

CHAPTER 38
HB 1558-FN - FINAL VERSION

06/16/2020 1447s
06/16/2020 1511s
30Jun2020... 1619EBA

2020 SESSION

20-2596
06/05

HOUSE BILL **1558-FN**

AN ACT relative to discipline of students, addressing students' behavioral needs; kindergarten funding; violence in schools; policies for students with head injuries; child sexual abuse prevention education and training; authorizing the issuance of bonds or notes by a municipality; adding the chancellor of the university system of New Hampshire to the department of business and economic affairs council of partner agencies; change of school or assignment due to manifest educational hardship; school board expenditure of year-end fund balances; a children's system of care; student wellness; and criminal background checks for bus drivers.

SPONSORS: Rep. Murphy, Hills. 21; Rep. Mullen, Hills. 7; Rep. Le, Rock. 31; Rep. Petrigno, Hills. 23; Rep. Guthrie, Rock. 13; Rep. Abbas, Rock. 8; Rep. Meuse, Rock. 29; Rep. Hinch, Hills. 21; Rep. Salloway, Straf. 5; Rep. A. Lekas, Hills. 37; Sen. Watters, Dist 4

COMMITTEE: Education

AMENDED ANALYSIS

This bill:

- I. Modifies the policy for discipline and expulsions from school.
- II. Changes the formula for an additional adequate education grant to a school district that operates a full-day kindergarten program.
- III. Requires the commissioner of business and economic affairs to certify each application for an economic revitalization zone tax credit, modifies the calculation of the credits which may be issued to a taxpayer by the commissioner of business and economic affairs, and extends the prospective repeal of the economic revitalization zone tax credit program to January 1, 2028.
- IV. Requires the department of business and economic affairs to certify the agreements that employers participating in the New Hampshire college graduate retention incentive partnership (NH GRIP) offer to employees.
- V. Requires school safety programs to contain a plan for responding to violent acts committed by students against employees, volunteers, and visitors.
- VI. Requires the joint loss management committee to address protocols for employees to follow.
- VII. Provides for reporting of acts of violence.
- VIII. Requires the department of education to collaborate with the Brain Injury Association of New Hampshire to develop a return to learning policy and plan for students with concussions and brain injuries.
- IX. Requires employing school administrative units, school districts, and chartered public schools to provide employees who require a criminal history records check with materials concerning sexual abuse prevention.

X. Requires a 3/5 vote in certain municipalities to authorize the issuance of bonds or notes.

XI. Adds the chancellor of the university system of New Hampshire to the council of partner agencies in the department of business and economic affairs.

XII. Modifies provisions regarding a change of school or assignment because of an educational hardship.

XIII. Increases the amount of the year-end unassigned general funds a school district may retain and changes the purposes for which such funds may be expended.

XIV. Provides that as part of the system of care for children's mental health under RSA 135-F, the department of education shall assist school districts in using the multi-tiered system of supports for behavioral health and wellness or MTSS-B.

XV. Exempts school bus drivers and transportation monitors from certain background checks.

XVI. Requires the department of education to be a clearinghouse for certain background checks for school bus drivers.

XVII. Requires the department of education to make rules relative to the certification standards for school bus drivers and transportation monitors.

XVIII. Establishes the position of background check coordinator within the division of educator support and higher education.

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.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty

AN ACT relative to discipline of students, addressing students' behavioral needs; kindergarten funding; violence in schools; policies for students with head injuries; child sexual abuse prevention education and training; authorizing the issuance of bonds or notes by a municipality; adding the chancellor of the university system of New Hampshire to the department of business and economic affairs council of partner agencies; change of school or assignment due to manifest educational hardship; school board expenditure of year-end fund balances; a children's system of care; student wellness; and criminal background checks for bus drivers.

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

38:1 Suspension and Expulsion of Pupils. Amend RSA 193:13 to read as follows:

193:13 Suspension and Expulsion of Pupils.

I.(a) ~~[The]~~ **A** superintendent or ~~[chief administering officer]~~ **chartered public school director**, or a representative designated in writing by the superintendent **or chartered public school director**, ~~[is authorized to]~~ **may** suspend pupils from school for a period not to exceed 10 **consecutive** school days for: ~~[gross misconduct or for neglect or refusal to conform to the reasonable rules of the school and shall make educational assignments available to the suspended pupil during the period of suspension]~~

(1) Behavior that is detrimental to the health, safety, or welfare of pupils or school personnel; or

(2) Repeated and willful disregard of the reasonable rules of the school that is not remediated through imposition of the district's graduated sanctions under paragraph X.

(b) The school board or **chartered public school board of trustees**, or a representative designated in writing ~~[of the school board is authorized]~~ **may**, following a hearing, ~~[to continue]~~ **extend** the suspension of a pupil ~~[for a period in excess of]~~ **up to 10 additional consecutive school days for an act that constitutes an act of theft, destruction, or violence as defined in RSA 193-D; bullying pursuant to school district policy when the pupil has not responded to targeted interventions and poses an ongoing threat to the safety or welfare of another student; or possession of a firearm, BB gun, or paintball gun.** The school board's or board of trustee's designee may be the superintendent or any other individual, but may not be the individual who suspended the pupil for the first 10 days under subparagraph (a). Any suspension shall be valid throughout the school districts of the state, subject to modification by the superintendent of the school district **or chartered public school** in which the pupil seeks to enroll.

(c) Any suspension in excess of 10 school days imposed under subparagraph (b) by any person other than the school board **or board of trustees** is appealable to the school board **or board of trustees**, provided that the superintendent, **school board, or board of trustees** received such appeal in writing within 10 days after the issuance of the decision being appealed. The school board **or board of trustees** shall hold a hearing on the appeal, but shall have discretion to hear evidence or to rely upon the record of a hearing conducted under subparagraph (b).

