopted nationally. NHDES believes that the TPC model might better integrate into New Hampshire's existing Toxics in Packaging law, and may be worth considering for future legislation.

Beyond the structural issues, NHDES is concerned that this bill would place new and expanded responsibilities on the Department for which it is not currently resourced. For example, the bill would establish a plastics advisory council under NHDES' charge that would study issues including the environmental and public health impacts of plastics in the environment, and strategies to increase the recyclability of single-use plastic packaging. Unfortunately, NHDES' pollution prevention and solid waste management programs are not currently structured to engage in this type of work. To do so would require additional staff and technical expertise that the Department does not currently possess. Moreover, many of the matters that would be explored by the plastics advisory council proposed in this bill are global market issues over which New Hampshire, on its own, may have limited ability to influence. In consideration of this, and given the shortage of state resources for robustly engaging in these issues, NHDES believes this kind of effort may be more effective as a regional or federal initiative.

Thank you again for the opportunity to comment on SB 146. Should you have further questions or need additional information, please feel free to contact either Michael Nork, Solid Waste Management Bureau (michael.nork@des.nh.gov, 271-2936) or Michael Wimsatt, Waste Management Division Director (michael.wimsatt@des.nh.gov, 271-1997).

Sincerely,



Robert R. Scott
Commissioner

cc: Sponsors of SB 146, Part III: Senators Watters, Soucy, Sherman, Rosenwald, Carson, Gannon, Perkins Kwoka, Cavanaugh; Bradley; Representatives Spang, Rung

Griffin Roberge

From: Beauchesne, Suzanne <Suzanne.E.Beauchesne@des.nh.gov>
Sent: Friday, February 26, 2021 3:04 PM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Cc: Donna Soucy; Tom Sherman; Cindy Rosenwald; Sharon Carson; William Gannon; Kevin Cavanaugh; Jeb Bradley; Judith Spang; Rosemarie Rung; Wright, Craig; Wimsatt, Mike; Fitzgerald, Michael; Beahm, Catherine
Subject: SB 146, Part III (Paragraph 1) Letter of Testimony
Attachments: SB 146 Part III LOT - ARD 022621.pdf

Dear Chairman Avard and Members of the Committee:

Attached is a letter of testimony from the NH Department of Environmental Services on SB 146, Part III (Paragraph 1) relative to prohibiting incineration of PFAS in NH. Should you have questions about this testimony or need additional information, please feel free to contact either Michael Fitzgerald, Assistant Director, Air Resources Division (Michael.Fitzgerald@des.nh.gov, (603) 271-6390) or Catherine Beahm, State Implementation Plan Manager, Air Resources Division (Catherine.beahm@des.nh.gov, (603) 271-6793). Thank you. Suzanne

Stay Safe! Be Well!

Suzanne Beauchesne
Assistant to the Commissioner
NH Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03301
Phone: (603) 271-3449
Suzanne.Beauchesne@des.nh.gov

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The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 26, 2021

The Honorable Kevin Avard
Chairman, Energy and Natural Resources Committee
Legislative Office Building, Room 103
Concord, New Hampshire 03301

Re: SB 146, Part III, Paragraph 1 - Prohibiting incineration of PFAS in New Hampshire

Dear Chairman Avard and Members of the Committee:

Thank you for the opportunity to provide testimony on SB 146, Part III, paragraph 1 (p.5, lines 4-25). This bill would specifically require:

- 1) A ban on incineration of Class B firefighting foam pending the determination by the department that no out-of-state facility will accept this waste and can ensure the air emissions and associated residuals and their disposal shall not pose a threat to public health or the environment, and
- 2) Whenever PFAS-containing waste, leachate, or sludge is being incinerated in New Hampshire, the air emissions and associated residuals shall be evaluated by the department of environmental services to ensure disposal shall not pose a threat to public health or the environment;

The proposed legislation presents multiple issues of concern to the Department of Environmental Services (NHDES); thus, the department opposes this bill and offers the following supporting information for the Committee's consideration.

Foremost, as written, the bill potentially conflicts with the existing requirements in RSA 125-C:10-e which have already been established to ensure that best available control technology is applied to air emission sources in a manner that takes into account environmental and public health concerns. The bill also expands the definition of Per- and polyfluoroalkyl substances (PFAS) in a much broader manner than the existing statute, does not provide sufficient criteria for the department to ensure that "disposal does not pose a threat to public health or the environment...", and requires the department to evaluate public health and environmental impacts for the complex universe of potentially thousands of PFAS compounds regardless of available science or standards.

By way of background, in 2017-18, following the disclosure of PFAS contaminated drinking water supplies in Merrimack, NH and the department's subsequent determination that airborne emissions of certain PFAS compounds from industrial operations had resulted in an area of widespread contamination of

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drinking water supplies in southern NH, NHDES staff worked closely with then House Majority Leader Hinch and several other legislators to promote the passage of what would ultimately be signed into law as SB 309. This widely supported legislation added to RSA Chapter 125-C *Air Pollution Control* a new section RSA 125-C:10-e *Requirements for Air Emissions of Perfluorinated Compounds Impacting Soil and Water*, effective September 8, 2018.

RSA 125-C:10-e applies to existing and new or modified devices that emit to the air any “PFCs or precursors” (subset of PFAS, a term the definition of which, in RSA 125, is the subject of current legislation¹) that have caused or contributed to an exceedance of an ambient groundwater quality standard (AGQS) or surface water quality standard (SWQS) as a result of the deposition of any such PFCs or precursors from the air. RSA 125-C:10-e requires NHDES to determine which devices are subject to the statute and the owner of the device to apply for a permit to construct and install best available control technology (BACT).

RSA 125-C:10-e has a two-part requirement for sources that are subject to the regulation. First, BACT must be established pursuant to RSA 125-C:10-b, I(a). Second, the application of BACT cannot cause or contribute to or have the potential to cause or contribute to an exceedance of an AGQS or SWQS as a result of the deposition of the contaminant from the air. The statute also requires that BACT shall not result in emissions of any air contaminant that would exceed the emissions allowed by any applicable standard under RSA 125-C, *Air Pollution Control* or RSA 125-I, *Air Toxic Control Act* or rules adopted pursuant to either chapter.

This bill could potentially interfere or pose conflicts with the application of RSA 125-C:10-e to an existing facility permit that is currently subject to appeal with the Air Resources Council and could create uncertainty in litigation related to the permit. NHDES feels that the existing statute is appropriate to control air emissions of PFAS from sources in NH and avoids the ambiguity, superfluous regulation, and potential conflicts posed by this legislation.

NHDES also believes that SB 146 proposes an overly broad and potentially conflicting definition of “incineration”, and does not provide adequate guidance for the vague requirement that the department determine that “...disposal shall not pose a threat to public health or the environment...”. The interpretation of the undefined term “PFAS-containing waste, leachate, or sludge” could also potentially include municipal waste (which may include discarded clothing, furniture, carpets and food containers with water and/or grease resistant coatings containing PFAS) and leachate and sludge from municipal wastewater treatment operations (such as the Manchester sewage sludge incinerator) that could pose potentially significant additional costs with relatively minor environmental benefit.

Additionally, NHDES is unaware of any existing or proposed facilities in NH that could accept and adequately incinerate Class B firefighting foam containing PFAS. NHDES also recommends that the committee seek the advice of counsel relative to the potential constitutional commerce clause issues raised by requiring the department to determine that “no out-of-state facility will accept this waste” prior to any proposed incineration.

¹ [HB 271](#)

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Finally, given the prevalence of PFAS in the current waste stream and our environment, NHDES has concerns about prohibiting one of the very few potential methods of actually destroying these substances and removing them from the environment.

Thank you again for the opportunity to comment on SB 146, Part III. If you have any questions or require further information, please contact either Michael Fitzgerald, Assistant Director, Air Resources Division (Michael.Fitzgerald@des.nh.gov, (603) 271-6390) or Catherine Beahm, State Implementation Plan Manager, Air Resources Division (Catherine.beahm@des.nh.gov, (603) 271-6793).

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", written in a cursive style.

Robert R. Scott
Commissioner

ec: Sponsors of SB 146, Part III:
Senators Watters, Soucy, Sherman, Rosenwald, Carson, Gannon, Perkins Kwoka, Cavanaugh,
Bradley; Representatives Spang, Rung

Griffin Roberge

From: Beauchesne, Suzanne <Suzanne.E.Beauchesne@des.nh.gov>
Sent: Friday, February 26, 2021 3:46 PM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Cc: Lou D'Allesandro; Cindy Rosenwald; Suzanne Prentiss; Becky Whitley; Tom Sherman; Karen Ebel; Chuck Grassie; Megan Murray; Wimsatt, Mike; Nork, Michael
Subject: SB 146, Part II Letter of Testimony (WITH SIGNED ATTACHMENT)
Attachments: SB146 Part II LOT - SW Disposal Reduction 022621.pdf

PLEASE DISREGARD MY PREVIOUS EMAIL – ATTACHED IS A SIGNED LETTER OF TESTIMONY

Dear Chairman Avard and Members of the Committee:

Attached is a letter of testimony from the NH Department of Environmental Services on SB 146, Part II relative to establishing a statewide solid waste disposal reduction goal. Should you have questions about this testimony or need additional information, please feel free to contact either Michael Nork, Solid Waste Management Bureau (michael.nork@des.nh.gov, 271-2936) or Michael Wimsatt, Waste Management Division Director (michael.wimsatt@des.nh.gov, 271-1997). Thank you. Suzanne

Stay Safe! Be Well!

Suzanne Beauchesne
Assistant to the Commissioner
NH Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03301
Phone: (603) 271-3449
Suzanne.Beauchesne@des.nh.gov

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The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 26, 2021

The Honorable Kevin Avard
Chairman, Senate Energy & Natural Resources Committee
State House, Room 103
Concord, NH 03301

**RE: SB 146, An Act Adopting Omnibus Legislation Relative to the Environment
Part II – Establishing a Statewide Solid Waste Disposal Reduction Goal**

Dear Chairman Avard and Members of the Committee:

Thank you for the opportunity to testify on SB 146, specifically Part II of this omnibus bill, related to establishing a disposal reduction goal. This bill would replace the current waste diversion goal in RSA 149-M:2 with a goal to reduce the disposal of solid waste in New Hampshire's landfills and incinerators 25% by the year 2030, and 45% by the year 2050. This bill would also change the interval for updating the state solid waste management plan from every six years to every ten years. It is our understanding that the bill sponsor will provide a proposed amendment extending the due date for the next update of the solid waste management plan by one year, to October 1, 2022. The Department of Environmental Services (NHDES) supports this bill and the proposed amendment.

The current goal in RSA 149-M:2 set a target to divert at least 40% of New Hampshire's solid waste from disposal by the year 2000. In other words, the aim is to manage at least 40% of the state's waste by methods other than landfilling or incineration, such as recycling, composting, and reuse. NHDES issued a report in October 2019 to provide a progress report on achievement of this 40% diversion goal. In the report, NHDES concluded that current achievement of this goal is undetermined, due primarily to the difficulty in collecting and analyzing data that would enable NHDES to reliably measure and track progress.

The current language of RSA 149-M:2 directs NHDES to measure diversion "with respect to changes in waste generated and subsequently landfilled or incinerated in New Hampshire." In essence, this requires NHDES to quantify how much waste is generated across the state and compare how much of that waste ultimately gets disposed in lieu of being recycled or otherwise diverted. This metric is problematic because NHDES does not track waste generation. Instead, NHDES regulates the management of solid waste at permitted solid waste facilities within the state (e.g., landfills, incinerators, transfer stations, etc.). This only provides NHDES with data on wastes managed at these facilities and does not capture all solid waste actually generated within the state. For instance, refuse and recycling from some industrial, commercial and institutional generators may be hauled directly to out-of-state destinations without ever passing through a New Hampshire permitted solid waste facility. Further, there is an indeterminable quantity of waste that is generated but never reaches a permitted solid waste facility because it is managed at the site of generation, such as

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The Honorable Kevin Avard
Chairman, Senate Energy & Natural Resources Committee
February 26, 2021

home composting, or is diverted directly to reuse (for instance, donation). Similar to the challenges quantifying waste generation, NHDES also has difficulty compiling reliable information on recycling and diversion rates in New Hampshire. This is partly due to the fact that recyclables are often collected and transferred between multiple facilities before reaching their “final” destination, which can result in double-counting due to multiple facilities reporting the same data. At the present time NHDES lacks the basic program resources to properly compile, analyze and quality-control this kind of data to produce comprehensive recycling/diversion estimates.

SB 146 would re-frame the goal to track changes in disposal over time instead of changes in generation. This would simplify measurement of the goal because New Hampshire’s active disposal facilities already report the necessary data to NHDES. Therefore, NHDES would be able to use readily-available data without need for complicated analyses. Not only would a disposal reduction target be easier to track, but NHDES believes it would also serve as a useful indicator of waste reduction and diversion – because a decrease in waste being sent for disposal is directly related to waste diversion efforts and/or a reduction in the overall quantity of waste generated.

NHDES believes the ambitious targets set by the goal (25% reduction in disposal by 2030, and 45% by 2050) will help to advance waste reduction and diversion efforts. Whereas the current diversion goal only considers waste generated in New Hampshire, the proposed disposal reduction targets would apply to all waste landfilled or incinerated in New Hampshire, whether from in-state or out-of-state sources (in 2019, about 44% of waste disposed at New Hampshire’s landfills and incinerators came from out-of-state). Achieving these targets will require a coordinated effort between NHDES, the General Court, the waste industry, the business community, municipalities, and the public at large. By setting a specific, measurable goal, Part II of SB 146 would help NHDES better assess progress, and would also establish legislative intent for additional waste reduction and diversion initiatives to set the state on a path to achieving the goal.

Thank you again for the opportunity to comment on SB 146, Part II. Should you have further questions or need additional information, please feel free to contact either Michael Nork, Solid Waste Management Bureau (michael.nork@des.nh.gov, 271-2936) or Michael Wimsatt, Waste Management Division Director (michael.wimsatt@des.nh.gov, 271-1997).

Sincerely,



Robert R. Scott, Commissioner

ec: Sponsors of SB 146, Part II: Senators Watters, D’Allesandro, Rosenwald, Prentiss, Perkins Kwoka, Whitley, Sherman; Representatives Ebel, Grassie, M. Murray

Griffin Roberge

From: Paul Doscher <padoscher@comcast.net>
Sent: Friday, February 26, 2021 4:47 PM
To: Griffin Roberge
Subject: SB 146

Dear Chair and members of the Committee,

I have signed in as opposed to this bill, but my opposition is limited only to Section VII (7).

I believe that the legislature does not need to instruct the Land and Community Heritage Investment Program to prioritize the protection of agricultural land for food production. My experience is that the Board already places a high value the ability of the LCHIP program to protect important and productive agricultural land, and instructing it to place a higher priority on this resource than other resources for which the program was created could have unintended consequences.

As a retired land conservation professional, I have been involved with many agricultural land protection projects. Farmland projects cannot all be funded, and it is important to fund those that secure the future of the best farmland and farms. The LCHIP program uses factual, objective criteria to evaluate agricultural land projects and it has demonstrated that the best projects succeed and some that are less well crafted do not. This is appropriate.

I have served on the land conservation Project Review Team for the LCHIP program and have high confidence that the team carefully reviews all aspects of proposed projects of all types and bases it's recommendations on unbiased, factual review of the proposals and the requirements of the program.

Should one type of project (agricultural land) be required to receive higher priority than the other resources (wildlife, recreation, ecological, forestry, etc) in the program it is possible that poorly designed and developed farm projects would receive priority over well designed and important projects that protect other values. This would be an unfortunate and an inappropriate use of public funds.

In conclusion, LCHIP already annually funds a number of important agricultural projects and it is not necessary to create priorities in the programs goals through legislation.

Paul A. Dosche
former Vice President for Land Conservation, SPNHF
former Board Chair, Piscataquog Land Conservancy
owner, Windcrest Farm

Paul A. Doscher

Windcrest Farm

274 Poor Farm Road

Weare, NH 03281

603-496-0761

Griffin Roberge

From: Bruce Berk <bruce.berk.nh@gmail.com>
Sent: Sunday, February 28, 2021 9:18 AM
To: Griffin Roberge
Subject: Support for SB 146 FN

Good morning Mr. Chairman and Committe members,

I would like to thank you for the endless hours you donate for the benefit of the state. Although we may not always agree on policy, I deeply apprecaite your commitment.

My name is Bruce Berk and I am an private citizen living in Pittsfield.

I support SB 146 FN for its overall environmental goals, but today I wish to specifically focus on section VIII and its proposed increases for Class I and Class II renewables which will create good paying jobs, a healthier environment and diversify our energy production portfolio - think Texas.

According to a recent ReVision Energy report, RPS compliance cost as of 2019 was only \$0.0061/kWh. In other words, we can have our cake and eat it, too. We can incentivize our commitment to class one and call two renewable with a cost factor that is negilable.

It is worth noting that NH's solar's energy market penetration is less than 1% while CT and MA exceed 10%. Maine, too, is leapfrogging NH' solar imdiustry. "Google " Maine and solar and a number of dramatic projects are in the works. There are good paying jobs to be had.

In Synapse Energy 2020 report "**Solar Savings in New England**" estimates that BTM solar saved as much as 11 cents per KW hour FOR NE from 2014-2019 (<https://www.synapse-energy.com/new-england-solar-savings>)

In part, it states

"As a result, more BTM solar not only decreases the quantity of electricity purchased, it also reduces the price paid for purchased electricity—which benefits all New England ratepayers .

It goes on to say:

From 2014-2019, behind-the-meter solar created \$1.1 billion in energy benefits in the six New England states. These include savings resulting from purchasing less electricity, as well as savings due to lower overall electricity prices. We estimate that solar contributed to \$87 million in public health benefits, and reduced CO2 emissions by 4.6 million metric tons, equivalent to taking one million cars off of the road.

A healthier future andmore good paying jobs. I support SB 146.

Thank you.

Griffin Roberge

From: Judith Saum <judithsaum@gmail.com>
Sent: Sunday, February 28, 2021 9:58 AM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Subject: Written testimony for SB146-FN

Dear Senator Guida and Members of the Senate Energy and Natural Resources Committee,

As a constituent in Rumney I am urging you to support SB146-FN. My husband and I consider ourselves “climate migrants”; we relocated to NH from Reno NV in 2018 primarily due to the increasing, extreme, wildfire events from climate change during recent years. I suffered greatly from sinus infections and difficulty breathing from the smoke related to those wildfire events, and we often could not go outdoors to recreate for weeks at a time because of them.

While New Hampshire has escaped severe climate change events to date, we are appalled to see the effects that are already happening here. It became clear to us during last summer's drought that wildfires are becoming an increasing threat here as well.

That is why I am asking you and the rest of the Committee members to support SB146-F N. It is critical that we do everything possible in our State to increase and expand the portfolio standard requirements for clean renewable energy. To do so will not only enhance solar energy and renewable industries statewide, but it will also keep NH in line with surrounding states that have already passed stronger renewable standards.

Passing this bill will also support communities like the Town of Campton which recently developed a climate change adaptation plan for their community. While the focus of that comprehensive document is to anticipate and protect the citizens of Campton from the impacts of climate change, it also recommends that “the town should do its part in reducing the greenhouse gas emissions responsible for this problem”. Passage of SB146-FN will support communities like Campton that want to incorporate renewable technologies into their town’s infrastructure.

Thank you for your time and consideration.

Judith Saum
854 Quincy Rd
Rumney, NH

Griffin Roberge

From: Karen Ebel
Sent: Sunday, February 28, 2021 2:24 PM
To: Kevin Avard; David Watters; Rebecca Perkins Kwoka; James Gray; Bob Giuda
Cc: Griffin Roberge
Subject: Testimony in support of SB 146, Part II
Attachments: SB 146, Part II Ebel Testimony.docx; NH Projected Waste Disposal Need and Capacity (2020-2040) (1).pdf; NH Solid Waste Disposal Capacity DES.xlsx

Dear Chair Avard,

Please find attached my testimony in support of SB 146, Part II.

