

LEGISLATIVE COMMITTEE MINUTES

SB86

Bill as Introduced

SB 86-FN - AS INTRODUCED

2021 SESSION

21-0856
11/10

SENATE BILL

86-FN

AN ACT

adopting omnibus legislation relative to planning and zoning.

SPONSORS:

Sen. Kahn, Dist 10

COMMITTEE:

Election Law and Municipal Affairs

ANALYSIS

This bill adopts legislation relative to:

- I. Third party inspections conducted pursuant to a planning board approval.
- II. Establishing the New Hampshire housing and conservation planning program.
- III. Prohibiting the installation of certain commercially available heating systems and engaging the services of certain energy providers.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 planning and zoning.

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 21-0856, relative to third party inspections conducted pursuant to a planning
3 board approval, sponsored by Sen. Kahn, Prime/Dist. 10; Sen. Watters, Dist. 4; Rep. McConkey,
4 Carr. 3.

5 Part II. LSR 21-0930, establishing the New Hampshire housing and conservation planning
6 program, sponsored by Sen. Perkins Kwoka, Prime/Dist. 21; Sen. D'Allesandro, Dist. 20; Sen.
7 Watters, Dist. 4; Sen. Prentiss, Dist. 5; Sen. Whitley, Dist. 15; Sen. Sherman, Dist. 24; Sen.
8 Rosenwald, Dist. 13; Rep. Griffith, Hills. 18; Rep. Vann, Hills. 24; Rep. DiLorenzo, Rock. 17.

9 Part III. LSR 21-0829, relative to prohibiting the installation of certain commercially
10 available heating systems and engaging the services of certain energy providers, sponsored by Sen.
11 Morse, Prime/Dist. 22.

12 2 Legislation Enacted. The general court hereby enacts the following legislation:

13 PART I

14 Relative to Third Party Inspections Conducted Pursuant to a Planning Board Approval.

15 1 Administrative and Enforcement Procedures; Planning Board; Third Party Review and
16 Inspection. Amend RSA 676:4-b, II to read as follows:

17 II. A planning board approval of a subdivision plat, site plan, or other land use application
18 may require the applicant to reimburse the board for expenses reasonably incurred by obtaining
19 third-party inspection during the construction process. ***A planning board that requires third-***
20 ***party inspection during the construction process shall, as part of the inspection process,***
21 ***develop a scope for the project inspection in consultation with the applicant. Alternatively,***
22 ***a planning board approval of a subdivision plat, site plan, or other land use application***
23 ***may ask the applicant to provide a signed certification from the site plan designer in lieu***
24 ***of the third-party inspection, stating the project was built in accordance with the plans***
25 ***approved by the planning board. Should the planning board select this option, the site***
26 ***plan designer shall be a New Hampshire licensed professional engineer and the planning***
27 ***board may require that the certification be based on inspections at specified stages during***
28 ***the construction process.***

29 2 Effective Date. Part I of this act shall take effect 60 days after its passage.

30 PART II

31 Establishing the New Hampshire Housing and Conservation Planning Program.

1 (2) Mapping land use values, including conservation, soils, wetlands, working
2 forests, farmlands, and other natural resources.

3 (3) Developing a build-out analysis of growth and development impacts on housing
4 availability and natural resources.

5 (4) Mapping historic structures and buildings within communities.

6 (b) Phase 2: Development of the Growth and Development Strategy. This phase
7 includes:

8 (1) Drafting and endorsing a growth and development strategy to guide future
9 growth, including using land more efficiently and encouraging compact development and reuse of
10 suitable historic and existing structures. The growth and development strategy would also identify
11 specific areas to be conserved and to be developed.

12 (2) Engaging in a public process to develop the growth and development strategy.

13 (3) Auditing the existing master plan to identify portions that conflict with or pose a
14 barrier to achieving the growth and development strategy.

15 (c) Phase 3: Integration of Growth and Development Strategy into the Master Plan.
16 This phase includes:

17 (1) Rewriting or amending the master plan so that it can realistically implement the
18 growth and development strategy.

19 (2) Adopting the revised master plan.

20 (3) Auditing existing municipal ordinances, including zoning, site-plan, and
21 subdivision regulations, to identify conflicts with the growth and development strategy and the
22 revised master plan.

23 (d) Phase 4: Implementation into Regulatory Framework. This phase includes:

24 (1) Rewriting and amending municipal ordinances, including zoning, site-plan, and
25 subdivision regulations, to allow for the realistic implementation of growth and development
26 strategy and the new master plan.

27 (2) Drafting and adopting new articles that incorporate new tools to accomplish the
28 growth and development strategy, including transfer of development rights, density bonuses, cluster
29 development, and inclusionary zoning.

30 (3) Seeking the adoption of the needed amendments to municipal ordinances.

31 II. Each phase shall require that:

32 (a) Municipalities address housing and conservation together in an integrated manner.

33 (b) Municipalities engage in a communication and education process that will promote
34 informed decision-making and communicate with and educate citizens regarding the work being
35 undertaken in each phase of the process.

36 III. Municipalities may be awarded technical assistance for only one phase at a time but
37 may apply and obtain funding for each successive phase. Funding for future phases shall require a

1 demonstration that the previous phase was accomplished in a manner consistent with the principles
2 of the program. Such a showing shall also result in a priority for additional funding.

3 IV. Municipalities' initial applications for funding need not start with the first phase in the
4 process. However, to begin with a later phase, an initial application shall demonstrate prior
5 completion of the previous phase's work in a manner consistent with the program principles.

6 4-C:42 Rulemaking Authority. Upon the effective date of this subdivision, the office of strategic
7 initiatives shall adopt rules, pursuant to RSA 541-A, relative to operation of the housing and
8 conservation planning program, including:

9 I. The application process.

10 II. The amount of matching funds required and permissible sources for matching funds.

11 III. Reporting requirements by municipalities.

12 IV. Scoring criteria for awarding grants that provide a priority for applications that address
13 growth and development on a regional basis and provide opportunities for municipalities without
14 professional planning staff to access the program.

15 4-C:43 Housing and Conservation Planning Program Advisory Board Established.

16 I. There is hereby established the housing and conservation planning program advisory
17 board.

18 II. The advisory board shall review and comment on proposed rules and scoring criteria used
19 by the office of strategic initiatives to evaluate applications for matching grants.

20 III. The advisory board shall consist of:

21 (a) One member of the senate, appointed by the senate president.

22 (b) Two members of the house of representatives, appointed by the speaker of the house
23 of representatives.

24 (c) The commissioner of the department of natural and cultural resources, or designee.

25 (d) The commissioner of the department of business and economic affairs, or designee.

26 (e) The commissioner of the department of transportation, or designee.

27 (f) One member appointed by each of the following entities:

28 (1) The New Hampshire housing finance authority.

29 (2) The New Hampshire community development finance authority.

30 (3) The current use board.

31 (4) The land and community heritage authority.

32 (5) The New Hampshire Municipal Association.

33 (6) The New Hampshire Association of Regional Planning Commission Executive
34 Directors.

35 (7) The Business and Industry Association of New Hampshire.

36 (8) Housing Action New Hampshire.

37 (9) The Home Builders and Remodelers Association of New Hampshire.

1 (10) The New Hampshire Preservation Alliance.

2 (11) The Society for the Protection of New Hampshire Forests.

3 (12) Plan NH.

4 IV. Members of the advisory board shall serve without compensation, except that legislative
5 members of the board shall receive mileage at the legislative rate when attending to the duties of the
6 board.

7 4-C:44 Program Principles. The program shall be guided by the following principles. Awards of
8 technical assistance funding shall be based on consistency with these principles:

9 I. Consistency with smart growth principles in RSA 9-B:3.

10 II. Development of a comprehensive growth and development strategy through which a
11 municipality integrates housing and conservation planning.

12 III. Planning for the full range of current and future housing needs for families of all income
13 levels, as encouraged in RSA 672:1, III-e.

14 IV. Planning for the protection of natural and historic resource values, as encouraged in
15 RSA 36-A:2, including the preservation of working forests and farmlands as provided in RSA 672:1,
16 III-b and III-c, and critical or sensitive natural areas and resources, including water resources as
17 provided for in RSA 674:2, III(d).

18 V. Evaluating these conservation and housing issues on a community-wide, site-by-site, and
19 regional basis.

20 VI. Understanding the interrelationship between natural resources and housing
21 development in a municipality and the impact each has on the other.