The suspension under subparagraph (b) shall be enforced while that appeal is pending, unless the school board **or board of trustees** stays the suspension while the appeal is pending.

II. Any pupil may be expelled from school by the local school board **or board of trustees** for **an act that poses an ongoing threat to the safety of students or school personnel and that constitutes:** ~~[gross misconduct, or for neglect or refusal to conform to the reasonable rules of the school, or for an act of theft, destruction, or violence as defined in RSA 193-D:1, or for possession of a pellet or BB gun, rifle, or paint ball gun,]~~

(a) A repeated act under subparagraph I(b);

(b) Any act of physical or sexual assault that would be a felony if committed by an adult;

(c) Any act of violence pursuant to RSA 651:5, XIII; or

(d) Criminal threatening pursuant to RSA 631:4, II(a).

III. A pupil who has been expelled ~~[and the pupil]~~ shall not attend school until ~~[restored]~~ **reinstated** by the local board **or chartered public school board of trustees**.

III-a. Before expelling a pupil under this section the local school board or chartered public school board of trustees shall consider each of the following factors:

(a) The pupil's age.

(b) The pupil's disciplinary history.

(c) Whether the pupil is a student with a disability.

(d) The seriousness of the violation or behavior committed by the pupil.

(e) Whether the school district or chartered public school has implemented positive behavioral interventions under paragraph V.

(f) Whether a lesser intervention would properly address the violation or behavior committed by the pupil.

III-b. Any expulsion shall be subject to review **by the pupil's school board of attendance or the board of trustees of the chartered public school's board that issued the expulsion** if requested prior to the start of each school year and further, any parent or guardian has the right to appeal any such expulsion by the local board **or board of trustees** to the state board of education **at any time while the expulsion remains in effect. All appeals of final action by the state board of education shall be in accordance with RSA 541.**

III-c. Any expulsion shall be valid throughout the school districts of the state. **However, upon application by the pupil, any school district or chartered public school may choose to admit an expelled pupil at the school district or chartered public school's sole discretion. The decision by a chartered public school or superintendent to accept a pupil under this paragraph shall not be binding upon any other school district or chartered public school until the pupil is reinstated by the pupil's local school board or chartered public school board of trustees.**

~~[HH]~~ IV. Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code in a safe school zone as defined in RSA 193-D:1 without written authorization from the superintendent or designee shall be expelled from school by the local school board for a period of not less than 12 months. ***Nothing in this section shall be construed to prevent the local school district or chartered public school that expelled the student from providing educational services to such student in an alternative setting.***

~~[HV]~~ V. ***School districts and chartered public schools shall make educational assignments available to the suspended pupil during periods of suspension. Except as provided in paragraphs II and IV, a school district or chartered public school shall provide alternative educational services to a suspended pupil whenever the pupil is suspended in excess of 20 cumulative days within any school year. The alternative educational services shall be designed to enable a pupil to advance from grade to grade. Any time a pupil is suspended more than 10 school days in any school year, upon the pupil's return to school the school district shall develop an intervention plan designed to proactively address the pupil's problematic behaviors. No pupil shall be penalized academically solely by virtue of missing class due to suspension.***

~~[The local school board shall adopt a policy which allows the superintendent or chief administering officer to modify the expulsion requirements set forth in paragraphs II and III on a case by case basis.]~~

VI. A pupil expelled from school in another state under the provisions of the Gun-Free Schools Act of 1994 shall not be eligible to enroll in a school district in New Hampshire for the period of such expulsion. ***If the out-of-state expulsion is for an indefinite period of time, such pupil or the pupil's parent or guardian shall have the right to petition the pupil's local school board for enrollment upon establishing residency. If the pupil is denied enrollment, the pupil's expulsion shall be subject to review pursuant to paragraph III-b.***

VII. ***The local school board or chartered public school shall adopt a policy which allows the superintendent or charter public school director to modify the expulsion and enrollment requirements under paragraphs IV and VI on a case by case basis.***

~~[VH]~~ VIII. For purposes of paragraphs I, II, ~~[and]~~ III, ***and IV*** school board may be either the school board or a subcommittee of the board duly authorized by the school board.

IX. ***Nothing in this section shall prevent the superintendent of the pupil's local school district or chartered public school director from reinstating a suspended or expelled pupil.***

X. ***The provisions of this section shall be construed in a manner consistent with RSA 186-C.***

XI. ***School boards and chartered public schools shall establish policies on school discipline that contain a system of supports and consequences designed to correct student misconduct and promote behavior within acceptable norms. Such policies shall:***

(a) ***Include a graduated set of age appropriate responses to misconduct that may include, but are not limited to, parent conferences, counseling, peer mediation, instruction in conflict resolution and anger management, parent counseling and training, community service, rearranging class schedules, restriction from extra curricular activities, detention, in-school supports and consequences, out-of-school suspension, and expulsion.***

(b) ***Set forth standards for short term suspensions up to 5 days, short term suspensions up to 10 days, long term suspensions up to 20 days, and expulsion. Such standards shall make reference to the nature and degree of disruption caused to the school environment, the threat to the health and safety of pupils and school personnel, and the isolated or repeated nature of incidents forming the basis of disciplinary action.***

XII. ***Each school district and chartered public school shall make its policy on school discipline:***

(a) ***Available to parents at the beginning of each school year;***

(b) ***Publicly available on the district, school administrative unit, or chartered public school website and in the student handbook; and***

(c) ***Available to parents via a manner designed to ensure parental notification if the school district, school administrative unit, or chartered public school does not maintain a website and/or student handbook.***

38:2 Adequate Education Grants for Kindergarten. Amend RSA 198:48-b to read as follows:

198:48-b Kindergarten Adequate Education Grants. Notwithstanding any provision of law to the contrary:

I. A school district which operates **a full-day kindergarten program** in any school year in which the adequate education grant provided pursuant to RSA 198:42 does not include a count of **the full-day** kindergarten students, shall receive an additional adequate education grant based on the number of pupils attending kindergarten in the district as of the beginning of the school year.