This legislation is one of the many recommendations of the unanimous, bipartisan HB 617 Recycling Streams and Solid Waste Management Study Committee. The study committee webpage page can be found here, including the final report: <http://gencourt.state.nh.us/statstudcomm/committees/1476/>

Attached is DES's chart from the study committee report that clearly outlines the need for solid waste solutions, based on currently permitted landfill capacity. Also attached is another DES chart reflecting specific tonnage inflows, also taken from the study committee report. These documents provide a clear example of why something needs to be done to reduce our waste streams.

I look forward to testifying in support of this important measure tomorrow.

Best regards,
Karen

Rep. Karen Ebel
Democratic Leader Pro Tempore
NH House of Representatives
Member, NH House Public Works and Highways Committee
Merrimack District #5 (New London/Newbury)
PH: 603 748 3876

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Testimony of Rep. Karen Ebel in Support of SB 146, Part II
Merrimack Dist. #5
Senate Committee on Energy and Natural Resources
March 1, 2021

I am here today as an enthusiastic cosponsor of SB 146, Part II and urge the committee recommend passage of this important legislation. Part II would redefine our state solid waste disposal goal, which is long overdue. It would also recast the solid waste plan requirements, as well as extend the reporting period from 6 to 10 years. Part II is basically the same bill that this committee recommended unanimously for passage last term, and that passed the Senate on the consent calendar. Due to COVID, the bill, along with a couple other pivotal solid waste measures got rolled into an omnibus administrative-related bill, HB 1234, which was vetoed by the Governor. The delay in passage is unfortunate because these bills dealt with issues of great importance to our state, municipalities, businesses and citizens.

As you will recall, in mid-2019, China decided to stop taking solid waste from the United States where it had been recycled, particularly plastics and mixed paper. This put a tremendous strain on our cities and towns and on their pocketbooks. Because of that I introduced HB 617. It created a study committee on solid waste management and recycling. Former Rep. John O'Connor was on that committee, along with Rep. Megan Murray and Senator David Watters. The committee's goal was to hear from as many stakeholder groups as possible: public and private landfill operators, municipalities, schools, recyclers, state agencies and non-profits, among them. What followed was an extraordinarily active 8-week study with 14 hearings and over 50 stakeholders participating.

This resulted in a comprehensive study committee report, which can be accessed at this link:

<http://gencourt.state.nh.us/statstudcomm/committees/1476/reports/2019%20Final%20Report.pdf>

As members of this committee, if you have not yet had a chance to review the report, I recommend it to you as it identifies many critical issues for our state and its solid waste challenges. You can access the committee webpage here to view stakeholder testimony, minutes and even the Continuing Education session we did due to the very high interest level of the members at that time.

<http://gencourt.state.nh.us/statstudcomm/committees/1476/>

In short, we have problems. COVID stalled our efforts, but the situation has only gotten worse, starting with a brewing crisis in our landfill capacity and the extraordinarily limited capacity of the DES Solid Waste Bureau to deal with more than day-to-day responsibilities due to drastic budget cuts. This makes their advance planning capabilities very limited to our detriment. Additionally, among its statutory responsibilities, the Waste Management Council, the WMC, is supposed to help with strategic planning, but given its appellate responsibilities and the volunteer nature of the board, it has little or no time to do so.

The HB 617 study committee made many recommendations, but among the most important was the redefining of our solid waste disposal goal, which is at least 20 years past due and is not workable, and the recasting our state solid waste plan, and changing the reporting period. It is difficult to express how important this is to every resident and entity in this state. We all consume many products and we all generate waste. Our municipalities, businesses and our state must handle that waste. That costs time and money. We are short on both.

Pursuant to RSA 149-M, in 1990, this legislature established two interdependent objectives to “conserve precious and dwindling natural resources.” One was the establishment of a preferred hierarchy of waste management methods, from most preferred to least: source reduction, recycling and reuse, composting, waste-to-energy, incineration with no recovery and last, landfilling. Right now, landfilling is our go-to method. The other objective was to achieve by 2000, a 40% minimum weight diversion of solid waste landfilled or incinerated on a per capita basis relying on the waste management hierarchy.

As noted in its 2019 Biennial Solid Waste Report and its oral testimony to the HB 617 committee, DES indicated that this formulation is unworkable based on how waste is now tracked in the state. This led the committee to analyze and recommend unanimously the measurable waste disposal reduction goal approach embodied in this bill and, based on the days of testimony, to endorse specified targets and timelines set forth in this bill *at a minimum*: 25% disposal reduction by 2030 and 45% disposal reduction by 2050. (See Committee Recommendation #7.)

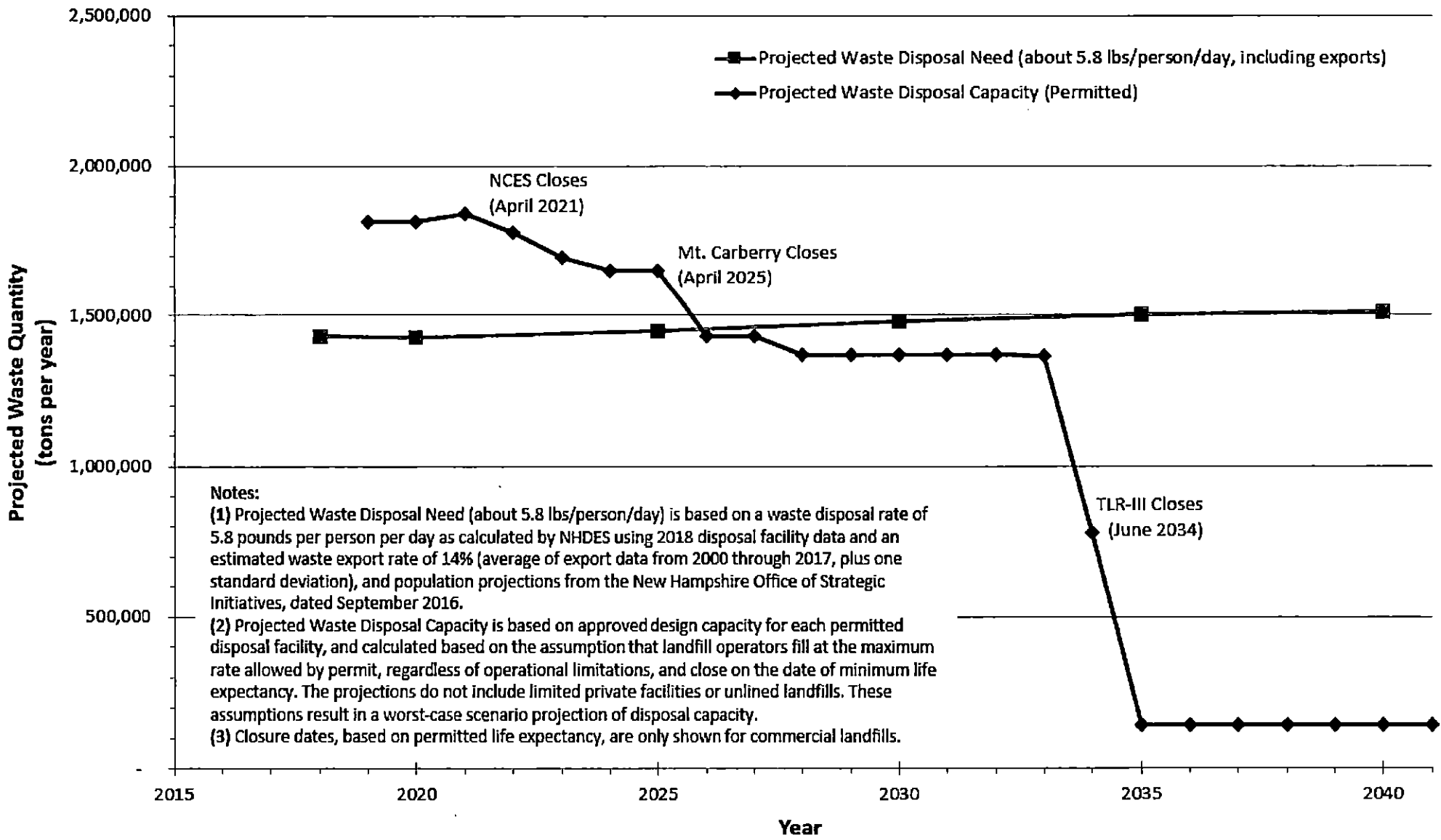
I have provided to the committee separately from the HB 617 report, DES’s analysis of our projected permitted landfill capacity. It is not a pretty picture. I am not here to endorse ever increasing landfill capacity, but I do endorse the establishment of meaningful, achievable goals that our vital to our state’s future. If the HB 617 study committee established anything, it established that we have an evolving solid waste crisis that affects all of us.

While it is not the subject of this bill, let me be plain. DES's Solid Waste Bureau used to have a planning division. The Bureau is general funded. Because of consistent budget cuts, now it does not. We have not had a long-range solid waste plan since 2003. That is the direct result of staffing challenges of the Solid Waste Bureau. The cracks are showing. We need a long-range plan. Other states are working very hard on this issue and are way ahead of us. This affects our state very directly. In some cases, our neighbor states are instituting specific solid waste bans. And in some cases, where refuse is banned in one state, we are the recipients. Massachusetts and Vermont are two examples. Because of the Interstate Commerce Clause, we cannot ban out-of-state waste. Our tipping fees are frequently less, so out-of-state businesses and states look to our landfills for trash disposal. We need to preserve our landfill capacity for our residents and businesses and work continuously to decrease what we put in our landfills. This is fiscally responsible and to the benefit of public health.

Along these same lines, we need to create a workable timeline for the creation of a worthwhile, well-conceived solid waste plan. The ten-year time period proposed by this bill, accompanied by the current two-year biennial reporting cycle, should allow for better long range planning. It will also greatly increase the likelihood that such a plan will actually be produced. With respect to the plan itself, the DES asked that there be more guidance in the statute for their work. SB-146, Part II will provide that much-needed statutory guidance.

In summary, our state has fallen far behind our region and many other states in planning and accomplishing meaningful solid waste reduction goals. The current statutes outlining our solid waste reduction goals and the requirements of our solid waste plan must be updated. DES has done a wonderful job given the ever-dwindling resources it has had. Its job is even harder if it does not have a realistic statutory framework within which to work.

I urge passage of this important legislation.



**Solid Waste Disposed of in NH's
Primary Disposal Facilities
2015 through 2017**

*** DRAFT ***

Year	In-State	Out-of-State	% In-State	Est. Remaining Capacity	
	tons	tons	%	Cubic Yards	Years
Landfills - Unlimited Service Area					
North Country Environmental Services (NCES)					
Bethlehem, NH Permitted life expectancy through at least April 2021					
2015	242,924	101,164	71%	-	-
2016	251,699	181,307	58%	1,335,000	4.3
2017	237,853	134,075	64%	916,000	3.3
2018	231,515	120,770	66%	599,000	2.0
TLR-III Refuse Disposal Facility (aka Waste Management, Turnkey)					
Rochester, NH Permitted life expectancy through at least June 2034					
2015	392,362	703,961	36%	-	-
2016	392,460	698,250	36%	9,494,000	7.3
2017	569,329	845,339	40%	8,134,000	6.3
2018	569,558	918,798	38%	6,987,000	5.4
Mt. Carberry Landfill					
Success, NH Permitted life expectancy through a least April 2025					
2015	120,447	95,680	56%	-	-
2016	148,466	96,023	61%	2,184,000	7.1
2017	138,129	93,621	60%	1,928,000	6.3
2018	145,222	90,209	62%	1,673,000	5.7
Total (Landfills - Unlimited Service Area)					
2015	755,733	900,805	46%	-	-
2016	792,624	975,580	45%	13,013,000	-
2017	945,311	1,073,035	47%	10,978,000	-
2018	946,295	1,129,777	46%	9,259,000	-
Landfills - Limited Service Area					
Lower Mount Washington Valley Secure Solid Waste Landfill					
Conway, NH No minimum permitted life expectancy					
2015	2,290	0	100%	-	-
2016	2,302	0	100%	262,000	20
2017	2,426	0	100%	249,000	19
2018	2,486	0	100%	238,000	18
Lebanon Regional Solid Waste Facility					
Lebanon, NH No minimum permitted life expectancy					
2015	31,150	12,031	72%	-	-
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2018	28,394	11,625	71%	810,000	9
Four Hills Secure Landfill Expansion					
Nashua, NH Permitted life expectancy through at least April 2023					
2015	68,129	0	100%	-	-
2016	68,471	0	100%	794,116	9
2017	75,579	0	100%	687,054	7
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Total (Landfills - Limited Service Area)					
2015	101,569	12,031	89%	-	-
2016	99,780	11,547	90%	2,184,116	-
2017	105,523	11,312	90%	1,786,054	-
2018	107,851	11,625	90%	1,601,172	-
Incinerators - Unlimited Service Area					
Wheelabrator Claremont					
Claremont, NH					
2015	* stopped operating on 9/29/2013			-	-
2016	* stopped operating on 9/29/2013			-	-
2017	* stopped operating on 9/29/2013			-	-
2018	* stopped operating on 9/29/2013			-	-
Wheelabrator Concord					

**Solid Waste Disposed of in NH's
Primary Disposal Facilities
2015 through 2017**

*** DRAFT ***

Penacook, NH					
2015	195,828	7,595	96%	-	-
2016	189,734	7,391	96%	-	-
2017	174,531	20,233	90%	-	-
2018	174,673	18,656	90%	-	-
Total (All Disposal Facil: Landfills & Incinerators - Unlimited & Limited Service Areas)					
2015	1,053,130	920,431	53%	-	-
2016	1,082,138	994,518	52%	-	-
2017	1,225,366	1,104,580	53%	-	-
2018	1,228,819	1,160,058	51%	-	-

**Solid Waste Disposed of in NH's
Primary Disposal Facilities
2015 through 2017**

*** DRAFT ***

Notes:

1. All data from annual facility reports submitted to NHDES-SWMB. Some estimated remaining capacities noted herein may not include approved additional capacity.
2. Alternate Daily Cover (ADC) is not included in any of the amounts presented in this table.

3. WMNH-Turnkey expansion was approved on 6/11/2018 for an additional 15.9 million cubic yards; life expectancy through 2034.
4. Mt. Carberry reports additional remaining capacity for conceptual expansion (Phase III) of about 7,718,000 cubic yards or 32 years.
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8. Merrimack Station Coal Ash Landfill, located in Bow, NH, not included (small amounts relative to facilities included; limited private facility)
9. Bridgewater incinerator not included (small amounts relative to facilities included).

Report of the Committee to Study Recycling Streams and Solid Waste Management in New Hampshire

HB 617, Chapter 265, Laws of 2019

November 1, 2019

Membership

Rep. Karen Ebel, Chair

Senator David Watters

Rep. Megan Murray, Clerk

Rep. John O'Connor

DUTIES

The committee shall study:¹

- The state of recycling programs in New Hampshire in light of changing market conditions.
- Challenges faced by the state and municipalities in running recycling programs and solid waste management.
- Such other related issues as the committee deems necessary, including potential legislation.

INTRODUCTION

To say that the subject of solid waste is vast and complex is an understatement. As weeks of hearings passed, the study committee increasingly realized the extent to which the issue touches every aspect of our society. The generation of products, use of our resources and disposal of unwanted materials has ramifications for our towns, state, nation and world, with broad, important economic, public health and environmental impacts. The impacts require our immediate attention. Many are passionate about how we use our resources and how we dispose of the waste we generate. The study committee did its best to do justice to the magnitude of our state's solid waste challenges in the short time it had for review, holding 14 meetings and taking testimony from over 50 stakeholders. The committee greatly appreciates the support of those who assisted it in its work.

Based on testimony and research, the committee found that our state's solid waste management planning and education efforts have fallen far behind that of our neighboring states and nationally, primarily due to deep budget cuts at the New Hampshire Department of Environmental Services' Solid Waste Management Bureau. The inability of resource-strapped

¹ Taken verbatim from bill.

DES to adequately perform its long-range planning and related responsibilities has left our state in a difficult predicament (some have termed it a developing waste emergency), born primarily by our municipalities and property taxpayers, as global recyclable markets roil, prices for recyclables fall, our solid waste disposal tonnage increases, our landfills fill and we continue to produce untold, arguably inexcusable, amounts of waste that is increasingly difficult and expensive to handle. Our state must adjust its laws and programs to reflect the new economic, environmental and public health realities of solid waste management. This will take commitment, foresight, collaboration and funding.

The study committee hopes the following findings and recommendations spotlight both the challenges and opportunities that lay ahead, enabling the state to do a better job in the future. Testimony submitted to the committee and related materials can be found at the committee's NH General Court website here: <http://gencourt.state.nh.us/statstudcomm/committees/1476/>

BACKGROUND

The regulation of solid waste has a long history in New Hampshire, beginning in 1799 when the state imposed a fine of up to ten dollars upon any person who, in the Town of Portsmouth, "shall throw, place or leave ... any filth, garbage, putrid animal or vegetable substance, or any matter of an offensive nature ... injurious to the health of said inhabitants, in any highway, street, lane, or open alley, or on any common, or into any dock, or on any wharf, or in any shoal water in said town, where the tide will not remove and carry the same away ...". This law was the basis for solid waste management for the next 150 years with relatively minor modifications along the way. Over such time, this basic prohibition was expanded to the entire state.

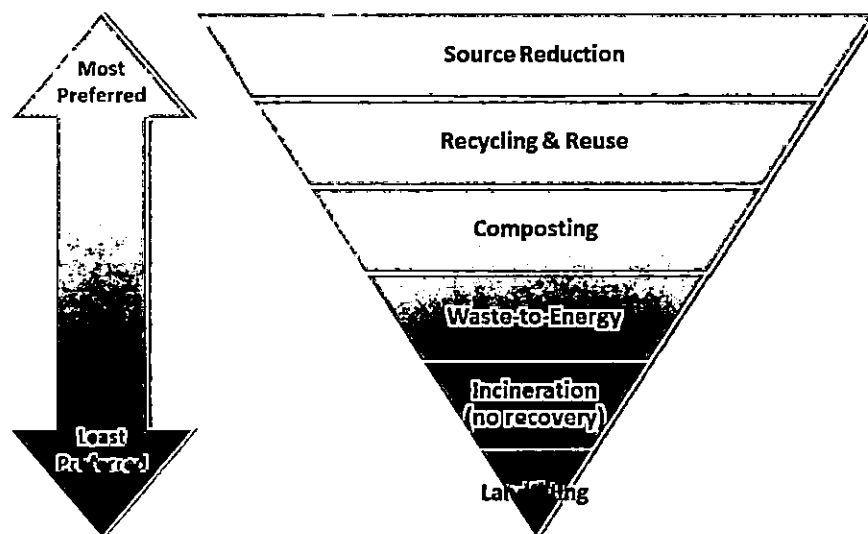
In the 1949 to 1955 time period, the Legislature established the basic bifurcation which exists to this day between municipal and state responsibilities for the management of solid waste in New Hampshire. Municipalities were required to provide and maintain public dumping facilities (aka landfills) for their residents, and the state was tasked with establishing the regulations for such facilities. Though most towns landfills are now closed because they were unlined and contaminating groundwater, RSA 149-M:17 still requires that "each town shall either provide a facility or assure access to another approved solid waste facility for its residents" and may make bylaws "governing the separation and collection of refuse within the municipality." The state, through the Department of Environmental Services (DES), remains responsible for adopting regulations for the operation of such facilities, which now includes not only landfills, but also transfer stations, recycling centers, scrap yards, composting facilities, and incinerators. DES manages this through a permit system and is responsible for enforcement.

The primary statutory laws governing solid waste management are found in RSA 149-M. The chapter's Statement of Purpose reads that "it is the declared purpose of the general court to protect human health, to preserve the natural environment, and to conserve precious and

dwindling natural resources through the proper and integrated management of solid waste.” Over the years, the Legislature has incorporated into RSA 149-M various provisions that are aimed at achieving this purpose. Some have focused on the state’s responsibility to prevent pollution from disposal facilities (landfills and incinerators), thereby protecting public health and the environment. Others are tailored toward the conservation of natural resources, which is accomplished upstream from the disposal facilities by municipalities, residents, and businesses taking action to reduce the waste they produce.