22 VII. Planning for and encouraging higher density, compact development and allowing for the
23 infrastructure needed to support such development.

24 VIII. Planning for and encouraging reuse of existing properties, especially historic
25 structures.

26 IX. Planning for and integrating the growth and development strategy into the
27 municipality's master plan and implementation into regulatory structure.

28 X. Encouragement of community input and education of citizens about the growth and
29 development strategy and the need to plan for future conservation and housing growth.

30 2 Effective Date. Part II of this act shall take effect July 1, 2021.

31 PART III

32 Prohibiting the Installation of Certain Commercially Available Heating Systems and
33 Engaging the Services of Certain Energy Providers.

34 1 New Paragraph; State Building Code. Amend RSA 155-A:2 by inserting after paragraph V-a
35 the following new paragraph:

36 V-b. Notwithstanding paragraph V, no county, city, town, village district, local land use
37 board, or other subdivision of this state shall adopt any ordinance, regulation, code, or

SB 86-FN - AS INTRODUCED

- Page 6 -

1 administrative practice that prohibits or restricts a person or entity from installing a safe and
2 commercially available heating or other energy system of their choice or to engage the services of an
3 energy provider of their choice to install, connect, or resupply such energy system. In this
4 paragraph, "energy provider" means a qualified and licensed distributor of oil, propane, natural gas,
5 or other company or entity that supplies energy or related services to the public.

6 2 New Paragraph; Local Land Use Planning; Power to Amend State Building Code. Amend RSA
7 674:51 by inserting after paragraph V the following new paragraph:

8 VI. Notwithstanding paragraph I, no county, city, town, village district, local land use board,
9 or other subdivision of this state shall adopt any ordinance, regulation, code, or administrative
10 practice that prohibits or restricts a person or entity from installing a safe and commercially
11 available heating or other energy system of their choice or to engage the services of an energy
12 provider of their choice to install, connect, or resupply such energy system. In this paragraph,
13 "energy provider" means a qualified and licensed distributor of oil, propane, natural gas, or other
14 company or entity that supplies energy or related services to the public.

15 3 Effective Date. Part III of this act shall take effect 60 days after its passage.

**SB 86-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT adopting omnibus legislation relative to planning and zoning.

PART I: Relative to third party inspections conducted pursuant to a planning board approval.

No fiscal impact.

PART II: Establishing the New Hampshire housing and conservation planning program.

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
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

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

LOCAL:

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

METHODOLOGY:

This section establishes a housing and conservation planning program within the Office of Strategic Initiatives to provide technical assistance matching grants to municipalities to plan for growth and development in accordance with stated goals. Municipal participation in the program is voluntary. Municipalities may apply individually or collectively for awards of program funds to purchase technical assistance from third-party assistance providers,

including regional planning programs. The Office of Strategic Initiatives indicates the administrative costs to operate the program, including the number of applicants, size and number of contracts that may need to be administered and available grant funding are unknown, therefore the fiscal impact is indeterminable. There is no appropriation in this section.

AGENCIES CONTACTED:

Office of Strategic Initiatives

PART III: Relative to prohibiting the installation of certain commercially available heating systems and engaging the services of certain energy providers.

No fiscal impact.

SB 86-FN - AS AMENDED BY THE SENATE

03/04/2021 0420s

2021 SESSION

21-0856

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19 third-party inspection during the construction process. *A planning board that requires third-*
20 *party inspection during the construction process shall, as part of the inspection process,*
21 *develop a scope for the project inspection in consultation with the applicant.*
22 *Alternatively, a planning board approval of a subdivision plat, site plan, or other land use*
23 *application may ask the applicant to provide a signed certification from the site plan*
24 *designer in lieu of the third-party inspection, stating the project was built in accordance*
25 *with the plans approved by the planning board. Should the planning board select this*
26 *option, the site plan designer shall be a New Hampshire licensed professional engineer and*
27 *the planning board may require that the certification be based on inspections at specified*
28 *stages during the construction process.*

29 2 Effective Date. Part I of this act shall take effect 60 days after its passage.

30 PART II

31 Establishing the New Hampshire Housing and Conservation Planning Program.

1 1 New Subdivision; Housing and Conservation Planning Program. Amend RSA 4-C by inserting
2 after section 37 the following new subdivision:

3 Housing and Conservation Planning Program

4 4-C:38 Definitions. In this subdivision:

5 I. "Eligible applicant" means a single municipality or 2 or more municipalities applying
6 together.

7 II. "Growth and development strategy" means a plan by a single municipality or 2 or more
8 municipalities to guide community growth in a way that creates a balanced housing supply,
9 including higher density and workforce housing opportunities, while preserving valuable natural
10 resources and the community's quality of life through efficient and compact development.

11 III. "Phase" means one of the 4 specific phases of developing and implementing a growth and
12 development strategy to be funded through the housing and conservation planning program.

13 IV. "Program" means the housing and conservation planning program.

14 4-C:39 Housing and Conservation Planning Program Established. There is hereby established
15 the housing and conservation planning program, which shall be administered by the office of
16 strategic initiatives. The program shall provide technical assistance matching grants to
17 municipalities to plan for growth and development in a manner that permits a balanced housing
18 stock, including higher density and workforce housing opportunities, and promotes, whenever
19 possible the reuse of existing buildings, including historic properties, while protecting communities'
20 natural resources through more efficient and compact development. Participation in the program is
21 voluntary.

22 4-C:40 Program Administration; Eligible Applicants; Use of Program Funds.

23 I. Eligible applicants shall include:

24 (a) Municipalities; or

25 (b) A group of municipalities applying together to plan on a regional basis.

26 II. Awards of program funds may be used to purchase technical assistance from third-party
27 technical assistance providers, including but not limited to regional planning commissions, to
28 achieve the purposes of the program.

29 4-C:41 Program Administration; Eligible Technical Assistance.

30 I. The program shall award matching grants to fund technical assistance activities in the
31 development and implementation of a growth and development strategy. The 4 specific phases of
32 activities are as follows:

33 (a) Phase 1: Natural and Historic Resource and Housing Data Gathering and Analysis.

34 This phase includes:

35 (1) Understanding and mapping housing, income, and demographic data, including
36 housing market costs, housing units needed to meet future expected growth in a municipality and
37 the region, and the affordability of a municipality's housing for all income ranges.

1 (2) Mapping land use values, including conservation, soils, wetlands, working
2 forests, farmlands, and other natural resources.

3 (3) Developing a build-out analysis of growth and development impacts on housing
4 availability and natural resources.

5 (4) Mapping historic structures and buildings within communities.

6 (b) Phase 2: Development of the Growth and Development Strategy. This phase
7 includes:

8 (1) Drafting and endorsing a growth and development strategy to guide future
9 growth, including using land more efficiently and encouraging compact development and reuse of
10 suitable historic and existing structures. The growth and development strategy would also identify
11 specific areas to be conserved and to be developed.

12 (2) Engaging in a public process to develop the growth and development strategy.

13 (3) Auditing the existing master plan to identify portions that conflict with or pose a
14 barrier to achieving the growth and development strategy.

15 (c) Phase 3: Integration of Growth and Development Strategy into the Master Plan.
16 This phase includes:

17 (1) Rewriting or amending the master plan so that it can realistically implement the
18 growth and development strategy.

19 (2) Adopting the revised master plan.

20 (3) Auditing existing municipal ordinances, including zoning, site-plan, and
21 subdivision regulations, to identify conflicts with the growth and development strategy and the
22 revised master plan.

23 (d) Phase 4: Implementation into Regulatory Framework. This phase includes:

24 (1) Rewriting and amending municipal ordinances, including zoning, site-plan, and
25 subdivision regulations, to allow for the realistic implementation of growth and development
26 strategy and the new master plan.

27 (2) Drafting and adopting new articles that incorporate new tools to accomplish the
28 growth and development strategy, including transfer of development rights, density bonuses, cluster
29 development, and inclusionary zoning.

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34 informed decision-making and communicate with and educate citizens regarding the work being
35 undertaken in each phase of the process.

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37 may apply and obtain funding for each successive phase. Funding for future phases shall require a

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2 of the program. Such a showing shall also result in a priority for additional funding.

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4 process. However, to begin with a later phase, an initial application shall demonstrate prior
5 completion of the previous phase's work in a manner consistent with the program principles.