II. The per pupil amount of the additional education grant provided in this section shall be ~~[\$1,200 for the 2008 school year]~~ **50 percent of the amount distributed under RSA 198:40-a, II(a)**~~[- Starting in the school year that commences in the fall of 2009, a school district which operates kindergarten in any school year in which the adequate education grant provided pursuant to RSA 198:42 does not include a count of kindergarten students, shall receive an additional adequate education grant calculated pursuant to the adequate education grant formula provided in RSA 198:41 and RSA 198:42. School districts that receive kindergarten adequate education grants under this section shall not be eligible to receive any other per pupil adequate education grant]~~ **RSA 198:40-a, II.**

38:3 Eligibility Requirements for Business Tax Credits. Amend RSA 162-N:3 to read as follows:

162-N:3 Eligibility Requirements for Business Tax Credits. No economic revitalization zone tax credits shall be allowed to any taxpayer unless the taxpayer's project receives written certification in accordance with RSA 162-N:4, I from the commissioner of business and economic affairs that it ~~[will expand]~~ **has expanded** the commercial or industrial base in a designated economic revitalization zone and ~~[will create]~~ **created** new jobs in the state.

38:4 Economic Revitalization Zone Tax Credit Letter of Certification. Amend RSA 162-N:4 to read as follows:

I. The commissioner of business and economic affairs shall ~~[enter into a written agreement]~~ **certify each application for an economic revitalization zone tax credit** ~~[agreement]~~ with each taxpayer~~[- such agreement to be certified by the commissioner of business and economic affairs under this section]~~.

II. The ~~[agreement]~~ **commissioner, upon satisfaction of the requirements in RSA 162-N:3,** shall ~~[contain]~~ **issue a letter of certification containing** such provisions as the commissioner of business and economic affairs determines to be in the public interest, which shall include, but not be limited to:

- (a) Quality and quantity of full-time jobs ~~[to be]~~ created.
- (b) Duration of the taxpayer's commitments with respect to the economic revitalization zone.
- (c) The amount of the taxpayer's investment in the project.
- (d) A precise definition of the location of the facility eligible for the credit.

~~[(e) The maximum amount of the economic revitalization zone tax credit that will be allowed to the business under this agreement for jobs created and for construction or reconstruction expenses.]~~

~~H-]~~ **III.** The ~~[agreement]~~ **letter of certification** shall contain a determination of the final amount of the credit awarded and shall be provided to the commissioner of revenue administration and the taxpayer claiming the credit no later than March ~~[10]~~ **31** of each year.

38:5 Determination of Credit. Amend RSA 162-N:6 to read as follows:

162-N:6 Determination of Economic Revitalization Zone Tax Credits Eligible Amount. For the purpose of determining the economic revitalization zone tax credit that the taxpayer is eligible to receive, the amount of the credit to be taken shall be ~~[the lesser of the following:]~~

~~I. The maximum amount of the economic revitalization zone tax credit as stated in the agreement as specified by RSA 162-N:4, I(c); or~~

~~H-]~~ the sum of the following:

~~[(a)]~~ **I.** 4 percent of the salary for each new full-time job created in the calendar year with a wage less than or equal to 1.75 times the then current state minimum wage.

~~[(b)]~~ **II.** 5 percent of the salary for each new full-time job created in the calendar year with a wage greater than 1.75 times the then current state minimum wage and less than or equal to 2.5 times the then current state minimum wage.

~~[(c)]~~ **III.** 6 percent of the salary for each new full-time job created in the calendar year with a wage greater than 2.5 times the then current state minimum wage.

~~[(d)]~~ **IV.** 4 percent of the lesser of the following:

~~(1)~~ **(a)** The actual cost incurred in the calendar year of creating a new facility or renovating an existing facility, and expenditures for machinery, equipment, or other materials, except inventory.

~~(2)~~ **(b)** \$20,000 for each new full-time job created in the calendar year.

38:6 Extension of Prospective Repeal of RSA 162-N. Amend 2007, 263:176, X, as amended by 2010, 311:1 and 2014, 139:1 to read as follows:

X. Section 123 of this act shall take effect ~~[July 1, 2020]~~ **January 1, 2028.**

38:7 Extension of Prospective Repeal of RSA 162-N:2-a. Amend 2015, 265:9, I to read as follows:

I. Section 7 of this act shall take effect ~~[July 1, 2020]~~ **January 1, 2028.**

38:8 New Hampshire College Graduate Retention Incentive Partnership (NH GRIP); Definition; Certification. Amend RSA 12-O:46, I to read as follows:

I. ***"Certification" means written verification from the department of business and economic affairs that the agreement to be used between the participating employer and the employee meets the requirements of RSA 12-O:48.***

I-a. "Commissioner" means the commissioner of the department of business and economic affairs.

38:9 Graduate Retention Incentive Partnership; Definitions. Amend RSA 12-O:46, VII to read as follows:

VII. "Participating employer agreement" or "agreement" means an agreement ~~[prepared jointly by the department of business and economic affairs in consultation with the New Hampshire College and University Council and the Business and Industry Association of New Hampshire]~~ ***that an employer will use to offer each employee an incentive in the amount and duration provided in RSA 12-O:48 and which is to be certified by the department of business and economic affairs.***

38:10 Graduate Retention Incentive Partnership; Advertising; Department Certification. Amend RSA 12-O:49 to read as follows:

12-O:49 Advertising. ***Upon certification,*** the department shall, in cooperation with the Business and Industry Association of New Hampshire, the New Hampshire College and University Council, the New Hampshire Higher Education Assistance Fund, the New Hampshire Coalition for Business and Education, and Stay, Work, Play NH, advertise to New Hampshire employers and New Hampshire college students the details of NH GRIP, through print and electronic media. The department shall maintain a list of employers who have a valid participating employer agreement and shall make the list available on the department's public Internet site as well as in writing.

