

# State of New Hampshire

# HOUSE RECORD

Second Year of the 160<sup>th</sup> General Court  
Calendar and Journal of the 2008 Session

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No. 17

Contains: Amendments for March 5 and March 12

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## HOUSE CALENDAR

## AMENDMENTS

**ALL LEGISLATORS ARE ASKED TO  
BRING THIS CALENDAR FOR USE  
ON WEDNESDAY, MARCH 5, 2008  
AND WEDNESDAY, MARCH 12, 2008**



**WEDNESDAY, MARCH 5 AND WEDNESDAY, MARCH 12**  
**AMENDMENTS**  
**(LISTED IN NUMERICAL ORDER)**

2008-0783h

**Floor Amendment to CACR 23**  
**Proposed by Rep. Itse**

Amend the title of the resolution by replacing it with the following:

RELATING TO: parental rights.

PROVIDING THAT: parents have a natural right to control the welfare and education of their children and the state shall not abridge such right.

Amend the resolution by replacing all after the resolving clause with the following:

I. That the first part of the constitution be amended by inserting after article 2-a the following new article:

[Art.] 2-b. [Parental Rights.] Parents have the natural right to control the welfare and education of their children; therefore, the State shall not abridge the role or responsibility of parents in such matters.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2008.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2008 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2008 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be:  
“Are you in favor of amending the first part of the constitution by inserting after article 2-a a new article to read as follows:

[Art.] 2-b. [Parental Rights.] Parents have the natural right to control the welfare and education of their children; therefore, the State shall not abridge the role or responsibility of parents in such matters.”

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote “Yes” or “No.” If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words “Questions Relating to Constitutional Amendments proposed by the 2008 General Court” shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

**AMENDED ANALYSIS**

This constitutional amendment concurrent resolution prohibits the state from abridging the natural right of parents to control the welfare and education of their children.

2008-0408h

**Floor Amendment to CACR 24**  
**Proposed by Rep. Bettencourt**

Amend the resolution by replacing all after the title with the following:

I. That the second part of the constitution be amended by inserting after article 5-b the following new article:

[Art.] 5-c [Income Tax Prohibited.] No new tax shall be levied, directly or indirectly, upon a person’s personal income, from whatever source it is derived.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2008.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2008 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2008 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be:

“Are you in favor of amending the second part of the constitution by inserting after article 5-b a new article to read as follows:

[Art.] 5-c [Income Tax Prohibited.] No new tax shall be levied, directly or indirectly, upon a person’s personal income, from whatever source it is derived.”

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote “Yes” or “No.” If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words “Questions Relating to Constitutional Amendments proposed by the 2008 General Court” shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

2008-0653h

**Amendment to HB 352-LOCAL  
Proposed by the Committee on Education - R**

Amend RSA 198:20-c, I-II as inserted by section 1 of the bill by replacing them with the following:

I. The school district may at any annual or special meeting appropriate such sums of money as it deems necessary to create expendable trust funds for specific purposes for the maintenance and operation of schools, *for the enhancement of public education*, and for any other public purpose that is not foreign to the school district’s institution or incompatible with the objects of their organization. The school board may be named agents to expend such trust funds. Expenditure from such trust funds shall be made only for the purpose for which the trust fund was established.

II. School district trust funds created pursuant to this section shall be held in custody by the trustee named pursuant to RSA 31:22 of trust funds of the town wherein the school district lies, or in the case of school districts embracing 2 or more towns, by the trustees of trust funds of that town which the voters of the school district may elect at the annual school district meeting. In order to expend such funds, the school board shall hold a public hearing prior to the expenditure to be made. *After the hearing and a decision by the school board to proceed with the expenditure and within 10 calendar days of the decision, any 25 residents of the school district may, in writing, petition the probate court or superior court in the county in which the school district is located for a public hearing to further consider the single issue of whether the expenditure is for the purpose for which the fund was established. The court shall hold a hearing and render a decision in a timely manner.* Notice of the time, place, and subject of *each* such *school board* hearing shall be published in a newspaper of general circulation in the relevant municipality at least 7 days before the meeting is held.

Amend RSA 198:20-c, III-a as inserted by section 1 of the bill by replacing it with the following:

*III-a. The principal of a trust fund created under this section that is established to enhance education shall be retained by the trustees of such trust funds in perpetuity. An annual accounting and report of the activities of the trust shall be presented to the school board of the district and published in the annual report.*

2008-0080h

**Amendment to HB 1127**  
**Proposed by the Majority of the Committee on Labor, Industrial and**  
**Rehabilitative Services - R**

Amend the bill by replacing section 1 with the following:

1 Determining Bargaining Unit. Amend RSA 273-A:8, I to read as follows:

I. The board or its designee shall determine the appropriate bargaining unit and shall certify the exclusive representative thereof when petitioned to do so under RSA 273-A:10. In making its determination the board should take into consideration the principle of community of interest. The community of interest may be exhibited by one or more of the following criteria, although it is not limited to such:

- (a) Employees with the same conditions of employment;
- (b) Employees with a history of workable and acceptable collective negotiations;
- (c) Employees in the same historic craft or profession;
- (d) Employees functioning within the same organizational unit.

***A public employer may recognize a bargaining unit with 3-10 members, but*** in no case shall the board certify a bargaining unit of [~~less~~] ***fewer*** than 10 employees with the same community of interest ***without the prior approval of the governing body of the public employer.*** For purposes of this section, probationary employees shall be counted to satisfy the [~~10~~] employee minimum ***number*** requirement. In no case shall such probationary employees vote in any election conducted under the provisions of this chapter to certify an employee organization as the exclusive representative of a bargaining unit.

2008-0540h

**Amendment to HB 1127**  
**Proposed by the Minority of the Committee on Labor, Industrial and**  
**Rehabilitative Services - R**

Amend the bill by replacing section 1 with the following:

1 Determining Bargaining Unit. Amend RSA 273-A:8, I to read as follows:

I. The board or its designee shall determine the appropriate bargaining unit and shall certify the exclusive representative thereof when petitioned to do so under RSA 273-A:10. In making its determination the board should take into consideration the principle of community of interest. The community of interest may be exhibited by one or more of the following criteria, although it is not limited to such:

- (a) Employees with the same conditions of employment;
- (b) Employees with a history of workable and acceptable collective negotiations;
- (c) Employees in the same historic craft or profession;
- (d) Employees functioning within the same organizational unit.

***A public employer may recognize a bargaining unit with 3-10 members, but*** in no case shall the board certify a bargaining unit of [~~less~~] ***fewer*** than 10 employees with the same community of interest ***without the prior approval of the legislative body of the public employer.*** For purposes of this section, probationary employees shall be counted to satisfy the [~~10~~] employee minimum ***number*** requirement. In no case shall such probationary employees vote in any election conducted under the provisions of this chapter to certify an employee organization as the exclusive representative of a bargaining unit.

2008-0215h

**Amendment to HB 1130**  
**Proposed by the Committee on Criminal Justice and Public Safety - C**

Amend the bill by replacing section 3 with the following:

3 New Section; Incorporation of Former, Repealed Statutes. Amend RSA 265-A by inserting after section 1 the following new section:

265-A:1-a Incorporation of Former, Repealed Statutes.

I. Any reference to a prior violation of, or conviction under, RSA 265-A:2 or RSA 265-A:3 shall be read to include violations of, and convictions under, the former, repealed versions of those statutes.

II. Any reference to a prior administrative license suspension under RSA 265-A:30 shall be read to include proceedings under the former, repealed version of that statute.

III. Any reference to a prior refusal of consent under RSA 265-A:14 shall be read to include a refusal under the former, repealed version of that statute.

IV. In any statute, any reference to a revocation, suspension, or conviction pursuant to a section of RSA 265-A shall be read to include a revocation, suspension, or conviction pursuant to the former, repealed version of the statute.

2008-0536h

#### **Amendment to HB 1139**

##### **Proposed by the Majority of the Committee on Election Law - R**

Amend the title of the bill by replacing it with the following:

AN ACT relative to availability of checklists and access to voter information.

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

1 Availability of Checklist; Copies. Amend RSA 654:31, III-VI to read as follows:

III. Any person may view the data that would be available on the public checklist, as corrected by the supervisors of the checklist, on the statewide centralized voter registration database maintained by the secretary of state at the state records and archives center during normal business hours, but the person viewing data at the state records and archives center may not print, duplicate, transmit, or alter the data. The secretary of state may only provide copies of the most recent public checklist to a political committee of a political party as defined in RSA 664:2, V, or to a candidate who has filed for consideration for any office in any primary or general election or who has been nominated for any office in a general election. The secretary of state may not provide public checklists of less than the entire state. The secretary of state ~~may~~ **shall** charge a fee of ~~up to~~ \$25 plus \$0.50 per thousand names or portion thereof in excess of 2,500 plus shipping charges for each copy of the statewide public checklist. ***In addition, the secretary of state shall charge and collect on behalf of and remit to the supervisors of the checklist of each city and town the amount that such supervisors would have charged had the public checklist of their city or town been purchased from them.*** The secretary of state may provide public checklists as prescribed in this section on paper, computer disk, computer tape, electronic transfer, or any other form.

IV. ***Except for fees collected on behalf of a city or town,*** fees collected by the secretary of state under this section shall be deposited in the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city ***or by the secretary of state on behalf of a city or town*** under this section shall be for the use of the town or city.

V. ***A person who sells or otherwise makes available to another person, directly or indirectly, a list acquired pursuant to paragraph II or III shall pay to the secretary of state for each such other person the amount set forth in paragraph III which the secretary of state shall remit to the supervisors of the checklist.***

VI. No person shall use or permit the use of checklist information provided by the secretary of state ***or by the supervisors of the checklist*** for commercial purposes. Whoever knowingly violates any of the provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person. ***The secretary of state may insert inauthentic entries into copies of the public checklist provided under this section for purposes of facilitating enforcement of this paragraph.***

~~VI.~~ VII. This section shall not be construed to restrict the transfer of checklist information to the state or federal courts as required by RSA 654:45 for any lawful purpose.

2 Access to Statewide Voter Information. Amend RSA 654:46 to read as follows:  
654:46 ~~Party~~ Access to ***Statewide*** Voter Information.

I. Notwithstanding any other provision of law, the secretary of state shall, upon request, provide to a party, as defined in RSA 652:11, a list of the name, street address, mailing address, town or city, ~~[gender, year of birth,]~~ voter history, and party affiliation, if any, of every registered voter in the state. In this section, "voter history" means the elections at which the voter voted. The secretary of state ~~[may]~~ **shall** charge a fee of ~~[up to]~~ \$25 plus \$0.50 per thousand names or portion thereof in excess of 2,500 plus shipping charges for each copy of the list provided under this section. ***In addition, the secretary of state shall charge and collect on behalf of and remit to the supervisors of the checklist of each city and town the amount that such supervisors would have charged had the public checklist of their city or town been purchased from them.*** The secretary of state may provide lists as prescribed in this section on paper, computer disk, computer tape, electronic transfer, or any other form. ***Except for fees collected on behalf of a city or town,*** fees collected by the secretary of state under this section shall be deposited in the election fund established pursuant to RSA 5:6-d.

II. ***A party who sells or otherwise makes available to another person, directly or indirectly, a list acquired pursuant to paragraph I shall pay to the secretary of state for each such other person the amount set forth in paragraph I which the secretary of state shall remit to the supervisors of the checklist.***

III. No party shall use or permit the use of voter information provided by the secretary of state under paragraph I for commercial purposes as defined in RSA 654:31, I(b). Whoever knowingly violates any of the provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person. ***The secretary of state may insert inauthentic entries into the voter information provided under this section for purposes of facilitating enforcement of this paragraph.***

3 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill:

I. Removes gender and year of birth from the list of voter information that the secretary is required to provide to political parties.

II. Authorizes the use of inauthentic entries to facilitate the enforcement of prohibitions on using voter information for commercial purposes.

III. Requires the secretary of state to collect additional fees for voter information and remit a portion of the fees to cities and towns.

2008-0650h

#### Amendment to HB 1143

#### Proposed by the Committee on Environment and Agriculture - C

Amend the title of the bill by replacing it with the following:

AN ACT relative to shelter for dogs and the authority of law enforcement officers to take abused and neglected dogs into custody.

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

1 Cruelty to Animals; Shelter for Dogs. Amend RSA 644:8, II-a to read as follows:

II-a. In this section, "shelter" or "necessary shelter" for dogs shall mean any natural or artificial area which provides protection from the direct sunlight ***and adequate air circulation*** when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside ***or confined in a vehicle or other shelter.*** Shelter from ~~[inclement]~~ ***the*** weather shall ***allow the dog to remain clean and dry. Shelter shall be structurally sound and*** have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

2 Cruelty to Animals; Law Enforcement Officers. Amend RSA 644:8, IV-a(a) to read as follows:

(a) Except as provided in subparagraph (b) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society ~~[may]~~ **shall** take

into temporary protective custody any animal when there is probable cause to believe that it has been *or is being* abused or neglected in violation of paragraphs III or III-a *or* when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

3 Effective Date. This act shall take effect January 1, 2009.

#### AMENDED ANALYSIS

This bill provides penalties for failure to provide outdoor dogs with necessary shelter.

This bill also gives law enforcement officers the authority to take into custody an animal suspected of being abused or neglected.

2008-0383h

#### **Amendment to HB 1152-FN Proposed by the Committee on Commerce - C**

Amend the title of the bill by replacing it with the following:

AN ACT relative to interpreting statutory deadlines.

Amend the bill by replacing section 1 with the following:

1 Statutory Construction; Dates. Amend RSA 21:35 to read as follows:

21:35 Time, How Reckoned; Days Included and Excluded.

*I.* Except where specifically stated to the contrary, when a period or limit of time is to be reckoned from a day or date, that day or date shall be excluded from and the day on which an act should occur shall be included in the computation of the period or limit of time.

*II. If a statute specifies a date for filing documents or paying fees and the specified date falls on a Saturday, Sunday, or legal holiday, the document or fee shall be deemed timely filed if it is received by the next business day.*

#### AMENDED ANALYSIS

This bill permits documents and fees to be filed on the next business day if a statute specifies a deadline that falls on a weekend or legal holiday.

2008-0257h

#### **Amendment to HB 1154 Proposed by the Minority of the Committee on Resources, Recreation and Development - R**

Amend the bill by replacing sections 2 and 3 with the following:

2 Membership and Compensation.

*I.* The members of the commission shall be as follows:

(a) Two members of the house of representatives, appointed by the speaker of the house of representatives.

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

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

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

- (e) The commissioner of the department of insurance, or designee.
- (f) The national flood insurance program coordinator of the office of energy and planning, or designee.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study:

I. Factors that contribute to repeated flooding in the town of Bradford, specifically Lake Massasecum, Lake Todd, and the watershed.

II. The best means of preventing flooding.

2008-0570h

**Amendment to HB 1157**

**Proposed by the Committee on Municipal and County Government - C**

Amend the bill by replacing section 1 with the following:

1 Village Plan Alternative; Requirements for Approval. Amend RSA 674:21, VI(b) to read as follows:

(b) An owner of record wishing to utilize the village plan alternative in the subdivision and development of a parcel of land, by locating the entire density permitted by the existing land use regulations of the political subdivision within which the property is located, on 20 percent or less of the entire parcel available for development, shall ~~provide~~ **grant** to the ~~[political subdivision]~~ **municipality** within which the property is located, as a condition of approval, a recorded easement reserving the remaining land area of the entire, original lot, solely for agriculture, forestry, and conservation, or for public recreation. The recorded easement shall limit any new construction on the remainder lot to structures associated with farming operations, forest management operations, and conservation uses, **and shall specify that the restrictions contained in the easement are enforceable by the municipality.** Public recreational uses shall be subject to the written approval of those abutters whose property lies within the village plan alternative subdivision portion of the project at the time when such a public use is proposed.

**AMENDED ANALYSIS**

This bill requires that village plan alternative easements be granted to the municipality.

2008-0590h

**Amendment to HB 1161**

**Proposed by the Committee on Education - C**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study the truancy laws.

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

1 Committee Established. There is established a committee to study the truancy laws.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Six members of the house of representatives, appointed by the speaker of the house of representatives, three of whom shall be from the house education committee and one from each of the following committees: criminal justice and public safety, judiciary, and children and family law.

(b) Three members of the senate, one of whom shall be from the senate education committee, one of whom shall be from the senate judiciary committee, and one of whom shall be from the senate health and human services committee, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study the truancy laws and all related statutes. The committee may consider advice from any individual or organization with relevant information or expertise.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a committee to study the truancy laws.

2008-0556h

**Amendment to HB 1174**

**Proposed by the Committee on Commerce - C**

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

1 Condominium Act; Minutes. Amend RSA 356-B:37 to read as follows:  
356-B:37 Meetings.

**I.** Meetings of the unit owners' association shall be held in accordance with the provisions of the condominium instruments at least once each year after the formation of said association. The bylaws shall specify an officer who shall, at least 21 days in advance of any annual or ~~regularly scheduled~~ **special** meeting ~~[-, and at least 7 days in advance of any other meeting,]~~ send to each unit owner notice of the time, place, and purpose or purposes of such meeting. ~~[Such]~~ **of any annual or special meeting** shall be sent by first class United States mail to all unit owners of record at the address of their respective units and to such other addresses as any of them may have designated to such officer. **At least 7 days in advance of any other meeting of the association or board of directors, an officer of the association shall post notice of the meeting in the manner and location specified in the condominium instruments.** The secretary or other duly authorized officer of the unit owners' association, who shall also be a member of the board of directors of the unit owners' association, shall prepare an affidavit which shall be accompanied by a list of the addresses of all unit owners currently on file with the association and shall attest that notice of the association meeting was mailed to all unit owners on that list by first class mail. A copy of the affidavit and mailing list shall be available at the noticed meeting for inspection by all owners then in attendance and shall be retained with the minutes of that meeting. The affidavit required in this section **and the minutes of the meeting** shall be available for inspection by unit owners for at least 3 years after the date of the subject meeting.