6 4-C:42 Rulemaking Authority. Upon the effective date of this subdivision, the office of strategic
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9 I. The application process.

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24 (c) The commissioner of the department of natural and cultural resources, or designee.

25 (d) The commissioner of the department of business and economic affairs, or designee.

26 (e) The commissioner of the department of transportation, or designee.

27 (f) One member appointed by each of the following entities:

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34 Directors.

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- 1 (10) The New Hampshire Preservation Alliance.
- 2 (11) The Society for the Protection of New Hampshire Forests.
- 3 (12) Plan NH.
- 4 (13) New Hampshire Association of Realtors.

5 IV. Members of the advisory board shall serve without compensation, except that legislative
6 members of the board shall receive mileage at the legislative rate when attending to the duties of the
7 board.

8 4-C:44 Program Principles. The program shall be guided by the following principles. Awards of
9 technical assistance funding shall be based on consistency with these principles:

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11 II. Development of a comprehensive growth and development strategy through which a
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14 levels, as encouraged in RSA 672:1, III-e.

15 IV. Planning for the protection of natural and historic resource values, as encouraged in
16 RSA 36-A:2, including the preservation of working forests and farmlands as provided in RSA 672:1,
17 III-b and III-c, and critical or sensitive natural areas and resources, including water resources as
18 provided for in RSA 674:2, III(d).

19 V. Evaluating these conservation and housing issues on a community-wide, site-by-site, and
20 regional basis.

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22 development in a municipality and the impact each has on the other.

23 VII. Planning for and encouraging higher density, compact development and allowing for the
24 infrastructure needed to support such development.

25 VIII. Planning for and encouraging reuse of existing properties, especially historic
26 structures.

27 IX. Planning for and integrating the growth and development strategy into the
28 municipality's master plan and implementation into regulatory structure.

29 X. Encouragement of community input and education of citizens about the growth and
30 development strategy and the need to plan for future conservation and housing growth.

31 2 Effective Date. Part II of this act shall take effect July 1, 2021.

32 PART III

33 Prohibiting the Installation of Certain Commercially Available Heating Systems and
34 Engaging the Services of Certain Energy Providers.

35 1 New Paragraph; State Building Code. Amend RSA 155-A:2 by inserting after paragraph V-a
36 the following new paragraph:

37 V-b. Notwithstanding paragraph V, no county, city, town, village district, local land use

1 board, or other subdivision of this state shall adopt any ordinance, regulation, code, or
2 administrative practice that prohibits or restricts a person or entity from installing a safe and
3 commercially available heating or other energy system of their choice or to engage the services of an
4 energy provider of their choice to install, connect, or resupply such energy system. In this
5 paragraph, "energy provider" means a qualified and licensed distributor of oil, propane, natural gas,
6 or other company or entity that supplies energy or related services to the public.

7 2 New Paragraph; Local Land Use Planning; Power to Amend State Building Code. Amend RSA
8 674:51 by inserting after paragraph V the following new paragraph:

9 VI. Notwithstanding paragraph I, no county, city, town, village district, local land use board,
10 or other subdivision of this state shall adopt any ordinance, regulation, code, or administrative
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12 available heating or other energy system of their choice or to engage the services of an energy
13 provider of their choice to install, connect, or resupply such energy system. In this paragraph,
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15 company or entity that supplies energy or related services to the public.

16 3 Effective Date. Part III of this act shall take effect 60 days after its passage.

SB 86-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2021-0420s)

AN ACT adopting omnibus legislation relative to planning and zoning.

PART I: Relative to third party inspections conducted pursuant to a planning board approval.

No fiscal impact.

PART II: Establishing the New Hampshire housing and conservation planning program.

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:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

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

LOCAL:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
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AGENCIES CONTACTED:

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4Jun2021... 0964h

2021 SESSION

21-0856
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SENATE BILL **86-FN**

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SPONSORS: Sen. Kahn, Dist 10

COMMITTEE: Election Law and Municipal Affairs

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9 Relative to Third Party Inspections Conducted Pursuant to a Planning Board Approval.

10 1 Administrative and Enforcement Procedures; Planning Board; Third Party Review and
11 Inspection. Amend RSA 676:4-b, II to read as follows:

12 II. A planning board approval of a subdivision plat, site plan, or other land use application
13 may require the applicant to reimburse the board for expenses reasonably incurred by obtaining
14 third-party inspection during the construction process. *A planning board that requires third-*
15 *party inspection during the construction process shall, as part of the inspection process,*
16 *develop a scope for the project inspection in consultation with the applicant. Alternatively,*
17 *a planning board approval of a subdivision plat, site plan, or other land use application*
18 *may ask the applicant to provide a signed certification from the site plan designer in lieu*
19 *of the third-party inspection, stating the project was built in accordance with the plans*
20 *approved by the planning board. Should the planning board select this option, the site*
21 *plan designer shall be a New Hampshire licensed professional engineer and the planning*
22 *board may require that the certification be based on inspections at specified stages during*
23 *the construction process.*

24 2 Effective Date. Part I of this act shall take effect 60 days after its passage.

25 PART II

26 Prohibiting the Installation of Certain Commercially Available Heating Systems and
27 Engaging the Services of Certain Energy Providers.

28 1 New Paragraph; State Building Code. Amend RSA 155-A:2 by inserting after paragraph V-a
29 the following new paragraph:

1 V-b. Notwithstanding paragraph V, no county, city, town, village district, local land use
2 board, or other subdivision of this state shall adopt any ordinance, regulation, code, or
3 administrative practice that prohibits or restricts a person or entity from installing a safe and
4 commercially available heating or other energy system of their choice or to engage the services of an
5 energy provider of their choice to install, connect, or resupply such energy system. In this
6 paragraph, "energy provider" means a qualified and licensed distributor of oil, propane, natural gas,
7 or other company or entity that supplies energy or related services to the public.

8 2 New Paragraph; Local Land Use Planning; Power to Amend State Building Code. Amend RSA
9 674:51 by inserting after paragraph V the following new paragraph:

10 VI. Notwithstanding paragraph I, no county, city, town, village district, local land use board,
11 or other subdivision of this state shall adopt any ordinance, regulation, code, or administrative
12 practice that prohibits or restricts a person or entity from installing a safe and commercially
13 available heating or other energy system of their choice or to engage the services of an energy
14 provider of their choice to install, connect, or resupply such energy system. In this paragraph,
15 "energy provider" means a qualified and licensed distributor of oil, propane, natural gas, or other
16 company or entity that supplies energy or related services to the public.

17 3 Effective Date. Part II of this act shall take effect 60 days after its passage.

LBA
21-0856
Amended 6/7/21

**SB 86-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2021-0964h)**

AN ACT adopting omnibus legislation relative to planning and zoning.

FISCAL IMPACT: State County Local None

METHODOLOGY:

The Office of Legislative Budget Assistant states this bill, as amended by the House, has no fiscal impact on state, county and local expenditures or revenue.

AGENCIES CONTACTED:

None

SB 86-FN - VERSION ADOPTED BY BOTH BODIES

03/04/2021 0420s
4Jun2021... 0964h

2021 SESSION

21-0856
11/10

SENATE BILL **86-FN**

AN ACT adopting omnibus legislation relative to planning and zoning.

SPONSORS: Sen. Kahn, Dist 10

COMMITTEE: Election Law and Municipal Affairs

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Third party inspections conducted pursuant to a planning board approval.
- II. Prohibiting the installation of certain commercially available heating systems and engaging the services of certain energy providers.

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 86-FN - VERSION ADOPTED BY BOTH BODIES

03/04/2021 0420s
4Jun2021... 0964h

21-0856
11/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to planning and zoning.

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 21-0856, relative to third party inspections conducted pursuant to a planning board
3 approval, sponsored by Sen. Kahn, Prime/Dist. 10; Sen. Watters, Dist. 4; Rep. McConkey, Carr. 3.

4 Part II. LSR 21-0829, relative to prohibiting the installation of certain commercially available
5 heating systems and engaging the services of certain energy providers, sponsored by Sen. Morse,
6 Prime/Dist. 22.

