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June 15, 2023

The Honorable Chris Sununu  
107 North Main Street  
Concord, NH 03301

Re: R Street Institute Support for HB 287-Removing Fentanyl and Xylazine Testing Equipment from the Definition of Drug Paraphernalia in the Controlled Drug Act

Governor Sununu,

On behalf of the R Street Institute, I would like to share with you our support for House Bill 287, a bill that removes drug testing equipment from the definition of drug paraphernalia in the Controlled Drug Act. The R Street Institute is a public policy research organization focused on advancing free markets and limited, effective government in a number of policy areas, including opioid harm reduction.

As you may know, last year, more than 110,000 people in the United States died of a drug overdose.<sup>1</sup> In New Hampshire, overdoses took an estimated 230 lives by September of 2022, an increase of 14 percent over the prior year.<sup>2</sup> Although all substance use comes with some risks, not all people are willing or able to stop using, and policy that requires abstinence leaves many people behind and at risk for continued health harms. Harm reduction is a pragmatic, evidence-based approach that provides those individuals for whom abstinence is not currently feasible with resources and information to stay alive and as healthy as possible. Therefore, R Street supports harm reduction as an essential complement to existing prevention and cessation efforts. As such, we support HB 287, which would remove life-saving harm reduction tools – xylazine and fentanyl testing equipment – from the state’s definition of paraphernalia.

Due to the illicit nature of many recreational drugs in the United States, there are no safety or quality control mechanisms in place. Inconsistent potency and the fluctuating presence of adulterants can significantly increase risk for overdose, especially when people are unaware of exactly what is in their supply.<sup>3</sup> Since 2015, New Hampshire’s drug supply has been increasingly contaminated by fentanyl – a synthetic opioid that is 50 to 100 times as potent as morphine and has an extremely narrow margin between desired and dangerous effects.<sup>4</sup> More recently, the veterinary tranquilizer xylazine (‘tranq’), has become a growing cause for concern in the state.<sup>5</sup> Xylazine is associated with increased risk for overdose as well as complex, slow-to-heal skin wounds. Furthermore, because it is not an opioid, xylazine does not respond to the overdose reversal medication naloxone.<sup>6</sup>

Fortunately, data indicate that when people are equipped with better information about what is in their supply, they often are empowered to protect their health. Drug checking equipment such as fentanyl test strips (FTS) and xylazine test strips (XTS) can provide that important information by alerting people to the presence of certain adulterants in powder or pills.<sup>7</sup> Easy-to-use FTS have low margins of error, and commercially available products detect fentanyl and up to 24 common analogs.<sup>8</sup> While XTS are far



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newer, they use the same familiar technology, and emerging research indicates they are similarly accurate.<sup>9</sup>

People who use drugs, as well as community-based and public health organizations may use FTS and XTS to check drugs for adulterants, and the strips pose no risks to public safety. Research indicates that tools such as FTS and XTS are desired by people who use drugs, and that having more information about their supply can prompt them to change their behaviors to reduce the risk of overdose and other health harms.<sup>10</sup> In addition, these tools are most useful in places where novel adulterants are on the rise or unstable, both factors that apply to the illicit drug market in New Hampshire.<sup>11</sup>

By removing FTS and XTS from New Hampshire’s definition of drug paraphernalia, HB 287 would reduce barriers to life-saving harm reduction tools and improve people’s ability to make informed, health-protecting decisions, thereby saving lives. With the ever-increasing use of contaminants, such as fentanyl and xylazine being found in supplies of illegal recreational drugs, it’s critical that this drug testing equipment is available to the public. For these reasons, we strongly urge you to take favorable action on HB 287 and sign it into law. Thank you for your time and consideration of this important request.

Respectfully submitted,

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<sup>1</sup> Brian Mann, “2022 was a deadly (but hopeful) year in America’s opioid crisis,” National Public Radio, Dec. 31, 2022. <https://www.npr.org/2022/12/31/1145797684/2022-was-a-deadly-but-hopeful-year-in-americas-opioid-crisis>.