**II. All meetings of the unit owners' association and the board of directors, if any, shall be open to all unit owners, except that the board may exclude or restrict attendance at those meetings, or portions of meetings, dealing with:**

**(a) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.**

**(b) Any pending or anticipated litigation or contract negotiations.**

**(c) Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer.**

**(d) Any matter involving the employment, promotion, discipline, or dismissal of a specific officer or employee of the association.**

**III. The unit owner's association shall make copies of the minutes of board meetings available to the unit owners within 60 days of the board meeting or 15**

***days of the date such minutes are approved by the board, whichever occurs first. The unit owner shall be responsible for any copying costs, except that, if the association chooses to make the minutes available electronically, there shall be no charge to the unit owner.***

2 New Subparagraph; Resale by Purchaser; Meeting Minutes. Amend RSA 356-B:58, I by inserting after subparagraph (i) the following new subparagraph:

(j) The minutes of the unit owners' association or board of director's meetings for the prior year.

3 Effective Date. This act shall take effect January 1, 2009.

2008-0158h

#### **Amendment to HB 1179**

##### **Proposed by the Committee on Judiciary - C**

Amend the bill by replacing section 1 with the following:

1 Right-to-Know Law; Charitable Organizations. Amend RSA 91-A:1-a, I(d) to read as follows:

(d) Any board, commission, agency or authority, of any county, town, municipal corporation, school district, school administrative unit, charter school, or other political subdivision, or any committee, subcommittee or subordinate body thereof, or advisory committee thereto;

***(e) Any corporation that has as its sole member the state of New Hampshire, any county, town, municipal corporation, school district, school administrative unit, village district, or other political subdivision, and that is determined by the Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code.***

2008-0708h

#### **Amendment to HB 1180**

##### **Proposed by the Committee on Criminal Justice and Public Safety - C**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the definitions of "law enforcement officer" and "judicial officer" under the capital murder law and establishing a commission to study the death penalty in New Hampshire.

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

1 Capital Murder; Definitions. Amend RSA 630:1, II and II-a to read as follows:

II. As used in this section, a "law enforcement officer" is a sheriff or deputy sheriff of any county, ***a bailiff or court security officer***, a state police officer, ***a criminal justice or consumer protection investigator***, a constable or police officer of any city or town, an official or employee of any prison, jail or corrections institution, a probation-parole officer, or a conservation officer.

II-a. As used in this section, a "judicial officer" is a judge of a district, probate, ***family division***, superior or supreme court; an attorney employed by the department of justice or a municipal prosecutor's office; or a county attorney; or attorney employed by the county attorney.

2 Commission Established. There is established a commission to study the death penalty in New Hampshire.

3 Membership and Compensation.

I. The commission shall be composed of 15 members. Appointments shall reflect the diversity of the population of New Hampshire. The members of the commission shall be as follows:

(a) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

- (c) The attorney general, or designee.
- (d) The New Hampshire public defender, or designee.
- (e) The president of the New Hampshire Bar Association, or designee.
- (f) One representative of the county attorneys affiliate of the New Hampshire Association of Counties, appointed by such association.
- (g) One representative of the New Hampshire Association of Criminal Defense Lawyers, appointed by such association.
- (h) One representative of the New Hampshire Association of Chiefs of Police, appointed by such association.
- (i) Five public members appointed by the governor, representing families of murder victims, religious and ethical organizations, and associations and organizations with concerns and goals related to the death penalty.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

4 Duties. The commission shall study:

- I. Whether the death penalty rationally serves a legitimate penological intent such as deterrence.
- II. Whether the death penalty is consistent with evolving standards of decency.
- III. Whether the selection of defendants in New Hampshire for capital trials is arbitrary, unfair, or discriminatory in any way.
- IV. Whether there is a significant difference in the crimes of those selected for the punishment of death as opposed to those who receive life in prison.
- V. Whether the penological interest in executing anyone convicted of murder is sufficiently compelling that the risk of an irreversible mistake is acceptable.
- VI. Whether alternatives to the death penalty exist that would sufficiently ensure public safety and address other legitimate social and penological interests, including the interests of families of victims.
- VII. Whether there is a significant difference in the cost of prosecution of a first degree murder charge when the penalty is life without parole as compared with a death penalty conviction and execution.
- VIII. Any other issues relevant to the death penalty in New Hampshire.

5 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section.

6 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2009.

7 Effective Date.

- I. Section 1 of this act shall take effect January 1, 2009.
- II. The remainder of this act shall take effect upon its passage.

**AMENDED ANALYSIS**

This bill includes bailiffs, court security officers and criminal justice and consumer protection investigators in the definition of “law enforcement officer” under the capital murder law. This bill also clarifies that family division judges are included in the definition of “judicial officer” under the capital murder law.

This bill also establishes a commission to study the death penalty in New Hampshire.

2008-0509h

**Amendment to HB 1192**

**Proposed by the Majority of the Committee on Judiciary - R**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the solemnization of marriage.

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

1 Who May Solemnize Marriage. Amend RSA 457:31 to read as follows:

457:31 Who May Solemnize. Marriage may be solemnized:

**I.** By a justice of the peace as commissioned in the state;

**II.** By any ~~minister of the gospel~~ **member of the clergy** in the state who has been ordained according to the usage of his or her denomination, resides in the state, and is in regular standing with the denomination;

**III.** By any **member of the clergy** who is not ordained but is engaged in the service of the religious body to which he or she belongs, **and** resides in the state, after being licensed therefor by the secretary of state;

**IV.** **By a religious officiant or such other person or group as may be authorized by their church, religion, sect, or denomination to solemnize marriages in the way usually practiced among them, after being licensed therefor by the secretary of state;**

**V.** Within his or her parish, by any ~~minister~~ **member of the clergy** residing out of the state, but having a pastoral charge wholly or partly in this state; or

**VI.** By judges of the United States appointed pursuant to Article III of the United States Constitution, by bankruptcy judges appointed pursuant to Article I of the United States Constitution, or by United States magistrate judges appointed pursuant to federal law.

2 Effect of Informality. Amend RSA 457:36 to read as follows:

457:36 Effect of Informality. No marriage solemnized before a person professing to be a justice of the peace or ~~minister of the gospel~~ **member of the clergy** shall be void, nor shall its validity be affected on account of want of jurisdiction or authority in such supposed justice or ~~minister~~ **clergy member**, or on account of any omission or informality in the certificate of intention of marriage, if the marriage is in other respects lawful and has been consummated with the belief on the part of either of the parties thereto that they were lawfully married.

3 Repeal. RSA 457:37, relative to exception to the solemnization of marriage, is repealed.

4 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill permits members of the clergy, religious officiants, and others who are licensed by the secretary of state to solemnize marriages.

2008-0773h

#### Floor Amendment to HB 1192 Proposed by Rep. N. Elliott - R

Amend the title of the bill by replacing it with the following:

AN ACT relative to the solemnization of marriage.

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

1 Who May Solemnize Marriage. Amend RSA 457:31 to read as follows:

457:31 Who May Solemnize. Marriage may be solemnized by a justice of the peace as commissioned in the state; by any minister of the gospel in the state who has been ordained according to the usage of his or her denomination, resides in the state, and is in regular standing with the denomination; by any clergy who is **ordained or** not ordained but is engaged in the service of the religious body to which he or she belongs, resides in the state, after being licensed therefor by the secretary of state; within his or her parish, by any minister residing out of the state, but having a pastoral charge wholly or partly in this state; by judges of the United States appointed pursuant to Article III of the United States Constitution, by bankruptcy judges appointed pursuant to Article I of the United States Constitution, or by United States magistrate judges appointed pursuant to federal law.

2 Effect of Informality. Amend RSA 457:36 to read as follows:

457:36 Effect of Informality. No marriage solemnized before a person professing to be a justice of the peace ~~[or]~~, minister of the gospel, **or clergy ordained or not ordained** shall be void, nor shall its validity be affected on account of want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the certificate of intention of marriage, if the marriage is in other respects lawful and has been consummated with the belief on the part of either of the parties thereto that they were lawfully married.

3 Persons Authorized to Solemnize Marriage. Amend RSA 457:37 to read as follows:

457:37 Exceptions. Nothing contained in this chapter shall affect the right of ~~[Jewish Rabbis residing in this state, or of the people called Friends or Quakers,]~~ **a religious officiant or such other person or group as may be authorized by their church, religion, sect, or denomination** to solemnize marriages in the way usually practiced among them, and all marriages so solemnized shall be valid. ~~[Jewish Rabbis residing out of the state may obtain a special license as provided by RSA 457:32.]~~

4 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill provides that, notwithstanding state laws relative to persons who may be licensed to solemnize marriages, a marriage properly solemnized by a religious officiant of a church, religion, sect, or other denomination shall be valid.

2008-0610h

#### Amendment to HB 1196

##### Proposed by the Committee on Municipal and County Government - C

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

1 New Paragraph; Charter Amendments; Procedure. Amend RSA 49-B:5 by inserting after paragraph II the following new paragraph:

II-a. The following procedure shall be used in the alternative method set out in paragraph II:

(a) Any 5 voters of the municipality may file with the municipal clerk an affidavit stating that they shall constitute a petitioners' committee. Such affidavit shall be signed by the members of such committee and an additional 20 voters of the municipality and shall include:

- (1) The language of the proposed amendment.
- (2) The names and addresses of the committee members.
- (3) The address to which all notices to the committee are to be sent.

(b) The petitioners' committee, or voters of the municipality designated by the committee, may circulate the petition and file it in proper form.

(c) Promptly after the affidavit is filed by the petitioners' committee, the clerk shall file a certified copy of the affidavit, including the proposed amendment, for review of the proposed amendment in accordance with RSA 49-B:5-a. Promptly after receiving approval of the proposed amendment from the state officials under RSA 49-B:5-a, the clerk shall issue petition blanks to the committee.

2 Charter Amendments; Procedure. Amend RSA 49-B:5, III to read as follows:

III. The petition forms shall carry the following legend in bold lettering at the top of each form on the face thereof.

Municipality of \_\_\_\_\_

"Each of the undersigned voters respectfully requests the municipal officers to provide for the amendment of the municipal charter as set out below." No more than one subject may be included in a petition. **Except as provided in RSA 49-B:5, II-a**, in all other respects the form, content and procedures governing amendment petitions shall be the same as provided for charter revision and adoption petitions under RSA 49-B:3 including procedures relating to filing, sufficiency and amendments.

3 Municipal Charters; Approval and Review. RSA 49-B:5-a, I is repealed and reenacted to read as follows:

I. The municipal clerk shall file a report with the secretary of state, attorney general, and the commissioner of the department of revenue administration as follows:

(a) Within 10 days of the filing of the preliminary report relative to any new municipal charter, charter revision, or charter amendment, if initiated by a charter commission or the municipal officers, the municipal clerk shall file a certified copy of said report.

(b) Promptly after the filing of the petitioners' affidavit relative to a charter amendment, the municipal clerk shall file a certified report consisting of a copy of said affidavit.

(c) Within 30 days of the receipt of said report by the secretary of state, attorney general, and the commissioner of the department of revenue administration, they shall review the proposed charter, charter revision, or charter amendment to insure that it is consistent with the general laws of this state.

4 Approval and Review. Amend RSA 49-B:5-a, II to read as follows:

II. If the secretary of state, the attorney general, or the commissioner of the department of revenue administration do not approve, the proposed charter or charter amendment question, ***if initiated by a charter commission or the municipal officers***, shall not be placed on the municipal ballot. ***If the proposed charter amendment was initiated by a petitioners' committee, official petition forms shall not be provided.*** The secretary of state, attorney general, and commissioner of the department of revenue administration shall specify their objections in writing to the municipal clerk ***and to the petitioners' committee if relative to a charter amendment initiated by such petitioners' committee***, within the period of time allowed for review and shall offer recommendations for changes in language which would correct any inconsistencies they may find in the proposed charter or charter amendment to be voted upon. Failure to specify objections to a proposed charter or charter amendment under this section shall constitute approval by the secretary of state, attorney general, or the commissioner of the department of revenue administration.

5 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill:

I. Adds a procedure for revising or amending municipal charters.

II. Moves review of charter amendments that are initiated by a petitioners' committee to before petitions are issued by the clerk, instead of after signatures are collected.

2008-0478h

#### Amendment to HB 1203

#### Proposed by the Committee on Transportation - C

Amend the bill by replacing section 2 with the following:

2 New Section; Rules of the Road; Special Rules for Bicycles and Mopeds; Drivers to Exercise Due Care When Approaching Bicycle. Amend RSA 265 by inserting after section 143 the following new section:

265:143-a Drivers to Exercise Due Care When Approaching Bicycle. Every driver of a vehicle, when approaching a bicyclist, shall insure the safety and protection of the bicyclist and shall exercise due care by leaving a reasonable and prudent distance between the vehicle and the bicycle. The distance shall be presumed to be reasonable and prudent if it is at least 3 feet when the vehicle is traveling at 30 miles per hour or less, with one additional foot of clearance required for every 10 miles per hour above 30 miles per hour.

Amend the bill by replacing section 4 with the following:

4 New Paragraphs; Riding on Bicycles. Amend RSA 265:144 by inserting after paragraph X the following new paragraphs:

XI. A person propelling a bicycle upon a way at a speed less than the normal speed of traffic moving in the same direction at that time and place shall remain on the right portion of the way as far as practicable except when it is unsafe to do so or:

(a) When overtaking and passing another bicycle or any other vehicle proceeding in the same direction.

(b) When preparing for or making a left turn at an intersection or into a driveway.

(c) When proceeding straight in a place where right turns are permitted.

(d) When necessary to avoid hazardous conditions, including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, broken pavement, glass, sand, puddles, ice, or opening doors of parked vehicles.

XII. A bicyclist shall wear at least one item of reflective outerwear apparel, such as a reflective vest, jacket, or helmet strip, during the period from 1/2 hour after sunset to 1/2 hour before sunrise.

#### AMENDED ANALYSIS

This bill establishes additional rules of the road relating to bicycles. This bill also requires the department of transportation to minimize bicycle hazards relating to rumble strips, drain grates, and road surface treatments on highways.

2008-0306h

#### **Amendment to HB 1222**

##### **Proposed by the Majority of the Committee on Transportation - R**

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

1 New Section; Rules of the Road; Prohibited Text Messages and Device Usage While Operating a Motor Vehicle. Amend RSA 265 by inserting after section 105 the following new section:

265:105-a Prohibited Text Messages and Device Usage While Operating a Motor Vehicle.

I. A person operating a moving motor vehicle who reads or writes a text message or uses 2 hands to type on or operate an electronic or telecommunications device, is guilty of a violation.

II. The fine for a violation of this section shall be \$100.

2 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill prohibits reading or writing a text message and using 2 hands to type on or operate an electronic or telecommunications device while driving.

2008-0460h

#### **Amendment to HB 1226**

##### **Proposed by the Committee on Municipal and County Government - C**

Amend the bill by replacing section 1 with the following:

1 Authorization of Combination of Funds. The water works and sewer department of the town of Bristol may establish a joint capital reserve fund for the purposes as provided in RSA 35:1. Such reserve fund shall be established only from surplus from water or sewer rentals and no part thereof shall be made from appropriations by the town of Bristol.

2008-0363h

#### **Amendment to HB 1234**

##### **Proposed by the Committee on Criminal Justice and Public Safety - C**

Amend the title of the bill by replacing it with the following:

AN ACT establishing an affirmative defense to prosecution for a possession offense if a person has a lawful prescription for a controlled drug.

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2 by inserting after paragraph XIII the following new paragraph:

XIV. It shall be an affirmative defense to prosecution for a possession offense under this chapter that the person charged had a lawful prescription for the controlled drug in question or was, at the time charged, acting as an authorized agent for a person holding a lawful prescription. An authorized agent shall mean any person, including but not limited to a family member or caregiver, who has the intent to deliver the controlled drug to the person for whom the drug was lawfully prescribed.

AMENDED ANALYSIS

This bill establishes an affirmative defense to prosecution for a possession offense if a person has a lawful prescription for a controlled drug.

2008-0374h

**Amendment to HB 1235**

**Proposed by the Committee on Transportation - C**

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

1 Motorist Duties When Approaching Highway Emergencies; Emergency Road Service Vehicles. Amend RSA 265:37-a, IV to read as follows:

IV. Give a wide berth, without endangering oncoming traffic, to public safety personnel, ~~and~~ any persons in the roadway, ***and stationary vehicles displaying blue, red, or amber emergency lights.***

2 Effective Date. This act shall take effect January 1, 2009.

AMENDED ANALYSIS

This bill requires drivers to give wide berth to stationary vehicles displaying emergency lights when approaching highway emergencies.

2008-0030h

**Amendment to HB 1236**

**Proposed by the Committee on Transportation - C**

Amend the bill by inserting after section 8 the following and renumbering the original section 9 to read as 10:

9 Equipment Waiver for the Disabled. Amend RSA 266:61-a, VII to read as follows:

VII. The waiver granted by the commissioner or his designee shall be for a period not to exceed 2 years; ***except in any case where a licensed physician documents a lasting medical necessity, in which case the waiver shall be for a period not to exceed 4 years.*** The applicant may reapply for the waiver before such period expires.

2008-0698h

**Amendment to HB 1237**

**Proposed by the Committee on Commerce - C**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study liquor advertising by the liquor commission.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study liquor advertising by the liquor commission.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study liquor advertising by the liquor commission, including any current restrictions on expenditures by the liquor commission and advertising-related contracts.

AMENDED ANALYSIS

This bill establishes a committee to study liquor advertising by the liquor commission.

2008-0197h

**Amendment to HB 1239**

**Proposed by the Committee on Children and Family Law - C**

Amend the bill by replacing section 1 with the following:

1 Duties of the Legislative Youth Advisory Council; Public Forums and Annual Report.

Amend RSA 19-K:3, IV and V to read as follows:

IV. Meet no fewer than 4 times per year and conduct 2 public ~~hearings~~ **forums** per year on issues of importance to youth.

V. **Communicate with other youth councils.**

VI. File an annual report of its activities, including any recommendations for proposed legislation, on or before November 1 of each year with the speaker of the house, the senate president, **the governor, the secretary of state, the house clerk,** and the state library.