The New Hampshire Department of Environmental Services (“DES”) has used the authority granted to it to close all of the unlined landfills in the state that were opened prior to modern environmental standards. These unlined landfills, many of which were owned by municipalities, were contaminating groundwater and associated surface waters as water in the environment moved in an unrestricted manner through the refuse, carrying pollutants offsite. These landfills were capped with an impervious layer to keep precipitation out and monitoring wells were installed around the sites to periodically test for pollution migrating offsite. Much higher standards are now in place for the construction and operation of solid waste landfills and so groundwater contamination from landfills has been largely abated. In addition, significant methane emissions to the air from decaying waste are now either captured as an energy resource or else flared, which reduces the severity of greenhouse gas emissions.

In an effort to “conserve precious and dwindling natural resources” as stated in RSA 149-M’s purpose statement, the Legislature established two interdependent objectives in 1990. One was a preferred hierarchy of waste management methods, namely source reduction, recycling and reuse, composting, waste-to-energy technologies (including incineration), incineration without resource recovery, and landfilling.



The other objective was to achieve by the year 2000 “a 40 percent minimum weight diversion of solid waste landfilled or incinerated on a per capita basis” by means of source reduction, recycling, reuse, and composting. These are the more preferred methods listed in the hierarchy. Doing so would not only conserve natural resources used in the making and packaging of products, but also help accomplish another declaration made by the Legislature – that “it is important to reserve landfill and incinerator capacity for solid wastes which cannot be reduced, reused, recycled or composted.” The Legislature made clear the importance of these two interdependent objectives by requiring that “in exercising any and all powers conferred upon the department under this chapter, the department shall use and consider criteria relevant to the waste reduction goal and disposal hierarchy.”

Since these objectives were first established back in 1990, the focus of waste reduction/diversion has been on increasing recycling rates. Recycling has been popular with the public and many municipalities have done an admirable job at establishing well-run recycling programs within their communities. Most of the smaller municipalities (those without curbside collection) relied on residents sorting their own recyclables by material type such as glass, aluminum cans, metal cans, plastics by number (i.e., #1 - PETE, #2 – HDPE, etc.), newspaper, cardboard, and office paper, and then dropping it all off at the local landfill, transfer station, or recycling center. This resulted in a fairly clean product that required little further processing by the municipality beyond baling each commodity, as needed, and then storing it for later shipment into the recycled materials market.

Larger communities with curbside service could not readily pick up sorted materials because of the impracticality of having the necessary number of separate compartments on a truck. Some provided a recycling center to which residents could bring their sorted recyclables, but this was not ideal since the residents were accustomed to the ease of curbside collection. The development of materials recovery facilities (MRFs) that use sophisticated machinery and technology to separate co-mingled recyclables provided a solution to this problem. Residents only had to separate their recyclables into one bin, which would then be conveniently picked up at the curb along with their regular trash. In turn, municipalities needed to devote only one compartment on their trucks to recyclables.² The recyclables would subsequently be delivered to a MRF for further processing.

Single stream recycling is now widely used in larger communities in New Hampshire. It has even proven attractive to a few municipalities with traditional drop-off facilities because of its simplicity, low processing costs, and ease of use by residents. This includes municipalities

² As opposed to single stream recycling as was being described, some communities engage in dual stream recycling in which the fiber products (paper and cardboard) are kept separate from the other recyclables. This makes the process of sorting at the MRF simpler, theoretically resulting in lower costs and better end-product materials. However, curbside collection becomes more costly as a two-compartment truck needs to make a separate run just to pick up recyclables.

with well-established programs, where residents did the sorting, that switched to single stream recycling. However, most municipalities without curbside pickup have stayed with source separation by their residents.

ISSUE

MRFs do a remarkable job of separating out the various recyclable commodities from a co-mingled, single stream input, but it is inevitable that there will be some contamination in the end products. Much of this is due to consumers putting unacceptable materials into their recycling bins that the MRFs cannot entirely eliminate through processing. Oftentimes, consumers are confused as to what is acceptable due the myriad assortment of items for disposal that do not always fit neatly into well defined recycling categories. Consumers can also suffer from a desire to recycle everything possible because it is the right thing to do, and therefore err on the side of throwing it into the recycling bin when in doubt (aka wish-cycling). There is also a financial incentive to put as much in the recycling bin as possible in those communities that charge for trash, but not for materials recycled by the resident. These are known as pay-as-you-throw programs which have become quite popular and are meant to encourage recycling.

The contamination in the end products produced by MRFs was not a problem as long as China, a world leader of importing recyclable materials for use in its own manufacturing economy, was willing to tolerate it. That was the case until late in 2017 when China decided to no longer accept the levels of contamination found in most MRF produced materials, in particular those found in mixed plastics and mixed paper, thereby effectively closing off this critical market for these materials. The repercussions from this decision by China have been profound. There is now a glut of certain recyclable materials on the world market causing prices to tumble. For example, the average price of mixed paper in the northeast has dropped from a high of \$85 per ton in March 2017 to below zero now according to the Northeast Resource Recovery Association (NRRA). Both New Hampshire municipalities that source separate and those that rely upon single stream/MRF recycling have been hurt by this precipitous fall in price. Some communities with ongoing contracts involving MRFs are protected for now but will be negatively affected when contract renegotiations occur.

These financial challenges being faced by municipalities were the primary impetus for the creation of this study committee in the hopes of finding possible actions, including legislation, that might help with the situation. In the process of conducting this study, the committee has also explored other challenges concerning solid waste management that have seemingly lied dormant for many years, at least at the Legislature. The 40% waste diversion goal through source reduction, recycling, reuse, and composting was set by the Legislature back in 1990 and was supposed to be achieved by 2000. Has that been accomplished and are there adequate ways of measuring it? Has landfill and incinerator capacity been reserved to only those materials that cannot be otherwise diverted, as called for by the Legislature? If not, what can be

improved upon? Composting possibly? Is the state committing sufficient resources to the issue of solid waste management?

PROCESS

The committee met a total of 14 times at which it took extensive testimony from various stakeholders, including municipal facility operators, private landfill and incinerator operators, conservation organizations, recycling organizations, state agencies, composters, regional planning commissions, a hospital, a grocery store, a product manufacturer, a plastic container manufacturer, middle school students, and concerned citizens.³ The committee organized its meetings with each primarily focused on a different aspect of solid waste management. The committee also toured Turnkey Landfill in Rochester, NH and the MRF in Billerica, MA, both of which are owned and operated by Waste Management.

FINDINGS

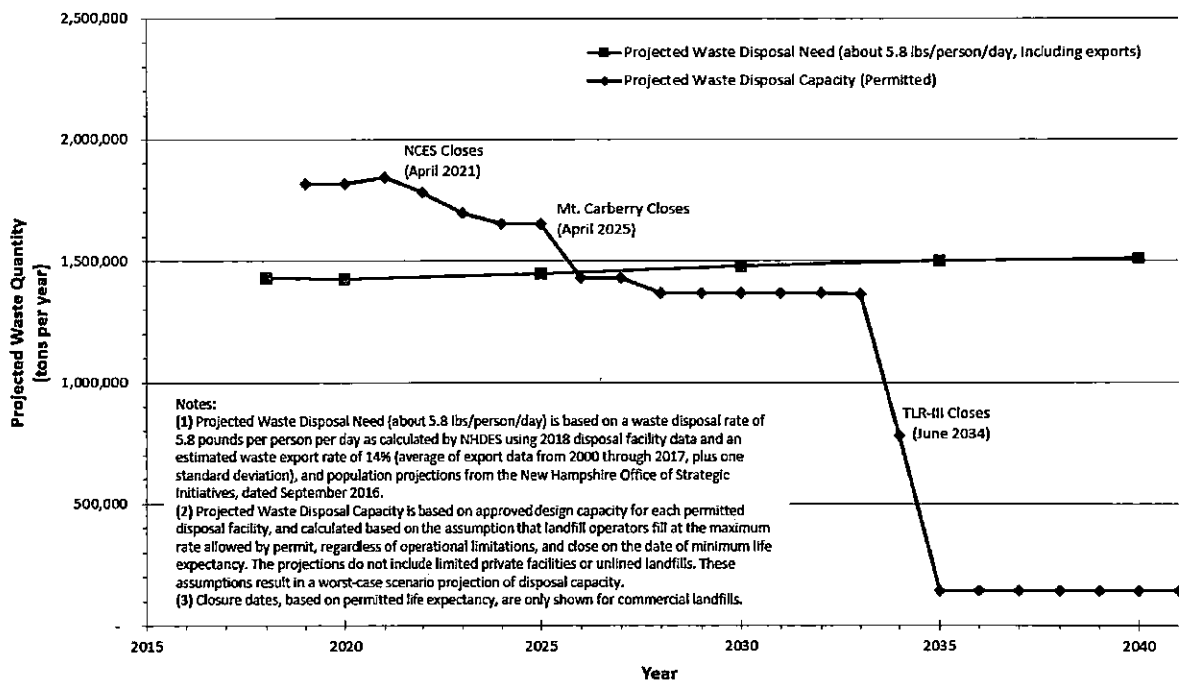
1. **Fundamental policies.** The basic policies mentioned earlier that form the framework of solid waste management in the state and were established by the Legislature nearly 30 years ago are still sound ones, at least in concept. They are: a) Solid waste should be managed using the preferred hierarchy of methods, namely source reduction, recycling and reuse, composting, waste-to-energy technologies (including incineration), incineration without resource recovery, and landfilling; b) The methods listed higher in the hierarchy (source reduction, recycling, reuse, and composting) should be used to divert, by weight and on a per capita basis, at least 40 percent of materials disposed of at landfills or incinerators; c) It is important to reserve landfill and incinerator capacity for solid wastes which cannot be otherwise reduced, reused, recycled or composted; and d) In exercising any and all powers conferred upon DES, the department shall use and consider criteria relevant to the waste reduction goal and disposal hierarchy.
2. **40% diversion standard.** DES has found that calculating the percentage of solid waste diverted is inherently difficult in that it includes source reduction which involves changes made in the manufacture of products. DES does not regulate at the point of manufacture, but rather at the solid waste facilities which it permits. It receives data from permitted facilities, but not manufacturers. DES does not know, in part due to this issue, what our current diversion rate is and so the level of success in achieving the 40 percent diversion goal is unknown.
3. **Landfills.** Landfills are the least favored method of solid waste disposal. Land used for disposal has other worthwhile uses. To ensure public health, landfills must be permanently

³ All those who testified in front of the committee are listed in Appendix A. All materials provided to the committee can be found at: <http://www.gencourt.state.nh.us/statstudcomm/committees/1476/documents.html>

and securely sealed on both the bottom and top. While there is some decomposition of solid waste once it is landfilled (testimony indicated the volume of a landfill will decrease about 20% only), most solid waste, including much plastic, construction and demolition debris and innumerable other types of waste, remain entombed in perpetuity, requiring ongoing maintenance and always a potential threat without proper monitoring.

4. **Landfill capacity.** Landfill capacity in New Hampshire is currently provided by 3 public landfills that only accept waste from specific NH municipalities (plus some VT municipalities in the case of the Lebanon landfill), and 3 private landfills with unlimited service areas, including areas outside of New Hampshire. Landfills, or later expansions, are permitted by DES with specific waste disposal boundaries and height restrictions. The permit conditions for many of them, including all of the private ones, require that facilities operate for a specified minimum number of years. Based on these permit conditions, and assuming no further expansions of landfill capacity or changes in diversion rates, DES predicts a limited shortfall in disposal capacity between 2025 and 2034, and a significant shortfall after that.⁴ About 50% of the solid waste disposed of in New Hampshire comes from out-of-state.⁵ Landfill capacity in the region is becoming tighter as landfills close, causing an upward pressure in tipping fees.

Projected Waste Disposal Need & Capacity for New Hampshire (2020 - 2040)
(Fig. 2 from DES Biennial Solid Waste Report, October 2019)



⁴ See Biennial Solid Waste Report, October 2019, Department of Environmental Services, 6-7.

⁵ *Ibid.* 9.

5. **New landfills and landfill expansion.** Our state’s landfill capacity is rapidly dwindling. Permitting new landfills is difficult for a variety of reasons, including topographical siting hurdles and due to understandable public opposition. The Town of Bethlehem recently declined to permit expansion of a Casella-owned landfill. Area residents oppose attempts by Casella to place a landfill in Dalton adjoining Forest Lake State Park. The recent DES approval of Rochester’s Turnkey landfill has been appealed to the Waste Management Council on a number of grounds. The appeal failed, but the Council’s decision has again been appealed. Legislative efforts to protect New Hampshire’s future landfill capacity can be accomplished if such laws do not unjustifiably discriminate against out-of-state waste as prohibited the Interstate Commerce Clause of the U.S. Constitution.⁶ In permitting, the Bureau must assess the public benefit of the request pursuant to RSA 149-M to ensure no constitutional violations.

DES provided the following table to the study committee illustrating total amounts of waste disposed of from 2015-2018 at New Hampshire’s landfills and one waste-to-energy facility. Disposal tonnage has increased, and the ratio of in-state compared to out-of-state waste is about 50%. But at Waste Management’s Turnkey landfill in Rochester, for example, the percentage of in-state waste has been between 36% and 40%. The table shows only the currently permitted disposal capacity. It may increase in the future.

Year	In-State	Out-of-State	% In-State	Est. Remaining Capacity		
	tons	tons	%	Cubic Yards	Years	
Landfills - Unlimited Service Area						
North Country Environmental Services (NCES)						
Bethlehem, NH						
Permitted life expectancy through at least April 2021						
2015	242,924	101,164	71%	-	-	
2016	251,699	181,307	58%	1,335,000	4.3	
2017	237,853	134,075	64%	916,000	3.3	
2018	231,515	120,770	66%	599,000	2.0	
TLR-III Refuse Disposal Facility (aka Waste Management, Turnkey)						
Rochester, NH						
Permitted life expectancy through at least June 2034						
2015	392,362	703,961	36%	-	-	
2016	392,460	698,250	36%	9,494,000	7.3	
2017	569,329	845,339	40%	8,134,000	6.3	
2018	569,558	918,798	38%	6,987,000	5.4	
Mt. Carberry Landfill						
Success, NH						
Permitted life expectancy through a least April 2025						
2015	120,447	95,680	56%	-	-	
2016	148,466	96,023	61%	2,184,000	7.1	
2017	138,129	93,621	60%	1,928,000	6.3	
2018	145,222	90,209	62%	1,673,000	5.7	
Total (Landfills - Unlimited Service Area)						
2015	755,733	900,805	46%	-	-	
2016	792,624	975,580	45%	13,013,000	-	
2017	945,311	1,073,035	47%	10,978,000	-	
2018	946,295	1,129,777	46%	9,259,000	-	

⁶ U.S Supreme Court case, Philadelphia vs. New Jersey, 1978, <https://caselaw.findlaw.com/us-supreme-court/437/617.html>

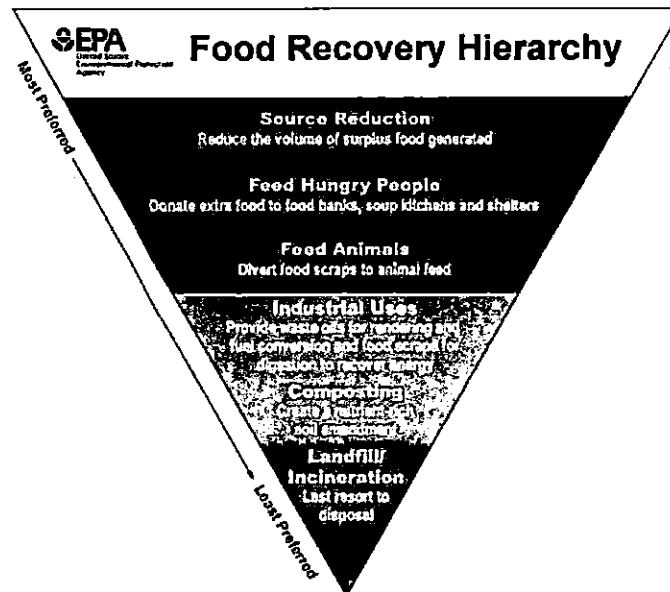
Year	In-State	Out-of-State	% In-State	Est. Remaining Capacity	
	tons	tons	%	Cubic Yards	Years
Landfills - Limited Service Area					
Lower Mount Washington Valley Secure Solid Waste Landfill Conway, NH					
No minimum permitted life expectancy					
2015	2,290	0	100%	-	-
2016	2,302	0	100%	262,000	20
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8. Merrimack Station Coal Ash Landfill, located in Bow, NH, not included (small amounts relative to facilities included; limited private facility)
9. Bridgewater incinerator not included (small amounts relative to facilities included).

6. **Landfill leachate and gas.** Landfills generate leachate, including PFAS, which must be assiduously and carefully handled to protect the public health. During the study committee's visit to Turnkey, it learned that Waste Management (WM) processed approximately 100,000 gallons of leachate per day. It has gone to great expense to process this leachate, but toxins removed are concentrated into a cake and then must be placed back in the landfill where it is secured. Landfills also generate landfill gas, about 50% of which is methane, a potent greenhouse gas and a contributor to climate change. Many landfills, including Turnkey, have equipment that creates electricity from the landfill gas, but many do not. It requires a large investment. In many cases, the gas is flared. An innovative, well-considered New Hampshire collaboration between Turnkey facility and UNH involves the piping of methane to the university for energy. Again, however, market forces play a major role. If fossil fuels are cheaper, electricity generated from landfill gas and waste-to-energy processes must be sold at a less profitable price. This undermines the economic use of these methodologies, making them less popular.
7. **Waste-to-energy.** Per the New Hampshire statutes, waste-to-energy plants are better alternatives for dealing with solid waste than landfills. Assuming air quality standards are met, waste-to-energy plants provide a good alternative energy source, and are a method used widely where there is little land available for landfills. Although the ash from these plants must be deposited in landfills, Wheelabrator testified that it is working on ways to reduce what is put in landfills, such as removing ferrous materials. This makes economic sense.
8. **Economics.** As long as the cost of recycling, composting, or other means of diversion is less expensive than the tipping fees charged by landfills and incinerators and associated hauling costs, then it makes economic sense to engage in those activities. However, the recent collapse in prices of certain recycled material commodities, caused by China enacting stricter contamination standards through its National Sword policy, has made the economic viability of recycling less clear to municipalities, especially those that rely on single stream recycling and MRF processing.
9. **Reducing contaminants in recyclables.** In general, recyclables that are not contaminated with non-recyclable materials have greater market value. MRFs that receive co-mingled, single stream materials that have less contamination will produce cleaner end products with greater value. Achieving a less contaminated single stream source requires educating those seeking to recycle as to what is acceptable to throw in the recycling bin.

10. **Food recovery hierarchy.** The following food recovery hierarchy developed by EPA⁷ is an excellent policy guide for reducing the amount of food waste disposed of in landfills or incinerators.



11. **Food waste regulations.** Food waste represents an economic loss to the consumer who bought the food but did not eat it, or the store that purchased the food for resale, but was unable to do so. In some circumstances, it is also a lost opportunity to feed those struggling to put food on the table. Regulations of NH Department of Health and Human Services, in conjunction with federal regulations, sometimes make it difficult to share food that would otherwise become a waste product. Finding ways through education or needed regulatory reform of getting the food eaten rather than thrown away should have the highest priority.

12. **Composting preserves landfill capacity.** Composting is an excellent method of diverting organic materials from the waste stream and being landfilled or incinerators. Organics are the feedstock for the creation of methane in landfills, an energy source when captured but a potent greenhouse gas when released to the atmosphere. New Hampshire has already banned the disposal of leaf or yard waste in landfills and incinerators which has resulted in the materials being composted on-site or else collected and composted relatively inexpensively elsewhere. However, very little unused food, which constitutes 22% of discarded solid waste according to EPA,⁸ is diverted for composting or other use. This constitutes a huge opportunity for additional diversion by various means. Municipalities could also save money in tipping fees by doing more composting.