7 2 Legislation Enacted. The general court hereby enacts the following legislation:

8 PART I

9 Relative to Third Party Inspections Conducted Pursuant to a Planning Board Approval.

10 1 Administrative and Enforcement Procedures; Planning Board; Third Party Review and
11 Inspection. Amend RSA 676:4-b, II to read as follows:

12 II. A planning board approval of a subdivision plat, site plan, or other land use application
13 may require the applicant to reimburse the board for expenses reasonably incurred by obtaining
14 third-party inspection during the construction process. *A planning board that requires third-*
15 *party inspection during the construction process shall, as part of the inspection process,*
16 *develop a scope for the project inspection in consultation with the applicant.*
17 *Alternatively, a planning board approval of a subdivision plat, site plan, or other land use*
18 *application may ask the applicant to provide a signed certification from the site plan*
19 *designer in lieu of the third-party inspection, stating the project was built in accordance*
20 *with the plans approved by the planning board. Should the planning board select this*
21 *option, the site plan designer shall be a New Hampshire licensed professional engineer and*
22 *the planning board may require that the certification be based on inspections at specified*
23 *stages during the construction process.*

24 2 Effective Date. Part I of this act shall take effect 60 days after its passage.

25 PART II

26 Prohibiting the Installation of Certain Commercially Available Heating Systems and
27 Engaging the Services of Certain Energy Providers.

28 1 New Paragraph; State Building Code. Amend RSA 155-A:2 by inserting after paragraph V-a
29 the following new paragraph:

30 V-b. Notwithstanding paragraph V, no county, city, town, village district, local land use

SB 86-FN - VERSION ADOPTED BY BOTH BODIES

- Page 2 -

1 board, or other subdivision of this state shall adopt any ordinance, regulation, code, or
2 administrative practice that prohibits or restricts a person or entity from installing a safe and
3 commercially available heating or other energy system of their choice or to engage the services of an
4 energy provider of their choice to install, connect, or resupply such energy system. In this
5 paragraph, "energy provider" means a qualified and licensed distributor of oil, propane, natural gas,
6 or other company or entity that supplies energy or related services to the public.

7 2 New Paragraph; Local Land Use Planning; Power to Amend State Building Code. Amend RSA
8 674:51 by inserting after paragraph V the following new paragraph:

9 VI. Notwithstanding paragraph I, no county, city, town, village district, local land use board,
10 or other subdivision of this state shall adopt any ordinance, regulation, code, or administrative
11 practice that prohibits or restricts a person or entity from installing a safe and commercially
12 available heating or other energy system of their choice or to engage the services of an energy
13 provider of their choice to install, connect, or resupply such energy system. In this paragraph,
14 "energy provider" means a qualified and licensed distributor of oil, propane, natural gas, or other
15 company or entity that supplies energy or related services to the public.

16 3 Effective Date. Part II of this act shall take effect 60 days after its passage.

LBA
21-0856
Amended 6/7/21

**SB 86-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2021-0964h)**

AN ACT adopting omnibus legislation relative to planning and zoning.

FISCAL IMPACT: State County Local None

METHODOLOGY:

The Office of Legislative Budget Assistant states this bill, as amended by the House, has no fiscal impact on state, county and local expenditures or revenue.

AGENCIES CONTACTED:

None

LBA
21-0856
Amended 6/7/21

**SB 86-FN FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2021-0964h)**

AN ACT adopting omnibus legislation relative to planning and zoning.

FISCAL IMPACT: State County Local None

METHODOLOGY:

The Office of Legislative Budget Assistant states this bill, as amended by the House, has no fiscal impact on state, county and local expenditures or revenue.

AGENCIES CONTACTED:

None

Amendments

Sen. Perkins Kwoka, Dist 21
January 29, 2021
2021-0172s
11/05

Amendment to SB 86-FN

1 Amend RSA 4-C:43, III(f) as inserted by section 1 of part II of the bill by inserting after
2 subparagraph (12) the following new subparagraph:

3

4

(13) New Hampshire Association of Realtors.

UNAPPROVED

Election Law and Municipal Affairs
February 17, 2021
2021-0420s
11/05

Amendment to SB 86-FN

1 Amend RSA 4-C:43, III(f) as inserted by section 1 of part II of the bill by inserting after
2 subparagraph (12) the following new subparagraph:

3

4 (13) New Hampshire Association of Realtors.

Committee Minutes

SENATE CALENDAR NOTICE

Election Law and Municipal Affairs

Sen James Gray, Chair
Sen Regina Birdsell, Vice Chair
Sen Ruth Ward, Member
Sen Donna Soucy, Member
Sen Rebecca Perkins Kwoka, Member

Date: February 3, 2021

HEARINGS

Monday

02/08/2021

Election Law and Municipal Affairs	REMOTE	9:00 a.m.
(Name of Committee)	(Place)	(Time)

9:00 a.m. **SB 86-FN** adopting omnibus legislation relative to planning and zoning.

9:30 a.m. **SB 83** adopting omnibus legislation relative to elections.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. To join the webinar: <https://www.zoom.us/j/95037663992>
 2. Or Telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799, or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
 3. Or iPhone one-tap: US: 13126266799, 95037663992# or 16465588656, 95037663992#
 4. Webinar ID: [950 3766 3992](https://www.zoom.us/j/95037663992)
 5. To view on YouTube, click here: <https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
- The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 86-FN

Sen. Kahn

SB 83

Sen. Gray

Tricia Melillo 271-3077

James P. Gray
Chairman

Senate Election Law and Municipal Affairs Committee
Tricia Melillo 271-3077

SB 86-FN, adopting omnibus legislation relative to planning and zoning.

Hearing Date: February 8, 2021

Members of the Committee Present: Senators Gray, Birdsell, Ward, Soucy and Perkins Kwoka

Members of the Committee Absent : None

Bill Analysis: This bill adopts legislation relative to:

- I. Third party inspections conducted pursuant to a planning board approval.
 - II. Establishing the New Hampshire housing and conservation planning program.
 - III. Prohibiting the installation of certain commercially available heating systems and engaging the services of certain energy providers.
-

Sponsors:
Sen. Kahn

Who supports the bill: Senator Jay Kahn, Senator Rebecca Perkins Kwoka, Senator Chuck Morse, Gary Abbott, Dick Anagnost, Leslie Anderson, Laura Aronson, Kat Bourque, Ronald Ciotti, Jeff Cloutier, Richard DeMark, Katy Easterly Martey, Nicole Fordey, Ben Frost, Sherry Frost, Bruce Gibbs, James Gove, David Juvet, Jeff Keeler, Mike Kiess, Ruth Larson, Matt Leahy, Ari Pollack, Brian Pratt, Art Rose, Teresa Rosenberger, Robert Sculley, Tyler Ward, Jane Westlake, Sarah Wrightsman

Who opposes the bill: Cindy Kudlik, Alexandra Mennella, Madeleine Mineau, Alvin See

Who is neutral on the bill: Cordell Johnston, Elissa Margolin

Summary of testimony presented in support:

Senator Jay Kahn – Part I – Third party inspections conducted pursuant to a planning board approval.

- Part I of this bill deals with construction inspections that are approved by a town planning board and the kind of inspection that will be the joint responsibility of the contractor, the design partner and the planning boards delegation.
- This inspection is to certify that construction was done according to the plan that was approved.
- In December of 2019, this legislation passed the Committee after a compromise amendment was worked out between the NHMA and the Association of Building Contractors.

- The bill then passed the full senate on January 8th of 2020 and then never had a hearing in the house due to COVID-19.
- Both parties still have an interest in seeing this bill enacted.

Senator Rebecca Perkins Kwoka – Part II -Establishing the New Hampshire Housing and Conservation Planning Program.

- Across NH there has been a shortage of affordable and workforce housing which she has been working on for over a decade.
- One of the most important tools NH needs to support a higher density of attractive housing, is local planning.
- Municipalities face many mandates and have a lot on their plates, the HCPP is a tool that is designed to help them in their role
- The HCPP was a very popular and successful program from 2007 -2008 but got wrapped up in tough budget decisions around the great recession.
- This language is a refile from last year's SB 638-FN, which was sponsored by Senator Fuller Clark.
- It was recommended OTP with a 5-0 vote from the Senate ED&A Committee and was passed by the full Senate on a voice vote.
- It was referred to Interim Study by Senate Finance due to the availability of funding at the time.
- This would create a four phase program to aid cities and towns in working towards their zoning goals for their communities.
- This year it comes with no budget ask, just a reinstatement of the program in statute so that in future years, if there is an opportunity, it can be funded.
- She has worked on this with the NH Housing Finance Authority and she believes it has the support of the NHMA.

Senator Chuck Morse – Part III – Prohibiting the installation of certain commercially available hearing systems and engaging the services of certain energy providers.