2008-0538h

**Amendment to HB 1240**

**Proposed by the Committee on Election Law - C**

Amend the bill by replacing sections 1-2 with the following:

1 Arrangement of Polling Place. Amend RSA 658:9, I to read as follows:

I. The selectmen of each town and ward shall provide for a suitable place in which to hold state elections and shall see that the same is warmed, lighted, and furnished with proper supplies and conveniences. Such supplies and conveniences shall include a ballot box and a sufficient number of **pens with machine-readable ink or** soft black lead pencils and booths with shelves to enable the voter to mark his or her ballot screened from all observation as to the manner in which he or she does so. Each place in which state elections are held shall be easily accessible as provided in RSA 658:9-a to all persons including persons with disabilities and elderly persons who are otherwise qualified to vote in the choice of any officer or officers to be elected or upon any question submitted at such election. The selectmen of each town and ward shall be charged with the responsibility to see that the flag of the United States is displayed inside and, weather conditions permitting, flown outside the polling place on election day. A guardrail shall be so constructed and placed so that only such persons as are inside such rail can approach within 6 feet of the ballot box and of the voting booths. The arrangements shall be such that the voting booths can be reached only by passing within the guardrail.

2 Disqualification of Certain Persons. Amend RSA 658:24 to read as follows:

658:24 Disqualification of Certain Persons. Any person, **other than a moderator, clerk, selectman, inspector of election, or supervisor of the checklist,** whose name appears on a ballot for an elective position, other than a position of an election official, shall be disqualified from performing duties as an election official in that election. A person so disqualified shall not be considered to have vacated any office but rather only to be absent therefrom. A temporary replacement shall be appointed as provided in RSA ~~658:19-658:22~~ **658:22. A moderator, clerk, selectman, inspector of election, or supervisor of the checklist whose name appears on a ballot for an elective position, other than the position of an election official, shall be disqualified from the handling of marked ballots and the counting of votes.**

**AMENDED ANALYSIS**

This bill permits certain election officers whose names appear on the ballot to perform official duties other than handling marked ballots and counting votes. This bill also permits pens to be used in place of pencils at polling places.

2008-0209h

**Amendment to HB 1242**

**Proposed by the Committee on Labor, Industrial and Rehabilitative Services - C**

Amend RSA 179:20, II as inserted by section 1 of the bill by replacing it with the following:

II. No on-premises or off-premises licensee shall consume beverage or liquor while working. No employee, ~~[with or without compensation]~~ **as defined in RSA 275:4, II**, shall consume beverage or liquor while working.

AMENDED ANALYSIS

This bill defines liquor licensee employee for purposes of the prohibition on employee consumption of beverage or liquor.

2008-0413h

**Amendment to HB 1243**

**Proposed by the Committee on Criminal Justice and Public Safety - R**

Amend RSA 135-E:3, VII as inserted by section 1 of the bill by replacing it with the following:

VII. The time limitations set forth in this section are not mandatory. Non adherence to the time limitations shall not preclude a county attorney or attorney general from requesting that a person be evaluated by a multi-disciplinary team, a multi-disciplinary team from conducting such an evaluation, or a county attorney or attorney general from filing a petition to have the person declared a sexually violent predator. If the person's incarcerative sentence will expire at any point in the process prior to trial on the merits, the county attorney or attorney general shall notify the court of the expiration date and request that the court conduct a probable cause hearing. The court shall schedule a hearing within 10 days of receipt of the notice. If the person's sentence expires before a probable cause hearing, the person shall be held in an appropriate secure facility pending the hearing. If the court concludes following the hearing that there is probable cause to believe that the person is a sexually violent predator, the court shall order that the person remain in custody and be held in an appropriate secure facility pending trial.

2008-0448h

**Amendment to HB 1244**

**Proposed by the Committee on Commerce - C**

Amend RSA 412:35, III as inserted by section 1 of the bill by replacing it with the following:

***III. Audits shall be completed promptly, no more than 120 days after the expiration or cancellation of the policy, provided that there is no bona fide dispute.***

Amend RSA 402:81, I(c) as inserted by section 2 of the bill by replacing it with the following:

(c) ~~[No refund shall be required if the return premium is \$1 or less.~~

~~(d) For auditable policies, gross unearned premium shall be returned within 30 days from the date of the completed audit.]:~~

***(1) Audits shall be conducted promptly, no more than 120 days after the expiration or cancellation of the policy, provided that there is no bona fide dispute; and***

***(2) If there is no bona fide dispute, the refund of gross unearned premium shall become due on the date of the completed audit.***

***(3) In cases where the amount of refund is in bona fide dispute, the refund shall not become due until the dispute is resolved and the audit is completed. The insurer shall notify the insured in writing that there is a bona fide dispute and this notice shall toll the 120-day time period until the dispute is resolved. Upon resolution of the dispute, the insurer shall proceed to complete the audit within the time remaining in the 120-day time period.***

***(4) A bona fide dispute includes the insured's failure to cooperate with the audit, provided the insurer has notified the insured of:***

***(A) The acts or omissions that constitute the insured's failure to cooperate; and***

***(B) The consequences of the insured's failure to cooperate, including delay in the completion of the audit and payment of any refund due.***

2008-0518h

**Amendment to HB 1245**

**Proposed by the Committee on Commerce - C**

Amend RSA 400-A:16, III(c) as inserted by section 1 of the bill by replacing it with the following:

***(c) The commissioner may disclose to an insured or claimant who has filed a complaint against an insurer, a copy of the insurance company's letter to the department in response to the complaint. The commissioner shall adopt rules, pursuant to RSA 541-A, to identify those documents obtained from the company during the course of the investigation of the insured's or claimant's complaint that may be disclosed upon request to assist the insured or claimant in understanding the basis for the department's actions related to the investigation. The commissioner shall not disclose to an insured or claimant any information that would interfere with any civil, criminal, or administrative enforcement proceeding.***

2008-0447h

**Amendment to HB 1246**

**Proposed by the Committee on Commerce - C**

Amend the bill by replacing all after section 2 with the following:

3 Property and Casualty Insurance; Purpose. Amend RSA 412:1, IX to read as follows:

IX. To ~~[provide]~~ ***ensure*** that policy forms, endorsements, ~~[riders]~~ ***applications***, or other contract language ~~[complies]~~ ***comply*** with provisions of the insurance laws ***and do not contain provisions which are inequitable, misleading, deceptive, or encourage misrepresentation.***

***X. To protect policyholders and the public against the adverse effects of any policy provision that is not in the public interest or is contrary to public policy.***

4 Property and Casualty Insurance; Approval of Form. Amend RSA 412:5, I to read as follows:

I. Every insurer and advisory organization shall file policy forms, endorsements, and other contract language covered by this chapter and RSA 264, for a waiting period of 30 days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed 30 days if written notice or electronic notice is given within the initial 30-day waiting period to the insurer or advisory organization which made the filing that additional time is needed for the consideration of the filing. Upon written application by the insurer or advisory organization, the commissioner may authorize a filing which has been reviewed to become effective before the expiration of the waiting period or extension thereof. ***The commissioner may disapprove such form if it contains a provision that does not comply with the requirements of law, is not in the public interest, is contrary to public policy, is inequitable, misleading, deceptive, or encourage misrepresentation of such policy.*** A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or extension thereof. Every policy issued by an insurer on an unapproved form shall constitute a separate violation under RSA 412:40.

5 Property and Casualty Insurance. Amend RSA 412:15, III to read as follows:

III.(a) The use of ***any information from*** credit reports, credit histories, and credit scoring models for underwriting and rating purposes for homeowners insurance and ~~[personal]~~ ***private passenger*** automobile insurance shall be based upon objective, documented, and measurable standards and shall be used in a manner which ~~[affords]~~ ***provides for*** appropriate consumer protections, including ***adequate and clear*** consumer notice ~~[provisions]~~, ***procedures to promptly correct and adjust underwriting or rating decisions based on incorrect credit information***, and confidentiality protections.

(b) The insurance commissioner shall, pursuant to RSA 541-A, adopt such rules as may be necessary to regulate the ***obligations of insurers with respect to the*** use of

such information in the underwriting and rating of homeowners insurance and ~~[personal]~~ **private passenger** automobile insurance. Information that explains and justifies underwriting rules, credit scoring models or rating plans that rely upon credit reports, credit histories, or credit scoring mechanisms shall be included in the rate filing required pursuant to RSA 412:16.

6 Property and Casualty Insurance. Amend RSA 412:16, II to read as follows:

II. Every insurer shall file with the commissioner, except as to inland marine risks which are not written according to manual rates or rating plans, every manual, minimum premium, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Personal lines filings shall include underwriting rules **used by insurers or a group of affiliated insurers** to the extent necessary to determine the applicable rate **and/or policy premium for an individual insured or applicant**. An insurer may file its rates by either filing its final rates or by filing a multiplier and, if applicable, an expense constant adjustment to be applied to prospective loss costs that have been filed by an advisory organization on behalf of the insurer as permitted by RSA 412:23. Every such filing shall state the effective date, and shall indicate the character and extent of the coverage contemplated. Information contained in the underwriting rules that does not pertain to the formulation of rates **and/or premiums** shall be identified by the filer as proprietary and shall be kept confidential by the department and shall not be subject to the provisions of RSA 91-A.

7 Accident and Health Insurance; Disapproval of Forms. Amend RSA 415:2 to read as follows:

415:2 Disapproval of Forms.

I. The commissioner may, within 30 days after the filing of any such form, disapprove such form ~~[(1)]~~ if:

(a) The benefits provided therein are unreasonable in relation to the premium charged~~[-or]~~;

~~[(2) if]~~ (b) It contains a provision or provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of such policy~~[-]~~; or

~~[(3) if]~~ (c) It does not comply with the requirements of law.

II. **The 30-day period under paragraph I may be extended by the commissioner if the insurer has not provided all necessary information required to make a determination under paragraph I.**

III. If the commissioner shall notify the insurer which has filed any such form that it does not comply with the provisions of this chapter, it shall be unlawful thereafter for such insurer to issue such form or use it in connection with any policy. In such notice the commissioner shall specify the reasons for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer.

8 Effective Date. This act shall take effect upon its passage.

2008-0717h

#### **Amendment to HB 1254**

#### **Proposed by the Committee on Municipal and County Government - C**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the ability of towns to regulate the storage of deicing chemicals.

Amend the bill by replacing section 1 with the following:

1 New Subparagraph; Bylaws for Use of Deicing Chemicals. Amend RSA 31:39, I by inserting after subparagraph (o) the following new subparagraph:

(p) Regulating the storage of road salt and other deicing chemicals and requiring certain end users of deicing chemicals to provide application practices data in a form or format provided by the department of environmental services.

#### **AMENDED ANALYSIS**

This bill permits towns to make bylaws to regulate the storage of deicing chemicals.

This bill is a request of the department of environmental services.

2008-0426h

**Amendment to HB 1257**

**Proposed by the Committee on Criminal Justice and Public Safety - C**

Amend the title of the bill by replacing it with the following:

AN ACT relative to license suspensions for persons operating under the influence of drugs.

Amend the bill by replacing section 1 with the following:

1 Administrative License Suspension; Positive Test for Drugs. Amend RSA 265-A: 30, I-II to read as follows:

I. If any person refuses a test as provided in RSA 265-A:14 or submits to a test described in RSA 265-A:4 which discloses an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21 at the time of the violation, 0.02 or more, ***or which discloses the presence of a controlled drug or any combination of intoxicating liquor and controlled drugs***, the law enforcement officer shall submit a sworn report to the department. In the report the officer shall certify that the test was requested pursuant to RSA 265-A:4 and that the person refused to submit to testing or submitted to a test which disclosed an alcohol concentration of 0.08 or more, or, in the case of a person under the age of 21, 0.02 or more, ***or which discloses the presence of a controlled drug or any combination of intoxicating liquor and controlled drugs***.

II. Upon receipt of the sworn report of a law enforcement officer submitted under paragraph I, the department shall suspend the person's driver's license or privilege to drive as follows:

(a) In the case of a refusal to take a test described in RSA 265-A:4, the suspension shall be for the period specified in RSA 265-A:14.

(b) In the case of a person who submits to a test described in RSA 265-A:4 which discloses an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21 at the time of the violation, 0.02 or more, ***or which discloses the presence of a controlled drug or any combination of intoxicating liquor and controlled drugs***, the suspension shall be for:

(1) Six months if there is no prior refusal under RSA 265-A:14, no prior driving while intoxicated or aggravated driving while intoxicated convictions, and no prior administrative license suspension pursuant to RSA 265-A:30.

(2) Two years if there is a prior refusal under RSA 265-A:14, or a prior driving while intoxicated or aggravated driving while intoxicated conviction, or a prior administrative suspension pursuant to RSA 265-A:30.

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

**AMENDED ANALYSIS**

This bill applies the administrative license suspension provisions for DWI to persons shown to have operated a vehicle, OHRV, or boat while under the influence of drugs.

2008-0582h

**Amendment to HB 1258**

**Proposed by the Committee on Criminal Justice and Public Safety - C**

Amend RSA 265-A:17-a, I as inserted by section 1 of the bill by replacing it with the following:

I. Whenever a person has been arrested for a violation of RSA 265-A:2, I or RSA 265-A:3, or refuses consent under RSA 265-A:14, and the offense involves a vehicle, the arresting law enforcement agency may order the impoundment of the vehicle that the person was operating at the time of arrest.

Amend RSA 265-A:17-a, IV-V as inserted by section 1 of the bill by replacing it with the following:

IV. A vehicle impounded pursuant to this section shall not be released unless the person claiming the vehicle:

- (a) Presents a valid operator's license and proof of lawful authority to operate the motor vehicle;
- (b) Is able to operate the vehicle in a safe manner; and
- (c) Meets any other conditions for release established by the law enforcement agency.

V. A person impounding a vehicle pursuant to this section is authorized to charge a reasonable fee for towing and storage of the vehicle. The person shall send notice to the owner of the vehicle indicating location and contact information for any vehicle held for more than 48 hours. The person is further authorized to retain custody of the vehicle until the towing and storage fee is paid.

#### AMENDED ANALYSIS

This bill authorizes vehicle impoundment following an arrest for DWI or refusing consent to a blood alcohol test and establishes procedures that must be followed for release of the vehicle.

2008-0622h

#### Amendment to HB 1259

##### Proposed by the Committee on Municipal and County Government - C

Amend the title of the bill by replacing it with the following:

AN ACT authorizing communities to establish municipal housing commissions and affordable housing revolving funds.

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

1 Affordable Housing Revolving Funds. Amend RSA 31:95-h, I to read as follows:

I. A town may, by vote of the legislative body, establish a revolving fund. Each revolving fund shall be limited to one of the following purposes:

- (a) Facilitating or encouraging recycling as defined in RSA 149-M:4;
- (b) Providing ambulance services; ~~or~~
- (c) Providing public safety services by municipal employees or volunteers outside of the ordinary detail of such persons, including but not limited to public safety services in connection with special events, highway construction, and other construction projects; **or**
- (d) Creating affordable housing and facilitating transactions relative thereto.**

2 Housing Commission. Amend RSA 673:1, II to read as follows:

II. Any local legislative body may establish **any or all of the following:** a heritage commission, historic district commission, ~~[or both, and may establish]~~ an agricultural commission **and a housing commission.**

3 New Section; Housing Commissions; Membership. Amend RSA 673 by inserting after section 4-b the following new section:

673:4-c Housing Commissions.

I. The housing commission shall consist of not less than 3 members and no more than 7 members who shall be appointed in a manner as prescribed by the local legislative body.

II. Each housing commission member shall be a resident of the city or town which establishes the commission. One commission member may be a member of the local governing body. One commission member may be a member of the planning board. Not more than 5 alternate members may be appointed. When an alternate sits in absence or disqualification of a regular member, the alternate shall have full voting powers. In determining each member's qualifications, the appointing authority shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate, and promote the purpose of the housing commission.

III. Members of a housing commission also may serve on other municipal boards and commissions, including but not limited to a conservation commission established under RSA 36-A, a historic district commission established under RSA 674:46, a heritage commission established under RSA 674:44-a, or an agriculture commission established under RSA 674:44-e.

4 Membership on Other Boards. Amend RSA 673:7, II(c) to read as follows:

(c) Either one appointed member or one ex officio member may be a member of the heritage commission, the historic district commission, ~~or~~ the agricultural commission, **the housing commission** or all ~~3~~ **4** if such commissions exist in the ~~city~~ **municipality**.

5 Scheduling of Meetings. Amend RSA 673:10, I to read as follows:

I. Meetings of the heritage commission, historic district commission, the agricultural commission, **the housing commission**, the building code board of appeals, and the zoning board of adjustment shall be held at the call of the chairperson and at such other times as the board may determine.

6 Disqualification of Member. Amend RSA 673:14, I to read as follows:

I. No member of a zoning board of adjustment, building code board of appeals, planning board, heritage commission, historic district commission, ~~or~~ agricultural commission, **or housing commission**, shall participate in deciding or shall sit upon the hearing of any question which the board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties.

7 Abolishing a Housing Commission. Amend RSA 673:18 to read as follows:

673:18 Abolishing Planning Board, Heritage Commission, Historic District Commission, ~~or~~ Agricultural Commission, **or Housing Commission**.

I. The local legislative body of a city, of a county in which there are located unincorporated towns or unorganized places, or of a town operating under the town council form of government, shall determine the manner in which the planning board, the heritage commission, the historic district commission, ~~or~~ the agricultural commission, **or the housing commission** may be abolished.

II. In all other towns, upon a petition to abolish the planning board, the heritage commission, the historic district commission, ~~or~~ the agricultural commission, **or the housing commission**, signed by 100 or more voters or 1/10 of the registered voters in town, whichever number is less, the planning board, heritage commission, historic district commission, ~~or~~ agricultural commission, **or the housing commission** shall submit the proposal to the town or village district in the same manner prescribed in RSA 675:4, except that the question put to the voters shall be in substantially the following form: "Are you in favor of abolishing the planning board (heritage commission, historic district commission, ~~or~~ agricultural commission, **or the housing commission**) as proposed by petition of the voters of this town (village district)?"

8 Effect of Abolishing Housing Commissions. Amend RSA 673:20 to read as follows:

673:20 Effect of Abolishing Heritage Commissions, Historic District Commissions, ~~and~~ Agricultural Commissions, **and Housing Commission**. Upon the effective date of the abolition of a heritage commission, historic district commission, ~~or~~ agricultural commission, **or housing commission** all the powers and duties of such commission shall cease.

9 Transfer of Documents Upon Abolition of Housing Commission. Amend RSA 673:21 to read as follows:

673:21 Transfer of Documents Upon Abolition of Planning Board, Heritage Commission, Historic District Commission, ~~and~~ Agricultural Commission, **and Housing Commission**.