13. **Challenges to decreasing food waste.** There are two primary obstacles hindering the more widespread composting of food waste. One is that it must be kept separate from the rest of the waste or recyclables, both by the generator and the collector. This constitutes more work

⁷ <https://www.epa.gov/sustainable-management-food/food-recovery-hierarchy>

⁸ <https://www.epa.gov/sustainable-management-food/sustainable-management-food-basics>

by all involved and potentially greater transportation costs, especially if collected at the curb which requires a separate pickup. The other obstacle is that current DES rules prohibit the inclusion of meat and dairy from being composted at most facilities, unless the facility has obtained a standard permit for such composting. Obtaining a standard permit is a more complex and expensive process than the more commonly used permit-by-notification, and to date, no one has applied for a standard permit to allow composting of meat and dairy.

14. **Composting regulations.** In the hopes of making it easier for composting facilities to open and operate in New Hampshire, in particular smaller operations, the Legislature in 2015 required DES to adopt rules relative to “requirements and best practices for facilities that compost organics, including vegetable matter, meat, meat byproducts, dairy products, or dairy product derivatives.” DES held a series of stakeholder meetings in 2017 and 2018 to work on the issue, but has not yet proposed or adopted rules due to, among other factors, resource (staffing) deficiencies as stated by the department. The need for adopting such rules was a common refrain from those who testified before the committee, including from the farming community. In fact, farmers saw the ability to engage in commercial composting as a good way to augment their tight income streams. Farmers asserted that businesses and municipalities could use the farms for composting to dispose of collected food waste more economically than by landfilling. Until the regulations are amended, DES has offered to consider waiver requests from the meat and dairy prohibition under the permit-by-notification process.
15. **DES deficient due to lack of funding.** The State of New Hampshire is not doing nearly enough to prepare for an evolving solid waste emergency. Our landfill capacity is rapidly diminishing. Local communities have increasingly little inclination to host them and local land use ordinances control. Our waste management and planning statutes are out of date. Virtually everyone who testified bemoaned the troubling lack of forward-looking planning, technical assistance and education done by DES due to staff shortages. They convincingly asked the committee to find a way to increase financial support to the agency to enable it to better do its job. The Solid Waste Bureau now has two primary functions: permitting and compliance. Without additional funding, it is unclear what the future holds for our state and our municipalities as they deal with their solid waste disposal challenges.
16. **Former DES Planning and Community Assistance Section.** Over a decade ago, Solid Waste Management Bureau of DES’s Waste Management Division (the “Bureau”) had an active Planning and Community Assistance Section. It was composed of five individuals who operated in a non-regulatory fashion and assisted municipalities with solid waste management issues and promoted recycling and composting throughout the state. They also worked on updating the state’s Solid Waste Management Plan as required every 6 years by statute (the last update was in 2003.) Unfortunately, budget cuts over the years eliminated all of these positions except one, the Solid Waste Operator Training Coordinator. In addition, there used to exist a Recycling Market Development Coordinator within the former

Department of Resources and Economic Development, as well a Governor's Recycling Program, which focused on school recycling and outreach as a whole.

17. **New Hampshire falling behind.** The state's reduced support for solid waste management planning and assistance over the years has left it incapable of adequately responding to the various challenges that have arisen. Many municipalities feel they receive inadequate state direction and have to go it alone in a complex situation where they have minimal control. Other states are moving ahead with their recycling and composting programs, whereas New Hampshire, for instance, does not have an in-state MRF for single stream recycling or commercial composting facility permitted to take meat and dairy. The absence of such facilities makes it much more expensive to single stream recycle or compost food waste because of transportation costs. Surrounding states have also instituted certain disposal bans at landfills, such as on food waste and construction and demolition debris. The Northeast Resources Council provided a comprehensive, eye-opening list of regional disposal bans in its testimony.⁹ This makes New Hampshire's commercial landfills, with no such bans, a more attractive disposal option for waste that has been banned in that state. Additionally, other states, such as Massachusetts, have closed landfills, making New Hampshire a cheaper, nearby alternative for landfill disposal. As tipping fees increase regionally, more pressure is put on NH's landfills. Other states have devoted significant funds to developing creative, effective solutions to enable better use of resources, recycling and composting to preserve landfill capacity.
18. **Disposal surcharges.** Testimony indicates that most states in the nation impose disposal surcharges on solid waste disposed of in their state. While the specific uses of these dedicated funds varies, funds provide vital support to state government for its long-range planning, education, rule-making, grant-making and technical assistance capabilities. New Hampshire stands almost alone by not charging a disposal surcharge. In our revenue-strapped state, it is unlikely the Bureau can be adequately funded with general funds to do its statutory responsibility. A dedicated fund financed by all who dispose of solid waste in our state or some other source of funding is necessary for the public health of our citizens.¹⁰
19. **DES Waste Management Council.** As further elucidated in the RSA 21-O:9, the Council is responsible for hearing all administrative appeals of DES decisions concerning waste management, advising the Director of the Waste Management Division on a broad range of long-range policy and planning issues, and reviewing proposed administrative rules. Members receive no compensation except for mileage and expenses. The council meets at least four times per year. A considerable amount of its time is devoted to hearing appeals,

⁹ Comments provided by the Northeast Recycling Council,

<http://www.gencourt.state.nh.us/statstudcomm/committees/1476/documents/NERC%20comments.pdf>

¹⁰ A chart of Solid Waste Disposal and Operating Fees in U.S. States generated by DES, 2013,

<http://gencourt.state.nh.us/statstudcomm/committees/1476/documents/Solid%20Waste%20Disposal%20and%20Operating%20Fees%20-%20Comparison%20US%20States%20-%202013.pdf>

especially recently. The director provides an overview of Division activities on a regular basis. Proposed rules are also presented periodically.

20. **Solid Waste Management Plan update vital.** Pursuant to RSA 149-M, the Bureau is required to produce a solid waste management plan every six years. The last plan was issued in 2003. The Bureau testified that the primary reason for the continual delay is staffing and financial resource constraints. As indicated in the 2019 Biennial Solid Waste Plan (page 12), the Bureau now is basically only doing permitting and compliance work. It is impossible to adequately anticipate and plan for our myriad solid waste challenges without preparing a timely solid waste management plan. The bare bones Bureau staff is consistently pulled in multiple directions, including providing legislative support. It makes it extraordinarily difficult to produce a plan. One cannot overemphasize the importance of this document to our state's future with respect to solid waste. Our landfill capacity is plummeting. Approximately 50% of our landfill capacity goes to out-of-state waste. Forward-thinking, creative planning is vital.
21. **Glass and processed glass aggregate.** Glass presents another opportunity for improved management of a waste material. It is heavy, thereby making it expensive to haul any distance and expensive to dispose of at a landfill or incinerator where tipping fees are based on weight. It can also be a source of contamination when co-mingled with other recyclables and broken during handling and processing. Markets for recycling the material are limited and of low value, yet still require that the glass have little contamination. NRRA has a long-standing and simpler program for handling glass which is to crush it unsorted, along with other glass like materials (ceramics, Pyrex, etc.), which produces a processed glass aggregate (PGA) that may be used as a replacement for or as a mixture with construction aggregate (e.g. gravel and sand) in various projects, as long as it is not left exposed on the surface. Presently, the use of the material in private construction requires a professional engineer's or architect's approval, as required by DES's current Certified Waste Derived Product specification for the product. NRRA is working with DES to remove this requirement from the specification for NRRA's PGA in hopes of encouraging broader use of the product. In addition, the state Department of Transportation (DOT) requires that the product be more finely crushed (to 3/8 inch) before it can be used on a state road project. NRRA is unlikely to commit to having the material crushed to this dimension, as it is more costly, unless DOT makes a commitment to its use.
22. **Plastics.** Plastics are another major component of the waste stream that can be managed better. They have been increasingly used in the past few decades for packaging consumer products, such as food, into bottles, jars, packets, and bags of various shapes and sizes. They are also used as films to cover or encase foods such vegetables and meats to preserve freshness. Plastics are popular, versatile in application, relatively inexpensive, and are lighter than most other packaging materials, especially glass. This lightness results in lower transportation costs due to reduced energy (fuel) consumption, which also benefits the environment through lower greenhouse gas emissions. While others may disagree,

Stonyfield Farm's Director of Sustainability Innovation testified that the company's packaging research indicated that using plastic containers had the least impact from a climate change standpoint. Others asserted that the creation of plastics from fossil fuels and their manufacture can present significant health issues. Research also indicates an alarming increase in the pollution of our environment by plastic litter and microplastics. This is gravely concerning, given the lengthy lifespan of plastic materials.

23. **Recycling plastics.** Plastics are often marked with a numbered recycling logo (#1 - 7) indicating the type of resin they are made of, and can be either rigid or flexible. Though in theory, all of plastics may be recyclable, in reality it is very challenging to successfully do so. Consumers are often confused by all of the resin numbers and variations in form (rigid vs. flexible) that affect what can and cannot be recycled in their community. Mistakes are commonplace causing contamination that decreases value. Since plastics are so light, municipalities that process their own recyclables must have large storage areas to accumulate enough of a specific plastic to make a compressed bale of the material. The process is also labor intensive. In addition, viable or price-competitive markets may not be readily available either. China modified its acceptable levels of contamination to among the lowest levels worldwide. This has created a global supply glut of materials and this, along with the availability of low-cost virgin materials, depresses the value of recycled plastic. The fact that plastics are so light compared with other components found in solid waste means that there is less of an economic incentive to recycle them since disposal fees at landfills and incinerators are based on weight. In contrast, plastics take up considerable volume for their weight and thereby take up a disproportionate amount of landfill space.
24. **Circular economy for plastics needed.** The plastics industry is working towards "a circular economy for plastics"¹¹ with the aim of capturing the vast amounts of plastic packaging that is being landfilled, or worse, being released into the environment, and repurposing it. Research is underway into methods to collect and process more kinds of plastics, including flexible plastic packaging (ie, plastic film bags and shrink wrap), which has traditionally been considered a contaminant in single-stream, curbside recycling programs. Finding new and expanded markets for all types of used plastic once collected and processed is also being investigated. This is extremely important because of the on-going increase in the use of plastics due to their versatility and popularity, especially for single uses.
25. **Decrease single use plastics.** Plastics present singular, concerning environmental issues. Although certain types of plastics are highly recyclable, not enough is recycled. Testimony indicates that by some estimates 91% of all plastic ever produced has been disposed of in landfills or litters our land and seas.¹² Complicated plastic packaging is constantly evolving and is increasingly hard to recycle. Dart Container Corporation and the American Chemical Society testified that the industry is working hard in find recycling solutions, as many turn an

¹¹ American Chemistry Council plastics webpage, <https://plastics.americanchemistry.com/recycling-and-recovery/>

¹² We Made Plastic. We Depend on It. Now We're Drowning in It. by National Geographic, <https://www.nationalgeographic.com/magazine/2018/06/plastic-planet-waste-pollution-trash-crisis/>

increasingly critical eye toward plastics, but recycling alone is not the solution. Reduction of single use plastics in our waste stream is necessary. Other states in the region are taking action to decrease plastics. As noted in an earlier finding re: disposal bans by other states, this may mean more plastics being sent to New Hampshire for disposal. The committee appreciates the recent decision by waste management companies, including Waste Management, to stop sending plastics to poverty-stricken countries.¹³

26. **State procurement.** For recycling to work, all recyclables need good markets. The state of New Hampshire, through its procurement process, can help promote recycling by increasing its purchase of products with high recycled material content. This takes advantage of the significant purchasing power of state government and demonstrates leadership on this important issue. The state also needs to do what it can to incentivize increased use of recycled materials statewide.
27. **Aluminum and tin.** The markets for recycled tin and aluminum remain strong and are good sources of revenue for communities.
28. **Healthcare.** New Hampshire's hospitals and other medical facilities dispose of multiple tons of solid waste per day, much of it in landfills. Some hospitals are leading the effort to reduce their waste. Dartmouth-Hitchcock (D-H) has instituted aggressive programs to reduce its waste stream, by decreasing consumption where possible, recycling, and composting.¹⁴ D-H also tries to identify possible closed loop systems where a waste product is repurposed or recycled into a product, which is then bought by the hospital. For example, D-H contracts with the Bradford-based company, Circular Blu, to recycle its sterilization wrap by reprocessing it and using the material to create tote bags that are provided or sold at the hospital to patients, employees, and visitors. Testimony by the New Hampshire Hospital Association indicates an awareness of the waste problem and a desire to seek ways to improve. Organizations like Practice GreenHealth and Health Care Without Harm are helping lead the way.
29. **Education on recyclability.** Recycling's success depends on consumers. There is a great deal of consumer confusion and frustration as to what can be recycled, and how and where to do it. Municipalities, large and small, businesses and residents all testified to the need for standardization of signage that could be used universally to clarify recycling opportunities. Standardization of recycling signage and uniform recycling guidelines should help increase recycling. Education regarding best recycling practices will also help those collecting and processing recycled materials to decrease the amount of contamination by non-recyclable materials, thereby facilitating the development of markets and increasing prices for recycled goods. This in turn should decrease costs for municipalities, directly effecting consumer

¹³ https://www.huffpost.com/entry/waste-management-plastic-export_n_5da9ce43e4b0e0f0378ae647
http://rorr.btownwebclients.com/wp-content/uploads/2019/09/wm_01080-Plastic-Export-Policy_rl.pdf

¹⁴ "Sustainability at Dartmouth Hitchcock Medical Center" in Green Energy Times.

costs. Many businesses are consulting to improve their solid waste challenges trying to do the right thing and save money, too. Casella, for instance, provides consulting services.¹⁵

30. **Coordination to promote recyclability.** The success of source reduction, reuse and recycling goods depends on consumers who face a blizzard of different sorts of products and packaging, from chip bags to toothpaste containers, juice boxes to single use applesauce containers. Many of these items end up at MRFs, as contamination, landfills or waste-to-energy plants. A much higher level of coordination is needed among those who make packaging, particularly plastics-based, businesses who design packaging for safe delivery and to attract sales, and those who must process the waste. If materials can be recycled, more cash can be generated which will decrease disposal costs, save landfill space and reduce litter. This will take a concerted national effort and much commitment. States are also taking action. Reacting to the large amount of unrecyclable packaging in its landfills, Maine has passed legislation seeking to promote extended producer responsibility.¹⁶
31. **Business opportunities.** The loss of the Chinese market for our mixed paper and plastics presents real, domestic economic opportunities that are beginning to evolve. In New Hampshire, we have a great deal of experience with paper processing that could be utilized to do more recycling. For instance, a Chinese company, Nine Dragons, has purchased US paper mills, including one in Rumford, Maine.¹⁷ Domestic plastic recycling plants are also starting to come online. New Hampshire could work with entrepreneurs to develop such businesses and become an incubator for solid waste recycling and reduction innovation. The committee had insufficient time to research the University System's activities regarding sustainability, but the System could increase engagement on these issues. There are also opportunities related to the development of anaerobic digesters and better uses for biogas in the creation of electricity. Business opportunities also exist for developing and promoting sustainable packaging.
32. **Waste management industry.** Waste management companies play a significant role in our society. Society generates a vast amount of refuse of a mindboggling variety. Virtually everyone, directly or indirectly, pays for private or public waste management services to deal with their garbage. While many are critical of waste management companies and the fact that they bury or burn unrecycled trash, what would happen if they did not? Where would it go? Until such time as society can achieve the laudable goal of zero waste, solid waste will continue to exist. Many throw things away and are unaware of or care little about where their trash goes. The study committee members were at times, overwhelmed when witnessing the sheer magnitude of trash being handled by the Waste Management's Billerica MRF (100,000 tons/year) and the amount being buried at Turnkey (approximately 1,500,000 tons/year). Companies like Waste Management and Casella are doing the job they are expected to do for

¹⁵ <https://www.casella.com/about-casella/innovation>

¹⁶ Maine DEP to draft legislation designed to strengthen recycling, Recycling Times, <https://www.recyclingtoday.com/article/maine-explores-epr-legislation-for-packaging/>

¹⁷ Nines Dragon Paper website, <https://us.ndpaper.com/>

society, as regulated and overseen by our government. The study committee agrees that systems to decrease wasteful refuse generation must be developed and better methods of reuse and recycling must move ahead rapidly.

33. **Waste management industry adaptation.** Waste management companies recognize that to thrive as businesses, they, too, must work with all entities to better utilize materials that are banned from landfills (ie, food waste) or to recycle more materials. Economics will continue to drive these efforts. Casella, for example, is working to find alternative ways to handle waste it is called upon to dispose of through its sustainability program, described in great detail on its website.¹⁸
34. **Municipalities are islands.** NRRA works closely with municipalities to find markets for sorted recyclables. Municipalities rely heavily on their efforts to make recycling pay for itself, if not, to generate funds. This organization does an excellent job trying to facilitate better use of recyclable materials, but it is challenging work. Municipalities repeatedly asserted that they are on their own trying to figure out what to do with their solid waste and recyclables, negotiating individual contracts for solid waste hauling and disposal and recycling in a roiling global market with major fiscal pressures from property taxpayers. This is a tremendous burden for our cities and towns.
35. **Transportation costs.** One of the major expenses to municipalities is transportation of recycled goods. When municipalities were able to get a good return on recyclables, the transportation costs did not present such an obstacle. But now it can cost as much or more than what is paid for recyclables than the transportation costs. Many municipalities attempt to do the right thing and keep recycling, but for some, the economics do not work and they elect to throw items that they otherwise would recycle away. This uses up dwindling landfill capacity and is a waste of resources. The creation of an in-state MRF either through a private-public partnership or by private industry could decrease the transportation costs of recycled goods and promote more recycling. A regional recycling hauling system for smaller towns could ensure their recycling gets to market rather than to landfills.
36. **Regional Planning Commissions and Solid Waste Districts.** Regional planning commissions already play an important role in supporting the solid waste management efforts of New Hampshire's communities in a variety of ways, including acquisition of US Department of Agriculture Solid Waste Management grants, pilot programs, coordinating educational and recycling efforts and more. Additionally, RSA 53-B provides a mechanism whereby municipalities can join to form solid waste management districts. Somewhat unpopular in New Hampshire, these districts can help municipalities work collaboratively as they face the many hurdles of solid waste management in today's global turmoil.
37. **School districts.** School solid waste generation, recycling, food packaging, food waste and composting presents particular challenges. But as evidenced by the Somersworth Middle

¹⁸ Casella 2018 Sustainability Report, <https://www.casella.com/sites/default/files/pdfs/Casella-SustainabilityReport-2018.pdf>

School's impressive presentation, students in partnership with supportive school boards and administrations, can save money, accomplish much and learn a great deal working to better manage the solid waste generated. Their work could be a model for other school districts. One issue noted was that kitchen services are frequently contracted out and some private companies are slow to adopt composting and other beneficial efforts.¹⁹

38. **Sustainability efforts by private businesses.** It is encouraging that many businesses recognize the important of reducing their solid waste footprint. Here in New Hampshire, Hannaford, Stonyfield Farm, Hypertherm and Walmart are trying to become more sustainable. This is the right thing to do, but also companies are feeling public pressure to do more. Multistate businesses, especially large, multistate organizations, prefer predictability and uniformity in solid waste requirements. Hannaford testified as to its work with Maine on a statewide plastic bag ban bill because it had difficulty complying with multiple local ordinances. Casella testified as to the issues presented by varying state laws. In deciding whether to pursue more aggressive legislation to ensure source reduction and recycling, the legislature should understand that in doing so, it would join neighboring states and that businesses seeking uniformity could be supportive of these efforts. There are many organizations working on sustainability, such as the Sustainability Packaging Coalition members.
39. **Zero waste efforts.** Testimony indicates that our state and our world benefit from consistently pushing toward source reduction and reuse. The public, our municipalities, businesses and state agencies want to do the right thing. Many pathways to improvement to exist. We need to consistently strive to improve and be given the tools to do so. Zero waste is a worthy goal.