- This bill is straight forward and very pro-consumer.
- It supports citizens being able to choose however they want to heat their homes and businesses.
- It prevents any political subdivision of this state or any local land use board from adopting any measure that prohibits or restricts a person or businesses choice when it comes to their heating or energy.
- NH citizens should have the right to choose any cost effective and reliable system that best suits their needs.
- Whether it is gas, electricity, solar, geothermal, oil, or any other source.
- Senator Perkins Kwoka asked if there was a specific incident that arose that prompted this legislation.
 - Senator Morse replied that businesses have concerns about local land use boards dictating which energy source they have to use. They do not want the government interfering with what they have chosen in this area.

Ben Frost – NH Housing Financing Authority - In Support of Part II

- Back in 2005 he was part of a group of planners, builders, conservationists, and others that met frequently to try and find common ground between the question of housing development and conservation.
- They quickly found the common ground, which is a common threat, the pervasive use of large lot zoning to the exclusion of all other types of housing development.
- A solution to this is education and the Office of Strategic Initiatives is doing a really good job with that as is the Municipal Association and others.
- Another solution is financial assistance to the municipalities for planning that they need to do to accommodate affordable housing and conservation at the same time.
- The result of this group was in 2007, SB 217, which was adopted with an appropriation and a funding route.
- Six awards were made to municipalities who started this planning process.
- In 2011, the HCPP was wrapped into a repeal of legislation during an arduous budget year.
- HCPP is a visionary approach to planning in New Hampshire and provides the opportunity for municipalities to seek funding from the state, for planning at the local level of housing development and conservation.
- The structure of this program is that municipalities have to do both, they cannot choose one or the other.

Ari Pollack – NH Home Builders - In support of Part I

- In support of Part I of SB 86, as a means of adding transparency to an often unregulated step of construction approvals.
- Predictability of process and clear expectations are always a priority for all home builders in the state.
- Having a clear scope and budget for the inspections will help the process considerably.
- Having the option of expert certification will help in the cases where a town does not have its own peer review or engineering relationship.

Jeff Keeler – NH Association of Realtors

- In support of all three parts of the bill.
- Part I will provide a better understanding of costs going into a project and cost savings translates into more affordable housing.
- New Hampshire is in desperate need of affordable housing.
- Part II is enabling legislation and it encourages towns to look at better land use in the town and conservation in that process.
- If this goes forward, the NH Association of Realtors would like to be included among the people on the committee.
- They are also in strong support of Part III but question if this would override local ordinances relative to solar panels on the street side of a house.

Gary Abbott – Associated General Contractors of New Hampshire, Inc. – Part I

- They strongly support Section I of SB 86 because it addresses the issue of costs faced by contractors and owners utilizing third party inspections.

- This bill was first introduced in 2019, and since that time they have worked with the Municipal Association on language that all parties could agree on.
- It requires a planning board to develop a scope for the project inspection in consultation with the applicant.
- The cost of these reviews can vary greatly between projects and they believe setting the fees and scope ahead of time allows contractors a clearer indication of what the review process will entail.
- It also allows the planning board to ask the applicant, in lieu of a third-party inspection, to provide a signed document certifying that the project was built in accordance with the plans approved by the planning board.
- This change would not interfere with the town's authority, but it would allow for more communication between contractors, owners, and municipalities.

Matt Leahy – The Forest Society - In Support of Part II

- The question for the group in 2005 was how to solve the workforce housing problem while protecting the conservation areas.
- They believe this is a way to address those challenges.

Bob Sculley – In Support of Part III

- The oil heating industry is facing significant challenges in our sister states.
- In Brookline, Massachusetts all new construction is being mandated to go electric.
- SB 9, on Governor Bakers desk, would by the year 2030, mandate that all homes be heated by electric. No longer will they be able to use the clean fuels that his members represent in NH.
- In Burlington, Vermont, on March 2nd by a vote of the city council, the citizens will be voting on whether all homes in the city are to be heated with electric heat pumps.
- In addition, if you do not transition, they are going to put an additional fee on your home to try and drive the cost up, so you are forced to transition.
- They are not saying that people should not transition to electric if they want to, they are say this is a consumer choice bill.
- There are approximately 250 propane and oil dealers in NH, which is thousands of jobs.
- This is clean fuel that roughly 60 percent of citizens in NH heat with.
- They have asked for this language to protect this industry in NH and the jobs associated with it.
- The consumer should have the final say.
- They have not seen anything like this in NH yet, but have in Border States and it is very real.
- There are companies that are very concerned about the family business for three generations in Massachusetts and in Vermont that are not going to exist anymore.
- Senator Perkins Kwoka asked if imposing a state level prohibition is the best tool and if there is anything in other states that involve more incentive based programs.
 - Mr. Sculley stated that he is not aware of any. He added that the dealers main concern is their future, and they are very worried.
- Senator Birdsell asked if the other states have estimated the cost for transitioning the heating to electric and would this affect low income families as well.
 - Mr. Sculley replied that if an existing home is configured from propane or oil to electric heat pumps, there is a 20,000 cost.

Kat Bourque – Director of Government Affairs, Unitil - In Support of Part III

- Unitil serves natural gas to about 35,000 customers in New Hampshire.
- They believe it is a straight forward piece of legislation that promotes consumer choice.
- It preserves the right of the individual customer to connect or use any available utility service or source of energy they choose.
- They believe that NH can and should have energy that is both affordable and reliable and exercising consumer consent to meet those goals is a must.

Elissa Margolin – Chair, Housing Action New Hampshire - In Support of Part II

- They are comprised of 80 organizations that are united around affordable housing policy and ending homelessness in New Hampshire.
- There is a willingness at the municipal level to address affordable housing needs.
- The HCPP was a success during its brief life, providing technical assistance and matching grant program to municipalities.
- It is estimated that New Hampshire lacks about 20,000 units to meet the housing market demand.
- This is something the state can do to give municipalities support when they want to plan for affordable housing.

Summary of testimony presented in opposition:

Cynthia Walter - Part III

- She wanted to make the point that the form of fuel from oil and propane is not at all clean.
- The substances released from oil burning is not good for communities.
- She understands that forcing everyone to transition to electric immediately is not a reasonable option.
- She would like to see this bill move in the direction of giving incentives for electrification and not simply 100 percent or zero.

Neutral Information Presented:

Cordell Johnston – NH Municipal Association

- On part I they have worked with the stake holders and have gotten to the point where it is acceptable and resolves an ongoing issue.
- Part II they strongly support.
- In Part III they have some concerns that it will limit municipal authority.
- Under existing law, the state building code applies in all municipalities, but cities and towns do have authority to adopt stricter provisions than are in the building code.
- This legislation would limit that authority.
- Senator Soucy asked about instances where a community had already adopted certain limitations on energy use and how Part III of this legislation would affect those restrictions already in place.
 - Mr. Johnston replied that he thinks this will not affect those because they are already in effect. He added that it will be a question of interpretation and if the committee does go forward, it would be best to clarify the intent in those cases.

- Senator Birdsell commented that in Massachusetts they are talking about requiring existing homes to switch over to electric only and asked what the cost would be to switch over to electric heat.
 - Mr. Johnston replied that he does not know what the specific cost of that would be. He added that the town cannot come to a resident with an existing house and say you have to change this. They can make those requirements on new construction but on an existing home they cannot. If Massachusetts is considering that it would be extreme.