38:11 Workers' Compensation; Safety Provisions; Schools as Employers. Amend RSA 281-A:64, II-III to read as follows:

II. All employers with 15 or more employees shall prepare, with the assistance of the commissioner, a current written safety program and file this program with the commissioner. After a written safety program has been filed, the program shall be reviewed and updated by the employer at least every 2 years. Employer programs shall, in addition to the specific rules and regulations regarding worker safety, include the process of warnings, job suspension, and job termination for violations of the safety rules and regulations set forth in the program. ***Where the employer is a public school district, administrative unit, or chartered public school, the safety program shall contain a plan for responding to violent acts committed by students against employees, volunteers, and visitors.***

III. Every employer of 15 or more employees shall establish and administer a joint loss management committee composed of equal numbers of employer and employee representatives. Employee representatives shall be selected by the employees. If workers are represented by a union, the union shall select the employee representatives. The joint loss management committee shall meet regularly to develop and carry out workplace safety programs, alternative work programs that allow and encourage injured employees to return to work, and programs for continuing education of employers and employees on the subject of workplace safety. The committee shall perform all duties required in rules adopted pursuant to this section. ***For any public school district, administrative unit, or chartered public school, the joint loss management committee shall also address protocols for employees to follow in relation to workplace violence, including training. The department of labor shall adopt rules, pursuant to RSA 541-A, relative to safety programs, joint loss management committees, and employee safety in public schools.***

38:12 Workers' Compensation; Responsibility of Employer to Provide Vital Information. Amend RSA 281-A:53, I to read as follows:

I. Every employer or self-insurer shall record in sufficient detail and shall report or cause to be reported to the commissioner any injury sustained by an employee in the course of employment as soon as possible, but no later than 5 days after the employer learns of the occurrence of such an injury. If an injury results in a disability extending beyond 3 days, the employer shall file with the commissioner a supplemental report giving notice of such disability as soon as possible after such waiting period, but no later than 7 days after the accidental injury. The employer shall supply a copy of either report to the nearest claims office of the employer's insurance carrier. A self-insurer need not file the supplemental report with the commissioner and may keep the insurance copy of the employer's first report as a file copy. If any employer fails without sufficient cause as determined by the commissioner to file a first report as set forth in this paragraph, the commissioner shall assess a civil penalty of up to \$2,500. ***No employer shall discourage an employee from reporting such injuries to their employer or adversely affect the employee's material terms of employment for doing so. Any employer who is found to have discouraged employees from reporting such injuries to their employer shall be subject to a civil penalty of not more than \$2,500 per violation.*** If any employer fails to pay a civil penalty, the commissioner shall recover such penalty payment by a civil action in the superior court of the county of jurisdiction. Civil penalties owed under this section shall be paid to the commissioner, who shall deposit them into the department of labor restricted fund established in RSA 273:1-b.

38:13 New Subparagraphs; Safe School Zones; State Board Rulemaking. Amend RSA 193-D:2, I by inserting after subparagraph (d) the following new subparagraphs:

(e) Reporting acts of violence against school employees, volunteers, and visitors.

(f) A complaint procedure for those asserting that a provision of this chapter has been violated, and possible sanctions and penalties for such violation.

38:14 New Subparagraphs; Safe School Zones; Report Required. Amend RSA 193-D:4, I by inserting after subparagraph (c) the following new subparagraphs:

(d) All assaults committed against school employees, volunteers, and visitors, shall be reported to the department of education for data collection and examination.

(e) All public schools shall provide an annual incident report to their local school boards. The report shall include all incidents of violence involving students, employees, volunteers, or visitors.

(f) When an act of violence is observed by a group of people, one member of the group may report the act and identify the additional observers, provided a second observer also signs the report.

38:15 New Section; Child Restraint Practices. Amend RSA 126-U by inserting after section 1 the following new section:

126-U:1-a Limitations of Child Restraint Practices. The department of education and the department of labor shall work cooperatively to develop consistent definitions and applications of this chapter in order to inform school administrators and employees across the state of best practices regarding restraints in schools. The department of education may utilize grant funds that are available through the department's office of student wellness for trauma-responsive training, consultation on de-escalating violent situations, and proper uses of restraint.

38:16 New Subdivision; Head Injury Policies for Students. Amend RSA 200 by inserting after section 62 the following new subdivision:

Head Injury Policies for Students

200:63 Head Injuries; Return to Learning Policy and Plan.

I. The department of education shall collaborate with the Brain Injury Association of New Hampshire to develop a concussion and traumatic brain injury return to learning policy and plan for school districts. The plan shall include a recommendation on school-based concussion and brain injury in-service training.

II. The school board of each school district shall adopt a concussion and traumatic brain injury return to learning policy school education program.

38:17 New Paragraph; School Employee and Designated School Volunteer Criminal History Records Check; Child Sexual Abuse Prevention Education and Training. Amend RSA 189:13-a by inserting after paragraph XI the following new paragraph:

XII. The employing school administrative unit, school district, or chartered public school shall provide every school employee whose position requires a criminal background check under this section with informational materials, training, or other education, either online or in person, concerning child sexual abuse prevention, sexual assault and harassment policy training, warning signs of child abuse, and reporting mandates. For the purposes of this

paragraph, school employees include coaches and those enumerated in RSA 189:13-a, I(a), VI, and IX(a). Such training shall be completed within 30 days of employment and renewed every 2 years for all employees.