RECOMMENDATIONS

1. The state must accept its statutory responsibility under RSA 149-M and resume its leadership role in long-range planning, technical assistance and public education to foster the better management of New Hampshire's solid waste challenges and recycling opportunities.
2. New Hampshire's solid waste management statutes and related programs must be updated to properly reflect current local, state, national and global conditions. They must also be updated to reflect our better understanding of the economic, environmental and public health costs of different types of solid waste and the effects of burying and incinerating our waste.
Legislation recommended to update solid waste management laws.
3. DES Solid Waste Management Bureau must be provided with adequate funding to perform its vital, statutory long-range planning duty and, because general funds have proven to be an

¹⁹ Somersworth Farm to School initiative, https://docs.google.com/presentation/d/12-wB86S0fpPmPmQJzBKsEr6BoTtoTOUg7DeZ7CIgSck/edit#slide=id.g4bab56338b_1_0

unreliable funding source, a new method of funding must be developed. Like most other states, New Hampshire should create a dedicated fund to support the vital activities of the Bureau based on a per ton disposed surcharge. Such a surcharge should be based on all in-state and out-of-state solid waste tonnage delivered for disposal at any in-state landfill and waste-to-energy plant. The expenditure of these funds must first and foremost include financial support of the Solid Waste Bureau, so that it can perform its statutory duties and support our municipalities. DES should refine how these funds will be expended through rulemaking. **Legislation recommended to create a funding source through the institution of a dedicated fund based on per ton disposal surcharges on all waste landfilled or incinerated in New Hampshire. Such legislation would include a method of reimbursing surcharges paid by New Hampshire municipalities back to them for solid waste-related uses.**

4. To promote the state's solid waste hierarchy, as stated in RSA 149-M:3, and because misunderstanding leads to more solid waste disposal, the Bureau should take an active leadership role, including outreach, in education of residents, municipalities and businesses in developing simplified guidance on what is recyclable, and how and where to do it. The Bureau should continue to seek opportunities to work with and seek the support of stakeholders to educate on solid waste management-related subjects as they arise. **Legislation recommended.**
5. To assist the Bureau in the performance of its long-range planning responsibilities and other recommendations of this study committee, the Legislature should create a statutory commission, working group or similar entity that includes a variety of stakeholders. This entity should include at least one member of the DES's Waste Management Council, which also has long-range planning and public education responsibilities. The entity should have no more than a 5-year lifespan. **Legislation recommended to create a 5-year or less statutory commission, working group or similar entity, including at least one member of the Waste Management Council and other stakeholders, to work with DES to develop sound forward-looking, solid waste management policies, educational outreach and technical assistance programs and similar endeavors, as necessary.**
6. DES must put the necessary resources into updating the 2003 Solid Waste Management Plan no later than September 30, 2020. The Legislature should reconsider the requirement of revising the plan every 6 years with a view toward doing so every 10 years for better planning. **Legislation recommended to amend the 6-year requirement to 10 years and to require prompt completion of a new solid waste plan no later than September 30, 2020.**
7. The Legislature should revise RSA 149-M:29, II in accordance with the analysis, conclusions and recommendations of the DES's Biennial Solid Waste Report from a 40% waste diversion goal to a disposal reduction goal with specified targets and timelines to reduce annual tonnage disposal. **Legislation recommended to amend RSA 149-M:29, II to replace the 40% waste diversion goal with disposal reduction goals with specified targets and**

timelines. The committee supported a minimum of 25% disposal reduction by 2030 and 45% disposal reduction by 2050.

8. Like other states, NH should institute disposal bans of various types of waste over a carefully considered time frame and work to create markets and an infrastructure to accommodate the banned items. Such bans would prohibit identified waste from being disposed of in landfills or incinerators. Items to consider are food waste, any electric device with a cord, rechargeable batteries, various types of plastics, glass, and construction and demolition debris. Currently, NH bans leaf and yard waste and electronic waste, among other things, by statute. (RSA 149-M:27) The state should also closely assess the extent to which solid waste banned in other states is being disposed of here and whether that should be permitted.

Legislation recommended to institute disposal bans.

9. Because domestic recycling is a job creator and provides ample business opportunities, the state should incentivize and develop methods to support new and existing businesses that seek to engage in the production of new products from recycled goods, such as plastics and paper products, and ways to reduce and reuse solid waste. Similarly, the state and private entities should work to develop markets for recycled goods, working with groups such as the Northeast Recycling Council. The state should also promote the development of corporations producing sustainable packaging. **Legislation recommended.**
10. Because food waste takes up so much landfill capacity, drives methane release and would be far better consumed than wasted, the Department of Health and Human Services should create internally or the Legislature should create a task force to review and improve food safety regulations with a view to maximizing beneficial use of what is now viewed as waste. This regulatory review should include stakeholder input from food banks, food sellers, schools and restaurants. NH should join other states in their efforts to decrease food waste. **Legislation recommended to require DHHS to review and improve food waste-related regulations in an attempt to reduce food waste and feed the hungry.**
11. As funding becomes available, the Long-Range Planning and Community Assistance Section of the Bureau must promptly be reactivated, per Finding #16, to assist municipalities, non-profits and others with long-range planning, technical assistance with respect to their solid waste challenges (including finding recycling material outlets) and contract negotiations.
12. Based on testimony from a variety of stakeholders, municipalities should strongly consider instituting pay-as-you-throw programs to reduce property taxes and to decrease what is landfilled and incinerated, to encourage source reduction and to increase recycling.
13. The Department of Administrative Services should work with the Legislature to review and update state laws to reflect current solid waste challenges and opportunities and to coordinate disposal and recycling effects. Decentralized waste disposal policies should be reviewed and adapted to improve currently centralized recycling efforts. The state should be a leader in procurement of recycled products, waste reduction and recycling. This work should begin immediately and should include measures to comply with the Legislative Budget Assistant's

performance audit of DAS's Statewide Recycling Program, May 2015, to the extent the agency has not yet complied with the audit findings.²⁰ **Legislation recommended to update state procurement policies, reduce solid waste and improve recycling.**

14. Recognizing the staffing challenges this presents, the Legislature should require the Bureau to send proposed, revised composting rules to the Joint Legislative Committee on Administrative Rules (JLCAR) no later than September 30, 2020. These rules should be finalized promptly once approved by JLCAR. The state should also work to facilitate the creation of an infrastructure to promote commercial, municipal and other composting efforts. **Legislation recommended to require regulations to be promulgated by September 30, 2020.**
15. The state and private businesses should collaborate on ways to incentivize increased coordination between packaging designers, brand owners, manufacturers and waste management/recycling companies to enhance recyclability and reuse so as to reduce waste disposal, particularly with respect to plastics, including extended producer responsibility. **Legislation recommended.**
16. To assist municipalities in reducing costs associated with the management of recyclables, statewide efforts should be made to decrease related transportation costs and storage shortages for recycled materials by working to promote regional pickups and transport to recyclers, as well as the creation of an in-state MRF, perhaps through a private-public partnership. **Legislation recommended**
17. The state should try through legislation, procurement, education and otherwise to decrease the amount of plastic waste generated and disposed of in landfills, incinerators and left as litter. Every effort should be made to ensure that those plastics that are recyclable, such as HTPE and PETE, be recycled, particularly as testimony indicates that certain types are more readily recycled. **Legislation recommended.**
18. The DOT should endeavor to use as much glass aggregate as possible in its projects, by creating a pilot project to do so, and subsequently to require a certain percentage of glass cullet to be used in state projects. The state and industry should work to create an adequate supply of PGA to ensure that the requirement is met. **Legislation recommended to require DOT to promote the use of PGA, including a pilot project, ultimately ensuring PGA to be used in state projects.**
19. State government and other private organizations should develop methods to recognize and encourage those entities that reduce, reuse and recycle products, thereby keeping them out of the waste stream.
20. Recognizing the value of single use plastics in certain contexts, such as healthcare, single use plastics should be regulated and reduced where possible. To promote recycling, organizations selling goods involving the use of flexible plastic film, such as single use plastic bags and

²⁰ http://www.gencourt.state.nh.us/LBA/AuditReports/PerformanceReports/DAS_2015.pdf

wraps, should provide opportunities for the collection of such plastics for recycling similar to the “return to retailer” program or WRAP (Wrap Recycling Action Program) described by the American Chemistry Council. Those that do must clarify for and educate consumers as to which of those items can be recycled, thereby decreasing contamination of the recycled items and to answer a desire of the public to recycle their flexible plastic film products.

Legislation recommended.

21. As major generators of various forms of solid waste, healthcare organizations should continue to seek ways to reduce consumption and increase recycling and composting. The state should work with healthcare organizations to accomplish this task, perhaps through incentivizing reduction.
22. Municipalities should continue to work with Regional Planning Commissions to develop better solid waste management tools. Municipalities should also consider the potential benefits of joining into solid waste districts.
23. School districts should consider the model used by the Somersworth Middle School to develop better systems to reduce, reuse, recycle and compost solid waste as a way of educating students, improving the environment and saving money. School districts should work with independent kitchen services organizations serving their cafeterias to reduce food waste and to operate more sustainably, including the use of reusable trays, dishes and silverware.

ACKNOWLEDGEMENTS

While the study committee did extensive work to highlight the state’s increasing recycling and solid waste management challenges per its mandate, it had neither the expertise nor the time to adequately research and review this extraordinarily complex, multifaceted subject that touches every part of our society. The committee’s findings and recommendations show that much more work needs to be done and hopes that this report helps lead the way. The study committee would like to thank the many, many stakeholders who shared their time and knowledge over the course of the past several weeks. It is deeply appreciated. The study committee is grateful to Waste Management for providing an informative field trip to its Turnkey landfill and Billerica MRF. The study committee would like to extend special thanks to Michael Nork, DES, Reagan Bissonette, NRRA, and Joel Anderson, NH House Committee Services, for their continual, vital support and assistance.

Appendix A

List of Those Who Provided Testimony to the Committee

First Name	Last Name	Organization
Nancy	Amato	Town of Milford
Chris	Asbell	Somersworth Middle School - Science Teacher/Project Mentor
Deb	Augustine	NH Hospital Association
Jeanne	Beaudin	Town Administrator Town of Belmont
Heather	Billings	Center for Ecotechnology (Mass.)
Reagan	Bissonette	NRRA - N.E. Resource Recovery Assn
Steve	Brewer	Town of Raymond
Bob	Cappadona	Casella Resources
Bill	Cass	NH DOT
Christine	Cassidy	DART
Chip	Chesley	City of Concord
Bonnie	Christie	Hopkinton Recycling Committee
Adam	Clark	City of Concord
Zachary	Conaway	Dartmouth-Hitchcock Medical Center
Joan	Cudworth	Town of Hollis Solid Waste Supervisor
Lisa	Drake	Stonyfield Yogurt - Director of Sustainability
John	Early	Public Works New London
Patrick	Ellis	Casella Organics
Amy	Farnum	N.H. DAS State Recycling Coordinator
Alex	Freid	Post-Landfill Action Network - Dover NH
Mark	Gomez	City of Manchester Solid Waste Mgmt Council
Matt	Hughes	Wheelabrator
Bret	Ingold	Warner Public Market
Tom	Irwin	Conservation Law Foundation
Cheryl	Jensen	Resident Town of Bethlehem
Cordell	Johnston	NHMA
Lucas	K.	Somersworth Middle School
Aaron	Kerr	Rainbow Bridge Composting - Deerfield
Judy	Knapp	Hannaford - Government Relations Manager
Jeff	Lafleur	City of Nashua Solid Waste Supervisor
Katie	LaJoie	Resident - Charlestown, N.H.
John	LaRiviere	Wheelabrator
Chris	Lucarelle	Waste Management
Rebecca	McWilliams	Lewis Farm
Larry	Melanson	NH The Beautiful
Paula	Minnehan	NH Hospital Association
Marc	Morgan	City of Lebanon
Michael	Nork	NHDES Solid Waste Management Bureau
George	Parmenter	Hannaford - Sustainability Manager

First Name	Last Name	Organization
Adam	Peer	American Chemistry Council
Steve	Poggi	Waste Management
Lynn	Rubinstein	Northeast Recycling Council
Jessica	Saturely-Hall	Upper Valley Composting - Lebanon, NH
Kevin	Sheppard	City of Manchester - Public Works Director
Colleen	Smith	NH DHHS, Public Health Services, Food Protection
Solid Waste Advisory Board		Hillsborough, Deering, Windsor
Jon	Swan	Save Forest Lake
Eric	Thibodeau	N.H. DOT
John	Tuthill	Resident - Acworth, N.H.
Zack	W.	Somersworth Middle School
Ed	Walsh	Town of Rollinsford - Transfer Station
Duncan	Watson	City of Keene - Asst. Public Works Director
Josh	Whipple	Swanzey Solid Waste Manager
Paige	Wilson	Lakes Region RPC
Michael	Wimsatt	Director, Waste Management Division - NHDES
Barry	Zitser	Resident Bethlehem, N.H.

Appendix B

Internet Resources Related to Solid Waste Management

Casella Organics

<https://www.casella.com/casella-organics>

Casella Recycle Better

<https://www.casella.com/services/recycling/recycle-better>

Circular Blu

<http://www.circularblu.com/>

EPA: Food Recovery Challenge

<https://www.epa.gov/sustainable-management-food/food-recovery-challenge-frc>

DES Solid Waste Bureau

<https://www.des.nh.gov/organization/divisions/waste/swmb/index.htm>

Feeding America

<https://www.feedingamerica.org/>

How2Recycle

<https://how2recycle.info/>

Northeast Recycling Council

<https://nerc.org/>

Northeast Resource Recovery Association

<https://nrra.net/>

Northeast Waste Management Officials' Association

<http://www.newmoa.org/>

Post Landfill Action Network

<https://www.postlandfill.org/>

Practice Greenhealth

<https://practicegreenhealth.org/>

Sustainable Packaging Coalition

<https://sustainablepackaging.org/>

US Composting Council

<https://www.compostingcouncil.org/>

USDA: Food Loss and Waste
<https://www.usda.gov/foodlossandwaste>

Maine Composting School
<http://composting.org/>

New Hampshire The Beautiful
<https://www.nhthebeautiful.org/>

Zero Waste Home
<https://zerowastehome.com/>

Terracycle
<https://www.terracycle.com/en-US/>

Lebanon solid waste and recycling
<https://lebanonnh.gov/450/Solid-Waste-Recycling>

Hannaford sustainability
<https://www.hannaford.com/about-us/sustainability>

Stonyfield sustainability
<https://sustainablepackaging.org/>

Waste Management sustainability consulting
<https://www.wm.com/us/en/services/business-services/sustainability-consulting>

America's Biggest Trash Hauler Stops Shipping Plastic To Poor Countries, Huffington Post article
https://www.huffpost.com/entry/waste-management-plastic-export_n_5da9ce43e4b0e0f0378ae647

Waste Management Position On Plastics
http://rorr.btownwebclients.com/wp-content/uploads/2019/09/wm_01080-Plastic-Export-Policy_r1.pdf

California legislature wraps session with unprecedented recycling action, WasteDive
<https://www.wastedive.com/news/california-legislature-wraps-session-with-unprecedented-recycling-action/563136/>

Griffin Roberge

From: Jodi Grimбилas <jodi@jgstrategies.com>
Sent: Sunday, February 28, 2021 5:46 PM
To: Griffin Roberge
Cc: DeSantis, Erin
Subject: Testimony for Shawn Swearingen for SB 146
Attachments: NH S 146 ATCS Written Testimony 03012021.docx

Hi Griffin –

Here is the testimony of Shawn Swearingen of the American Chemistry Council on Behalf of the Alliance for Telomer Chemistry Stewardship for tomorrow's hearing on SB 146.

Thanks and have a good night!

Jodi

Jodi Grimбилas, President
J Grimбилas Strategic Solutions LLC
(Office) 4 Park Street, Suite 101, Concord
(Mail) PO Box 233, Northwood, NH 03261
(Cell) 603-496-2638
jodi@jgstrategies.com



Alliance for Telomer Chemistry Stewardship

March 1st, 2021

Attn: Senate Energy and Natural Resources Committee

Dear Chair Avard and Members of the Committee:

The Alliance for Telomer Chemistry Stewardship (ATCS) is a global organization that advocates on behalf of C6 fluorotelomer-based products. Our members are leading manufacturers of fluorotelomer based products. Our mission is to promote the responsible production, use, and management of fluorotelomer based products, while also advocating for a sound science- and risk-based approach to regulation. Fluorotelomer-based products are versatile chemistries with wetting and spreading features, as well as unique properties that repel water, oil and stains. These unique characteristics make fluorotelomers a critical component of first responder gear, medical garments, paints and coatings, upholstery, class B firefighting foam, among other uses that families and businesses across the world rely on.

On behalf of the members of ATCS, we respectfully request that, with respect to SB 146, you: (i) strike additional food packaging language that is presently covered by the FDA; (ii) allow for the continued sale, distribution and use of affected products that are already in commerce in New Hampshire as of the effective date of the act; (iii) update definitions of PFAS, food packaging and firefighting foam; and, (iv) allow incineration to remain as the disposal method of AFFF.

About per- and polyfluoroalkyl substances (PFAS)

PFAS are a diverse universe of chemistries with a wide range of critical uses. For instance, fluorotelomers (one type of PFAS) are used in food packaging applications, but are also currently being used in medical garments, hospital gowns, drapes and divider curtains to create a barrier that provides life-saving protection against infections and transmission of diseases like COVID-19 in hospitals. Another type of PFAS, fluoropolymers, are integral to COVID-19 testing equipment and the medical technology that is saving lives across the globe. For example, fluoropolymers are used as coatings for the tubing in COVID-19 test kits because of their unmatched durability, low friction, and extreme heat resistance. They are also used in surgically implantable medical devices, increasing the lifetime of implants and reducing the likelihood of infection and invasive surgery.

The chemical industry supports a comprehensive approach to managing per- and polyfluoroalkyl substances that helps to ensure protection of human health and the environment. This includes appropriate, science-based policies and regulations.

Food Packaging is Strictly Regulated by the Food and Drug Administration

Food packaging is strictly regulated by the Food and Drug Administration (FDA), and substances used in food packaging (also referred to as "food contact substances") must complete a rigorous review process before they may be sold or distributed in the US. As part of this review, FDA requires the submission of extensive information on the food contact substance itself, as well as any potential impurities or

degradation products, thus, the PFAS compounds currently authorized for use in food packaging in the US are supported by a robust body of scientific data that has been comprehensively reviewed by FDA.¹

Because of recent increased attention to the family of PFAS and the use of certain PFAS chemistries in food packaging, FDA has undertaken a reassessment of these applications (see <https://www.fda.gov/food/chemicals-and-polyfluoroalkyl-substances-pfas>). In connection with this reassessment, manufacturers of the majority of PFAS products used in fiber-based food packaging agreed to a voluntary phase-out leading to the discontinuation of sales these products for use in food packaging as of January 1, 2024. As reflected in its announcement of this agreement, FDA concluded that this phase-out period is needed to avoid unnecessary food supply chain and market disruptions.

The effective date of the bill should be extended to avoid hardship and disruption

Over the past few years, food manufacturers and the food packaging industry have faced intensifying pressures to “de-select” the use of PFAS. Because of these intensifying deselection pressures, various segments of the food packaging industry have been searching for acceptable alternatives to PFAS products. This search has revealed that for some types of food packaging, the process of identifying and qualifying suitable alternatives is normally a multi-year endeavor. However, the COVID-19 pandemic is adding substantially to this timeline. In particular, many mills and packaging converters are operating at limited capacity and not engaging in research and development activities at this time. They are also not allowing external visitors into their facilities, which is a further impediment to identifying and evaluating potential PFAS alternatives.

In addition, as a result of the pandemic the food service industry now relies on takeout and delivery for its survival, and this will likely continue until the COVID-19 pandemic is largely under control in the US, most likely when vaccinations have been widely administered. These modified services depend heavily on PFAS products including, in particular, molded fiber takeout containers and disposable tableware (e.g. disposable plates). As a result, food service establishments in Rhode Island must make a substantial portion of their income through takeout or delivery service, and this trend is likely to continue for the foreseeable future. Thus, because of the COVID-19 pandemic, takeout and delivery have become an economic lifeline for the food service industry, and takeout packaging and service ware made using PFAS chemistry have become essential survival tools for these businesses. It is unrealistic to expect that, in the midst of this massive disruption, affected businesses will have the resources to identify and evaluate new packaging solutions and secure new supply chains for those vital solutions.²

¹ The majority of PFAS used in paper-based food packaging (short-chain fluorotelomer-based side-chain polymers) are polymers that are not bioavailable; therefore, their hazards are characterized by their potential breakdown products, including perfluorohexanoic acid (PFHxA). PFHxA is well studied with a robust body of data demonstrating it does not present a significant risk to human health or the environment. PFHxA is not carcinogenic, mutagenic, or genotoxic, and not an endocrine disruptor. PFHxA is also not a reproductive or developmental toxicant. In addition, detections of PFHxA in the environment and humans are extremely low. Some environmental and biomonitoring programs stopped testing for PFHxA because it was not being detected. This includes the Centers for Disease Control’s nationwide biomonitoring program – National Health and Nutrition Examination Survey (NHANES).