I. Whenever a heritage commission, historic district commission, ~~or~~ agricultural commission, **or housing commission** is abolished, the records shall be transferred to the

planning board. In a municipality where a planning board does not exist, the records shall be transferred to the city, town, or village district clerk, or to the clerk for the county commissioners, whichever is appropriate.

II. Whenever a planning board is abolished, the records shall be transferred to the city or town clerk, to the clerk of the board of district commissioners, or to the clerk for the county commissioners, whichever is appropriate.

10 New Subdivision; Housing Commissions. Amend RSA 674 by inserting after section 44-g the following new subdivision:

Housing Commissions

674:44-h Housing Commission. A housing commission may be established in accordance with RSA 673 for the proper recognition, promotion, enhancement, encouragement, and development of a balanced and diverse supply of housing to meet the economic, social, and physical needs of the municipality and its residents, viewed in the context of the region within which the municipality is situated. The establishment of a housing commission shall in no way limit a municipality's authority relative to a housing authority under RSA 203.

674:44-i Powers.

I. Housing commissions shall have authority to:

(a) Conduct a housing needs assessment, which may be done in cooperation with the regional housing needs assessment compiled by the regional planning commission under RSA 36:47, II.

(b) Conduct activities to recognize, promote, enhance, and encourage the development of housing, particularly affordable and workforce housing.

(c) Assist the planning board, as requested, in the development and review of those sections of the master plan which address housing, and those sections of the zoning ordinance, subdivision regulations, and site plan regulations that address housing or otherwise have the potential to affect the cost or availability of housing.

(d) Advise, upon request, local agencies and other local boards in their review of requests on matters affecting or potentially affecting housing resources.

(e) Coordinate activities with appropriate service organizations and nonprofit groups.

(f) Publicize and report its activities.

(g) Hire consultants and contractors.

(h) Receive gifts of money and property, both real and personal, in the name of the city or town, to assist in carrying out the purpose of this section.

(i) Hold meetings and hearings necessary to carry out its duties.

II. The commission may acquire real property, in the name of the town or city, subject to the approval of the local governing body, by gift, purchase, grant, bequest, devise, lease, development rights, covenant, or other contractual right, including conveyances with conditions, limitations, or reversions, as may be necessary to maintain, improve, protect, limit the future use of, or otherwise conserve and properly use the affordable housing of the city or town, and shall manage and control the same; provided, however, that the city, town, or commission shall not have the right to condemn property for these purposes. The commission shall also have the right to dispose of property so acquired, subject to the approval of the local governing body. Prior to the use of such funds for the purchase of any interest in real property, the housing commission shall hold a public hearing with notice in accordance with RSA 675:7.

674:44-j Appropriations Authorized.

I. A town or city, having established a housing commission under this subdivision, may appropriate money to the housing commission as necessary to carry out its purposes. The whole or any part of money so appropriated in any year and any gifts of money received under RSA 674:44-i shall be placed in a housing fund and allowed to accumulate from year to year.

II. The town treasurer, pursuant to RSA 41:29, shall have custody of all moneys in the housing fund and shall pay out the same only upon order of the housing commission. The disbursement of housing funds shall be authorized by a majority of the housing commission.

11 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill authorizes communities to establish housing commissions and affordable housing revolving funds.

2008-0623h

#### Amendment to HB 1260-LOCAL

##### Proposed by the Committee on Municipal and County Government - C

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

1 Growth Management; Timing of Development. Amend RSA 674:22 to read as follows:  
674:22 Growth Management; Timing of Development.

**I.** The local legislative body may further exercise the powers granted under this subdivision to regulate and control the timing of development. Any ordinance imposing such a control may be adopted only after preparation and adoption by the planning board of a master plan and a capital improvement program and shall be based upon a growth management process intended to assess and balance community development needs and consider regional development needs.

**II.** *The local legislative body may adopt a growth management ordinance under this section only if there is a demonstrated need to regulate the timing of development, based upon the municipality's lack of capacity to accommodate anticipated growth in the absence of such an ordinance. The need to regulate the timing of development shall be demonstrated by a study performed by or for the planning board or the governing body, or submitted with a petition of voters presented under RSA 675:4. The study shall be based on competent evidence and shall consider the municipality's projected growth rate and the municipality's need for additional services to accommodate such growth.*

**III.** *An ordinance adopted under this section shall include a termination date and shall restrict projected normal growth no more than is necessary to allow for orderly and good-faith development of municipal services. The planning board in a municipality that adopts such an ordinance shall promptly undertake development of a plan for the orderly and rational development of municipal services needed to accommodate anticipated normal growth; provided, however, that in a town that has established a capital improvements program committee under RSA 674:5, the plan shall be developed by that committee. The ordinance and the plan shall be evaluated by the planning board at least annually, to confirm that reasonable progress is being made to carry out the plan. The planning board shall report its findings to the legislative body in the municipality's annual report.*

2 Temporary Moratoria and Limitations on Building Permits. RSA 674:23 is repealed and reenacted to read as follows:

674:23 Temporary Moratoria and Limitations on Building Permits and the Approval of Subdivisions and Site Plans.

**I.** Upon recommendation of the planning board, the local legislative body may adopt or amend an ordinance establishing a moratorium or limitation on the issuance of building permits or the granting of subdivision or site plan approval for a definite term.

**II.** An ordinance may be adopted under this section in unusual circumstances that affect the ability of the municipality to provide adequate services and require prompt attention and to develop or alter a growth management process under RSA 674:22, a zoning ordinance, a master plan, or capital improvements program.

**III.** An ordinance under this section shall contain:

(a) A statement of the circumstances giving rise to the need for the moratorium or limitation.

(b) The planning board's written findings, on which subparagraph III(a) is based, which shall be included as an appendix to the ordinance.

(c) The term of the ordinance which shall not be more than one year.

(d) A list of the types or categories of development to which the ordinance applies.

(e) A description of the area of the municipality, if less than the entire municipality, to which the ordinance applies.

IV. An ordinance under this section shall be based on written findings by the planning board which:

(a) Describe the unusual circumstances that justify the ordinance.

(b) Recommend a course of action to correct or alleviate such circumstances.

V. An ordinance under this section may provide for the exemption from the moratorium or limitation of those types or categories of development that have minimal or no impact on the circumstances giving rise to the moratorium or limitation.

VI. An ordinance under this section may provide for a special exception or conditional use permit to allow development that has minimal or no impact on the circumstances giving rise to the moratorium or limitation.

VII. Additional ordinances may be adopted under this section only if they are based on circumstances that did not exist at the time of any prior ordinance. The authority to adopt ordinances under this section shall not be used to circumvent a municipality's need for a growth management ordinance under RSA 674:22.

3 Effective Date. This act shall take effect 60 days after its passage.

2008-0667h

#### **Amendment to HB 1261**

#### **Proposed by the Majority of the Committee on Education - R**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to investigate a program in which senior year of high school may be spent at a community college and ratifying the interstate compact on educational opportunity for military children.

Amend the bill by replacing all after section 5 with the following:

6 New Chapter; Interstate Compact on Educational Opportunity for Military Children.

Amend RSA by inserting after chapter 200-L the following new chapter:

#### **CHAPTER 200-M**

#### **INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN**

200-M:1 Compact. The general court of this state hereby ratifies the following compact to become effective at such time as the legislative bodies of at least 10 eligible party jurisdictions also ratify it.

#### **ARTICLE I PURPOSE**

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

## ARTICLE II DEFINITIONS

A. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. sections 1209 and 1211.

B. "Children of military families" means a school-aged child, enrolled in kindergarten through grade 12, in the household of an active duty member.

C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means the period one month prior to the service members' departure from their home station on military orders though 6 months after return to their home station.

E. "Education records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through grade 12 public educational institutions.

I. "Member state" means a state that has enacted this compact.

J. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Non-member state" means a state that has not enacted this compact.

L. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and

effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. Territory.

P. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through grade 12.

Q. "Transition" means the formal and physical process of transferring from school to school or the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.

### ARTICLE III APPLICABILITY

- A. Except as otherwise provided in Section B, this compact shall apply to the children of:
1. Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. sections 1209 and 1211;
  2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
  3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

- C. The provisions of this compact shall not apply to the children of:
1. Inactive members of the national guard and military reserves;
  2. Members of the uniformed services now retired, except as provided in Section A;
  3. Veterans of the uniformed services, except as provided in Section A; and
  4. Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

### ARTICLE IV EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or "hand-carried" education records. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations. Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and first grade entrance age. Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

#### ARTICLE V

#### PLACEMENT AND ATTENDANCE

A. Course placement. When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.

B. Educational program placement. The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to: (1) Gifted and talented programs; and (2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services. (1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP); and (2) In compliance with the requirements of section 504 of the Rehabilitation Act, 29 U.S.C.A. section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility. Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities. A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI  
ELIGIBILITY

A. Eligibility for enrollment.

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation. State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII  
GRADUATION

In order to facilitate the on-time graduation of children of military families states and local education agencies shall incorporate the following procedures:

A. Waiver requirements. Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams. States shall accept: (1) exit or end-of-course exams required for graduation from the sending state; or (2) national norm-referenced achievement tests or (3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, section C shall apply.

C. Transfers during senior year. Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

ARTICLE VIII  
STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX  
INTERSTATE COMMISSION ON EDUCATIONAL  
OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Department of Defense, shall serve as an ex-officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by federal and state statute;
3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing a person of a crime, or formally censuring a person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes; or
7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Shall create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

#### ARTICLE X

##### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

- A. To provide for dispute resolution among member states.
- B. To adopt rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.
- C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

D. To enforce compliance with the compact provisions, the rules adopted by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

E. To establish and maintain offices which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire or contract for services of personnel.

H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

#### ARTICLE XI

##### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee, and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.

7. Providing “start up” rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson’s absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission’s executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission’s executive director and employees or Interstate Commission representatives, acting within the scope of such person’s employment or duties for acts, errors, or omissions occurring within such person’s state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## ARTICLE XII

### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority. The Interstate Commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure. Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act of 1981," Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

## ARTICLE XIII

### OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

#### A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

B. Default, Technical Assistance, Suspension and Termination. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.
3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.
6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute Resolution.

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.
2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
2. The Interstate Commission, may by majority vote of the members, initiate legal action in the United State District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its adopted rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.
3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

- A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.
- B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall adopt a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

#### ARTICLE XV

##### MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

#### ARTICLE XVI

##### WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact.

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

#### ARTICLE XVII

##### SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

- B. The provisions of this compact shall be liberally construed to effectuate its purposes.
- C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws.

- 1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.
- 2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding Effect of the Compact

- 1. All lawful actions of the Interstate Commission, including all rules and bylaws adopted by the Interstate Commission, are binding upon the member states.
- 2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.
- 3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

7 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a commission to study the feasibility of allowing high school students to spend their senior year attending community college. The bill also enacts the interstate compact on educational opportunity for military children.

2008-0669h

**Amendment to HB 1262**

**Proposed by the Committee on Executive Departments and Administration - R**  
Amend RSA 329:16-g as inserted by section 1 of the bill by replacing it with the following:

329:16-g Continuing Medical Education Requirement. As a condition of renewal of license, the board shall require each licensee to show proof at least *at* every ~~[3 years]~~ **biennial license renewal** that the licensee has completed ~~[an]~~ **100 hours of** approved continuing medical education program within the preceding ~~[3]~~ **2** years. For the purposes of this section, an approved continuing medical education program is a program designed to continue the education of the licensee in current developments, skills, procedures, or treatment in the licensee's field of practice, which has been certified by a national, state, or county medical society or college or university approved by the board. There shall be a complete audit of all continuing education credits annually by the New Hampshire Medical Society until January 1, 2007, and by the board or their designee thereafter. ~~[The board shall accept verification of continuing medical education for licensees from the New Hampshire Medical Society until January 1, 2007].~~ The fee charged to licensees for continuing medical education verification shall not exceed 125 percent of the actual cost of providing the service. The New Hampshire Medical Society is prohibited from using any information from this program for promotional purposes or any other purpose not necessary for continuing education verification.

2008-0315h

**Amendment to HB 1264**

**Proposed by the Majority of the Committee on Resources, Recreation and Development - R**

Amend section 1 of the bill by replacing it with the following:

1 New Paragraph; Use of Statewide Trail System. Amend RSA 216-F:2 by inserting after paragraph III the following new paragraph:

IV. The bureau of trails shall have the responsibility of coordinating, planning, and managing the non-motorized trail systems on properties owned or managed by the department of resources and economic development. The bureau also shall administer any funds provided to the department of resources and economic development for non-motorized trails.

2008-0310h

**Amendment to HB 1264**

**Proposed by the Minority of the Committee on Resources, Recreation and Development - R**

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

1 OHRVs; Trails; Rail Corridors. Amend RSA 215-A:31 to read as follows:

215-A:31 State Parks and Forests. All trails under the jurisdiction of the department of resources and economic development, ***except for recreational trails established on unused rail corridors acquired by the state using federal transportation enhancement funds***, so far as possible and consistent with their primary functions, shall be made available for use by OHRVs subject to the fees[,] and rules as established by the directors of the division of parks and recreation and the division of forests and lands with the approval of the commissioner of resources and economic development.

2 New Paragraph; OHRVs; ATV and Trail Bike Trails. Amend RSA 215-A:42 by inserting after paragraph III the following new paragraph:

IV. Trails on state-owned property established on an unused rail corridor, or so-called rail trails, acquired using federal transportation enhancement funds, shall be closed to ATV and trail bike use, unless a waiver for such use is acquired from the Federal Highway Administration.

3 OHRVs; ATV and Trail Bike Trail Evaluation Process. Amend RSA 215-A:43, V to read as follows:

V. This section shall not apply to the change in use designation of ***state-funded*** rail trails to include ATV and trail bike use.

4 New Paragraph; Use of Statewide Trail System. Amend RSA 216-F:2 by inserting after paragraph III the following new paragraph:

IV. The bureau of trails shall have the responsibility of coordinating, planning, and managing the non-motorized trail systems on properties owned or managed by the department of resources and economic development. The bureau also shall administer any funds provided to the department of resources and economic development for non-motorized trails.

5 Effective Date. This act shall take effect 60 days after its passage.

2008-0503h

**Amendment to HB 1270**

**Proposed by the Committee on Judiciary - C**

Amend the title of the bill by replacing it with the following:

AN ACT relative to limiting certain future interests in real property.

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

1 Statement of Purpose. In conveyances of real property the use of possibilities of reverter, rights of re-entry, or executory interests unduly burdens the free alienability of property when there is no public or charitable purpose or use involved. Future creation of such interests should be limited, and preservation and enforcement of those which continue to exist should be regulated.

2 New Section; Limitations on Possibilities of Reverter, Rights of Re-entry, and Executory Interests. Amend RSA 477 by inserting after section 3-a the following new section:

477:3-b Limitations on Possibilities of Reverter, Rights of Re-entry, and Executory Interests.

I. This section applies only to legal future interests in real property created by deed, will, or power of appointment and not to any beneficial interests created by or through trusts. This section shall not apply to rights of forfeiture or re-entry held by lessors or mortgagees, nor to conveyances of standing trees governed by RSA 477:35-a or RSA 477:35-b, nor to options to purchase real estate, whatever their form.

II.(a) After December 31, 2008, no legal possibility of reverter, right of re-entry, or executory interest in real property may be retained or created unless either the grantor or the grantee is a public or charitable organization. Any language purporting to retain or create such a future interest shall be void. Language which also creates a covenant may be enforced as such by an action at law or equity but without forfeiture.

(b) For purposes of this section, an organization is public or charitable if it is:

(1) The state of New Hampshire.

(2) A political subdivision or municipal corporation of the state of New Hampshire.

(3) A corporation organized under RSA 292, a religious organization, or a not-for-profit corporation chartered by act of the New Hampshire general court or United States Congress.

(4) A nonprofit organization qualified under section 501(c) of the Internal Revenue Code of the United States, as amended.

(5) A trustee as defined in RSA 7:21, VIII.

III. Renewal declarations shall be required in certain cases.

(a) Unless the original grantor or grantee of the interest was, or the present owner of the interest is, a public or charitable organization, any existing possibility of reverter, right of re-entry, or executory interest in real property shall become void unless renewal declarations are filed in the appropriate registry of deeds as hereinafter provided. Covenants as such are not subject to renewal and remain enforceable by an action at law or equity but without forfeiture.

(b) Times of filing future interests under this section shall be as follows:

(1) A declaration of renewal of an existing possibility of reverter, right of re-entry, or executory interest in real property that was retained by or granted to a natural person need not be recorded while owned by that person. Any subsequent heir, devisee, grantee, creditor, or other successor to such interest shall record a declaration within 3 years after acquiring it or the interest shall become void.

(2) A declaration of renewal of an existing possibility of reverter, right of re-entry, or executory interest in real property other than those retained by or granted to a natural person shall be filed on or before January 2, 2011, and if such declaration is not filed within such time, the interest shall become void.

(3) A declaration shall be recorded once in every 25 years after the initial declaration is filed, and any interest for which such a declaration is not filed shall become void 25 years after the filing of the last renewal declaration.

(c) A declaration shall be signed and acknowledged by the declarant in the same manner as a deed and contain:

(1) A statement that the declarant owns all or part of a future interest reserved or created by a specified instrument and the declarant's current mailing address.

(2) The date of that instrument and the book and page, probate file, or other specific place where the instrument is recorded.

(3) The names of the owner or owners of the property rights subject to the future interest as of the time the declaration is filed.

(d) Each declaration shall be indexed in the grantor index under the name or names of the persons stated therein to be the owners of the property right subject to the future interest at the time of filing.

(e) The original declaration shall be returned to the declarant after recording in the same manner as a deed.

(f) A declaration which is actually recorded and correctly indexed shall be effective despite failure to name all present owners of the property subject to the future interest so long as at least one owner was correctly identified.

(g) The fee for filing a declaration shall be the same as for a deed.

IV. Unclaimed future interests of defunct public or charitable organizations shall be treated in the following manner: Whenever it shall appear that a public or charitable organization holding a possibility of reverter, right of re-entry, or executory interest has been defunct for more than 3 years with no successor to the future interest provided for or action commenced to determine a successor, the director of charitable trusts shall either commence such an action or, if it appears to be in the public interest, release the future interest to the owners of the underlying estate, with or without conditions.

3 Real Actions; Limitation of Actions. Amend RSA 508:2 to read as follows:

508:2 Real Actions.