38:18 Studies. Amend RSA 189:10 to read as follows:

189:10 Studies. The school board shall ensure that health education and physical education are taught to pupils as part of the basic curriculum. The school board shall ensure that all studies prescribed by the state board of education are thoroughly taught, especially physiology, hygiene, and health and physical education as they relate to the effects of alcohol and other drugs, child abuse as established in the definition of "abused child" under RSA 169-C:3, II, human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS), and sexually transmitted diseases on the human system. ***The department of education shall survey school districts biennially to receive reports on compliance with this section, and provide the report to the president of the senate, speaker of the house of representatives, the chairpersons of the senate and house committees with jurisdiction over education, the senate committee with jurisdiction over health and human services, and the house committee with jurisdiction over child and family law.***

38:19 Municipal Finance Act; Town or District Bonds or Notes. Amend RSA 33:8 to read as follows:

33:8 Town or District Bonds or Notes. Except as otherwise specifically provided by law, the issue of bonds or notes by any municipal corporation, except a city or a town which has adopted a charter pursuant to RSA 49-B, without a budgetary town meeting, ~~[and except a school district or municipality which has adopted official ballot voting procedures pursuant to RSA 40:13]~~ shall be authorized by a vote by ballot of ~~[2/3]~~ **3/5**, and the issue of tax anticipation notes, by a vote of a majority, of all the voters present and voting at an annual or special meeting of such corporation, called for the purpose. ~~[The issue of notes or bonds by a school district or municipality which has adopted official ballot voting procedures pursuant to RSA 40:13 shall be authorized by a vote of 3/5.]~~ The issue of notes or bonds by a municipality that has adopted an optional form of legislative body under RSA 49-D:3, I-a or RSA 49-D:3, II-a shall be authorized by either a 2/3 or 3/5 vote as adopted and provided for in the charter. If such charter does not specify which majority vote is required, then the required majority vote shall be ~~[2/3]~~ **3/5**. Only votes in the affirmative or negative shall be included in the calculation of any majority. No such action taken at any special meeting shall be valid unless a majority of all the legal voters are present and vote at such special meeting, unless the governing board of any municipality shall petition the superior court for permission to hold an emergency special meeting, which, if granted, shall give said special meeting the same authority as an annual meeting. The warrant for a special meeting shall be published once in a newspaper having a general circulation in the municipality within one week after the posting of such special meeting. The warrant for any such annual or special meeting shall be served or posted at least 14 days before the date of such special meeting. Every warrant shall be deemed to have been duly served or posted, if the return on the warrant shall so state, and it shall be certified by the officer or officers required to serve or post the same. All bonds or notes, authorized in accordance with this chapter, shall be signed by the governing board, or a majority of the governing board, and countersigned by the treasurer of the municipality, and shall have the corporate seal, if any, affixed to it. The discretion of fixing the date, maturities, denominations, the interest rate, or discount rate in the case of notes, the place of payment, the form and other details of said bonds or notes and of providing for the sale of such bonds or notes, may be delegated to the governing board or to the treasurer and shall, to the extent provision therefor shall not have been made in the vote authorizing the same, be deemed to have been delegated to the governing board. Bonding authority under this section may be limited or rescinded as provided in RSA 33:8-f.

38:20 Municipal Electric Revenue Bonds; Authorization and Issuance. Amend RSA 374-B:2, I to read as follows:

I. Any municipality, when authorized by a ~~[2/3]~~ **3/5** vote as defined in RSA 33:8 for bonds or notes not in excess of \$100,000, or in RSA 33:8-a for other bonds or notes for towns and village districts or in RSA 33:9 for cities, may, subject to the approval of the commission under RSA 369:1, borrow money through the issue of revenue bonds to finance project costs, or its share of project costs, of electric power facilities. The commission in rendering its decision shall, in addition to the other requirements of said RSA 369:1, approve only such issue as the commission finds, after notice and opportunity for hearing, is appropriate to finance an electric power facility which is both consistent with the power needs of the state and necessary to supply the load plus reserve requirements created by the municipality's retail customers, and by such wholesale customers as may have existed on the day of the vote of the municipality, said load plus reserve requirements to be forecast by the municipality at a time 3 years beyond the scheduled date for commencement of commercial operation of the facility; in evaluating the ability of the municipality to supply its load

plus reserve requirements at said time, the commission shall deduct from these requirements all capacity in other generating units to which the municipality will then be entitled by ownership or contract, including any contracts for the purchase of electricity to be in force at said time. The project costs to be financed may include finance charges, interest prior to and during the carrying out of any project and for a reasonable period thereafter, prepayments under contracts made pursuant to RSA 374-A:2, the funding of notes issued for project costs as hereinafter provided, such reserves for debt service (including a common reserve for debt service established pursuant to an agreement for consolidation of indebtedness under paragraph VI) or other capital or current expenses as may be required by a trust agreement or resolution securing notes or bonds, and all other expenses incidental to the determination of the feasibility of any project or to carrying out the project or to placing the project in operation.

38:21 Municipal Electric Revenue Bonds; Temporary Notes. Amend RSA 374-B:3 to read as follows:

374-B:3 Temporary Notes. In anticipation of the authorization or issue of bonds under this chapter, and subject to the approval of the commission under RSA 369:1 or RSA 369:7, a municipality, when authorized by a ~~[2/3]~~ **3/5** vote as defined in RSA 33:8 for towns and village districts or in RSA 33:9 for cities, may issue temporary notes. Subject to the terms of the commission's approval and of the authorizing vote, the municipality may provide for the sale of the notes at public or private sale and may determine the interest rate or rates, maturity or maturities, redemption privileges, if any, form, denomination or denominations and place or places of payment or provide for the determination thereof by the treasurer. Temporary notes issued hereunder shall be executed in the manner provided herein for bonds and shall be payable within 6 years from their respective dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid from time to time by the issue of other notes under this chapter, provided the period from the date of issue of an original note to the maturity of any note issued to renew or pay the same debt or the interest thereon shall not exceed 6 years. Unless otherwise provided in the authorizing vote or in the approval of the commission, the municipality may cause notes to be refunded to the extent provided in this chapter. To the extent of any borrowing in anticipation of bonds, the maximum maturity of an equivalent amount of the bonds shall be measured from the date of the anticipatory borrowing.