² In addition, public health authorities including the Centers for Disease Control and Prevention (CDC) are recommending that, to slow the spread of SARS-CoV-2, restaurants utilize disposable, single-use dishes for the foreseeable future. For example, the CDC’s Interim Guidance for Restaurants and Bars recommends that restaurants “[u]se disposable food service items (utensils, dishes)” upon reopening. Increased reliance on disposable plates for public health reasons will likely persist until such time as the COVID-19 pandemic is substantially under control in the US; it is not a short-term need. PFAS-treated packaging products are essential to

The disruptions in the food supply chain caused by the COVID-19 pandemic have resulted in a large spike in the cost of groceries. For example, the month of April saw the largest increase in grocery store prices in the US in nearly 50 years, and the single largest hike in cereal and bakery product prices on record, going back to the pre-Depression days of the early 20th century. Moreover, there appears to be broad consensus that the steep rise in food prices is largely the result of breakdowns in the food supply chain, rather than a shortage of food per se. This suggests that, for the foreseeable future, there will be even greater need for reliable, proven direct-to-consumer food packaging. Until the pandemic abates, it would be inappropriate to burden the already-fragile food supply chain with the difficult tasks of identifying new packaging suitable for use and planning for a major shift in the types of packaging options available.

It also must be emphasized that the dramatic increases in food prices has come at a time when roughly 30 million workers have lost their jobs or are receiving supplemental benefits, and roughly 1 in 6 American households now believed to be "food insecure." Forcing packaging manufacturers and food companies to find and switch to new and, most likely, more expensive packaging materials will undoubtedly increase costs further, threatening even greater food insecurity than currently exists in the US as a result of the COVID-19 pandemic. Furthermore, the extended timeline outlined would aid compliance and implementation with the nation and neighboring States that do not have bans.

Incineration is the Preferred Method of AFFF Disposal

For high hazard fires where lives are on the line and significant property damage is threatened, the most effective and reliable firefighting agent is crucial to protecting lives and essential property assets. Fluorinated firefighting foams such as Aqueous Film Forming Foams (AFFF) and Alcohol Resistant Aqueous Film Forming Foams (AR-AFFF) made with C6 Fluorosurfactants are produced to meet the most stringent specifications (including military) to combat fuel-based fires. They are proven by recent extensive and rigorous NFPA Research Foundation and US Naval Research Laboratory testing to be the most effective foams currently available to fight flammable liquid fires occurring in many military, industrial, and aviation situations. It is widely recognized their use is essential in protecting Major Hazard Facilities (MHFs).

Fluorosurfactants used in modern AFFF formulations are supported by a robust body of data demonstrating they do not present a significant risk to human health or the environment. The C6 fluorotelomer-based surfactants used in AFFF have been thoroughly reviewed by regulators prior to introduction into commerce, are subject to ongoing review, and are supported by a robust body of rigorous scientific health and safety data.

This assessment has also included review of potential breakdown (degradation) products. As reflected in the published scientific literature, studies have found that one of the primary potential breakdown products, perfluorohexanoic acid (PFHxA or C6 acid), does not cause cancer (NTP 2018; Klaunig et al. 2015; Loveless et al. 2009); does not disrupt endocrine (hormone) activity (Borghoff et al. 2018); does not cause reproductive or developmental harm (Loveless et al. 2009; Iwai et al. 2019, Iwai and Hoberman 2014); does not build up in the human body and does not become concentrated in the bodies of living organisms (Chengelis et al. 2009b; Iwai and Hoberman 2014; Russell et al. 2013, 2015; Nilsson et al. 2010, 2013; Fujii et al. 2015; Guruge et al. 2016; Gannon et al. 2011, 2016).

fulfilling this increased need, and it would be irresponsible to force the food packaging and food service industries to search for, let alone deploy, alternatives to these products until the pandemic abates.

The provision banning incineration is at best unnecessary, and at worst would severely hamper ongoing clean-up. This language would prevent utilizing best available technology (thermal destruction) to manage and remediate priority PFAS substances – essentially undermining all existing clean-up efforts. The FY2020 National Defense Authorization Act required that DOD develop regulations and that EPA develop guidance for the management and disposal of PFAS. EPA is on track to finalize that guidance and this will be completed by the new Biden Administration.

Incineration (high-temperature thermal destruction) is a recognized best-available technology for treating and disposing of certain chemicals and wastes. Further, DOD recently testified to the House Subcommittee on Readiness that a ban on incineration would cause DOD to cease current cleanup and that incineration is recognized as best available technology for managing and safely destroying the specific DOD material.

For these reasons, respectfully request that you: (i) strike additional food packaging language that is presently covered by the FDA; (ii) allow for the continued sale, distribution and use of affected products that are already in commerce in New Hampshire as of the effective date of the act; (iii) update definitions of PFAS, food packaging and firefighting foam; and, (iv) allow incineration to remain as the disposal method of AFFF.

Thank you for your consideration.

Sincerely,

Shawn Swearingen
Director, Alliance for Telomer Chemistry Stewardship

Griffin Roberge

From: Sanderson, Paul <Paul.G.Sanderson@wildlife.nh.gov>
Sent: Sunday, February 28, 2021 6:16 PM
To: Griffin Roberge
Subject: SB 146, Omnibus bill
Attachments: Testimony SB 146-IV-VI on 3-1-21.docx

Attached is the written testimony of the department on Section IV and VI of the omnibus bill. I have noted that I did not wish to testify, as the testimony is self-explanatory, but will be on the meeting, and available to answer any questions from the committee.

Thanks.

Paul G. Sanderson
Legal Coordinator
NH Fish and Game



New Hampshire Fish and Game Department

HEADQUARTERS: 11 Hazen Drive, Concord, NH 03301-6500
(603) 271-3421
FAX (603) 271-1438

www.WildNH.com
e-mail: info@wildlife.nh.gov
TDD Access: Relay NH 1-800-735-2964

**New Hampshire Fish and Game Department
Testimony on SB 146, Sections IV and VI
Adopting Omnibus Legislation Relative to the Environment.
Senate Energy and Natural Resources Committee
March 1, 2021**

We write to register the support of the New Hampshire Fish and Game Department for two sections of this omnibus bill, Sections IV. The prevention of zoonotic disease transmission, and Section VI. Establishing a surcharge on certain saltwater licenses and establishing a fund for derelict fishing gear and coastal cleanup.

We have worked closely on Section IV with Senator Watters and the Department of Agriculture to deal with concerns over the potential spread of zoonotic diseases within the State of New Hampshire, and acknowledge that the Covid-19 pandemic has brought this concern to the forefront in this state and across the world. As such an expression of concern for the issue is warranted in the statutes. We have also shown the Senator that existing processes of our two departments, as well as the Department of Health and Human Services are in place to carefully watch for the emergence of any issues and to seek assistance from the legislature and the Governor when necessary. We understand that an amendment will be offered to achieve these goals, and we support the amendment.

As to Section VI., this language is identical to SB 712 from the 2020 session, which was passed by the Senate, but died in the House without a hearing due to the pandemic. I would refer the Committee members to the History section of the bill, which may be found upon the General Court website. It contains 32 pages of material, which the Department hereby adopts as its testimony here. I have appended the department's written testimony from 2020, but the full level of support and all materials from the 2020 committee review is present in the history documentation.

Sincerely,
Paul G. Sanderson
Legal Coordinator
NH Fish and Game Department

REGION 1
629B Main Street
Lancaster, NH 03584-3612
(603) 788-3164
FAX (603) 788-4823
email: reg1@wildlife.nh.gov

REGION 2
PO Box 417
New Hampton, NH 03256
(603) 744-5470
FAX (603) 744-6302
email: reg2@wildlife.nh.gov

REGION 3
225 Main Street
Durham, NH 03824-4732
(603) 868-1095
FAX (603) 868-3305
email: reg3@wildlife.nh.gov

REGION 4
15 Ash Brook Court
Keene, NH 03431
(603) 352-9669
FAX (603) 352-8798
email: reg4@wildlife.nh.gov

**New Hampshire Fish and
Game Department Testimony
in Support of SB 712**

**Senate Energy and Natural
Resources Committee
January 28, 2020**

Good morning Chairwoman Fuller-Clark and members of the Committee. For the record, my name is Renee Zobel, Marine Biologist for the Fish and Game Department, speaking on behalf of Cheri Patterson, Acting Chief of Marine Fisheries.

The New Hampshire Fish and Game Department supports Senate Bill 712. The Advisory Committee on Marine Fisheries was supportive of the concept of this legislation, but had not seen the draft of the bill to fully comment.

The New Hampshire Fish and Game Department supports this proposed legislation to help financially address the complexities of the recovery and disposal of marine debris including derelict and ghost fishing gear on the New Hampshire coastline and its waters.

Many commercial and recreational fisheries create marine debris. Gear can be lost or abandoned, due to severe weather, snags beneath the surface, conflict with other gear, interaction with vessels, or intentional discard when no other options are available. Some of this gear can later be washed ashore creating unsightly or hazardous coastline debris. The fishing industry also suffers economic hardships when the gear remains in the water where it can continue to fish and trap animals, entangle and kill marine life, smother habitat, and act as a hazard to navigation.

Proper disposal of fishing and derelict gear has increasingly become more difficult for the fishing communities. Many municipalities are either not accepting or restricting the disposal of fishing gear at transfer stations or charging the fishing industry members at a high cost.

Federal and state agencies and non-governmental organizations have been working with a variety of fishing industries to address derelict gear and ghost fishing issues. The NOAA Marine Debris Program has collaborated with the fishing industry and non-governmental agencies to provide a place to dispose of fishing gear free of charge and support new, innovative, prevention strategies through technological advancements in fishing gear. For example, through the Fishing for Energy Partnership (NOAA Fisheries, National Fish and Wildlife Foundation, Covanta Energy Corporation, and Schnitzer Steel Industries, Inc.) there is nearly a cost-free solution provided to the fishing industry to dispose of old, derelict, or unusable fishing gear to reduce the amount of derelict fishing gear in and around the coastline and coastal waters. However, this addresses only

certain types of gear, such as metal, rope, and fishing line, but not materials that cannot be recycled or burned in energy plants (e.g., buoys, Styrofoam, rollers).

New Hampshire Fish and Game has applied and received a grant through the Fishing for Energy Program and has a 30-yard roll off dumpster located at the Yankee Fishermen's Cooperative for the New Hampshire fishing community to use. The Program initially allowed for three transfers per year, however quickly expanded to the maximum allowed under the Program of four

transfers per year as New Hampshire had nearly exceeded the three dumpster transfer limit on a frequent basis.

In addition to providing this disposal service to the fishing industry, the New Hampshire Fish and Game Department, the Commercial Fishermen's Association, Division of Ports and Harbors, and Hampton Public Works conduct an annual coastal trap clean-up on a weekend each April. This year will be the 27th year this event has occurred and to date more than 156 tons of fishing gear has been removed from New Hampshire's coastline. The cost of this one clean-up event (heavy equipment, dumpsters, etc.) which has ranged between \$1,300 and \$2,500 and has been shared over the years with the NH Fish and Game, NH Department of Environmental Services, NH Department of Natural and Cultural Resources, and Sea Grant.

Senate Bill 712 will provide the financial support through a Fish and Game dedicated fund, specifically for the removal and proper disposal of derelict fishing gear, which comes directly from the fishing industry through this surcharge on the stated marine licenses: This bill extends the responsibility of derelict and ghost fishing gear to the producer; the fishing community. This fund will allow for the continuation and expansion of gear removal options that may, over-time, include not just gear on the shoreline but also the derelict and ghost gear within our coastal waters.

Thank you for the opportunity to speak to you today and I urge the Committee to vote Senate Bill 712 ought to pass.

Griffin Roberge

From: Dijit Taylor <dtaylor@lchip.org>
Sent: Monday, March 01, 2021 7:53 AM
To: Griffin Roberge
Subject: LCHIP Testimony re SB 146
Attachments: SB146handoutPDF.pdf

Griffin –

I have signed p to speak to (Part VII of) SB 146 at the Senate Energy and Environment Committee this afternoon. If still possible, please provide the attachment to this message them prior to the hearing. Thanks.

Do you know you the committee is likely to organize testimony? Might they take testimony in some kind of order related to the many parts of the bill?

As always, let me know if you have any questions. Thanks. I hope your week is off to a good start.

Dijit



Agricultural Emphasis in Existing LCHIP Law and Rules

- From "A Vision for New Hampshire in 2050" in *LCHIP Criteria, Guidelines and Procedures*:
 - A significant portion of residents' livelihood comes from working forests and farmlands and a tourism economy based on cultural/heritage and recreation.
 - Enough high-quality soil and agricultural land is protected and in production to supply 15% of the food needs of NH's population.
- Farmland is specifically included as one of fourteen kinds of natural, historical and cultural resources that are eligible to apply for LCHIP funding. RSA 227-M:2 V Definitions
- "Farmland" is defined as land with the capacity to be used for agricultural activity, especially with soils of special significance for agriculture . *LCHIP Criteria, Guidelines and Procedures, Section 2 Definitions*
- Commissioner of Department of Agriculture, Markets and Foods is a member of the LCHIP Board of Directors RSA 227-M:4
- LCHIP Board of Directors may use the "degree to which project addresses existing priorities in the state " as an optional selection criteria. *LCHIP Criteria, Guidelines and Procedures, Section 10 B Decision Making by the LCHIP Board of Directors, and Criteria for Selection of Projects*
- Agriculture is one of only two commercial uses that can be specifically allowed on land conserved as open space through LCHIP *LCHIP Criteria, Guidelines and Procedures, Section C 2a Other Deed Language*



Sullivan Farm, Nashua



Scruton's Dairy, Farmington
Jerry Monkman, Eco-photography



Moulton Farm
Meredith

LCHIP Farmland Conservation Successes

- More than 1/3 of all 200+ LCHIP grant awards for natural resource conservation conserve farmland, although farmland is only one of ten natural resource categories that are eligible for funding from LCHIP and about 8% of the land in the state.
- LCHIP has helped with farmland conservation projects in sixty New Hampshire municipalities, which is about 1/4 of all the municipalities in the state.
- During the five most recent LCHIP grant rounds (2016—2020) 86% of the natural resource applications with an agricultural component were awarded funding, while the success rate for other natural resource projects was only 77%.



Tuckaway Farm, Lee
Photo from Tuckaway Farm Facebook page

Conservation easements, the preferred strategy for most farmland conservation projects, are not designed to tell the landowner how to use their land. Prescribing use for food production may decrease the number of farmers willing to conserve their land.

LCHIP saves
what people
love
about
New Hampshire

Griffin Roberge

From: Mike Carle <mcarle@hamptonnh.gov>
Sent: Monday, March 01, 2021 9:06 AM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Subject: NHWPCA letter in support of SB146 part V
Attachments: NHWPCA Letter on SB146 March 2021.docx.pdf

Dear Chair Avard and Members of the Committee,

Thank you for the opportunity to comment on Senate Bill 146 Part V. I am writing on behalf of the NH Water Pollution Control Association (NHWPCA) and our 300+ members who represent all of the wastewater treatment plants throughout the State. Based on our reading of this bill, **we are in support of SB146 Part V with the amended language provided by NHDES.**

Thank You,
Mike Carle
President NHWPCA
Chief Operator, Hampton WWTP
100 Winnacunnet Rd
Hampton, NH 03820
603-758-1299



*Celebrating
54 Years
1967-2021*

Michael Carle
President

Robert Robinson
Vice President

David Mercier
Secretary

Mario Leclerc
Treasurer

Ryan Peebles
1st Director

Mike Thcriault
2nd Director

Aaron Costa
3rd Director

Nate Brown
1st Director-at-Large

Peter Conroy
2nd Director-at-Large

Steve Clifton
NEWEA Director

Ken Conaty
Past President

NEW HAMPSHIRE WATER POLLUTION CONTROL ASSOCIATION

February 23, 2021

The Honorable Kevin Avard
Chair, Energy and Natural Resources Committee
State House, Senate Chamber
Concord, NH 03301

RE: SB 146 – Part V – an act regarding tidal waters

Dear Chair Avard and Members of the Committee,

Thank you for the opportunity to comment on Senate Bill 146 Part V. I am writing on behalf of the NH Water Pollution Control Association (NHWPCA) and our 300+ members who represent all of the wastewater treatment plants throughout the State. Based on our reading of this bill, we are in support of SB146 Part V with the amended language provided by NHDES.

This bill addresses a recent change in how the EPA interprets NH RSA 485-A:8 in regard to how bacteria, specifically fecal bacteria, are tested for at the 13 facilities (primarily municipal wastewater treatment plants) that discharge to tidal waters under the National Pollutant Discharge Elimination System (NPDES) program. This strict interpretation of the state's rules and statutes requires that only a National Shellfish Sanitation Program (NSSP)-approved method can be used to be in compliance with NPDES requirements in tidal waters.

For many years the permittees in the seacoast, based on information from NHDES and upon a permit waiver from EPA, have been testing for fecal bacteria in their discharge using a particular laboratory method called Colilert-18. This is a method that is approved by EPA for NPDES compliance. Unfortunately, it is not a method approved by the NSSP. This leaves one available method that has been phased out of most labs in favor of more timely, accurate, and cost effective methods. The proposed statute change in this bill will address this situation.

The wording provided by NHDES has been agreed upon with EPA and their attorneys to demonstrate that dischargers can meet both the requirements of both the EPA and the NSSP requirements providing NHDES with timely and accurate data in order to protect New Hampshire's shellfish harvest using testing methods they have invested in.

“485-A:8 Standards for Classification of Surface Waters of the State. –
V. Tidal waters utilized for swimming purposes shall contain not more than either a geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring. Those tidal waters used for growing or taking of shellfish for human consumption shall, ~~in addition to the foregoing requirements, be in accordance with the criteria recommended under the National Shellfish~~

Program Manual of Operation, United States Department of Food and Drug Administration, not exceed a geometric mean Most Probable Number (MPN) of 14 organisms per 100 ml for fecal coliform, nor shall more than 10% of the samples exceed an MPN of 28 per 100 ml for fecal coliform, or other values of equivalent protection based on sampling and analytical methods used by the NHDES Shellfish Program and approved in the latest revision of the National Shellfish Sanitation Program, Guide For The Control of Molluscan Shellfish."

Thank you again for the opportunity to comment on SB 146 Part V. Should you have questions or need additional information, please feel free to contact Ted Diers, Watershed Management Bureau Administrator at ted.diers@des.nh.gov or 603-271-3289.

Sincerely,



Michael Carle
President NHWPCA

Griffin Roberge

From: pam raley <praley.doverdems@gmail.com>
Sent: Monday, March 01, 2021 9:26 AM
To: Griffin Roberge
Subject: Support for SB 146~~~~~

Senators:

Our coastal areas are vital parts of the NH economy and of the state's much celebrated quality of life, together with our wooded western towns, our beautiful Lakes region, and our magnificent White Mountains. These natural resources must be managed for the long term, and with its rapid growth and development, the coast is particularly vulnerable to degradation. Delaying protective steps merely kicks the can down the road with nothing but disruption and more expensive measures required at a later date.

The contaminated water situation and resulting diseases at the former Pease Base and further west in the state shows the effects of postponed responses.

Please take the responsible steps in SB 146 to ensure that we will continue to offer our NH quality of life and recreation.

Pam Raley, Dover NH.

Griffin Roberge

From: Root, Patsy <Patsy-Root@IDEXX.com>
Sent: Monday, March 01, 2021 11:03 AM
To: Kevin Avard; Bob Giuda; ames.Gray@leg.state.nh.us; Rebecca Perkins Kwoka; David Watters; Griffin Roberge; David Watters
Subject: Comment regarding Senate Bill 146
Attachments: IDEXX comment on RSA changes FEB 2021.pdf

Dear Senator Watters and Committee Members,

IDEXX is pleased to share the attached letter for your consideration during your committee meeting today, March 1st 2021.