TJM

Date Hearing Report completed: February 14, 2021

Speakers

SENATE ELECTION LAW AND MUNICIPAL AFFAIRS

SB 86-FN

2/8/2021

Name	Representing	Position	Testifying
Abbott, Gary	Associated General Contractors	Support	Yes
Anagnost, Dick	Anagnost Companies	Support	No
Anderson, Leslie	Propane Gas Association	Support	No
Aronson, Laura	Myself	Support	No
Bourque, Kat	Unitil	Support	Yes
Ciotti, Ronald	Myself	Support	No
Cloutier, Jeff	Pike Industries, Inc.	Support	No
DeMark, Richard	Myself	Support	No
	Community Development		
Easterly Martey, Katy	Finance Authority	Support	No
Fordey, Nicole	Myself	Support	No
Frost, Ben	New Hampshire Housing	Support	Yes
Frost, Sherry	Myself	Support	No
Gibbs, Bruce	Myself	Support	No
Gove, James	Myself	Support	No
Johnston, Cordell	NH Municipal Association	Neutral	Yes
	Business & Industry		
Juvet, David	Association (BIA)	Support	No
Kahn, Jay	Senate District 10	Support	Yes
Keeler, Jeff	NH Association of REALTORS	Support	Yes
Kiess, Mike	Myself	Support	No
Kudlik, Cindy	Myself	Oppose	No
Larson, Ruth	Myself	Support	No
	Society for the Protection of NH		
Leahy, Matt	Forests	Support	Yes
Margolin, Elissa	Housing Action NH	Neutral	Yes
Mennella, Alexandra	Myself	Oppose	No
Mineau, Madeleine	Clean Energy NH	Oppose	No
Morse, chuck	Myself SD 22 PART III	Support	Yes
Pollack, Ari	NH Homebuilders	Support	Yes
Pratt, Brian	Myself	Support	No
Rose, Art	A W Rose construction	Support	No
Rosenberger, Teresa	NH Preservation Alliance	Support	No
	Energy Marketers Association		
Sculley, Robert	of New Hampshire	Support	Yes
See, Alvin	Myself	Oppose	No
Ward, Tyler	Myself	Support	No
Westlake, Jane	Myself	Support	No
	Workforce Housing Coalition of		
Wrightsman, Sarah	the Greater Seacoast	Support	No

Testimony

Tricia Melillo

From: JANE A AITKEN <themaclady@comcast.net>
Sent: Saturday, February 13, 2021 2:51 PM
To: James Gray; Regina Birdsell; Ruth Ward; Donna Soucy; Rebecca Perkins Kwoka; Tricia Melillo
Subject: Please OPPOSE SB 86

Please OPPOSE SB 86

This bill would take MORE taxpayer money to urbanize New Hampshire!

Key Point: "Planning for and encouraging **higher density**, compact development and allowing for the infrastructure needed to support such development."

Specifically: "The bill re-establishes the Housing and Conservation Planning Program within the Office of Strategic Initiatives to provide technical assistance matching grants to municipalities to plan for growth and development in a manner that permits a balanced housing stock, including higher density and workforce housing opportunities, and promotes, whenever possible, the reuse of existing buildings, including historic properties, while protecting communities' natural resources through more efficient and compact development."

- *In our opinion, the state has NO right to mandate towns to build certain types of housing*
- *In our opinion, the state has NO right to re-educate zoning and planning boards into the philosophy of 'new urbanism'*
- *This redistribution-of-the-wealth scheme has been proven to increase and draw from the taxes of the middle class single-family homeowners to reward wealthy developers*
- *This equalization scheme will flood NH with apartment buildings in places they are not appropriate, putting further pressure on town services such as schools, police, fire, and EMT*
- *Basically this is the same thing as Obama's AFFH. WHY is it being promoted by a Republican Governor and other Republicans.*
- *This bill would be the end of the NH Advantage. NH's low density is what protected us from the worst effects of the pandemic, in the Governor's own words*
- *We are against the URBANIZATION of NH in this manner as it takes away local control*

Jane Aitken
Bedford Residents Assn
Bedford NH 03110
603-472-7488

Tricia Melillo

From: Madeleine Mineau <madeleine@cleanenergynh.org>
Sent: Sunday, February 7, 2021 10:46 AM
To: James Gray; Regina Birdsell; Ruth Ward; Donna Soucy; Rebecca Perkins Kwoka; Tricia Melillo
Subject: SB 86

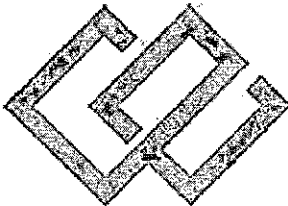
Dear Honorable members of the NH Senate Election Law and Municipal Affairs Committee,

I registered Clean Energy NH's opposition to SB86 and wanted to send you a brief explanation of our opposition to this bill. We are specifically opposed to part 3 of this omnibus bill. This section would restrict municipality's ability to make their own decisions for their communities by forbidding them to prohibit the use of fossil field heating systems. Many municipalities in NH have adopted ambitious greenhouse gas reduction goals and the state should not put up roadblocks to prevent them from achieving those goals. CENH is not promoting municipal fossil fuel bans, however NH has a strong tradition of local control and we think that municipalities should be able to make their own decisions on these matters.

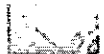
Thank you for considering this input.
Madeleine

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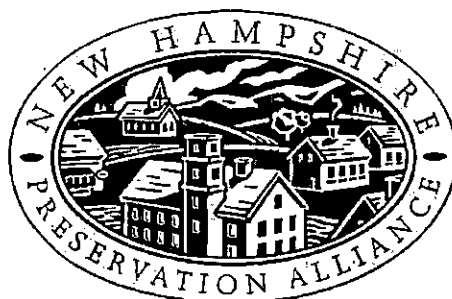
Madeleine Mineau
Executive Director
Clean Energy NH (formerly NHSEA)
Cell phone: 607-592-6184



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February 8, 2021

Re: SB86 – Part two

Dear Chairman Gray and members of the committee:

The New Hampshire Preservation Alliance urges your support proposal to establish the New Hampshire Housing and Conservation Planning Program and appropriate funds for this biennium. This provision is included in part two of this omnibus bill.

As the statewide non-profit historic preservation organization, the Preservation Alliance has individual, business and organizational members throughout the state. We represent and assist many community development organizations, historical societies, “friends groups,” planning commissions and housing agencies.

We are very pleased that the Housing and Conservation Planning Program’s design will provide technical assistance matching grants to municipalities to plan for growth and development in a manner that permits a balanced housing stock and promotes the reuse of existing buildings, including historically-significant properties.

Developing housing in older buildings -- located where people, employers, retail establishments, public services, transportation, and utilities already exist -- provides multiple benefits: it maximizes the use of existing public investment, returns empty or underused buildings to the local tax base, and provides jobs and retail activity both during construction and afterward.

We are pleased with the program’s multi-stage design that requires data collection, incorporation of a growth and development plan into the municipal master plan, and the all-important implementation of a regulatory framework to accomplish the interconnected goals of housing, preservation, conservation and economic development.

Our work with constituents, and recent collection of data for our new preservation planning manual and new set of baseline indicators, reinforced for us the pressing need to encourage these kinds of activities. Too few towns have up to date historic resource surveys. Too few towns have zoning, heritage commissions, and other implementation strategies that adequately advance master plan goals. This program is an important missing piece to encourage this work.

While it is easy to describe historic preservation scenarios simply as the developer calling out the wrecking ball to demolish a historic landmark to make way for new development; it is much more complicated than that.

The most common threats to our irreplaceable historic mills, grange halls, downtown commercial blocks, historic mills and farms lies in changing land use patterns and changing demographics -- the explosion in retail shopping acreage over the last generation chewing the edges of main streets, population shift to the suburbs leaving urban churches empty, big houses replacing modest houses in attractive villages and waterfront land, and new schools or houses growing in flat and fertile farmland.

With thoughtful, integrated planning like that proposed in this legislation we can do a better job of addressing those trends, directing investment to where infrastructure already exists, finding new uses for abandoned or under-used structures, and making strong links between these preservation goals and housing, conservation, and economic development.

We urge your support of the New Hampshire Housing and Conservation Planning Program.

Please let me know if you have any questions, and thank you for your consideration.

Jennifer Goodman, jg@nhpreservation.org or 224-2281 ext 12.



February 7, 2021

Re: 86-FN, Housing and Conservation Planning Program

Dear Honorable Senator Kahn and members of the Election Law and Municipal Affairs Committee,

As the Executive Director of the NH Community Development Finance Authority, I want to offer my support of the Senate Bill 86 which being considered by your Committee. The Community Development Finance Authority (CDFA) is the financial engine that drives community economic development across New Hampshire. Created in 1983, we have more than 35 years of experience effectively deploying technical and financial resources to help Granite State communities thrive. CDFA invests an average of \$15 million of financial resources on an annual basis, including the competitive deployment of grants, loans and New Hampshire state tax credit equity, to support nonprofits, municipalities and businesses. Our impact is seen in revitalized downtowns, high-quality childcare facilities, renovated housing, clean energy projects, business expansion to provide jobs, and a healthy and vibrant nonprofit sector. Every year, our services create jobs, lift people out of poverty, ensure appropriate housing, stem substance misuse, and increase overall standards of living for many thousands of New Hampshire's residents.