**I.** No action for the recovery of real estate shall be brought after 20 years from the time the right to recover first accrued to the party claiming it or to some persons under whom ~~he~~ *the party* claims.

**II.** *No action for the recovery of real estate pursuant to rights based on a possibility of reverter, right of re-entry, or executory interest shall be brought after 5 years from the time the right to recover possession or the right of re-entry first accrued to the party claiming it or to some persons under whom the party claims.*

4 Effective Date. This act shall take effect January 1, 2009.

#### AMENDED ANALYSIS

This bill limits the creation of possibilities of reverter, rights of re-entry, and executory interests to real estate conveyances with a public or charitable purpose. The bill also regulates the manner in which such existing future interests may be preserved and enforced.

2008-0719h

#### Amendment to HB 1276

##### Proposed by the Committee on Executive Departments and Administration - C

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study revisions to the auctioneers' practice act.

1 Committee Established. There is established a committee to study revisions to the auctioneers' practice act, RSA 311-B.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

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

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study recent proposals to revise RSA 311-B, including HB 544 as introduced in 2007 and HB 1276 introduced in 2008 and any proposed amendments. The committee shall specifically study the regulation of electronic sales by auction on the Internet.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill creates a committee to study revisions to the auctioneers' practice act.

2008-0203h

**Amendment to HB 1278**

**Proposed by the Committee on Executive Departments and Administration - C**

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

1 Division of Plant and Property Management; Computer Supplies. Amend RSA 21-I:11, I(a) to read as follows:

(a) "Supplies" shall mean all materials, equipment, printing, furniture, furnishings, and books, of every name and nature, ***including computer hardware, software, related licenses, media, and documentation, and standard off-site support and maintenance generally offered to the public for such computer hardware or software.***

2 Approval by Office of Information Technology. Amend RSA 21-I:11, XI to read as follows:

XI. Requiring, prior to an agency's submission of a request for [~~proposal for state data processing equipment, software, or services~~] ***purchase of computer hardware, software, related licenses, media, documentation, and standard off-site support and maintenance generally offered to the public for such computer hardware or software*** exceeding \$500 in total cost, that the agency obtain approval of the proposal by the chief information officer to ensure that the procurement is consistent with the state information technology plan.

3 New Section; Approval by Office of Information Technology. Amend RSA 4-D by inserting after section 7 the following new section:

4-D:8 Approval by Office of Information Technology.

I. To ensure that the procurement is consistent with the state information technology plan, no purchase of computer hardware, software, related licenses, media, documentation, support and maintenance services, and other related services, that requires an expenditure of more than \$500, shall be made by an agency without the approval of the chief information officer:

(a) Prior to the agency's issuance of a solicitation for the purchase of computer hardware, software, related licenses, media, documentation, support and maintenance services, and other related services including a request for proposal, request for purchase, or other procurement documentation; and

(b) Prior to the agency's execution of a contract for the purchase of computer hardware, software, related licenses, media, documentation, support and maintenance services, and other related services.

II. For purposes of this section, "agency" shall have the meaning defined in RSA 21-I:11, I(b), but shall not include those agencies exempt under RSA 21-I:18 from the provisions of RSA 21-I.

4 Effective Date. This act shall take effect 60 days after its passage.

2008-0526h

**Amendment to HB 1279**

**Proposed by the Committee on Commerce - C**

Amend the bill by replacing section 2 with the following:

2 Foreign Insurance Companies. Amend RSA 405:24 to read as follows:  
405:24 ***Applicability***; Issue.

***I. Foreign unlicensed companies that satisfy the provisions of RSA 405:26 and are approved by the commissioner as unadmitted surplus lines companies are not subject to any statutory or regulatory provision unless the statute or regulation specifically references unadmitted surplus lines companies; provided however,***

***unadmitted surplus lines companies shall be subject to RSA 417:1 through RSA 417:22.***

**II.** The commissioner, pursuant to RSA 402-J, may issue a producer license to a resident of the state permitting the producer named therein to procure insurance policies and contracts of insurance or suretyship to be effective in this state in foreign insurance companies not authorized to transact business in this state, but which are duly authorized to do business in some state having an insurance commissioner. Such insurance or suretyship placed with an unadmitted ***surplus lines*** company shall be for such amount as the producer cannot place with an admitted company, and shall not be placed until the producer has first satisfied the insurance commissioner that the producer cannot procure such an insurance in an admitted company. Before delivering to the insured a policy or binder of insurance written under the provisions of this section, every producer shall have stamped in a form approved by the commissioner on the face of the binder or policy the following: "The company issuing this policy has not been licensed by the state of New Hampshire and the rates charged have not been approved by the commissioner of insurance. If the company issuing this policy becomes insolvent, the New Hampshire insurance guaranty fund shall not be liable for any claims made against the policy."

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 6, respectively:

4 Foreign Insurance Companies; Redomestication. Amend RSA 405:62 to read as follows:

405:62 Approval as a Domestic Insurer. Any insurer which is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may become a domestic insurer upon the approval of the commissioner by ***amending its articles of incorporation or equivalent corporate charter to designate its change of domicile to this state, and by*** complying with all ~~[of the]~~ ***applicable*** requirements of ~~[law]~~ ***Title XXXVII*** relative to the organization and licensing of a domestic insurer of the same type ~~[and by designating its principal place of business at a place in this state]~~. Such domestic insurer shall be entitled to like certificates and licenses to transact business in this state, and shall be subject to the authority and jurisdiction of this state.

5 New Section; Foreign Insurance Companies; Filings. Amend RSA 405 by inserting after section 64 the following new section:

405:65 Filing with Secretary of State. An insurer transferring its domicile to this state shall file the following documents with the secretary of state, together with applicable filing fees:

- I. Restated articles of incorporation or equivalent, as amended pursuant to RSA 405:62;
- II. Executed order of the commissioner approving the redomestication; and
- III. The statement set forth in RSA 421-B:11, II.

2008-0630h

#### **Amendment to HB 1281**

#### **Proposed by the Majority of the Committee on Education**

Amend the title of the bill by replacing it with the following:

AN ACT prohibiting public schools from requiring health insurance as a condition of enrollment except if health insurance is a requirement of the student's program of study.

Amend the bill by replacing sections 1-2 with the following:

1 New Subdivision; State College and University System; Miscellaneous Provisions.

Amend RSA 187-A by inserting after section 42 the following new subdivision:

Miscellaneous Provisions

187-A:43 Health Insurance Requirement Prohibited. No institution within the university system of New Hampshire shall require a student, as a condition of enrollment, to

purchase a health insurance policy either through the institution or a private insurer, except if health insurance is a requirement of the student's program of study.

2 New Section; Community College System of New Hampshire; Health Insurance Requirement Prohibited. Amend RSA 188-F by inserting after section 21 the following new section:

188-F:22 Health Insurance Requirement Prohibited. No institution within the community college system of New Hampshire shall require a student, as a condition of enrollment, to purchase a health insurance policy either through the institution or a private insurer, except if health insurance is a requirement of the student's program of study.

AMENDED ANALYSIS

This bill prohibits institutions within the university system and the community college system of New Hampshire from requiring a student to purchase health insurance as a condition of enrollment, except if health insurance is a requirement of the student's program of study.

2008-0352h

**Amendment to HB 1282**

**Proposed by the Committee on Education - C**

Amend RSA 188-E:14, IV as inserted by section 2 of the bill by replacing it with the following:

IV. The department of education, *in coordination with the regional vocational education centers*, shall include in its biennial capital budget request, funding for the planning, construction, and renovation of equipment necessary for the operation of pre-engineering technology curriculum [~~in the regional vocational education centers~~] in the public schools *for students in grades 6 through 12*.

2008-0118h

**Amendment to HB 1289**

**Proposed by the Committee on Children and Family Law - C**

Amend the title of the bill by replacing it with the following:

AN ACT relative to court-ordered placements for a child in need of services and relative to permanency hearings in juvenile cases.

Amend the bill by replacing all after section 1 with the following:

2 Children in Need of Services; Permanency Hearings. Amend the introductory paragraph of RSA 169-D:21-a, II to read as follows:

II. At a permanency hearing the court shall consider whether the parent or parents and child have met the responsibilities pursuant to the dispositional orders issued by the court. If compliance with the dispositional orders pursuant to RSA 169-D:17 is not met, the court [~~shall~~] *may* adopt a permanency plan other than reunification for the child. Other options for a permanency plan include:

3 Delinquency Hearing; Permanency Hearings. Amend the introductory paragraph of RSA 169-B:31-a, II to read as follows:

II. At a permanency hearing the court shall consider whether the parent or parents and the minor have met the responsibilities pursuant to the dispositional orders issued by the court. If compliance with the dispositional orders pursuant to RSA 169-B:19 is not met, the court [~~shall~~] *may* adopt a permanency plan other than reunification for the minor. Other options for a permanency plan include:

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Provides that children in need of services who are found in contempt of court may be placed in home detention or in a shelter care facility. The bill removes the option in current law for placement at the youth development center in such cases.

II. Provides that if the parent or parent and minor have not complied with the dispositional order in a delinquency case or child in need of services case, the court may adopt a permanency plan other than reunification for the minor.

This bill is a request of the department of health and human services.

2008-0628h

#### **Amendment to HB 1299**

#### **Proposed by the Majority of the Committee on Education - R**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study the feasibility of creating a preschool incentive fund program.

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

1 Purpose. Numerous studies confirm that the returns on investments of high quality preschool programs for children attending schools in school districts with enhanced educational needs lead to successful child outcomes, higher graduation rates, a reduction in economic and social problems and an easing of the burden on public resources.

2 Committee Established. There is established a committee to study the feasibility of creating a preschool incentive fund program.

3 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, one of whom shall be from the children and family law committee, and one of whom shall be from the education committee, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

(c) The committee may solicit advice from any individual or organization with relevant information or expertise, including but not limited to:

(1) An early childhood education specialist.

(2) A representative from the child development bureau, division of children, youth, and families, department of health and human services.

(3) The executive director of Early Learning New Hampshire, or designee.

(4) A representative from the New Hampshire Children's Alliance.

(5) The president of the New Hampshire Association for the Education of Young Children, or designee.

(6) The department of education director of Title I funds received through the Elementary and Secondary Education Act, or designee.

(7) An early childhood education professional affiliated with the university system of New Hampshire.

(8) The chair of the advisory council on child care as established in RSA 126-A:17, or designee.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

4 Duties. The committee shall:

I. Study the feasibility of creating a preschool incentive fund program and determine priorities for the dissemination of such resources. Particular consideration shall be given to schools which have enhanced needs or which have expressed interest in participating in such programs.

II. Survey and confirm local school districts' interest in using federal, state, local, or private funds to establish high quality preschool pilot programs using evidence-based curricula and teacher certification and compensation standards.

III. Study and document availability of federal funds from Title I of the Elementary and Secondary Education Act, the No Child Left Behind Act, and any other education financial sources, including public/private partnerships, designated for direct services to students, particularly those living in school districts with enhanced educational needs.

IV. Research preschool curricula such as Perry Preschool, Chicago Parent-Child Centers, the New Hampshire Head Start and Even Start programs, and other programs that have demonstrated positive results for students that have been sustained beyond elementary school.

V. Research an appropriate model for evaluation of preschool programs. Particular attention shall be given to valid and reliable assessment that considers a child's physical, social, emotional, cognitive, language, and literacy development.

5 Chairperson; Quorum. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

6 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

7 Effective Date. This act shall take effect upon its passage.

2008-0562h

**Amendment to HB 1304**  
**Proposed by the Committee on Education - C**

Amend RSA 187-A:11, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Keene state college and Plymouth state university are hereby ~~[empowered]~~ **authorized** to offer 2-year programs and to award the degree of associate in arts or associate in science to those who successfully complete such programs. Keene state college and Plymouth state university are also ~~[empowered]~~ **authorized** to award a baccalaureate degree or a master's degree. ***Plymouth state university is authorized to award a doctoral degree.***

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

2008-0659h

**Amendment to HB 1307**  
**Proposed by the Committee on Municipal and County Government - C**

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

1 Independent Audit. RSA 21-J:19 is repealed and reenacted to read as follows:  
21-J:19 Audit.

I. Any town, or school district, or village district or precinct, at the annual meeting or at a special meeting, or the selectmen of any town, or the governing body of any city, or the school board of any school district, or the commissioners of any village district or precinct, may hire a certified public accountant or a public accountant licensed by the state under RSA 309-A:8 to conduct such an audit within one year after the close of the municipality's fiscal year in accordance with audit guidelines and applicable statutes.

II. Every audit made by independent public accountants licensed under RSA 309-A:8, except examinations for special limited purposes, shall cover the accounts and records of all officials responsible for the receipt, custody, and disbursement of public funds. The audit reports shall include a summary of findings and recommendations regarding compliance with applicable statutory provisions of law, and the adequacy of accounting and business procedures pursued by the unit of government examined. Management letters, so-called,

shall be included as part of the official audit findings and recommendations. Contracts executed between local units of government and counties and independent public accountants shall stipulate that all accounts and funds of the governmental unit are to be audited and a report of audit prepared in accordance with this section. A written or printed report of every completed audit shall be made to the proper local officials including a summary of the findings and recommendations of the auditors and a copy of such summary shall be published in the next annual report following the fiscal year in which the audit was completed.

2 Audit on Motion of Commissioner. Amend RSA 21-J:20 to read as follows:

21-J:20 Audit on Motion of Commissioner. The commissioner may cause an audit to be made of the accounts of any city, town, school district, or village district or precinct, as often as once in 2 years, or whenever conditions appear to him to warrant such audit. The accounts of all county officers shall be audited annually by ~~[the commissioner of revenue administration or by]~~ a certified public accountant, and a complete report of such audit shall be made available to the public.

3 Allowable Variance. Amend RSA 76:10 to read as follows:

76:10 Selectmen's Lists and Warrant.

*I.* A list of all property taxes by them assessed shall be made by the selectmen under their hands, with a warrant under their hands and seal. The list shall be directed to the collector of such town, requiring the collector to collect the same, and to pay to the town treasurer such sums and at such times as may be therein prescribed. The selectmen shall assess such taxes to the owner as of April 1, or to the current owner, if known. The selectmen of a town or the board of assessors of a city may round off to the nearest dollar the total tax due on each parcel appearing on the list.

*II. If the municipal tax collector finds a discrepancy of ½ percent or more between the amount of the warrant as committed to the tax collector of the municipality and the total property tax commitment calculated by the commissioner of revenue administration, based on the pertinent information provided by the municipality under RSA 21-J:34, the collector shall return the warrant to the municipality's assessing officials for correction. If a correction cannot be made to generate a warrant with less than ½ percent discrepancy, the assessing officials shall submit a revised property summary inventory of valuation form as required under RSA 21-J:34, I, for recalculation of the tax rate by the commissioner of revenue administration. The municipality shall not issue property tax bills until such discrepancy is resolved.*

4 County Budgets; Form Due Dates. Amend RSA 24:24 to read as follows:

24:24 Filing. The final form of the county budget ~~[prepared in accordance with RSA 24:21]~~ and the final form of all supplemental county appropriations adopted in accordance with RSA 24:14-a shall be filed with the secretary of state's office and the commissioner of revenue administration ~~[no later than 30 days after the adopting of the budget or supplemental appropriation]~~ ***in accordance with the timeframes established in RSA 21-J:34, XII and XIV.*** Prior to said filing, the budget or supplemental appropriation shall be signed by the chairperson and clerk of the county convention.

5 Town Treasurer's Duty to Submit Reports. Amend RSA 41:29, III to read as follows:

*III.* The town treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from town treasury, and of all notes given by the town, with the particulars thereof. At the close of each fiscal year, the treasurer shall make a report to the town ***and to the department of revenue administration,*** giving a particular account of all his or her financial transactions during the year and account balances at year end. The treasurer shall furnish to the selectmen statements from the treasurer's books, and submit the books and vouchers to them and to the town auditors for examination, whenever so requested.

6 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill makes technical corrections to town audit and reporting requirements.

This bill also requires municipalities to have their tax rate recalculated after determination of a discrepancy in the warrant.

2008-0529h

**Amendment to HB 1313**

**Proposed by the Committee on Executive Departments and Administration - C**

Amend RSA 100-A:14, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Each trustee shall be entitled to one vote in the board of trustees, provided, however, that **for actions of the board** the chairman shall be non-voting except in the event of a tie vote. **The chairman may vote when appointed to and serving as a member of a subcommittee of the board.** Seven trustees shall constitute a quorum for the transaction of any business **of the board of trustees.** Seven votes shall be necessary for any resolution or action by the board at any meeting.

2008-0011h

**Amendment to HB 1319**

**Proposed by the Committee on Children and Family Law - C**

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect upon its passage.