Please let me know if you have any questions and thank you for your attention to this important matter.

Respectfully,
Patsy

Patsy Root | Regulatory Affairs Manager III | IDEXX Water
One IDEXX Drive | Westbrook, Maine 04092 | idexx.com/water
M +1 207 523 0835



The Honorable Kevin Avard
Chair, Energy and Natural Resources Committee
State House, Senate Chamber
Concord, NH 03301

Regarding: SENATE BILL 146-FN

March 1, 2021

Dear Chairman Avard,

IDEXX Laboratories, Inc. applauds the proposed amendment to RSA 485-A:8, V, to better align with US EPA coastal wastewater discharge testing requirements.

This proposed statute change will allow the use of EPA-approved testing methods versus a single method, as currently allowed in the FDA National Shellfish Sanitation program. This change will allow for the use of EPA methods that are more timely, accurate, and cost-effective.

Over the past few years, New Hampshire DES has ascribed to the use of this EPA-approved fecal coliform testing method, as have other NPDES discharges along the Eastern seacoast. This statute amendment allows coastal NH NPDES permittees to effectively and efficiently test for harmful bacteria and meet stringent EPA requirements to protect both people and coastal water health.

IDEXX is pleased to be supportive of this positive change.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P Root', is written in a cursive style.

Patsy Root
Regulatory Affairs Manager III
IDEXX Water
One IDEXX Drive
Westbrook, Maine 04092
M: 207 523 0835
Email: Patsy-Root@idexx.com

CC Senator David Watters

Griffin Roberge

From: Steve Changaris <schangaris@wasterecycling.org>
Sent: Monday, March 01, 2021 11:03 AM
To: Griffin Roberge
Subject: SB 146 Part 2 Testimony from No. New England NWRA Chapter
Attachments: NH SB 146 v2.docx

Griffin: I registered to testify first thing is a.m... here is the chapter's testimony in attachment form and email test form. Thanks. Regards, Steve at No. New England NWRA Chapter

New Hampshire Senate Bill 146 – NWRA Testimony in Support **An Act Concerning Waste Reduction Goals and Solid Waste Planning**

The No. New England Chapter of the National Waste and Recycling Association (hereafter the Chapter) is grateful for this opportunity to provide these comments to the New Hampshire Senate Energy and Natural Resources Committee on SB 146, Part 2. This part will establish a statewide solid waste disposal reduction goal for the state and an update to the state's Solid Waste Master Plan.

Our chapter represents an industry that is dedicated to the environmentally protective, sustainable, and economically efficient management of recoverable and recyclable materials, discards and waste materials. We have a vision of a society that reduces waste, recycles more, and recovers value from discards to the maximum extent practicable and properly disposes the wastes that remain. We approach our job as reality-checkers who must negotiate, adapt to, and address the day-to-day and evolving conditions associated with collecting and handling recyclables, recoverable materials, discards and wastes. We are often in a unique position to offer well informed perspectives on the realities of how these materials are managed today, and how they can be better managed tomorrow.

Chapter member companies are long dedicated to NH state laws, and DES promulgated regulations and policies regarding waste reduction, recycling, organics management, construction and demolition processing and the management of materials that require disposal. We work every day for the highest and best use of the after useful life discards of NH citizens and businesses. Setting waste reduction goals, like proposed in SB 146 provides a reasonable and appropriate update to NH laws and policies. We further believe, as structured in this measure, they will prove to be very effective since the focus is on improvements that can be made in the state's residential/municipal and commercial waste streams. The two stated goals, a 25% reduction in 9 years and a 45% reduction by 2050, possess both the essential practical and aspirational qualities of worthy and achievable goals.

Ultimately what material use is avoided in the first place and what material gets reused, recycled, or otherwise diverted from disposal depends, in large part, on the person or business making the purchase decision or the person or business that needs and uses the material. However, setting goals and educating generators about their material use is an essential underpinning of today's best practices for modern materials management endeavor. So too is solid waste planning and we applaud the call in this legislation that will have the NHDES update the state's solid waste plan by October 2022 and periodically thereafter.

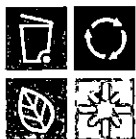
Part 2 of SB 146 will be a welcome addition for the environmental work we do to improve waste and recycling services in NH.

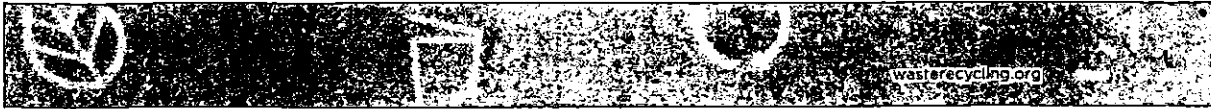
The No. New England NWRA Chapter represents the private taxpaying recycling and waste haulers and companies that work in NH every day to responsibly manage the after useful life discards, materials,

recyclables, and wastes generated by its citizens, communities, and businesses. We believe in strong, sustainable environmentally responsible programs that are run with the efficiency and expertise that comes from a competitive and robust private marketplace that provides and innovates these services routinely.

Steve Changaris
Northeast Region Vice President
482 Southbridge Street, Suite #373
Auburn, MA 01501
schangaris@wasterecycling.org
Ph: 800 679 6263; Cell: 508 868 4523

wasterecycling.org





Northeast Region

New Hampshire Senate Bill 146 – NWRA Testimony in Support
An Act Concerning Waste Reduction Goals and Solid Waste Planning

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Steve Changaris, Northeast V.P.

508 868 4523

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Griffin Roberge

From: Carol Foss <cfoss@nhaudubon.org>
Sent: Monday, March 01, 2021 11:12 AM
To: Griffin Roberge
Subject: testimony re SB 146
Attachments: SB 146 Part 7 LCHIP prioritizing ag lands.pdf

Dear Griffen,
Attached please find testimony from NH Audubon re Part VII.of SB 146.
Many thanks.
Carol

Carol R. Foss, Ph.D.
Senior Advisor for Science and Policy

New Hampshire Audubon
84 Silk Farm Road
Concord, NH 03301

603-224-9909 x331



NH AUDUBON
Protecting our environment since 1914

STATEWIDE OFFICES

84 Silk Farm Road
Concord, N.H. 03301
PHONE 603-224-9909
FAX 603-226-0902
nha@nhaudubon.org
www.nhaudubon.org

REGIONAL CENTERS

MASSABESIC CENTER

26 Audubon Way
Auburn, N.H. 03032
PHONE 603-668-2045
FAX 603-668-3796

MCLANE CENTER

84 Silk Farm Road
Concord, N.H. 03301
PHONE 603-224-9909
FAX 603-226-0902

NEWFOUND CENTER

50 North Shore Road
P.O. Box 142
Hebron, N.H. 03241
PHONE 603-744-3516
FAX 603-744-1090

The Honorable Kevin Avard, Chair
Senate Energy and Natural Resources Committee
Senate Chamber, State House, Concord, NH 03301
March 1, 2021

RE: Opposition to Part VII of Senate Bill 146 relative to the acquisition and preservation of agricultural land for food producing in the land and community heritage program

Dear Chair Avard and Members of the Committee,

Thank you for this opportunity to provide testimony regarding Part VII of SB 146 on behalf of NH Audubon. We are a statewide conservation organization dedicated to protecting New Hampshire's environment for wildlife and for people. We oppose Part VII of this bill, which would require that acquisition and preservation of agricultural land for food production be a priority for the Land and Community Heritage Program (LCHIP).

LCHIP was established by the Legislature in 2000 to protect and preserve New Hampshire's natural, cultural, and historical resources for this and future generations. Farmland is one of 13 categories of these resources eligible for protection, restoration, or rehabilitation funding through this program. The program's review process evaluates proposed projects based on a number of criteria, as outlined in the program's *Criteria, Guidelines, and Procedures* document.

The record of funding decisions to date indicate that LCHIP staff, professional Review Panels, and Board of Directors have valued protection of productive agricultural lands throughout the history of this program. The very scarcity of productive agricultural lands in this State and the ongoing threats of conversion to other uses confer high priority on well-designed farmland protection projects.

It is highly inappropriate for the Legislature to dictate priorities among the 13 categories of natural, cultural, and historical resources addressed by this program. It is in the best interests of New Hampshire citizens that tax payer dollars be spent on projects that best meet the objective criteria of the program, rather than on any one prioritized resource category.

In summary, we believe that LCHIP's existing evaluation criteria provide adequate emphasis on farmland protection, and that legislating priorities among eligible resources is bad public policy.

Sincerely,

Carol R. Foss
Senior Advisor for Science and Policy

Griffin Roberge

From: erick sawtelle <esawtelles@aol.com>
Sent: Monday, March 01, 2021 11:23 AM
To: David Watters; Rebecca Perkins Kwoka; Bob Guida; Kevin Avard; James Gray
Subject: Comments opposing SB146-FN as drafted

Good Morning Senators, Watters, Kwoka, Guida, Avard, and Gray

I am writing in opposition to the language as presented in SB146-FN to be heard Monday March 1, 2021 in Senate Energy and Natural Resources Committee.

Specifically :

1.
 - 2 New Sections; Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. Amend RSA 207 by inserting after section 14-a the following new sections:
207:14-b Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission.
 - I. The fish and game commission shall make rules under RSA 541-A under which it shall compile a list of animals and fish that shall not be imported or transported into this state due to risk of zoonotic disease transmission by December 31, 2021. In creating the list, the commission shall consult with the department of health and human services, the state veterinarian, and scientific or educational institutions, making decisions that are informed by the best available science. The list shall include all identified species that scientific evidence suggests could readily transmit zoonotic diseases. An identified species may be excluded from the list if, pursuant to paragraph III, the commission finds that the importation restriction on a species is not necessary.
 - II. The commission shall place an animal or fish on the list if it determines that prohibiting the importation or transportation of such animal or fish into the state is necessary to protect the public health and safety, native wildlife or fish, or agricultural interests of the state.
 - III. The commission shall remove an animal or fish from the list if it determines that prohibiting the importation or transportation of such animal or fish into the state is not necessary to protect public health and safety, native wildlife or fish, or agricultural interests of the state.

My question would be what specific criteria would allow a species to be excluded from the list, and who/how (which agency/enforcement arm) would be responsible for enforcing the provisions of this section?

2.

The New Hampshire Fish and Game Commission and therefore the Executive Director of NH Fish and Game ONLY has jurisdiction over:

" live marine species or wildlife or the eggs or progeny thereof"

as below in current statute:

1 207:14 Import, Possession, or Release of Wildlife. –

- I. 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.
- II. The executive director shall adopt rules, pursuant to RSA 541-A, to administer this section and relative to the importation, possession, exhibition, sale or release of all marine species and wildlife, including, but not limited to:
 - (a) Size, sex, number and quantity.
 - (b) Transportation, within or through the state of New Hampshire.
 - (c) Sale, inspection, processing, recordkeeping and marking.
 - (d) Method of keeping.
 - (e) Areas of release.
 - (f) Method of release.

(g) Method of taking.

(h) Permit fee schedules.

(i) Appropriate definitions.

III. The executive director may establish a list of marine species or wildlife or the eggs or progeny of such marine species or wildlife which may be exempted from any or all of the provisions of RSA 207:14.

IV. Except where otherwise provided, any person who violates this section or any rule adopted under this section shall be guilty of a violation and guilty of an additional violation for each marine species or wildlife possessed contrary to the provisions of this section.

Source. 1935, 124:1. RL 241:13. RSA 207:14. 1963, 164:1. 1969, 71:1. 1973, 304:1. 1979, 90:1. 1986, 214:2. 1990, 122:2. 1992, 171:3. 2003, 112:4, eff. Aug. 5, 2003.

This language is not reflected in the current SB146-FN bill language as written. The bill does not differentiate between wild and domestic(ated) species.

3. New section RSA428:a Live animal markets:

I would say that retail food markets should be/are regulated by HHS under food protection in RSa143-A and He-P 2300 , not NHDAMF as proposed in this bill?

This bill SB146-FN needs more work and I oppose it as presented.

Thank You for the opportunity to comment and I would appreciate your considerationl.

Erick Sawtelle
93 North River Rd.
Lee, NH 03861
603-234-7907.

Griffin Roberge

From: David Creer <dcreer@biaofnh.com>
Sent: Monday, March 01, 2021 12:00 PM
To: Griffin Roberge
Subject: SB146 Testimony
Attachments: SB146 Testimony.pdf

Hi Griffin,

Please find my attached written testimony for SB146. If it helps you, I only intend to speak to Parts III and VIII of the bill.

Thanks,
Dave

David J. Creer
Director of Public Policy



603-224-5388 x112 | (m) 603-931-2444
dcreer@BIAofNH.com

122 North Main Street, Concord, NH 03301

BIAofNH.com

Check out BIA's [COVID-19 Information & Resources for Employers](#) packed with targeted information and resources for employers and employees.



BUSINESS & INDUSTRY ASSOCIATION
New Hampshire's Statewide
Chamber of Commerce

Testimony of David Creer
Business & Industry Association
SB 146
Senate Energy and Natural Resources Committee
March 1, 2021

Dear Members of the Senate Energy and Natural Resources Committee, my name is David Creer and I'm director of public policy for the Business and Industry Association (BIA), New Hampshire's statewide chamber of commerce and leading business advocate. BIA represents more than 400 members in a variety of industries. Member firms employ 89,000 people throughout the state, which represents one in seven private workforce jobs, and contribute \$4.5 billion annually to the state's economy.

BIA opposes Parts III and VIII of SB 146, adopting omnibus legislation relative to the environment. Part III of the bill requires the Department of Environmental Services (DES) to ensure that incineration of PFAS-containing waste, leachate, or sludge that is being incinerated does not pose a threat to public health or the environment. This language could require DES to stack test facilities for PFAS in their air emissions when incinerating PFAS, and it is unclear if this is on every occasion PFAS are burned or if it would establish a permit to incinerate PFAS. Stack testing is extremely expensive and would add significant costs to NH businesses if they are required to do additional testing.

Further, the bill defines PFAS as "a class of fluorinated organic chemicals containing at least one fluorinated carbon atom," which includes nearly 5000 chemicals classified as PFAS instead of just the four PFAS chemicals currently regulated under state law. Most of those PFAS chemicals do not have any negative effect on health or the environment, but this bill would still require regular testing for these compounds if they are being incinerated.

Further still, incineration is among the best ways to actually destroy PFAS rather than just collecting it. The language of this bill seems to encourage collection of PFAS rather than destruction, meaning that the state would be making a policy decision to collect PFAS to ship to another state and make it their problem rather than solving the issue ourselves.

Additionally, Part III of this bill bans all PFAS from food packaging. This section of the bill follows a similar definition of PFAS as the anti-incineration section which includes nearly 5000 PFAS compounds instead of the four already regulated by New Hampshire law. Again, the majority of these compounds have been effective for their purpose while having no negative health or environmental effects. To ban them all would add unnecessary and overburdensome regulation on businesses all over the state.

PROMOTING A HEALTHY CLIMATE FOR JOB CREATION AND A STRONG NEW HAMPSHIRE ECONOMY

Finally, this part of the bill also contains a section which establishes a "Plastics Advisory Council," but lacks representation from plastics manufacturers. The council should have more business representation from various industries that would be impacted by the decisions of the council, including manufacturers that use plastics.

Part VIII of the bill expands Class 2 renewable energy certificate (REC) requirements under the renewable portfolio standards. Increasing the Class 2 REC requirement forces utilities to purchase power from solar generation facilities. This will increase the cost of electricity by millions of dollars annually for ratepayers, especially large energy users like businesses.

Thank you for your consideration.

Griffin Roberge

From: Rick Van de Poll <rickvdp@gmail.com>
Sent: Monday, March 01, 2021 12:22 PM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Subject: SB 146

Dear Senators;

This omnibus bill will, I hope, **not** set a new standard for proposed legislation dealing with the environment or any other topic with such complexity.

My comments are as follows:

Section I. Coastal Program and Fund – I support wholeheartedly, but suggest including in a section that instructs the program to notify, coordinate, and partner with NGOs and similar organizations in the state and region that are already providing natural resource protection and management services in the coastal zone.

Section II. Solid Waste Disposal Reduction Goal – generally support, but see issues with coordinating with the existing statute that outlines a process for establishing and updating a solid waste management plan.

Section III. Prohibiting incineration of PFAS in New Hampshire – support.

Section IV. Prevention of zoonotic disease transmission – generally support, but do wonder why “fish” is separated from “animal.” I also think it a burden on Fish & Game to regularly maintain and update a list of all species that shall not be imported for sale. Isn’t this more properly under the domain of HHS? Fish & Game already have too much on their plate.

Section V. Tidal waters and Shellfish/NPDES discharge clarification – support.

Section VI. Surcharge on saltwater fishing licenses – support.

Section VII. Prioritization of agricultural land for food production under LCHIP – DO NOT SUPPORT. This provision prioritizes agricultural land under food production over the two primary reasons for the program, that is, for natural and cultural heritage. Such a prioritization will only serve to undermine the program by unduly influencing one type of land over another. Whereas these lands are important, these are a very small percentage off the overall lands of the state that are being invaluablely protected through this essential program.

Thank you for your consideration of these comments.

Rick Van de Poll, Ph.D.
Ecosystem Management Consultants
Sandwich, NH

Sent from Mail for Windows 10

Griffin Roberge

From: Reagan Bissonnette <rbissonnette@nrrarecycles.org>
Sent: Monday, March 01, 2021 12:22 PM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Subject: NRRA SB 146 Part II Testimony - Solid Waste Reduction & Solid Waste Plan
Attachments: SB146 Part II Testimony - Waste Reduction Goal & Plan.pdf

Dear Chair Avard and members of the Senate Energy & Natural Resources Committee,

Attached please find my written testimony regarding SB 146 Part II. I also previously registered to provide verbal testimony at today's hearing, so I look forward to speaking with you then.

Please feel free to contact me with any questions.

Sincerely,
Reagan

Reagan Bissonnette
Executive Director
NORTHEAST RESOURCE RECOVERY ASSOCIATION (NRRA)
2101 Dover Road, Epsom, NH 03234
rbissonnette@nrrarecycles.org (603) 736-4401 x 116
[WEBSITE](#) | [FACEBOOK](#) | [Sign up for our newsletter!](#)



 Northeast Resource Recovery Association

2021 VIRTUAL CONFERENCE
MAY 10 – 11, 2021

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Northeast Resource Recovery Association

"Partnering to make recycling strong through economic and environmentally sound solutions"

SB 146 Part II: Solid Waste Disposal Reduction Goal & Solid Waste Plan

Senate Energy and Natural Resources Committee

March 1, 2021 Hearing

Testimony by Reagan Bissonnette, Executive Director, Northeast Resource Recovery Association

About the Northeast Resource Recovery Association

The Northeast Resource Recovery Association (NRRA), a recycling nonprofit, has enabled both small rural and large urban communities to manage their own recycling programs and reduce their waste for forty years. NRRA is one of only a handful of nonprofits in the country that offers a recyclables marketing cooperative model, which means that we directly connect municipalities selling recyclable material to companies that wish to acquire those materials. In 2019 we returned over \$1.8 million to our members from the sale of their recyclables. NRRA has a deep expertise in the recycling markets, and we share that information through education and technical assistance.

We have over 400 members throughout New England, and the majority of our members are municipalities in New Hampshire (NH). Over 80% of NH's towns and cities are members of NRRA.

NRRA Takes No Position on SB 146

NRRA does not take a position on SB 146. This testimony will share with the Committee NRRA's experience supporting municipalities with their recycling and waste reduction efforts in NH as it relates to the bill.

Solid Waste Disposal Costs Continue to Rise in NH

The Northeast has the highest cost of disposal for municipal solid waste in the country, in large part because we have the least amount of available space for new or expanded landfills. The average cost of disposal in the Northeast is approximately \$85 per ton. There are parts of the country where the cost is less than half that amount. Therefore, reducing the solid waste disposed of in landfills and incinerators will generally benefit municipalities through cost savings and therefore benefit residents with lower taxes for solid waste management.

The cost of solid waste disposal is expected to increase over time, as it has historically. This will make recycling, composting, and other waste reduction practices more financially attractive over time for municipalities.