The Housing and Conservation Planning Program would help cities and towns engage in thoughtful comprehensive planning and development of land use regulations. We recognize that communities need to identify on their own what projects are important to meet their needs and be provided the resources to advance impactful community economic development initiatives. Comprehensive planning is a sound way to leverage private sector dollars and create new homes and green space in communities across the State. These projects can revitalize neighborhoods and support broader economic growth, but we need innovative programs like Housing and Conservation Planning Program.

If the Bill advanced and the Housing and Conservation Planning Program was established, CDFA would be honored to be a member of the Advisory Committee. We hope that the Program will be approved so it can grow the strong tradition of innovative community economic development planning and projects in communities across New Hampshire.

Thank you for consideration.

Sincerely,

Katherine Easterly Martey
Executive Director

February 4, 2021

TESTIMONY OF LESLIE ANDERSON

President and CEO of the Propane Gas Association of New England

IN SUPPORT OF SB 86 AN ACT ADOPTING OMNIBUS LEGISLATION RELATIVE TO PLANNING AND ZONING

The Propane Gas Association of New England (PGANE) is pleased to have the opportunity to offer its comments in support of PART III of SB 86 and to explain why this legislation is needed.

WHY THIS LEGISLATION IS NEEDED:

- New Hampshire needs a reliable and diverse energy supply system. Allowing municipalities to prohibit certain types of energy may harm our most vulnerable citizens.
- Diverse energy choices promote energy affordability and further environmental justice.
- Municipalities and other local authorities are being pressured to enact more stringent building code provisions or other local regulations that prohibit or restrict the installation or use of traditional heating or other structure energy systems.
- New Hampshire citizens have right to choose any cost effective and reliable structure energy system that best suits their needs.
- Statewide energy diversity sustains established local New Hampshire business interests and ensures the availability of alternative energy systems when the electric grid or other alternative energy supply systems are maxed out or otherwise at risk.
- Existing/alternative energy and utility services promote sustainability and can work in tandem with solar-powered or net zero homes.
- New Hampshire's energy and utility supply system has statewide and regional impact and consequences. Any change in our energy supply should be a fully-vetted and a state-enacted policy decision, not a policy that is imposed piecemeal by local authorities.
- Homeowners should have the right to choose their energy source rather than be mandated by local government. Nothing in this legislation prohibits a consumers right to choose.

We also offer the following important considerations regarding propane:

PGANE

PROPANE GAS ASSOCIATION
OF NEW ENGLAND

1024 Suncook Valley Hwy, C5
PO Box 1071
Epsom, NH 03234

IMPORTANT CONSIDERATIONS REGARDING PROPANE:

- New Hampshire needs a robust propane industry so that its citizens are protected in times of need. Propane generators supply essential energy to residents, hospitals, critical infrastructure, and others during electrical outages and extreme weather events.
- Propane is an EPA listed alternative fuel and it is extremely clean. Using propane has less lifecycle carbon impacts than other sources of energy.
- Propane is a beneficial by-product and underutilized resource which makes it essentially carbon neutral, because if propane is not used as an energy source it is simply burned off at production sites.
- During the pandemic, propane was the primary energy used to heat outdoor testing sites, including critical biomedical sites such as Lonza where workers were tested prior to entering the facility to conduct COVID research. Lonza is currently manufacturing the Moderna coronavirus vaccine. Propane was also used for handwashing stations and hot showers for the homeless during the pandemic, as well as a source of outdoor heating for businesses and testing sites throughout the state.

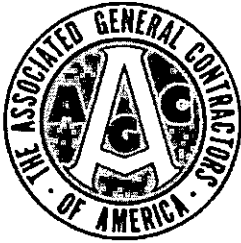


The Propane Gas Association of New England is a regional alternative energy trade association representing members of the propane industry in the six New England States. We exist to serve the propane industry by promoting safety, education and public awareness of the uses of propane. Our membership includes propane companies and suppliers, including numerous small companies who are often family owned and operated, many for several generations. Propane on demand hot water heaters, cooktops, and furnaces produce less greenhouse gas emissions than electric heat pumps, as well as less nitrogen and less sulfur oxides. In fact, propane is the preferred partner with solar for zero net energy housing. Comparing electricity and propane with a lifecycle analysis, propane wins hands down with the lowest carbon emissions.

Thank you for the opportunity to offer our support of PART III of SB 86.

888-445-1075

PGANE.ORG



The Associated General Contractors of New Hampshire, Inc.

**48 Grandview Road ▼ Bow, New Hampshire 03304
603/225-2701 ▼ Fax 603/226-3859**

In support of SB 86, Section 1 Relative to third party inspections February 8, 2021

The Associated General Contractors of NH (AGC of NH) strongly supports Section 1 of Senate Bill 86 because it addresses the issue of costs faced by contractors and owners utilizing third party inspections. The cost of these reviews can vary greatly between projects and we believe setting the fees and scope ahead of time allows contractors a clearer indication of what the review process will entail. This change would not interfere with the town's authority, but it would allow for more communication between contractors, owners, and municipalities.

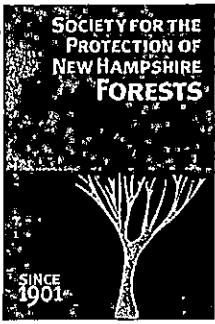
As written, SB 86, Section 1, does the following:

- Requires a planning board to develop a scope for the project inspection in consultation with the applicant.
- Allows the planning board to ask the applicant in lieu of a third-party inspection to provide a signed document certifying that the project was built in accordance with the plans approved by the planning board.

The AGC of NH supports SB 86, Section, and requests that the Election Law and Municipal Affairs Committee vote in favor.

Respectfully submitted,

Gary Abbott
Executive Vice President



February 8, 2021

54 Portsmouth Street
Concord, NH 03301
Tel. 603.224.9945
Fax 603.228.0423
info@forestsociety.org
www.forestsociety.org

The Honorable James Gray, Chairman
Committee on Election Law and Municipal Affairs
New Hampshire State Senate
SH Rm 100
Concord, NH 03301

Dear Mr. Chairman and Members of the Committee:

Thank you for this opportunity express the Forest Society's support for Part II of Senate Bill 86, legislation to establish the Housing and Conservation Planning Program. As has been noted, the Legislature first established the HCPP in 2008. It was a voluntary program that provided technical assistance matching grants to towns and cities to plan for growth and development that encouraged a balanced housing stock, including higher density and workforce housing opportunities. It also promoted the reuse of existing buildings, including historic properties, while protecting the municipalities' natural resources through more efficient and compact development. Unfortunately, budget constraints at the time forced its repeal in 2011.

One of the prime benefits of the HCPP was to create a vehicle where developers, municipalities and conservationists could work together to find better and more sustainable approaches to land development. SB 86 retains the voluntary nature of the original program. What is notable about it is that the program, if reestablished, will provide a range of tools on how to plan for the full range of housing needs and the protection of important natural and cultural resources to municipalities who choose to participate.

A vibrant town or city has a robust economy, balanced housing opportunity and a healthy environment. We believe the fundamental benefit of the Housing and Conservation Planning Program is that it will help show that the conservation of New Hampshire's natural resources and the provision of needed housing for our citizens can be mutually beneficial when pursued together.

Thank you considering this testimony. I will be happy to answer any questions you may have.

Sincerely,

Matt Leahy, Public Policy Manager
Society for the Protection of New Hampshire Forests



February 8, 2021

To: Senate Election Laws and Municipal Affairs Committee

Subject: SB 86

Dear Chair Gray and members of the Committee,

I am writing on behalf of the Workforce Housing Coalition of the Greater Seacoast in strong support of SB 86, specifically re-establishing the housing and conservation planning program (HCPP).

The Coalition works across the greater seacoast region of the state educating and engaging communities and municipalities to advance diverse housing options. Often the barriers to our work are rooted in misunderstandings, and certainly the relationship between housing, density, and conservation is an area where education is needed to encourage the development of housing that is affordable to members of our workforce. The creation of diverse and affordable housing options is very much compatible with land conservation. The HCPP will assist communities across the state in better understanding the relationship between housing and conservation by providing the resources communities require.