2008-0486h

**Amendment to HB 1321**

**Proposed by the Committee on Children and Family Law - C**

Amend RSA 169-B:15-a as inserted by section 1 of the bill by replacing it with the following:

169-B:15-a **Inspection of Facilities;** Lock-up Log[~~;- Establishment and Contents~~]. Each facility used by law enforcement, county sheriffs, or state police to securely detain minors ~~[must]~~ **shall** establish a lock-up log for all minors securely detained. The log ~~[must]~~ **shall** contain the identification number, the charge, the date and time locked in secure detention, the date and time released from secure detention, to whom released, and reason for secure detention. The log shall be kept confidential both by the agency or facility which maintains it and by the department of health and human services, which shall receive copies of the log, January 1 and ~~[June]~~ **July** 1 of each year, beginning January 1, 1989. **To ensure that the requirements of this chapter and of 42 U.S.C. section 5633 are met, any secure or non-secure facility which detains minors shall provide, upon request and in a timely manner, access to the facility for inspection purposes to the department of health and human services jail compliance monitor, or the monitor's designee. If the facility is required under this section to maintain a log, access to the log shall also be provided.**

2008-0658h

**Amendment to HB 1330**

**Proposed by the Majority of the Committee on Education - R**

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

1 School Boards; Failure to be Renominated or Reelected. Amend RSA 189:14-a, III to read as follows:

III. In cases of nonrenomination because of unsatisfactory performance, the superintendent of the local school district shall demonstrate, at the school board hearing, by a preponderance of the evidence, that the teacher had received written notice that the teacher's unsatisfactory performance may lead to nonrenomination, that the teacher had a reasonable opportunity to correct such unsatisfactory performance, and that the teacher had

failed to correct such unsatisfactory performance. ~~[Nothing in this paragraph shall be construed to require the superintendent or the school board to provide a teacher with remedial assistance to correct any deficiencies that form the basis for such teacher's nonrenomination.]~~

2 School Boards; Review by State Board. Amend RSA 189:14-b to read as follows:  
189:14-b Review by State Board.

I. A teacher aggrieved by such decision may ~~[request]~~ **either petition** the state board of education for review thereof **or request arbitration under the terms of a collective bargaining agreement, if applicable, but shall not do both**. Such request must be in writing and filed with the state board within 10 days after the issuance of the decision to be reviewed. Upon receipt of such request, the state board shall notify the school board of the request for review, and shall forthwith proceed to a consideration of the matter. Such consideration shall include a hearing if either party shall request it. The state board shall issue its decision within 30 days after the request for review is filed, and the decision of the state board shall be final and binding upon both parties. ~~[A request for review under this section shall constitute the exclusive remedy available to a teacher on the issue of the nonrenewal of such teacher.]~~

II. The state board of education shall uphold a decision of a local school board to nonrenew a teacher's contract unless the local school board's decision is ~~[clearly erroneous]~~ **unjust or unreasonable**

3 Public Employee Labor Relations; Grievance Procedures. Amend RSA 273-A:4 to read as follows:

273-A:4 Grievance Procedures. Every agreement negotiated under the terms of this chapter shall be reduced to writing and shall contain workable grievance procedures. ~~[No grievance resulting from the failure of a teacher to be renewed pursuant to RSA 189:14 a shall be subject to arbitration or any other binding resolution, except as provided by RSA 189:14 a and RSA 189:14 b. Any such provision in force as of the effective date of this section shall be null and void upon the expiration date of that collective bargaining agreement.]~~

4 Effective Date. This act shall take effect 60 days after its passage.

2008-0754h

### **Amendment to HB 1332-LOCAL**

#### **Proposed by the Committee on Environment and Agriculture - C**

Amend the title of the bill by replacing it with the following:

AN ACT defining "hauler" of solid waste and requiring haulers to register with the department of environmental service, and relative to the weight and measurement of solid waste.

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

1 New Section; Hauler Registration. Amend RSA 149-M by inserting after section 29 the following new section:

149-M:29-a Hauler Registration.

I. Haulers shall register to do business in New Hampshire with the department, at no cost to the hauler. Each hauler shall report by March 31 of each year to the department, on forms provided by the department, the following information relative to the prior calendar year:

- (a) Quantities of solid waste, including recyclables, collected in the state;
- (b) The municipalities from which the solid waste was collected; and
- (c) The disposal point or recycling facility to which the solid waste was delivered.

II. Quantities shall be stated in tons by type of material, from actual scale weights or from estimates stated in cubic yards using conversion factors supplied by the department.

III. For purposes of this section, "hauler" shall mean a person engaged for profit in the collection, transportation, or delivery of solid waste, including recyclable materials,

collected from New Hampshire residential, municipal, industrial, or commercial sources for disposal or recycling.

2 Rulemaking; Exemption from Inspection Requirements. Amend RSA 438:8, I (c) to read as follows:

(c) Exemptions from the inspection requirements of RSA 438:14 with respect to weights and measures of such character or size that such inspection would be inappropriate, impracticable, or damaging, to the apparatus in question ***or from standards listed in RSA 438:8, II and RSA 438:8, III which may cause in the opinion of the commissioner disproportionate cost or undue economic hardship to a public solid waste management district, as defined in RSA 53-B, a public facility, as defined in RSA 149-M:4, or transfer station, as defined in RSA 149-M:4.***

3 New Paragraph; Rulemaking; Weighing of Solid Waste. Amend RSA 438:8 by inserting after paragraph III the following new paragraph:

III-a. In the case where solid waste, as defined in RSA 149-M:4, is weighed in a vehicle at a public facility, as defined in RSA 149-M:4, or transfer station, as defined in RSA 149-M:4, and such solid waste weighed is 200 pounds or less per load, paragraphs II and III shall not apply to such weighing devices. For the purposes of this paragraph, such solid waste weighed and collected shall be received only from a person resident in the town or municipality of which that public facility or public transfer station is a part. Such solid waste shall be assessed for 100 percent of the total net weight but such assessment shall not be for less than the minimum amount levied.

4 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill:

- I. Defines “hauler” of solid waste.
- II. Requires haulers to register with the department of environmental services.
- III. Allows the commissioner of agriculture, markets, and food to make rules regarding the exemption of solid waste from inspection requirements.

2008-0626h

#### Amendment to HB 1333

#### Proposed by the Committee on Judiciary - C

Amend the bill by replacing section 2 with the following:

2 Termination of Tenancy; Notice to Quit by Purchaser at a Mortgage Foreclosure Sale. Amend RSA 540:2, I and the introductory paragraph of paragraph II to read as follows:

I. The lessor [~~or~~], owner, ***or purchaser at a mortgage foreclosure sale, with the written consent of the mortgagee,*** of nonrestricted property may terminate any tenancy by giving to the tenant or occupant a notice in writing to quit the premises in accordance with RSA 540:3 and [~~§~~] ***540:5.***

II. The lessor [~~or~~], owner, ***or purchaser at a mortgage foreclosure sale, with the written consent of the mortgagee,*** of restricted property may terminate any tenancy by giving to the tenant or occupant a notice in writing to quit the premises in accordance with RSA 540:3 and [~~§~~] ***540:5,*** but only for one of the following reasons:

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 Definition; Other Good Cause. Amend RSA 540:2, V to read as follows:

V. “Other good cause” as set forth in paragraph II(e) of this section includes, but is not limited to, any legitimate business or economic reason and need not be based on the action or inaction of the tenant, members of his family, or guests. ***“Other good cause” as set forth in paragraph II(e) of this section may include the sale of the property at a foreclosure sale provided that the purchaser at the foreclosure sale specifies why the foreclosure sale warrants eviction of the tenants.***

2008-0419h

**Amendment to HB 1335**

**Proposed by the Committee on State-Federal Relations and Veterans Affairs - C**

Amend paragraph I of section 2 of the bill by inserting after subparagraph (h) the following new subparagraphs:

- (i) One representative of the New Hampshire Psychological Association, appointed by the executive director of the association.
- (j) One representative of the Brain Injury Association of New Hampshire, appointed by such association.
- (k) One representative of the governor's commission on disabilities, appointed by the governor.
- (l) One representative of the Disabilities Rights Center, appointed by the executive director of the center.

Amend the bill by replacing section 4 with the following:

4 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Seven members of the commission shall constitute a quorum.

2008-0539h

**Amendment to HB 1341-FN-A**

**Proposed by the Committee on Finance - R**

Amend the bill by replacing section 1 with the following:

1 Appropriation; Department of Administrative Services. The sum of \$80,000 is hereby appropriated to the department of administrative services for the fiscal year ending June 30, 2009, for the purpose of conducting a complete energy audit and system evaluation of the state house, including evaluation of the costs of an electrical system upgrade, a new HVAC system, and window retrofits. The source of funds shall be federal funds or any other source, except that no state funds shall be appropriated for such purpose.

2008-0238h

**Amendment to HB 1343**

**Proposed by the Committee on Transportation - C**

Amend the title of the bill by replacing it with the following:

AN ACT prohibiting the placing on file or masking of convictions incurred by holders of commercial driver licenses or persons required to hold such licenses.

Amend the bill by replacing section 1 with the following:

1 New Section; Prohibition on Placing on File or Masking Convictions Incurred by Holders of Commercial Driver Licenses or Persons Required to Hold Such Licenses. Amend RSA 262 by inserting after section 42 the following new section:

262:42-a Prohibition on Placing on File or Masking Convictions Incurred by Holders of Commercial Driver Licenses or Persons Required to Hold Such Licenses. The court shall not place on file, mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent the conviction of a holder of a commercial driver license, or a person required to hold a commercial driver license, in any type of motor vehicle, of a state or local traffic control law, except a parking violation, from appearing on the driver's record, whether the driver was convicted for an offense committed in the state where the driver is licensed or another state.

**AMENDED ANALYSIS**

This bill removes the discretion of the courts to place on file, or otherwise mask, convictions incurred by holders of commercial driver licenses or persons required to hold such licenses.

This bill is a joint request of the department of transportation and the department of safety.

2008-0131h

**Amendment to HB 1345**

**Proposed by the Committee on Transportation - R**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study vehicle dealer licenses, dealer plates, and temporary plates.

Amend the bill by replacing section 1 with the following:

1 Commission Established. There is established a commission to study vehicle dealer licenses, dealer plates, and temporary plates.

Amend the bill by replacing section 3 with the following:

3 Duties. The commission shall study the licensing requirements for each type of vehicle dealer and evaluate the appropriateness of the existing classifications and the requirements for each license type and the use of dealer registration plates; the types and uses of temporary plates; and inspection requirements in relation to the use of dealer and temporary plates.

**AMENDED ANALYSIS**

This bill establishes a commission to study vehicle dealer licenses, dealer plates, and temporary plates.

2008-0664h

**Amendment to HB 1348**

**Proposed by the Committee on Environment and Agriculture - C**

Amend the bill by replacing section 3 with the following:

3 Milk Producers Emergency Relief Fund Established. Amend RSA 184:107 to read as follows:

184:107 Milk Producers Emergency Relief Fund Established.

I. There is established a milk producers emergency relief fund in the office of the state treasurer. This fund shall be administered by the commissioner who shall deposit into the fund any appropriations made to the department from the general fund to be used consistent with the definitions and provisions of this subdivision, to reimburse New Hampshire producers of raw milk when the base price of milk falls below the target price. The fund shall be nonlapsing and shall be continually appropriated to the department. The treasurer may invest the proceeds of the fund as provided by law and any income earned on such investment shall be credited to the fund. ***In addition, the commissioner is authorized to accept public sector and private sector grants, gifts, or donations of any kind for the purpose of funding the provisions of this subdivision. The commissioner may employ legal counsel as deemed necessary.***

II. Beginning with the month of July in 2008, for each month that the base price is below the target price, each ***eligible*** participating milk producer in the state shall ***be eligible to*** receive an amount of money equal to the month's production in hundredweight multiplied by the difference between the target price and the base price for the month. The commissioner shall make payment from the fund on a quarterly basis after all information necessary to compute payment amounts is available for the applicable prior 3-month period.

III. In the event there is an insufficient balance in the fund to make full payment to all producers, the commissioner shall prorate payments to each producer to the extent funds are available. Any amount not paid to a producer shall be carried forward and later paid should sufficient funds become available.

***IV. The commissioner shall continue to ensure compliance with agreements previously signed by milk producers under the provisions of RSA 184-B:2(v) until August 1, 2009 or such later date that he or she deems advisable. If a milk producer***

***does not comply with an agreement signed under the provisions of RSA 184-B:2(v) he or she shall reimburse moneys received under this chapter to the commissioner. Such moneys shall be deposited into the general fund.***

AMENDED ANALYSIS

This bill:

- I. Repeals the emergency dairy assistance program.
- II. Allows the department of agriculture, markets and food to reclaim money from milk producers who go out of business before August 1, 2009.
- III. Allocates any money leftover from the emergency dairy assistance program to the milk producers emergency relief fund.
- IV. Makes various changes to the milk producers emergency relief fund board.

2008-0087h

**Amendment to HB 1349**

**Proposed by the Committee on Resources, Recreation and Development - C**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the membership and duties of the council on resources and development.

Amend the bill by replacing all after section 2 with the following:

3 Disposal of State-Owned Real Estate; Role of the Council on Resources and Development. Amend RSA 4:40, I to read as follows:

I. Except as provided in RSA 4:39-c, RSA 228:31-b, and RSA 204-D, upon recommendation of the head of any state department having jurisdiction over the same ***and with the approval of the council on resources and development***, all requests for the disposal or leasing of state-owned properties shall be reviewed and approved by the long range capital planning and utilization committee~~[-, with advice from the council on resources and development,]~~ prior to submission to the governor and council for approval. Upon determination that the property is no longer needed by the state, the governor and council shall first offer it to the town, city, or county in which the property is located. If the town, city, or county refuses the offer, the governor and council may sell, convey, transfer, or lease the real property.

4 Council on Resources and Development; Responsibilities. Amend RSA 162-C:2, IV to read as follows:

IV. Make studies and recommendations concerning changes to effectively coordinate the work of the agencies which have membership in the council. ***Recommendations adopted by a majority vote of the council shall be binding on the affected agencies which have membership in the council, unless the recommendations are in conflict with existing laws or rules;***

5 Surplus Lands Housing Program; Sale of Land by New Hampshire Housing Finance Authority. Amend RSA 204-D:4, V to read as follows:

V. The authority may sell or otherwise transfer land transferred to the authority pursuant to this chapter upon which affordable housing has been constructed only if the authority has established controls to ensure that the housing shall remain affordable to persons of low or moderate income for a period of at least 30 years after such sale or transfer. The authority may sell or otherwise transfer undeveloped land transferred to the authority under this chapter only after receiving approval from the long range capital planning and utilization committee~~[-, with advice from]~~ ***and*** the council on resources and development established in RSA 162-C and final approval by the governor and council. The authority may lease land which is transferred to the authority under this chapter.

6 Leasing Railroad Properties. Amend RSA 228:57-a, II to read as follows:

II. The provisions of RSA 4:40, requiring first offering the land for lease to political subdivisions, shall not apply to this section. However, leases shall continue to be approved by ***the council on resources and development and*** the long range capital planning and

utilization committee ~~[, with advice from the council on resources and development,]~~ before final approval by the governor and council.

7 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill:

I. Permits a member of the council on resources and development to appoint a designee to serve in his or her position on the council and removes one of the members on the council from the department of safety.

II. Clarifies the filing date for the smart growth report that the council files with the general court and governor.

III. Requires the council on resources and development to approve a state agency's recommendation for the disposal of state-owned lands.

IV. Makes certain council recommendations binding on members of the council of resources and economic development.

V. Requires the New Hampshire housing finance authority to obtain the approval of the council on resources and development prior to the transfer of lands under the surplus lands housing program.

2008-0566h

#### Amendment to HB 1353

##### Proposed by the Committee on Resources, Recreation and Development - C

Amend the title of the bill by replacing it with the following:

AN ACT extending the commission to study issues relative to groundwater withdrawal.

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

1 Commission to Study Issues Relative to Groundwater Withdrawals; Duties Expanded.

Amend 2003, 305.3 to read as follows:

305:3 Duties. The commission shall study ways to bring a balanced approach to water use among residential, public water supply, industrial, commercial, agricultural, energy, recreational, and other water users, and to improve the current process by which new water users may reasonably and efficiently use state water resources, including consideration of potential regional impacts and local water management issues, in order to best protect and preserve an adequate supply of water for the state with particular attention to groundwater. This study shall include consideration of issues such as potential impacts on New Hampshire's environment, property rights as they relate to groundwater, possible fees on water withdrawals, and the protection of New Hampshire's aquifers. ***The commission shall also study criteria, including public benefit, for the granting of large water withdrawals other than those of RSA 485-C and RSA 485-A. Consideration of this issue shall include appropriate roles for municipalities in the permitting and regulation of large groundwater withdrawals and include input from municipalities and other appropriate entities. The committee shall design an appropriate statewide monitoring plan to ensure long term sustainability of groundwater resources and participation in the development and distribution of public educational materials on the municipal role in large groundwater permitting, including local and state regulations.*** The commission may address other issues related to water.

2 Commission to Study Issues Relative to Groundwater Withdrawals; Reporting Date Extended. Amend 2003, 305:5 as amended by 2005, 287:1 to read as follows:

305:5 Report. The commission shall make an interim report of its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2003. The commission shall make additional interim reports of its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and

the state library on or before November 30 of each year, with the final report *on the role of municipalities and on the criteria for large withdrawals due on or before November 30, 2009 and the balance of the final report* due on or before November 30, [2008] 2010. The senate *energy, environment and [wildlife] economic development* committee and the house resources, recreation and development committee shall have oversight responsibility for the progress of the commission and shall receive copies of all interim reports.

3 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill:

I. Expands the duties of the commission to study issues relative to groundwater withdrawals.

II. Extends the commission until 2010.

2008-0606h

#### Amendment to HB 1367

##### Proposed by the Committee on Executive Departments and Administration - C

Amend the title of the bill by replacing it with the following:

AN ACT relative to the conversion to a new state financial accounting and statewide budget system.

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

1 Scope of Authority and Statement of Purpose.

I. The governor shall designate an executive sponsor who, with the assistance of all agencies of the state, including but not limited to the department of administrative services, the office of information technology, and the department of health and human services, shall manage the conversion to a new integrated financial accounting/enterprise resource planning (ERP) system. The ERP system shall consist of all related sub-systems including, but not limited to, financial accounting, job costing, cash management, personnel and payroll, and budget systems.

II. The purpose of this bill is to facilitate an efficient and effective conversion to this new system, to provide the authority necessary to effect that conversion and efficiently manage the new system once in place, and to clarify certain statutes.

2 Review by the Fiscal Committee of the General Court. During the biennium ending June 30, 2009, the executive sponsor shall report monthly to the fiscal committee of the general court on the ERP system. The report shall provide information on:

I. Implementation of a new state financial accounting, reporting and financial and human resources management system and a new statewide budget system.

II. The process for the state's transition to a new chart of accounts and statewide budgeting system.

III. The requirements for the oversight of financial transactions, budgeting, and related matters, and the need, if any, for additional statutory revisions to facilitate an effective and efficient conversion to the new systems.

IV. Revisions to the authority for the transfer of appropriations and other matters related to the new state financial accounting, financial reporting, financial and human resources management system and statewide budget system.

V. Changes to the current budget schedule and responsible departments or agencies.

VI. Proposed processes for transitioning from a program appropriation unit (PAU) format to a budget format consistent with the chart of accounts in the new budgeting and financial systems.