Solid Waste Disposal Reduction Goal Must be Measurable

With respect to NH establishing a new solid waste reduction goal, I don't express an opinion on whether the proposed goals are appropriate. However, as the common saying goes: *"If you can't measure it, you can't improve it."* Though this may seem obvious, it is critically important that the NH Department of Environmental Services (NHDES) has the authority and ability to collect the data needed to measure that any waste reduction

goal. While NHDES is unable to measure the state's progress toward the current waste reduction goal with certainty, it will be able to measure and track progress toward the goal proposed by SB 146 Part II.

Waste Characterization Study Would Inform Waste Reduction Strategies

If we want to meaningfully increase waste diversion, it would be helpful to include as part of the state's solid waste plan a requirement for the state to complete a waste characterization study. This would involve an analysis of NH's current waste stream to determine the types of solid waste generated and how much of each type is being disposed, recycled, or composted.

For example, we know from the most recent national data from the Environmental Protection Agency (from 2018) that the largest material by weight being landfilled across the country is food scraps at 24%. However, we lack similar data about NH's waste disposal. Such data would help inform the strategies we need to take to reduce our waste and save taxpayer money. Again, *"If you can't measure it, you can't improve it."*

Interim Reports Beneficial if Solid Waste Plan Updated Every 10 Years

SB 146 indicates that the solid waste plan would be updated every 10 years rather than every 6 years as currently required. Much can change in 10 years, especially if we want to achieve the proposed new solid waste reduction goals. Requiring an interim report every five years could be valuable to ensure progress is being made toward the new goals during the new 10 year reporting period.

Griffin Roberge

From: cynthia walter <outlook_004F19ED9BA01FAB@outlook.com> on behalf of cynthia walter <walter.atherton@gmail.com>
Sent: Monday, March 01, 2021 4:03 PM
To: Bob Giuda
Subject: [CAUTION: SUSPECT SENDER] SB 146 testimony Walter

3-1-21

To Members of the NH Senate Committee on Energy and Natural Resources

I am a scientist with over 30 years of experience in teaching and research on Aquatic Ecology and Toxicology. I support omnibus SB 146. The nine bills are basically updates that make each bill better serve NH citizens, save money and grow jobs.

I. Coastal program

A vibrant NH seacoast is vital to our identity and economy. We need this program to have more effective coordination with the federal Coastal Zone Management Act. This means a wise use of funds we have and more access to new funds, for example, grants. As a successful grant writer, I know **federal and private foundations are much more likely to award grants if we have a dedicated program like that proposed.**

II. Solid waste

Waste management technology has changed and NH needs to update plans statewide. This might reduce pollution and invite waste operators with better options for each community. **This new plan can save money** and protect water under our landfills and air above them.

III. Control sources of PFAS

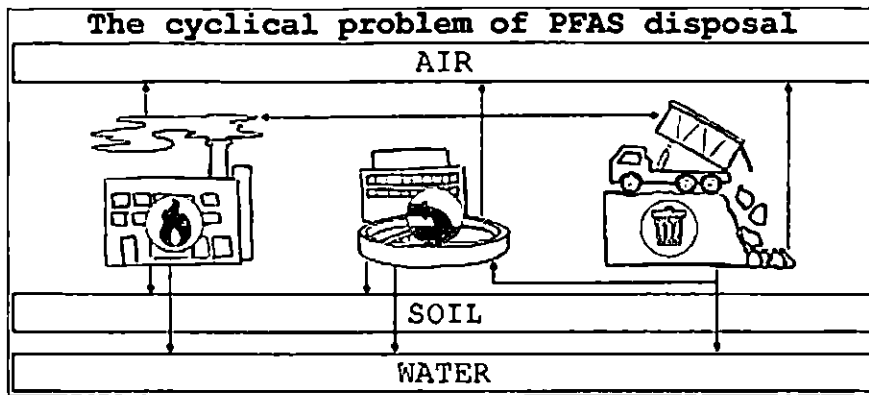
PFAS definitions should be guided by suspected toxic formulations. We cannot keep releasing unknown toxins and catch up later. Chemicals are not innocent until proven guilty.

a. Incineration cannot make elements such as fluorine disappear. **Incineration will convert these toxins into tiny air-borne particles that enter deep into lungs.** These particles are hard to trap during incineration and they cause serious harm. Only real-world independent research can establish PFAS hazard levels in emissions from if a particular incineration process. Real world testing such as stack testing might be expensive, but science and health must come first. NH has, unfortunately, a national reputation for having PFAS in our water, our land and our people. **We do not need PFAS in our air as well.**

b. **PFAS in food packaging needs to be regulated asap; this is now feasible.** I caution against the delays suggested by some testimony from NH BIA & Am. Chem. Council. NH can be a leader in this while FDA, EPA, and others catch up.

c. **PFAS in plastic should also be regulated asap and is feasible** or we will be circulating even more in the future.

Stoiber et al. 2020. Disposal of products and materials containing per-and polyfluoroalkyl substances (PFAS): A cyclical problem. *Chemosphere* 260: <https://doi.org/10.1016/j.chemosphere.2020.127659>



IV. Zoonotic disease transmission.

This practical law fits the motto, "better safe than sorry." The COVID-19 is only the latest and most harmful case of a zoonotic disease impacting humans. **More zoonotic diseases are likely as more people around the world live more closely to wildlife.** Also, severe economic losses come from transmission of diseases from live animal markets to our livestock and native wildlife and subsequently to people. Given NH's borders with Canada, an open coastline and state borders, this law is necessary.

V. Tidal waters- bacteria limits

Proper pathogen testing saves lives and helps our economy because it cuts the chance of water-borne diseases in people and shellfish food. Enterococci are indicators of disease organisms in water and foods such as shellfish. In my research on water-borne disease, I have seen the harm to children, their towns and fisherman livelihoods when local waters carry disease.

We can never track all the possible pathogenic viruses, parasites and bacteria in water or food. **Limits to enterobacteria are a cost-effective to protect our people and seacoast economies.** I suggest you work with Waste Water Treatment Plant Operators & NH DES to clarify which tests are best for all.

VI. Coastal cleanup.

Clean-up programs in aquatic habitats have a fine record. However, as a professor who has led many volunteer clean ups, I know that untrained citizens or unsupervised commercial projects can do more harm than good. **I endorse the provisions to waive surcharge fees for those who help with proper clean-up programs. The modest surcharge license fees to handle derelict marine equipment are justified to protect responsible commercial and recreational coast users.**

VII. Priority for food production in the land and community heritage program

NH has tremendous potential to combine small scale food production with the preservation of our land and history. Example: A local organic farmer supports himself and an employee on just one acre while fostering native tree borders. **This bill may or may not be the best way to enhance local jobs and our home-grown agricultural economy.**

VIII. Class II REC expansion

NH needs to update and expand Class II RECs to grow jobs in the renewable energy sector and help reduce peak energy demand. NH is behind our neighbors in the new energy economy. This bill benefits NH rate payers because without this kind of help, NH is likely to increase peak energy demand and that costs a lot that rate payers must handle to expand transmission. Furthermore long transmission wastes energy and money.

IX. Public use of coastal shorelands.

NH needs this update to the definition of coastal land open to public so that private land is also properly delineated. This helps property owners and developers have a legal, practical definition. **A better definition of the shoreline helps public and private land users.**

Thank you.

Cynthia Walter, Ph.D.
22 West Concord St.
Dover, NH 03820
cawalter22@gmail.com also this email walter.atherton@gmail.com

Sent from [Mail](#) for Windows 10

Griffin Roberge

From: McNeill, Fred <fmcneill@manchesternh.gov>
Sent: Thursday, March 04, 2021 12:55 PM
To: Griffin Roberge
Cc: Sheppard, Kevin; Clougherty, Tim; Robinson, Robert; MacLeod, Shannon
Subject: City of Manchester EPD - Comments on SB-146

Dear Members of the Senate,

I am writing to you today on behalf of the City of Manchester's Environmental Protection Division (EPD) regarding concerns about SB-146 Part III, paragraph 1 (p.5, lines 4-25) that states:

2) Whenever PFAS-containing waste, leachate, or sludge is being incinerated in New Hampshire, the air emissions and associated residuals shall be evaluated by the department of environmental services to ensure disposal shall not pose a threat to public health or the environment

EPD is the state's largest public wastewater utility serving Manchester, Bedford, Goffstown, and Londonderry a metro area of 172,000 residents. Through our wastewater treatment process EPD incinerates sludge. Therefore, this bill would directly impact our facility.

This bill potentially conflicts with the existing requirements in RSA 125-C:10-e which have already been established to ensure that best available control technology is applied to air emission sources in a manner that takes into account environmental and public health concerns. The bill also expands the definition of per-and polyfluoroalkyl substances (PFAS) in a much broader manner than the existing statute. Due to the health concerns surrounding PFAS exposures, and the very high costs associated with treating for it, all legislation needs to be detailed and to be based on current and sound science.

Based on the above concerns, and as a public utility that strives to serve about 13% of the state's population in a cost effective manner, we respectfully request you do not support SB-146.

Thank you for your consideration.

Sincerely,

Frederick J. McNeill, P.E.
Chief Engineer
Environmental Protection Division
Department of Public Works
City of Manchester
300 Winston Street
Manchester, NH 03103

Office: (603) 624-6341
Cell: (603) 235-6626
Email: FMcNeill@ManchesterNH.gov

Griffin Roberge

From: Dijit Taylor <dtaylor@lchip.org>
Sent: Thursday, March 04, 2021 4:17 PM
To: Jeb Bradley; Kevin Avard; Bob Giuda; James Gray; David Watters; Rebecca Perkins Kwoka
Subject: LCHIP Summary info
Attachments: SB-146(VI)CommitteeMemo.pdf

Senators –

- Attached please find a memo that summarizes the points I was trying to make in my testimony to you during the (marathon) hearing for SB-146 on Monday afternoon. Please feel free to reach out to me if you have any questions. Thank you for your hard work in this challenging legislative session.

Dijit

Dorothy Tripp Taylor
Executive Director
Land and Community Heritage Investment Program
3 North Spring Street, Suite 100
Concord NH 03301
(603) 224-4113

LCHIP staff members are working remotely. You can reach me via this email or cell phone (603-496-1605). The office phone is not accessed remotely so do not leave a message there if you want a timely response.

LCHIP

Land & Community Heritage
Investment Program



MEMO

DATE: March 4, 20210
TO: Senate Energy and Natural Resources Committee
FROM: Dijit Taylor, LCHIP Executive Director
TOPIC: SB 146 (Part VII)

Senators -

Thank you for your attention to my testimony on the above named bill on Monday, after already-long testimony on the other parts of this omnibus bill. Here is a summary of the points I was trying to make:

- LCHIP's enabling legislation and rule already emphasize the importance of farmland.
- LCHIP's grant selections demonstrate that the importance of farmland is taken into consideration.
- Commissioner Jasper of the Department of Agriculture, Markets and Foods does not feel that the proposed changes are needed.
- \$250,000 proposed for agricultural land protection in FY '24 in the governor's budget provides concrete assistance to further farmland conservation.
- **I believe removing this Section VII of the omnibus environment bill is the preferred course of action** and also allows you to simplify an already cumbersome piece of legislation.
- If you find a compelling need to further highlight the importance of farmland in LCHIP's enabling legislation, I believe that instead of adding the wording as proposed to RSA 227-M:3 "Land and Community Heritage Investment Program Established" it would make more sense to add the modest wording change shown below to RSA 227-M:2 Definitions:

V. "Eligible resource" means a natural, cultural, or historical resource including archaeological sites; historic buildings and structures which house cultural events and programs; historic properties including buildings and structures; historic and cultural lands and features; ecologically significant lands; existing and potential public water supply lands; ~~farmland~~ **agricultural land especially that with capacity for food production**; forestland; habitat for rare species or important wildlife; wildlife corridors and habitat strongholds as defined in RSA 207:1; lands for recreation; riverine, lake, estuarine, and ocean shorelands; scenic areas and viewsheds; and wetlands and associated uplands.

- I hope to be able to listen in when you are exec-ing this bill and am more than willing to answer any questions you may have about this bill or anything else related to LCHIP. You can reach me at (603) 496-1605 or dtaylor@lchip.org.

Thanks so much for your hard work to care for the citizens of our great state.

Voting Sheets

Senate Energy & Natural Resources Committee

EXECUTIVE SESSION RECORD

2021-2022 Session

Bill # <i>SB 146-FN</i>

Hearing Date: 03/01/2021

Executive Session Date: 03/10/2021

Motion of: *Amendment 0667s w/changes* Vote: *5-0*

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: *OTPA* Vote: *5-0*

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: *Consent* Vote: *5-0*

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: *Watters*

Notes: _____

Committee Report

Griffin Roberge 271-3042

FOR THE CONSENT CALENDAR

ENERGY AND NATURAL RESOURCES

SB 146-FN, adopting omnibus legislation relative to the environment.

Ought to Pass with Amendment, Vote 5-0.

Senator David Watters for the committee.

This bill, as amended, makes several changes to state statute pertaining to the NH Department of Environmental Services and the NH Fish and Game Department. Part I codifies Coastal Program into state statute. This program provides funding and staff assistance to communities within NH's coastal zone to protect clean water, restore coastal habitats, and help make communities more resilient to flooding and natural hazards. Part II establishes a state solid waste disposal reduction goal. This statutory change was a top priority of the HB 617 Study Committee (2019). Reframing this goal will make it easier to measure progress, help the state better identify our solid waste challenges, and outline strategies and opportunities to manage our solid waste. Part III enables NH to prepare for zoonotic disease transmission. These diseases can spread from animals to humans, and evidence indicates that many of the world's worst epidemics and pandemics have been zoonotic in origin. Part IV makes technical changes to RSA 485-A:8, V. This needed change gives wastewater treatment facilities that discharge into tidal waters the flexibility to test for fecal bacteria while complying with EPA and National Shellfish Sanitation Program regulations. Part V requires NH Fish and Game Department's Executive Director to establish a surcharge on certain saltwater licenses through administrative rulemaking. However, this surcharge is waived if a licensee can demonstrate their participation in a coastal cleanup program. This unique mechanism will help provide additional funding for coastal cleanup programs and shift the responsibility for derelict fishing gear to the producer. Part VI aligns the definition of a high-water mark under RSA 483-C:1, V with that of a 1999 NH Supreme Court ruling.

Docket of SB146

Docket Abbreviations

Bill Title: adopting omnibus legislation relative to the environment.**Official Docket of SB146.:**

Date	Body	Description
2/9/2021	S	Introduced 02/04/2021 and Referred to Energy and Natural Resources; SJ 4
2/18/2021	S	Remote Hearing: 03/01/2021, 01:00 pm; Links to join the hearing can be found in the Senate Calendar; SC 12
3/11/2021	S	Committee Report: Ought to Pass with Amendment #2021-0791s , 03/18/2021; Vote 5-0; CC; SC 15
3/18/2021	S	Committee Amendment #2021-0791s , RC 23Y-1N , AA; 03/18/2021; SJ 8
3/18/2021	S	Ought to Pass with Amendment 2021-0791s, RC 23Y-1N , MA; OT3rdg; 03/18/2021; SJ 8
3/31/2021	H	Introduced (in recess of) 02/25/2021 and referred to Resources, Recreation and Development HJ 4 P. 50
4/21/2021	H	Public Hearing: 04/28/2021 09:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/95725303964 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
4/21/2021	H	Public Hearing on non-germane Amendment #2021-1098h : 04/28/2021 03:00 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/95725303964
5/19/2021	H	Executive Session: 05/19/2021 09:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/96345055874
5/24/2021	H	Committee Report: Ought to Pass with Amendment #2021-1573h (Vote 21-0; CC) HC 26 P. 11
6/3/2021	H	Removed from Consent (Rep. Silber) 06/03/2021 HJ 8 P. 3
6/4/2021	H	Amendment #2021-1573h : AA VV 06/04/2021 HJ 9 P. 35
6/4/2021	H	Ought to Pass with Amendment 2021-1573h: MA VV 06/04/2021 HJ 9 P. 35
6/10/2021	S	Sen. Avard Moved Nonconcur with the House Amendment; Requests C of C, MA, VV; 06/10/2021; SJ 19
6/10/2021	S	President Appoints: Senators Avard, Gray, Watters; 06/10/2021; SJ 19
6/10/2021	H	House Accedes to Senate Request for CofC (Rep. Renzullo): MA VV 06/10/2021 HJ 10 P. 16
6/10/2021	H	Speaker Appoints: Reps. Renzullo, Suzanne Smith, Pearl, Lang 06/10/2021 HJ 10 P. 16
6/11/2021	S	Committee of Conference Meeting: 06/14/2021, 10:30 a.m., Room 103, SH
6/17/2021	H	Conference Committee Report #2021-2037c Filed 06/10/2021; House Amendment + New Amendment
6/24/2021	H	Conference Committee Report 2021-2037c: Adopted, VV 06/24/2021
6/24/2021	S	Conference Committee Report #2021-2037c , Adopted, VV; 06/24/2021; SJ 20

7/20/2021	H	Enrolled Bill Amendment #2021-2072e : AA VV (in recess of) 06/24/2021
7/21/2021	S	Enrolled Bill Amendment #2021-2072e Adopted, VV, (In recess of 06/24/2021); SJ 20
7/28/2021	H	Enrolled (in recess of) 06/24/2021
7/28/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); SJ 20
8/16/2021	S	Signed by the Governor on 08/10/2021; Chapter 0208
8/16/2021	S	Part I Effective 07/01/2021
8/16/2021	S	Part II Effective 08/10/2021
8/16/2021	S	Part III Effective 01/01/2022
8/16/2021	S	Part IV Effective 10/09/2021
8/16/2021	S	Part V. I. Sections 3-6 Effective 01/01/2022
8/16/2021	S	Part V. II. Remainder Effective 08/10/2021
8/16/2021	S	Part VI Effective 08/10/2021
8/16/2021	S	Part VII Effective 10/09/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 146-FN

Senate Committee: ENR

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

N/A Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: (Legislative Aides)

All amendments considered in committee (including those not adopted):

- amendment # 0501s - amendment # 0551s - amendment # 0791s

- amendment # 0536s - amendment # 0667s

Executive Session Sheet

Committee Report

Floor Action Documents: (Clerk's Office)

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) (Clerk's Office)

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference): 2037

Enrolled Bill Amendment(s) 2072

___ Governor's Veto Message

All available versions of the bill: (Clerk's Office)

as amended by the senate as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide

Date

Senate Clerk's Office AK

June 17, 2021
2021-2037-CofC
08/04

1 Committee of Conference Report on SB 146-FN, adopting omnibus legislation relative to the
2 environment.

3

4 Recommendation:

5

6 That the Senate recede from its position of nonconcurrence with the House amendment, and
7 concur with the House amendment, and

8 That the Senate and House adopt the following new amendment to the bill as amended by the
9 House, and pass the bill as so amended:

10

11 Amend Part III of the bill by deleting section 3 and renumbering the original section 4 to read as 3.

Committee of Conference Report on SB 146-FN

- Page 2 -

The signatures below attest to the authenticity of this Report on SB 146-FN, adopting omnibus legislation relative to the environment.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Avard, Dist. 12

Rep. Renzullo, Hills. 37

Sen. Gray, Dist. 6

Rep. Suzanne Smith, Graf. 8

Sen. Watters, Dist. 4

Rep. Pearl, Merr. 26

Rep. Lang, Belk. 4

July 14, 2021
2021-2072-EBA
10/05

Enrolled Bill Amendment to SB 146-FN

The Committee on Enrolled Bills to which was referred SB 146-FN

AN ACT adopting omnibus legislation relative to the environment.

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 SB 146-FN

This enrolled bill amendment makes a technical and grammatical correction.

Enrolled Bill Amendment to SB 146-FN

Amend RSA 485-I:4, III as inserted by Part I, section 1 of the bill by replacing line 1 with the following:

III. The commissioner shall adopt rules relative to the distribution of money from the

Amend Part III, section 2 of the bill by replacing lines 2 and 3 with the following:

Amend RSA 207 by inserting after section 14-b the following new section:

207:14-c Prohibited Import of Animals and Fish; Risk of Zoonotic Disease Transmission. The