38:22 Municipal Electric Revenue Bonds; Revenue Refunding Bonds. Amend RSA 374-B:12 to read as follows:

374-B:12 Revenue Refunding Bonds. Any municipality having bonds outstanding under this chapter, when authorized by a ~~[2/3]~~ **3/5** vote as defined in RSA 33:8 for towns and village districts and in RSA 33:9 for cities, may issue refunding bonds for the purpose of paying bonds issued by or on its behalf, at maturity or upon acceleration or redemption, subject to the approval of the commission under RSA 369:1. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service (including a common reserve for debt service established pursuant to an agreement for consolidation of indebtedness under RSA 374-B:2, VI) or other capital or current expenses from the proceeds of such refunding bonds as may be required by a trust agreement or resolution securing bonds or notes. The refunding bonds may be issued not more than 5 years prior to the maturity or redemption date of bonds being refunded. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the municipality in respect of the same shall be governed by the provisions of this chapter relating to the issue of bonds other than refunding bonds insofar as the same may be applicable, but no bonds shall be refunded to a date later than the refunded bonds could have matured hereunder.

38:23 New Subparagraph; Department of Business and Economic Affairs; Council of Partner Agencies. Amend RSA 12-O:7, I by inserting after subparagraph (d) the following new subparagraph:

(e) The chancellor of the university system of New Hampshire.

38:24 Change of School due to Manifest Educational Hardship. RSA 193:3, I-III is repealed and reenacted to read as follows:

193:3 Change of School or Assignment; Best Interest of Student.

I.(a) The parent or guardian of a student may apply to the superintendent of the student's district of residence if the parent or guardian believes it would be in the best interest of the student to change the student's school or assignment.

(b) Upon such request, the superintendent shall schedule a meeting with the parent or guardian, to be held within 10 days of the request.

- (c) Prior to or at such meeting, the parent or guardian shall make a specific request that the student be re-assigned by the school board to another public school or public academy within the district or to a public school or public academy in another district.
- (d) At such meeting, the parent or guardian may present documents, witnesses, or other relevant evidence supporting the parent's belief that it is in the best interest of the student to change the student's school or assignment. The superintendent may present such information as he or she deems appropriate.
- (e) In determining whether it is in the best interest of the student to change the student's school or assignment, the superintendent shall consider the student's academic, physical, personal, or social needs.
- (f) If the superintendent finds it is in the best of the interest of the student to change the student's school or assignment, the superintendent shall initiate:
- (1) A change of assignment within the student's current assigned school;
 - (2) The student's transfer to another public school or public academy within the district of residence; or
 - (3) The student's transfer to a public school or public academy in another district.
- (g) If a student is reassigned as a result of a best interest determination, the superintendents involved in the reassignment shall jointly establish a tuition rate for such student. Some or all of the tuition may be waived by the superintendent of the receiving district for good cause shown or pursuant to school board policy of the receiving district. The school board of the student's district of residence shall approve the payment of tuition upon the superintendent's finding that is in the best interest of the student to be reassigned. Transportation shall be the responsibility of the parent or legal guardian.
- (h) If the superintendent does not find that it is in the best interest of the student to change the student's school or assignment, the parent or guardian may request a hearing with the school board of residence to determine if the student is experiencing a manifest educational hardship under paragraph II.
- II.(a) "Manifest educational hardship" means that a student has a documented hardship in his or her current educational placement; and that such hardship has a detrimental or negative impact on the student's academic achievement or growth, physical safety, or social and emotional well-being. Such hardship must be so severe, pervasive, or persistent that it interferes with or limits the ability of the student to receive an education.
- (b) The superintendent shall duly notify the school board that the parent or guardian has requested a manifest educational hardship hearing, upon which the school board shall schedule a hearing to be held no more than 15 days after the request has been received.
- (c) At such hearing, the parent or guardian may present documents, witnesses, or other relevant evidence supporting their belief that the student is experiencing a manifest educational hardship. The superintendent may present such information as he or she may deem appropriate to assist the school board in reaching its decision. The parties shall have the right to examine all evidence and witnesses.
- (d) Prior to or at such hearing, the parent or guardian shall make a specific request that the student be re-assigned by the school board to another public school or public academy within the district or to a public school or public academy in another district.
- (e) The parent or guardian shall have the burden of establishing the presence of a manifest educational hardship by clear and convincing evidence.
- (f) If the school board finds that the student has a manifest educational hardship, the school board shall grant the parent's or guardian's request to re-assign the student to another public school or public academy within the district or to a public school or public academy in another district.
- (g) If the school board finds that the parent or guardian has not met their burden of proof, the parent or guardian may appeal the local school board decision to the state board of education. If the state board of education chooses to accept the parent's or guardian's appeal, the state board of education shall schedule hearing on the matter, pursuant to applicable department of education rules.
- (h) If a student is assigned to attend school in another district because of a manifest educational hardship, the district in which the student resides shall pay tuition to the district to which the child is re-assigned. Such tuition shall be computed according to RSA 193:4. The school board of the district in which the student resides shall approve the tuition payment.

III. The state board of education may permit such child to withdraw from the school the student currently attends for such time as the state board deems necessary. Children with disabilities as defined in RSA 186-C:2 shall be

accorded a due process review pursuant to rules adopted under RSA 186-C:16.

III-a.(a) A student reassigned under this section shall be counted in the average daily membership in residence of the student's resident school district. The student's resident district shall forward any tuition payment due to the district to which the student was reassigned.