<sup>2</sup> *New Hampshire Drug Monitoring Initiative: Drug Environment Report*, New Hampshire Information and Analysis Center, October 2022. <https://www.dhhs.nh.gov/sites/g/files/ehbemt476/files/documents2/dmi-october2022.pdf>.

<sup>3</sup> *New Hampshire Drug Monitoring Initiative: Drug Environment Report*. <https://www.dhhs.nh.gov/sites/g/files/ehbemt476/files/documents2/dmi-october2022.pdf>; National Institute on Drug Abuse, “Fentanyl DrugFacts,” National Institutes of Health, June 2021. <https://nida.nih.gov/publications/drugfacts/fentanyl>.

<sup>4</sup> Ibid.

<sup>5</sup> “NH DHHS Warns of Dangerous, Non-Opioid Animal Tranquilizer,” New Hampshire Department of Health & Human Services, Feb. 16, 2023. <https://www.dhhs.nh.gov/news-and-media/nh-dhhs-warns-dangerous-non-opioid-animal-tranquilizer>.

<sup>6</sup> “Xylazine in the Drug Supply,” National Harm Reduction Coalition, October 2022. <https://harmreduction.org/wp-content/uploads/2022/11/Xylazine-in-the-Drug-Supply-one-pager.pdf>.



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<sup>7</sup> Traci C. Green et al., “An assessment of the limits of detection, sensitivity and specificity of three devices for public health-based drug checking of fentanyl in street-acquired samples,” *International Journal of Drug Policy*, 77, (March 2020). <https://www.sciencedirect.com/science/article/pii/S0955395920300025>; Sarah A. Shuda and Hiu Yu Lam, “Characterization of Xylazine Test Strips for Use in Drug Checking,” *The Center for Forensic Science Research & Education*, (October 2022).

[https://www.cfsre.org/images/content/reports/drug\\_checking/CFSRE\\_Xylazine\\_Report-Rev-1-18-23.pdf](https://www.cfsre.org/images/content/reports/drug_checking/CFSRE_Xylazine_Report-Rev-1-18-23.pdf).

<sup>8</sup> Green et al., (2020); Marianne Skov-Skov Bergh et al., “Selectivity and sensitivity of urine fentanyl test strips to detect fentanyl analogues in illicit drugs,” *International Journal of Drug Policy* 90 (April 2021).

<https://www.sciencedirect.com/science/article/pii/S0955395920304035?via%3Dihub>.

<sup>9</sup> Shuda and Lam. [https://www.cfsre.org/images/content/reports/drug\\_checking/CFSRE\\_Xylazine\\_Report-Rev-1-18-23.pdf](https://www.cfsre.org/images/content/reports/drug_checking/CFSRE_Xylazine_Report-Rev-1-18-23.pdf).

<sup>10</sup> Nicholas C. Peiper et al., “Fentanyl test strips as an opioid overdose prevention strategy: Findings from a syringe services program in the Southeastern United States,” *International Journal of Drug Policy* 63 (January 2019), pp. 122-128.

<https://www.sciencedirect.com/science/article/pii/S0955395918302135?via%3Dihub>; Megan K. Reed et al., “Perspectives of people in Philadelphia who use fentanyl/heroin adulterated with the animal tranquilizer xylazine; Making a case for xylazine test strips,” *Drug and Alcohol Dependence Reports*, 4. (September 2022).

<https://www.sciencedirect.com/science/article/pii/S2772724622000488>.

<sup>11</sup> Noelle P. Weicker et al., “Agency in the fentanyl era: Exploring the utility of fentanyl test strips in an opaque drug market,” *International Journal of Drug Policy* 84 (October 2020).

<https://www.sciencedirect.com/science/article/abs/pii/S0955395920302395?via%3Dihub>.