VII. The status of actions accomplished and any changes to the implementation date.

3 Conversion to New Integrated Financial Accounting System.

I. Notwithstanding any law to the contrary, including RSA 9:8-a as amended by this act:

(a) No later than June 1, 2008, the executive sponsor shall, with the prior approval of the fiscal committee of the general court, convert the budget for the year ending June 30, 2009, which is presently in program appropriation unit format to a format that is consistent with the chart of accounts of the new state integrated financial accounting system. There shall be no increase or decrease in statewide total amounts for any source of funds attributable to the transition from the old accounting system to the new. The executive sponsor shall maintain complete records of all transfers made for the purposes of this conversion and shall, no later than June 1, 2008, provide to the fiscal committee of the general court a report:

(1) Indicating the source and destination of all appropriation transfers including: the dollar amount, source of funds, and the program appropriation unit (PAU) and class line in the operating budget as passed and the new account, class line, source of funds, and dollar amount in the new chart of accounts within the new state integrated financial accounting system.

(2) Providing a cross-reference from the old program appropriation unit (PAU) and class structure to the new chart of accounts and class structure.

(b) For the biennium beginning July 1, 2009 and each biennium thereafter, budgets shall be in a format that is consistent with the chart of accounts of the new state integrated financial accounting system.

II. The executive sponsor may take such actions as are necessary to convert the budget for the year ending June 30, 2009 to a format that is consistent with the chart of accounts of the new state integrated financial accounting system, including but not limited to:

(a) The creation of new expenditure and revenue class lines within the current state integrated financial accounting system.

(b) The renaming of existing expenditure or revenue class lines within the current state integrated financial accounting system.

(c) The transfer of appropriations contained in the operating, and capital budgets from expenditure classes 085-099 into more descriptive existing, newly created, or renamed expenditure or revenue class lines within the current state integrated financial accounting system.

(d) The transfer of amounts authorized in non-budgetary accounts from expenditure classes 085-099 into more descriptive existing, newly created, or renamed expenditure or revenue class lines in the current state integrated financial accounting system.

(e) The implementation of a new chart of accounts necessary to implement the new state integrated financial accounting system.

(f) The transfer of existing appropriations and authorized amounts from the current state integrated accounting system and PAU structure to the new state integrated financial accounting system and chart of accounts.

(g) The representation of the office of information technology budget in a format that is consistent with the chart of accounts of the new state integrated financial accounting system.

III. Notwithstanding RSA 9:16 and 9:17, or any other law to the contrary, for the biennium ending June 30, 2009, the governor may, with prior approval of the fiscal committee of the general court, authorize transfers of up to \$50,000 between and among classes and program appropriation units, if necessary, for the effective implementation of the new integrated financial accounting system.

4 Interim Authority and Administrative Services Manual of Procedures. To facilitate the implementation of the enterprise resource planning (ERP) system and related alterations and improvements to the state's budgeting, integrated financial accounting, financial reporting, financial and human resources management systems, and related systems and subsystems, and notwithstanding RSA 21-G:9 or any other law relative to the

powers or duties of commissioners or other state officials, during the biennium ending June 30, 2009:

I. The executive sponsor shall have the authority to specify practices, procedures, policies, protocols, guidelines, specifications, instructions and directives, or alterations in practices procedures, policies, protocols, guidelines, specifications, instructions, and directives relative to budgeting, financial accounting, financial reporting, financial and human resources management systems, and related systems and subsystems to be followed by one or more, or all, state agencies, their personnel, and such other persons as are necessary.

II. The executive sponsor shall issue such specifications or instructions in writing, and such specifications or instructions shall be binding upon such agencies, officers, employees, and others to whom the provisions are directed. The executive sponsor shall not be required to follow the rulemaking procedures of RSA 541-A when specifying or issuing these binding practices, procedures, policies, protocols, guidelines, specifications, instructions, and directives, or binding alterations in these practices, procedures, policies, protocols, guidelines, specifications, instructions, and directives. The executive sponsor may cancel, revise, alter, or amend these practices, procedures, policies, protocols, guidelines, specifications, instructions, and directives as deemed necessary.

5 Budget Presentation Format. Amend the section heading of RSA 9:8-a and RSA 9:8-a, I to read as follows:

9:8-a Program Appropriation Unit Format.

I. All budgets provided for by this subdivision shall be in program appropriation unit format ***consistent with the chart of accounts of the state integrated financial accounting system***. For expository purposes, the budget may be presented as a summarized 3 class line document consisting of personnel services, operating expenses, and other expenses; provided, however, that the final budget as passed and the warrants issued by the commissioner of administrative services shall be classified into ***at least*** the following classes as appropriate: personnel services, current expense, equipment, other personnel services, benefits, travel in-state, travel out-of-state, individual and departmental dues to national and regional organizations, and other expenditures.

6 Department of Administrative Services. Amend RSA 21-I:1, II to read as follows:

II. The department of administrative services, through its officials, shall be responsible for managing and coordinating the following administrative and financial functions, upon which the effective and efficient management of all state programs and operations relies:

(a) Budgeting.

***(b) Automated accounting and financial and human resources management systems.***

~~(b) Pre-auditing~~ ***(c) Business process auditing.***

~~(c)~~ ***(d) Accounting.***

~~(d)~~ ***(e) Financial reporting.***

~~(e)~~ ***(f) Data processing.***

~~(f)~~ ***(g) Graphic services.***

~~(g)~~ ***(h) Property and physical plant management.***

~~(h)~~ ***(i) Risk management.***

~~(i)~~ ***(j) General support services.***

~~(j)~~ ***(k) Personnel administration.***

~~(k)~~ ***(l) Developing and maintaining state owned and supported land and buildings, including public works design and construction relating to projects as defined in RSA [21-I:73, VII] 21-I:78, IX.***

~~(l)~~ ***(m) Providing central management and administration of space rented by, or the processes relating to the rental of space by, state agencies, except as otherwise provided by law.***

7 Division of Accounting Services. RSA 21-I:8 is repealed and reenacted to read as follows:

21-I:8 Division of Accounting Services. There is hereby established within the department the division of accounting services under the supervision of an unclassified director of accounting services, who shall also be known as the comptroller. The comptroller shall direct the state's accounting functions, using generally accepted accounting principles and taking full advantage of all benefits of automated data processing applications, to the end that the fiscal affairs of all state agencies and departments will be adequately and uniformly serviced and that periodic financial and management reports will be available to serve the various needs of all state agencies and the executive and legislative branches in their decision making processes. The commissioner of administrative services may authorize deviations from generally accepted accounting principles if the commissioner deems it is in the best interest of the state, provided that the explanation for the deviation is provided in the annual report required by subparagraph II(a). The division shall include the following internal organizational units:

I. The bureau of accounting under the supervision of a classified administrator of accounting who shall be responsible for functions that include at least the following, in accordance with applicable laws:

(a) Reviewing all state contracts for budget control and for substantive protection of the public interest.

(b) Implementing a system established by the commissioner to specify how and when business process auditing of claims is to be performed.

(c) Business process auditing of claims in accordance with subparagraph (b) to be presented for the issuance of warrants and certifying to the governor and council that such claims are just and proper claims against the state and within appropriations provided by statute.

(d) Preparing appropriate warrants and schedules of manifests supporting the same, for consideration and execution by the governor, with the advice and consent of the council.

(e) Making appropriate departmental and agency budget adjustments for services performed by the department of transportation.

(f) When so authorized by the governor and council, making such transfers of appropriation items within any division or functional unit of state government as may be necessary or desirable to best carry out the purpose of such division or functional unit.

(g) Making use of the most advanced and economical techniques within the capabilities of the state's data processing system in carrying out his or her duties.

(h) Controlling all payment of moneys into the treasury.

II. The bureau of financial reporting, under the supervision of a classified administrator of financial reporting who shall be responsible for functions that include at least the following, in accordance with applicable laws:

(a) Not later than 90 days after the close of the fiscal year, unless the governor and council for good cause shall extend such period, completing a comprehensive annual report concerning the preceding fiscal year that details the financial condition and operation of the state during that period in a manner consistent with generally accepted accounting principles. Said report shall subsequently be audited by the legislative budget assistant who may designate a certified public accountant not employed in the state service to conduct the annual audit and may accept the findings and report of the certified public accountant as fulfilling the provisions of this section provided that in either case said audit shall be conducted in accordance with prevailing standards and practices of governmental auditing specified by authoritative national standard setting bodies. The audited report shall be completed and available to the public by December 31 of each year unless for good cause the joint legislative fiscal committee shall extend such period.

(b) Producing periodic reports and analysis of government revenues and expenditures.

8 New Paragraphs; Duties of the Commissioner of Administrative Services. Amend RSA 21-I:13 by inserting after paragraph XIV the following new paragraphs:

XV. Administer, and, as necessary, revise an integrated system of governmental budgeting, financial accounting, financial reporting, financial and human resources management systems, and related systems and subsystems which accurately and systematically account for all revenues, receipts, resources, and property of the state and each of its agencies; which record information about the financial activities of the state and its agencies necessary to compare and control expenditures and commitments, within budgets and appropriations; from which it shall be possible to obtain accurate annual and interim financial statements and other reports which present fairly and with full disclosure the financial position and results of operations of the state of New Hampshire in conformance with generally accepted accounting principles; and which makes it possible to determine and demonstrate compliance with finance-related legal and contractual provisions, including federal grants, to which the state or any of its agencies are subject. The commissioner of administrative services may delegate the performance of functions associated with the above systems, including accounting functions, to appropriate units, divisions, or bureaus within the department and may authorize deviations from generally accepted accounting principles when the commissioner deems it in the best interest of the state, provided that the explanation for so deviating is provided in the annual report required by RSA 21-I:8, II(a).

XVI. Implement and manage an integrated, multi-module, information technology system that facilitates collection and integration of information related to various areas of government such as finance, accounting, human resources, inventory, procurement, and customer service. The commissioner of administrative services may delegate the performance of functions associated with the above system to appropriate units, divisions, or bureaus within the department.

9 Department of Administrative Services; Rulemaking Authority. RSA 21-I:14, I is repealed and reenacted to read as follows:

I. A comprehensive and uniform system of state financial management described in RSA 21-I:13, XV and XVI in the form of a manual to be updated and revised as the commissioner of administrative services deems necessary, that clearly explains procedures applicable to all state agencies, officers and employees other than the legislative branch and the state judicial branch. Notwithstanding RSA 21-G:9 or any other law relative to the powers or duties of commissioners or other state officials, the state agencies, officers, employees, and others to whom the provisions of the manual are directed shall abide by the requirements of the manual. The manual shall:

(a) Be subject to the approval of governor and council but, pursuant to RSA 541-A:1, XV, the manual and its contents shall not be a rule subject to the rulemaking requirements of RSA 541-A.

(b) To the extent deemed necessary by the commissioner, set forth standards, practices, procedures, policies, protocols, guidelines, specifications, instructions, directives, requirements, or descriptions of requirements related to the financial management of the state, including but not limited to:

- (1) Budget preparation requirements.
- (2) Fiscal year closing requirements.
- (3) State fund structure.
- (4) Governor and council actions.
- (5) Fiscal committee actions.
- (6) Transfer of appropriated funds.
- (7) Reimbursement of travel, meals and lodging.
- (8) Staff development reimbursement.

(9) Asset and inventory requirements.

(10) State-owned motor vehicles.

(11) Implementation or alteration of practices, procedures, policies, protocols, guidelines, specifications, instructions, and directives related to the statewide budgeting and uniform financial accounting, financial reporting, financial and human resources management systems, and related systems and subsystems.

(12) Any other matter relating to budgeting, integrated financial accounting, financial reporting, financial and human resources management systems, and related systems and subsystems.

10 Department of Administrative Services; Rulemaking. Amend RSA 21-I:14, IX to read as follows:

IX. Standards for the format, content and style of agency annual or biennial reports, after consultation with the administrator of the bureau of graphic services with regard to format. These standards shall require that agency reports provide statistical information on agency activities and operations in addition to narrative discussions; and that agency reports analyze the operational efficiency of state operations and program performance in terms of explicitly stating the statutory functions each agency is to perform and how these statutory functions are being accomplished, in terms of unit-cost measurement, workload efficiency data, and program output standards established by the commissioner. ***These standards shall be in the form of a manual to be updated and revised as the commissioner of administrative services deems necessary. Notwithstanding RSA 21-G:9 or any other law relative to the powers or duties of commissioners or other state officials, the state agencies, officers, employees, and others to whom the provisions of the manual are directed shall abide by the requirements of the manual. The manual shall be subject to the approval of governor and council but, pursuant to RSA 541-A:1, XV, the manual and its contents shall not be a rule subject to the rulemaking requirements of RSA 541-A.***

11 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill provides the authority and oversight for the conversion to a new statewide budgeting, accounting, and financial and human resources management system.

2008-0635h

#### **Amendment to HB 1370**

##### **Proposed by the Committee on Children and Family Law - C**

Amend subparagraph I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Improve program effectiveness in serving juvenile offenders by enabling the programs to identify which strategies worked in the prevention of recidivism and by allowing a program to see if a juvenile who received services from, or otherwise participated in, the program re-appears in the system in the future.

Amend subparagraph II(a) as inserted by section 1 of the bill by replacing it with the following:

(a) The name, date of birth, gender, race, family composition, town of residence, and school district of the juvenile.

Amend the bill by replacing all after section 2 with the following:

3 Reports. The report filed on December 1, 2010, and any subsequent public reports shall not include identifying data, including name, gender, race connected with town of residence, and school district.

4 Effective Date. This act shall take effect 60 days after its passage.

2008-0700h

#### **Amendment to HB 1371**

**Proposed by the Committee on Legislative Administration - C**

Amend the bill by replacing section 2 with the following:

2 Task Force to Study Temporary Assistance to Needy Families (TANF). Amend 2006, 247:7 to read as follows:

247:7 Reports. The task force shall submit a preliminary report of its findings and recommendations on or before ~~[December 10, 2006]~~ **November 30, 2008**, and a final report of its findings and recommendations on or before ~~[December 1, 2007]~~ **November 30, 2009**, to the speaker of the house of representatives, the senate president, the governor, the commissioner of the department of health and human services, the house clerk, the senate clerk, and the state library. Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 8:

6 Committee to Review Liability Issues for Commuter Rail Operations; Report Date. Amend 2007, 82:5 to read as follows:

82:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, ~~[2007]~~ **2008**.

7 Committee to Study Issues Related to Cooperative School Districts; Report Date. Amend 2007, 257:5 to read as follows:

257:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, ~~[2007]~~ **2008**.

2008-0542h

**Amendment to HB 1374**

**Proposed by the Committee on Executive Departments and Administration - C**

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

1 Homeland Security and Emergency Management. The subdivision heading preceding RSA 21-P:34 is repealed and reenacted to read as follows:

Homeland Security and Emergency Management

2 Definition of Director. Amend RSA 21-P:35, IV to read as follows:

IV. "Director" means the director of the division of ~~[emergency services, communications, and management]~~ **homeland security and emergency management**.

3 New Section; Director of Homeland Security and Emergency Management. Amend RSA 21-P by inserting after section 35 the following new section:

21-P:35-a Director of Homeland Security and Emergency Management.

I. Notwithstanding the provisions of RSA 21-G and RSA 21-P:3, the commissioner, after consultation with the governor, shall nominate for appointment by the governor and council, a director of homeland security and emergency management, who shall serve at the pleasure of the governor. The director of homeland security and emergency management shall be qualified by education and experience and shall receive the salary provided in RSA 94:1-a.

II. The director of homeland security and emergency management, under the supervision of the commissioner and the governor, shall manage the division of homeland security and emergency management and oversee the state-level planning, preparation, exercise, response to and mitigation of terrorist threats and incidents and natural and human-caused disasters. He or she shall serve as the state's primary contact with the federal Department of Homeland Security, and shall have authority to oversee and coordinate planning, response, and recovery efforts of all state agencies to terrorist events and natural and human-caused disasters and wide-scale threats to public safety. He or she shall collaborate with the department of health and human services and shall coordinate the efforts of other state agencies in preventing and responding to epidemics and other

significant threats to the public health. All state agencies shall and are authorized to cooperate with the director in carrying out his or her duties as enumerated in this section.

III. The director of homeland security and emergency management shall be eligible to be a group II member if he or she was a group II retirement beneficiary or member prior to his or her appointment.

IV. The director of homeland security and emergency management shall keep the president of the senate and speaker of the house of representatives or their designees promptly informed of any impending or actual emergencies that require coordinated action with the legislative branch.

V. If, as the result of a disaster declaration, the state of New Hampshire enters into an agreement with the federal government or another entity for assistance, either direct or indirect, financial or otherwise, such agreement shall be transmitted to the president of the senate and the speaker of the house of representatives within 30 days after approval by the governor and council. Any obligation of the general fund as a result of such agreement shall be submitted jointly to the general court by the president of the senate and the speaker of the house of representatives for prompt payment.

4 Division of Homeland Security and Emergency Management. Amend the introductory paragraph of RSA 21-P:37 to read as follows:

21-P:37 Emergency Management Powers Conferred. The director ***of homeland security and emergency management*** shall have general direction and control of the division of [~~emergency services, communications, and~~ ***homeland security and emergency management***, and shall be responsible for the carrying out of the provisions of this subdivision ***except where otherwise provided***. In the event of disaster beyond local control, the governor may assume direct operational control over all or any part of the emergency management functions within the state. In performing the director's duties under this subdivision and to effect its policy and purposes, the director ***of homeland security and emergency management*** is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of this state and of the nation, and is further authorized and empowered:

5 Advisory Council on Emergency Preparedness and Security. RSA 21-P:48 is repealed and reenacted to read as follows:

21-P:48 Advisory Council on Emergency Preparedness and Security.

I. There is hereby created an advisory council on emergency preparedness and security, consisting of the following members:

- (a) The director of the division of homeland security and emergency management.
- (b) The attorney general, or designee.
- (c) The chair of the public utilities commission, or designee.
- (d) The adjutant general, or designee.
- (e) The commissioner of the department of health and human services, or designee.
- (f) The director of the division of fire safety.
- (g) The commissioner of the department of safety, or designee.
- (h) The director of the office of energy and planning.
- (i) The commissioner of the department of transportation, or designee.
- (j) The commissioner of the department of resources and economic development, or designee.
- (k) The commissioner of the department of agriculture, markets, and food, or designee.
- (l) The commissioner of the department of environmental services, or designee.
- (m) The commissioner of the department of administrative services, or designee.