(b) The superintendent of the student's resident school administrative unit shall notify the department of education within 30 days of any reassignment of students under this section.

(c) Nothing in this section shall alter or impair the right of a child with a disability, as defined in RSA 186-C:2, to be accorded a due process review pursuant to rules adopted under RSA 186-C:16.

(d) The total reassignments or transfers in any one school year shall not exceed one percent of the average daily membership in residence of a school district, or 5 percent of the average daily membership in residence of any single school, whichever is greater, unless the school board votes to exceed this limit.

(e) The state board of education shall adopt rules, pursuant to RSA 541-A, relative to manifest educational hardship. Each school board shall establish a policy, consistent with the state board's rules, which shall allow a school board, with the recommendation of the superintendent, to take appropriate action including assignment to another public school or public academy within the district or to a public school or public academy in another district.

(f) Students re-assigned under this section shall meet the admission requirements of the school to which the student is re-assigned.

38:25 School Money; Contingency Fund. Amend RSA 198:4-b, II to read as follows:

II. Notwithstanding any other provision of law, a school district by a vote of the legislative body may authorize, indefinitely until specific rescission, the school district to retain ***any unused portion of the*** year-end unassigned general funds, ~~[in an amount not to exceed, in any fiscal year, 2.5 percent of the current fiscal year's net assessment pursuant to RSA 198:5, for the purpose of having funds on hand to use as a revenue source for emergency expenditures and overexpenditures under RSA 32:11, or to be used as a revenue source to reduce the tax rate]~~ ***from the preceding fiscal year in subsequent fiscal years, provided that the total amount of year-end unassigned general funds does not exceed, in any fiscal year, 5 percent of the current fiscal year's net assessment under RSA 198:5.***

(a) Prior to expending retained general funds, the school board shall hold a prior public hearing on the action to be taken with such funds. Notice of the time, place, and subject of such hearing shall be published in a newspaper of general circulation in the relevant municipality at least 7 days before the meeting is held.

(b) An annual accounting and report of the activities of the retained general funds shall be presented to the school board of the district and published in the annual report.

38:26 Short Title. Sections 27 through 30 of this act shall be known as the Children's System of Care in Schools Act of 2020.

38:27 Purpose Statement. The general court recognizes that the ongoing mental health, substance misuse, and child protection crises have taken a significant toll on New Hampshire's children, families, and taxpayers and New Hampshire schools are challenged daily to support the behavioral health needs of students while promoting academic achievement for all students. In response, many New Hampshire school districts are using an evidenced-based prevention framework to support the behavioral health and wellness of all students, called multi-tiered system of supports for behavioral health and wellness, or MTSS-B. MTSS-B is an integral part of building a coordinated, comprehensive, and community-based system of care as required under RSA 135-F and a key strategy to keep children in their home schools and communities. There is evidence which demonstrates that high-fidelity implementation of the framework is directly correlated with reduced exclusionary discipline shown through reduced student discipline referrals, enhanced overall behavioral health, enhanced attendance, improved academic achievement, and enhanced school climate. The framework does not prescribe a particular strategy or curriculum for school districts, but rather offers school districts the support and ability to choose what works for their own communities.

38:28 New Subparagraph; System of Care for Children's Mental Health; Characteristics of the System of Care; Use of MTSS-B. Amend RSA 135-F:3, III by inserting after subparagraph (k) the following new subparagraph:

(l) Statewide use of the multi-tiered system of supports for behavioral health and wellness, or MTSS-B, in New Hampshire schools to address New Hampshire students' social, emotional, and behavioral health needs in order to

improve students' educational outcomes and keep students in their home schools and communities. For the purposes of this chapter, a "multi-tiered system of supports for behavioral health and wellness" or "MTSS-B" shall include:

- (1) A school wide system of evidence-based behavioral practices for all students;
- (2) A targeted system of practices for youth who need additional support; and
- (3) A tertiary system of intensive and individualized interventions for students with the greatest behavioral needs.

38:29 System of Care for Children's Mental Health; Duties of the Commissioner of the Department of Education.

Amend RSA 135-F:5 to read as follows:

135-F:5 Duties of Commissioner of the Department of Education. The commissioner of the department of education shall:

I. To the extent possible within existing statutory and budgetary constraints, ~~[modify the policies and practices of the department of education to support establishment of a system of care; and]~~ **support the system of care established under this chapter through:**

(a) The development of a multi-tiered system of supports for New Hampshire schools and support for school districts implementing MTSS-B through technical assistance and professional development, including the use of external consultation training and coaching services.

(b) Alignment of federal funding to support local school districts implementing a multi-tiered system of support.

(c) Technical assistance to local school districts regarding the use of federal funds to implement and maintain MTSS-B.

(d) Technical assistance to local school districts on the use of research- and data-driven decision-making, organized and shared leadership, support for personnel through embedded professional development, and purposefully planned implementation cycles with continuous evaluation for improvement of outcomes.

II. Develop a plan for full support and participation of the department of education in the establishment and maintenance of a system of care ~~[by the department of health and human services]~~. Such plan shall be reviewed and amended annually. It shall include sufficient detail to allow compliance with the reporting requirements of RSA 135-F:6, and shall address at least the following elements:

(a) Development of a multi-tiered system of supports in **all** New Hampshire schools.

(b) System capacity, including workforce sufficiency.

(c) **Applicable** federal funding participation, ~~[including]~~ **shall include** but not **be** limited to ~~[Medicaid waivers and plan amendments]~~ **state set-aside funds received from the federal government under the Individuals with Disabilities Education Act (IDEA) and Titles I, II, IV-A, and IV-B under the Elementary and Secondary Education Act (ESEA).**

(d) Changes to statutes, administrative rules, and structure of appropriations, and department policy, practice, and structure.

(e) Projections of cost savings from increased service effectiveness and reductions in costly forms of care and use of such savings to close existing gaps in children's behavioral health services.