I won't spend too much time speaking to the need for housing across the region and state – I assume the committee is aware of the state's housing crisis and has heard this from many speakers this session. New Hampshire is struggling to provide housing to young professionals, families, older people hoping to downsize in their community, and members of the workforce. Demand for housing continues to be high, while our inventory of housing is incredibly low. This is a people issue – communities across the state are struggling to attract and retain the people who are critical to the vibrancy, diversity, and the economic makeup of our communities. In turn, employers are struggling to attract and retain workers due, in part, to the lack of housing.

Thank you,
Sarah Wrightsman
Executive Director



NEW HAMPSHIRE
HOUSING

February 8, 2021

The Honorable James Gray, Chair
Senate Election Law and Municipal Affairs Committee
State House, Room 100
Concord, NH 03301

***Subject: SB 86-FN, adopting omnibus legislation relative to planning and zoning;
Part II Housing and Conservation Planning Program***

Dear Chairman Gray:

I am writing to express the strong support of New Hampshire Housing for Part II of SB 86, relating to the re-establishment of the Housing and Conservation Planning Program.

The critical shortage in New Hampshire's housing supply is well-documented, as is its impact on our citizens as they seek to find adequate housing in the communities where they want to live and work. Our statewide rental vacancy rate is a critically low 1.8%, far below the 5% we consider to indicate a balanced market. The cost of renting a 2-bedroom apartment has increased 20% in the past 5 years, and renter incomes continue to fall behind. For homebuyers, the median price to purchase an existing home was about \$323,000 in 2020, a 13% increase from the 2019 median, while the new home median purchase price was \$410,000.

There are several factors that limit market performance in meeting demand for new housing, but one that is clearly within the influence of public policy is local planning and land use regulation. Often well-intentioned local policy decisions – frequently driven by the understandable desire to mitigate the impact of growth on a community – have helped to create our current housing challenge. By requiring low-density single-family housing development, imposing limits on building permits, or creating other impediments to lower housing cost alternatives, local regulations compel private developers to produce fewer housing units at higher cost.

These problems have solutions that are within communities' legal authority, but many communities have limited technical capacity to employ them. The Housing and Conservation Planning Program will provide access to those solutions by providing necessary technical assistance to be delivered through a structured process that begins with an assessment of a community's housing needs and ends with adoption of regulatory policies designed to achieve stated goals and objectives. The program is voluntary for communities and requires both a financial and a policy commitment by a participating community. Importantly, as its name implies, the program combines efforts to improve our approach to housing regulation with an equal emphasis on planning for the protection of our state's vital natural resources.

NEW HAMPSHIRE HOUSING FINANCE AUTHORITY

32 Constitution Drive, Bedford, NH 03110
Mail: PO Box 5087, Manchester, NH 03108

603.472.8623
NHHFA.org



The Housing and Conservation Planning Program was originally conceived 15 years ago by a visionary collaboration among representatives of development, conservation, business, and municipal government. This effort, the "Growth and Development Roundtable," sought to find common ground on issues of land use. Members of the Roundtable immediately identified pervasive large-lot zoning as a threat both to housing affordability and to conservation. Its solution was the Housing and Conservation Planning Program, enacted in 2007 by the Legislature (SB 217).

Shortly after this program was established, however, the nation was plunged into the Great Recession, and the State faced a dire budget deficit. The Housing and Conservation Planning Program was eliminated as a result. Circumstances are different now, and we strongly encourage you to re-establish this program so that it will once again be ready to serve the needs of our communities.

Thank you for the opportunity to provide testimony to your committee. The staff of New Hampshire Housing will be happy to provide any additional information that your committee may require.

Sincerely,

DocuSigned by:

Dean Christon

83A73FB7E66547C...

Dean J. Christon
Executive Director

cc: Committee members

Tricia Melillo

From: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Sent: Monday, February 8, 2021 8:25 AM
To: James Gray
Cc: Regina Birdsell; Ruth Ward; Donna Soucy; Rebecca Perkins Kwoka
Subject: SB86, Part II

Senator Gray,

I am a member of the Executive Committee of the New Hampshire Planners Association (NHPA), and I serve as NHPA's Legislative Liaison. On behalf of NHPA, I would like to express our strong support of Part II of Senate Bill 86, which establishes the New Hampshire housing and conservation planning program.

Thank you,
Tim Corwin
NHPA Legislative Liaison

Tim Corwin, AICP
Senior Planner
City of Lebanon
51 North Park Street
Lebanon, NH 03766
603-448-1524 x1445
tim.corwin@lebanonnh.gov,
www.lebanonnh.gov

Voting Sheets

**Senate Election Law
& Municipal Affairs Committee
EXECUTIVE SESSION RECORD
2021 Session**

Bill # 86-FN Omnibus

Hearing date: 2-8-2021

Executive Session date: 2/17/21

Motion of: OTP Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins-Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: Requested of OHS - 01725 Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTP/A Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Gray, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Birdsell, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<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"/>

Consent - Birdsell 5-0

Reported out by: Sen Perkins Kwoka -

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Wednesday, February 17, 2021

THE COMMITTEE ON Election Law and Municipal Affairs

to which was referred **SB 86-FN**

AN ACT

adopting omnibus legislation relative to planning
and zoning.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 0420s

Senator Rebecca Perkins Kwoka
For the Committee

This Omnibus bill, as amended, adopts legislation relative to affordable housing and planning. Part one directs planning boards that require a third-party inspection during the construction process develop a scope for the project inspection. Part two re-establishes the New Hampshire Housing and Conservation Planning Program to assist municipalities in working towards zoning goals and planning for affordable housing in their communities. The last part of the legislation prohibits any municipality from requiring the installation of certain heating systems in homes or businesses in order to protect homeowners from unexpected costs.

Tricia Melillo 271-3077

General Court of New Hampshire - Bill Status System

Docket of SB86

Docket Abbreviations

Bill Title: adopting omnibus legislation relative to planning and zoning.*Official Docket of SB86.:*

Date	Body	Description
1/26/2021	S	Introduced 01/06/2021 and Referred to Election Law and Municipal Affairs; SJ 3
2/3/2021	S	Remote Hearing: 02/08/2021, 09:00 am; Links to join the hearing can be found in the Senate Calendar; SC 10
2/18/2021	S	Committee Report: Ought to Pass with Amendment #2021-0420s , 03/04/2021; Vote 5-0; CC; SC 12
3/4/2021	S	Sen. Ricciardi Moved to Remove SB86-FN from the Consent Calendar; 03/04/2021; SJ 6
3/4/2021	S	Committee Amendment #2021-0420s , RC 24Y-0N, AA; 03/04/2021; SJ 6
3/4/2021	S	Sen. Bradley Moved to divide the Question on Ought to Pass as Amended 2021-0420s, Part II; and then Parts I and III; 03/04/2021; SJ 6
3/4/2021	S	The Chair ruled the Question Divisible; 03/04/2021; SJ 6
3/4/2021	S	Ought to Pass with Amendment 2021-0420s, Part II, RC 14Y-10N; MA; OT3rdg; 03/04/2021; SJ 6
3/4/2021	S	Ought to Pass with Amendment 2021-0420s, Parts I and III, RC 23Y-1N; MA; OT3rdg; 03/04/2021; SJ 6
3/10/2021	H	Introduced (in recess of) 02/25/2021 and referred to Municipal and County Government HJ 4 P. 48
5/10/2021	H	Public Hearing: 05/10/2021 09:45 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/93597701647 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
5/25/2021	H	Majority Committee Report: Ought to Pass with Amendment #2021-0964h (Vote 10-9; RC) HC 26 P. 28
5/25/2021	H	Minority Committee Report: Ought to Pass with Amendment #2021-1404h
6/4/2021	H	Amendment #2021-0964h : AA RC 204-168 06/04/2021 HJ 9 P. 10
6/4/2021	H	Amendment #2021-1404h : AF RC 168-207 06/04/2021 HJ 9 P. 13
6/4/2021	H	Ought to Pass with Amendment 2021-0964h: MA RC 208-167 06/04/2021 HJ 9 P. 15
6/4/2021	H	Reconsider (Rep. Piemonte): MF RC 169-200 06/04/2021 HJ 9 P. 23
6/10/2021	S	Sen. Gray Moved to Concur with the House Amendment, MA, VV; 06/10/2021; SJ 19
7/15/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); SJ 20
7/15/2021	H	Enrolled (in recess of) 06/24/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 86

Senate Committee: ELMA

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

NA 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 # 01725 - amendment # 04205

___ - amendment # ___ ___ - amendment # ___

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):

___ Enrolled Bill Amendment(s)

___ 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 _____