(f) Coordination with ~~[the plans and activities of]~~ the commissioner of the department of health and human services to implement the system of care.

38:30 Joint Responsibilities of the Commissioner of the Department of Education and the Commissioner of the Department of Health and Human Services. Amend RSA 135-F:7, I(d)(2) to read as follows:

(2) Provision of technical assistance to support development of coordinated services by ~~[school districts, other education providers,]~~ area agencies, community mental health centers, and other entities participating in the system of care.

(3) Provision of technical assistance to school districts and other education providers to support implementation of MTSS-B.

38:31 Background Check; School Bus Drivers. Amend RSA 189:13-a, II to read as follows:

II. The selected applicant for employment or designated volunteer with a school administrative unit, school district, chartered public school, or public academy shall submit to the employer a criminal history records release form, as provided by the division of state police, which authorizes the division of state police to conduct a criminal history records check through its state records and through the Federal Bureau of Investigation and to release, **for the**

purposes of paragraph V, a report of ~~[any misdemeanors and/or felony convictions and any charges pending disposition for any crimes listed in paragraph V]~~ ***the applicant's criminal history and record information, including confidential criminal history record information***, to the superintendent of the school administrative unit or the chief executive officer of the chartered public school or public academy. The applicant shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the school administrative unit, school district, chartered public school, or public academy. In the event that the first set of fingerprints is invalid due to insufficient pattern and a second set of fingerprints is necessary in order to complete the criminal history records check, the conditional offer of employment shall remain in effect. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the school administrative unit, school district, chartered public school, or public academy may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where an applicant has lived during the past 5 years.

38:32 Background Check; School Bus Drivers. Amend RSA 189:13-a, VI to read as follows:

VI. This section shall apply to any employee, selected applicant for employment, designated volunteer, or volunteer organization which contracts with a school administrative unit, school district, chartered public school, or public academy to provide services, including but not limited to cafeteria workers, school bus drivers, custodial personnel, or any other service where the contractor or employees of the contractor provide services directly to students of the district, chartered public school, or public academy. The employing school administrative unit, school district, or chartered public school shall be responsible for completing the criminal history records check on the people identified in this paragraph, ***except for school bus drivers and transportation monitors, as provided in RSA 189:13-b.***

The cost for criminal history records checks for employees or selected applicants for employment with such contractors shall be borne by the contractor.

38:33 New Section; Background Check; School Bus Drivers. Amend RSA 189 by inserting after section 13-a the following new section:

189:13-b School Bus Driver and Transportation Monitor Criminal History Records Check.

I. The department shall complete a criminal history records check on all school bus drivers and transportation monitors as would school administrative units, school districts, and chartered public schools pursuant to RSA 189:13-a.

II. The selected applicant for employment or designated volunteer with a school administrative unit, school district, chartered public school, or public academy in a school bus driver or transportation monitor position shall submit to the department a criminal history records release form, as provided by the division of state police, which authorizes the division of state police to conduct a criminal history records check through its state records and through the Federal Bureau of Investigation and to release a report of the applicant's criminal history record information, including confidential criminal history record information, to the background check coordinator of the department, as described in RSA 21-N:8-a, I-a.

38:34 New Paragraph; Commissioner of Education; School Bus Driver Background Checks. Amend RSA 21-N:4 by inserting after paragraph IX the following new paragraph:

X. Providing a clearing house for school bus driver and transportation monitor background checks to towns, cities, or other organizations paying for school bus transportation.

38:35 Department of Education; Rulemaking Certification Standards; School Bus Drivers and Transportation Monitors. Amend RSA 21-N:9, II(s) to read as follows:

(s) Certification standards for educational personnel, and educator certification fees for granting credentials to educational personnel, including teachers, paraprofessionals, superintendents, assistant superintendents, special education administrators, business administrators, principals, vocational directors, coordinators of comprehensive health education and services, directors of pupil personnel services, guidance directors, guidance counselors, school psychologists, associate school psychologists, speech-language specialists, social workers, health educators, physical education teachers, consumer and family science teachers, elementary teachers, specialists in assessment of intellectual functioning, ***school bus drivers and transportation monitors***, media supervisors, media generalists, and master teachers as authorized by RSA 186:8 and RSA 186:11, X, professional credentials including beginning educator credentials, experienced educator credentials, and intern licenses, and other classifications of educators, administrators, specialists, and paraprofessionals necessary to address educational needs as determined by the state board upon the recommendation of the professional standards board pursuant to RSA 186:60.

38:36 New Paragraph; Commissioner of Education; School Bus Driver Background Checks. Amend RSA 21-N:8-a by inserting after paragraph I the following new paragraph:

I-a. There is hereby established within the division of educator support and higher education the position of background check coordinator who shall be a classified employee. The background check coordinator shall be qualified to hold such position by reason of education and experience. The position shall be subject to any other employment requirements as determined by the department.

38:37 Effective Date.

I. RSA 193:13, I-X as inserted by section 1 of this act shall take effect July 1, 2021.

II. Sections 3-5, and 8-10 of this act shall take effect July 1, 2020.

III. Sections 6 and 7 of this act shall take effect June 30, 2020.

IV. Sections 17 and 31-36 of this act shall take effect January 1, 2021.

V. Sections 11-16 and 18-30 of this act shall take effect 60 days after its passage.

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

Approved: July 29, 2020

Effective Date:

I. RSA 193:13, I-X as inserted by section 1 shall take effect July 1, 2021.

II. Sections 3-5, and 8-10 shall take effect July 1, 2020.

III. Sections 6 and 7 shall take effect June 30, 2020

IV. Sections 17 and 31-36 shall take effect January 1, 2021.

V. Sections 11-16 and 18-30 shall take effect September 27, 2020.

VI. Remainder shall take effect July 29, 2020.