- (n) The director of the Pease development authority, division of ports and harbors.
- (o) The director of police standards and training.
- (p) The director of the division of fire standards and training.
- (q) A local police chief appointed by the governor.
- (r) A local fire chief appointed by the governor.
- (s) A county sheriff appointed by the governor.
- (t) A representative of the Professional Firefighters of New Hampshire, appointed by the governor.
- (u) The director of the division of state police.
- (v) The director of the division of public health services.
- (w) The commissioner of the department of corrections, or designee.
- (x) The executive director of the department of fish and game, or designee.
- (y) The executive director of the New Hampshire Hospital Association.
- (z) A representative of a regional emergency planning committee, appointed by the governor.
- (aa) One member of the state hazardous materials cooperative, appointed by the governor.
- (bb) A representative of the hazardous materials transporter industry, appointed by the governor.
- (cc) A representative of the hazardous materials industry appointed by the governor.
- (dd) The director of the division of emergency communications and services.
- (ee) A representative of the Business and Industry Association, appointed by the governor.
- (ff) A representative from the United States Environmental Protection Agency, appointed by that agency.
- (gg) A representative from the Federal Bureau of Investigation, appointed by the Bureau.
- (hh) A representative from the United States Coast Guard, appointed by that agency.
- (ii) The director of the division of safety services.
- (jj) A representative of the nuclear power industry appointed by the governor.
- (kk) A representative of the United States Department of Homeland Security.
- (ll) The primary investigator for the Centers for Disease Control and Assistant Secretary for Preparedness and Response (ASPR) grant programs.
- (mm) A representative of the state citizens corps, appointed by the governor.
- (nn) A representative of the Trauma Control Board, appointed by the governor.
- (oo) The United States Attorney for the District of New Hampshire, or designee.

II. The council shall advise the governor on issues involving the state's ability to respond to natural and human-caused disasters, and the preparation and maintenance of a state disaster plan in conformance with any federal regulation or law. The director of homeland security and emergency management shall seek the advice of the council in matters pertaining to any of the state's emergency plans including the allocation of state and federal resources to meet the objectives of such plan. The council shall serve the functions of the state emergency response commission (SERC) and the Centers for Disease Control's state public health emergency preparedness committee, and may form subcommittees as necessary to perform these functions. The council shall periodically and otherwise as necessary report to the governor, the senate president, and the speaker of the house of representatives on any recommendations of the council that pertain to the state's preparedness and ability to respond to natural and human-caused disasters and acts of terrorism. The commissioner of safety or the commissioner's designee shall serve as the chairperson of the council.

6 New Subdivision; Division of Emergency Services and Communications. Amend RSA 21-P by inserting after section 48 the following new subdivision:

Emergency Services and Communications

21-P:48-a Division of Emergency Services and Communications.

I. There is hereby created a division of emergency services, and communications within the department of safety under the supervision of the director of emergency services, and communications and reporting to the assistant commissioner. The commissioner shall nominate a director of the division of emergency services, and communications for appointment by the governor, with the consent of the council, and shall serve a term of 4 years until a successor has been appointed. The director shall be responsible to carry out such duties as are specifically enumerated in this subdivision and as may be assigned by the office of the commissioner. The director shall be academically and technically qualified to hold the position and shall receive the salary specified in RSA 94:1-a for the director of emergency services and communications.

II. With the approval of the commissioner, the director may employ such necessary technical, clerical, stenographic and other personnel, and may make such expenditures from state or federal funds as are or may be made available for purposes of emergency services and communications. The director and other personnel of the division shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing, and funds for traveling and related expenses, in the same manner as provided for personnel of other state agencies. With general oversight by the assistant commissioner, the director shall coordinate the activities of all organizations for emergency management and emergency 911 telecommunications within the state, state and local, county, and private, and shall maintain liaison with and cooperate with police, fire, emergency medical and sheriff's departments and emergency management agencies and emergency telecommunications organizations of other states and of the federal government. The director shall have such additional duties, responsibilities, and authority authorized by applicable laws as may be prescribed by the commissioner.

21-P:48-b Assistant Director of Division of Emergency Services and Communications; Retirement System. For purposes of classification under the provisions of RSA 100-A, the assistant director of the division of emergency services and communications shall be eligible to be a group II member if the assistant director was a member of group II for at least 10 years prior to his or her appointment.

7 Fire Standards and Training and Emergency Medical Services Fund. Amend RSA 21-P:12-d to read as follows:

21-P:12-d Fire Standards and Training and Emergency Medical Services Fund. There is established in the office of the state treasurer a separate, nonlapsing fund to be known as the fire standards and training and emergency medical services fund from which the state treasurer shall pay expenses incurred in the administration of the division of fire standards and training and emergency medical services, under RSA 21-P:12-a, the division of fire safety, under RSA 21-P:12, and ~~[the bureau of emergency management in]~~ the division of ~~[emergency services, communications, and management under RSA 21-P:36]~~ **homeland security and emergency management**. If the expenditure of additional funds over budget estimates is necessary for the proper functioning of the division of fire standards and training and emergency medical services, the division of fire safety, or the ~~[bureau of emergency management in the division of emergency services, communications, and management]~~ **division of homeland security and emergency management**, the department of safety may request, with prior approval of the fiscal committee of the general court, the transfer of funds from the fire standards and training and emergency medical services funds to the department of safety for such purposes.

8 Special Assistance to Emergency Services Worker. Amend RSA 657:21-a, II to read as follows:



II. Explore best practices among other states as it relates to the provision of traveler services along highways, with particular emphasis on those states who are dependant upon tourism for a significant portion of their economy and state revenues.

III. Make recommendations for ensuring the long-term viability of rest areas and welcome centers including an appropriate staffing and funding methodology.

IV. Develop a plan for the smooth transition of responsibility for construction, maintenance, repair, and staffing of rest areas and welcome centers from the department of transportation to the department of resources and economic development.

V. Report their findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

2 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill directs the department of transportation and the department of resources and economic development to make recommendations relative to New Hampshire's rest areas and welcome centers.

2008-0391h

#### Amendment to HB 1382

#### Proposed by the Committee on Commerce - C

Amend RSA 292-B:2, V as inserted by section 1 of the bill by replacing it with the following:

V. "Institutional fund" means a fund held by an institution exclusively for charitable purposes. The term does not include:

(a) Program-related assets;

(b) A fund held for an institution by a trustee that is not an institution;

(c) A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund; or

(d) A fund held by a town or other municipality under RSA 31:19, RSA 202-A:23, or a fund created by a town or other municipality under RSA 31:19-a.

Amend the introductory paragraph of RSA 292-B:4, I as inserted by section 1 of the bill by replacing it with the following:

I. Subject to the intent of a donor expressed in the gift instrument and to paragraphs IV and V, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, the following factors:

Amend RSA 292-B:4 as inserted by section 1 of the bill by inserting after paragraph III the following new paragraphs:

IV. Any institution administering an endowment fund with a market value of \$2,000,000 or more in the aggregate shall notify the attorney general upon its adoption of the provisions of RSA 292-B.

V.(a) If an institution has endowment funds with an aggregate value of less than \$2,000,000, the institution shall notify the attorney general at least 60 days prior to an appropriation for expenditure of an amount that would cause the value of the institution's endowment funds to fall below the aggregate historic dollar value of the institution's endowment funds. During the 60-day period the attorney general may require the institution to obtain court approval for the proposed expenditure.

(b) For purposes of this paragraph, "historic dollar value" means the aggregate value in dollars of:

- (1) Each endowment fund at the time it became an endowment fund;
- (2) Each subsequent donation to the fund at the time the donation is made;

and

(3) Each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund.

(c) The institution's determination of historic dollar value made in good faith is conclusive.

VI. The appropriation for expenditure in any year of any amount greater than 7 percent of the fair market value of an endowment fund, calculated on the basis of fair market value determined at least quarterly and averaged over a period of not less than 3 years immediately preceding the year in which the appropriation for expenditure was made, creates a rebuttable presumption of imprudence. For an endowment fund in existence for fewer than 3 years, the fair market value of the endowment fund shall be calculated for the period of time the endowment fund has been in existence.

Amend RSA 292-B:6, IV(b) as inserted by section 1 of the bill by replacing it with the following:

- (b) More than 25 years have elapsed since the fund was established; and

2008-0545h

#### **Amendment to HB 1384**

##### **Proposed by the Committee on Commerce - C**

Amend RSA 331-A:25-e, V as inserted by section 4 of the bill by replacing it with the following:

V. When a designated agent is appointed, information known or acquired by the designated agent shall not be imputed to the appointing agent or to other licensees within the same firm.

Amend RSA 331-A:25-e, VII(a) as inserted by section 4 of the bill by replacing it with the following:

VII.(a) When consent to designated agency has been given by the seller or landlord and the buyer or tenant, written notice shall also be provided to the seller or landlord and the buyer or tenant that designated agency has occurred with both the seller or landlord and buyer or tenant in the transaction. This notice shall be provided prior to the execution of the purchase and sale or lease agreement.

Amend RSA 331-A:25-f, VII as inserted by section 4 of the bill by replacing it with the following:

VII. The performance of ministerial acts for the seller or landlord or the buyer or tenant shall not be construed as forming an agency relationship with the seller or landlord.

Amend the bill by replacing section 8 with the following:

- 8 Effective Date. This act shall take effect January 1, 2009.

2008-0766h

#### **Amendment to HB 1386**

##### **Proposed by the Committee on Children and Family Law - C**

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

- 1 Delinquent Children. Amend RSA 169-B:35, II to read as follows:

II.(a) Court records of proceedings under this chapter, except for those court records under RSA 169-B:36, II, shall be kept in books and files separate from all other court records. Such records shall be withheld from public inspection but shall be open to inspection by officers of the institution where the minor is committed, juvenile probation and parole officers, a parent, **a grandparent pursuant to subparagraph (b)**, a guardian, a custodian, the minor's attorney, the relevant county, and others entrusted with the corrective treatment of the minor. Additional access to court records may be granted by court order or upon the written consent of the minor. Once a delinquent reaches 21 years of age, all court

records and individual institutional records, including police records, shall be closed and placed in an inactive file.

**(b) A grandparent seeking access to court records under subparagraph (a) shall file a request for access with the court clerk supported by an affidavit signed by the grandparent stating the reasons for requesting access and shall give notice of such request to all parties to the case and the minor's parents. Any party to the case or parent may object to the grandparent's request within 10 days of the filing of the request. If no objection is made, the grandparent's request shall be automatically granted by the court. If an objection is made, access may be granted only by court order.**

2 Child Abuse and Neglect. Amend RSA 169-C:25, I to read as follows:

I.**(a)** The court records of proceedings under this chapter shall be kept in books and files separate from all other court records. Such records shall be withheld from public inspection but shall be open to inspection by the parties, child, parent, **grandparent pursuant to subparagraph (b)**, guardian, custodian, attorney, or other authorized representative of the child.

**(b) A grandparent seeking access to court records under subparagraph (a) shall file a request for access with the court clerk supported by an affidavit signed by the grandparent stating the reasons for requesting access and shall give notice of such request to all parties to the case and the minor's parents. Any party to the case or parent may object to the grandparent's request within 10 days of the filing of the request. If no objection is made, the grandparent's request shall be automatically granted by the court. If an objection is made, access may be granted only by court order.**

3 Children in Need of Services. Amend RSA 169-D:25, II to read as follows:

II.**(a)** The court records of proceedings under this chapter shall be kept in books and files separate from all other court records. Such records shall be withheld from public inspection but shall be open to inspection by juvenile probation and parole officers, a parent, **a grandparent pursuant to subparagraph (b)**, a guardian, a custodian, the relevant county, the minor's attorney, and others entrusted with the supervision of the child. Additional access to court records may be granted by court order or upon the written consent of the minor. Once a child in need of services reaches 18 years of age, all court and police records shall be destroyed.

**(b) A grandparent seeking access to court records under subparagraph (a) shall file a request for access with the court clerk supported by an affidavit signed by the grandparent stating the reasons for requesting access and shall give notice of such request to all parties to the case and the minor's parents. Any party to the case or parent may object to the grandparent's request within 10 days of the filing of the request. If no objection is made, the grandparent's request shall be automatically granted by the court. If an objection is made, access may be granted only by court order.**

4 Department Case Records; Confidentiality; Access by Grandparents. Amend RSA 170-G:8-a, II(a)(2) to read as follows:

(2) The parent of the child named in the case record, as defined in RSA 169-C:3, XXI, **or the grandparent of the child named in the case record. A grandparent seeking access to court records under this subparagraph shall file a request for access with the court clerk supported by an affidavit signed by the grandparent stating the reasons for requesting access and shall give notice of such request to all parties to the case and the minor's parents. Any party to the case or parent may object to the grandparent's request within 10 days of the filing of the request. If no objection is made, the grandparent's request shall be automatically granted by the court. If an objection is made, access may be granted only by court order.**

5 Effective Date. This act shall take effect January 1, 2009.

**Amendment to HB 1388**

**Proposed by the Committee on Children and Family Law - C**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study practices relative to medications prescribed to children in out-of-home placements.

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

1 Commission Established.

I. There is established a commission to study practices relative to medications prescribed to children in out-of-home placements, including foster and residential placements made pursuant to RSA 169-B, RSA 169-C, and RSA 169-D, and placements at New Hampshire hospital, the youth development center, the youth detention services unit, and the Tobey School. For purposes of the study, "medications" shall mean psychopharmacological agents, including but not limited to psychotropic medication and anti-convulsant medications.

II.(a) The members of the commission shall be as follows:

(1) Three members of the house of representatives, appointed by the speaker of the house of representatives.

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

(3) The commissioner of the department of health and human services, or designee, and one other representative from the department, appointed by the commissioner.

(4) A licensed foster care provider, nominated by the commissioner of the department of health and human services and appointed by the governor.

(5) A member of New Hampshire Partners in Service, nominated by the organization and appointed by the governor.

(6) A primary care physician, who is a member of the New Hampshire Pediatric Society, with relevant experience treating juveniles and young adults, appointed by the governor.

(7) A member of the New Hampshire Psychiatric Society with a specialty in child psychiatry, nominated by the society, and appointed by the governor.

(8) A member of the New Hampshire Psychological Association with relevant experience in child psychology and treating children in out-of-home placements, nominated by the association, and appointed by the governor.

(9) A representative from the Court Appointed Special Advocates (CASA) of New Hampshire, nominated by the executive director, and appointed by the governor.

(10) A representative from the National Alliance on Mental Illness (NAMI) New Hampshire, nominated by the association, and appointed by the governor.

(11) A representative from the Disabilities Rights Center, nominated by the center, and appointed by the governor.

(b) Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The commission shall:

(a) Study the extent to which medications are prescribed to children in out-of-home placements.

(b) Study the circumstances under which medications are prescribed, the type of medications prescribed, the purposes for which they are prescribed, the number and doses of medications per child, and the procedures used by residential care providers to monitor and administer the medications.

(c) Identify the causes or contributing factors of any issues or concerns identified by the commission.

(d) Solicit information and testimony from such agencies, organizations, and individuals as may assist the commission in the performance of its duties.

IV. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Seven members of the commission shall constitute a quorum.

V. The commission shall file an interim report of its findings and any recommendations for proposed legislation with the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008. The commission shall file a final report of its findings and recommendations on or before November 1, 2009. The final report shall include, but not be limited to, the commissions findings and recommendations regarding III(a)-(d) and whether improvements are needed in the provider or department system of performance or medication monitoring or quality assurance to ensure that best practices are being followed relative to the prescription, administration, and use of medications.

2 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill establishes a commission to study psychopharmacological agents prescribed to children in out-of-home placements.

2008-0565h

#### Amendment to HB 1394-FN

**Proposed by the Committee on Executive Departments and Administration - C**  
Amend RSA 326-B:32, I(b) as inserted by section 4 of the bill by replacing it with the following:

**(b) The board shall approve, disapprove, or withdraw approval for such programs that meet or fail to meet the requirements of this chapter *and the rules adopted by the board. The board shall require that nursing education programs:***

***(1) Seek and receive approval from the postsecondary education commission prior to applying for approval from the board.***

***(2) Receive institutional regional or national accreditation in addition to specialized nursing accreditation by accrediting bodies recognized by the United States Department of Education.***

***(3) Be affiliated with an existing degree-granting institution with institutional regional or national accreditation recognized by the United States Department of Education.***

Amend RSA 326-B:32, III(d) as inserted by section 4 of the bill by replacing it with the following:

**(d) Shall deny or withdraw approval or take such action as deemed necessary when nursing or nursing assistant education programs fail to meet the standards established by the board.**

2008-0745h

#### Amendment to HB 1396-FN

**Proposed by the Committee on Health, Human Services and Elderly Affairs - R**  
Amend the bill by replacing section 3 with the following:

3 New Paragraph; Controlled Drugs; Definition; Practitioner-Patient Relationship.  
Amend RSA 318-B:1 by inserting after paragraph XXVI the following new paragraph:

XXVI-a. "Practitioner-patient relationship" means a medical connection between a licensed practitioner and a patient that includes an in-person exam, a history, a diagnosis, a treatment plan appropriate for the licensee's scope of practice, and documentation of all prescription drugs including name and dosage. A licensee may prescribe for a patient whom the licensee does not have a practitioner-patient relationship under the following circumstances: for a patient of another licensee for whom the prescriber is taking call; for a patient examined by another New Hampshire licensed practitioner; or for medication on a

short-term basis for a new patient prior to the patient's first appointment. The definition of a practitioner-patient relationship shall not apply to a practitioner licensed in another state who is consulting to a New Hampshire licensed practitioner with whom the patient has a relationship.

Amend the bill by replacing all after section 4 with the following:

5 Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2, V(c) and (d) to read as follows:

(c) By the concealment of a material fact; ~~[or]~~

(d) By the use of a false name or the giving of a false address[-] ; **or**

***(e) By submission of an electronic or on-line medical history form that fails to establish a valid practitioner-patient relationship.***

6 New Paragraphs; Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2 by inserting after paragraph XII-a the following new paragraphs:

XII-b. It shall be unlawful for any person to knowingly obtain, or attempt to obtain, or to assist a person in obtaining or attempting to obtain a prescription for a controlled substance without having formed a valid practitioner-patient relationship.

XII-c. It shall be unlawful for any person to, by written or electronic means, solicit, facilitate or enter into any agreement or contract to solicit or facilitate the dispensing of controlled substances pursuant to prescription orders that do not meet the federal and state requirements for a controlled drug prescription, and without an established valid practitioner-patient relationship.

XII-d. It shall be unlawful for any pharmacy to ship finished prescription products, containing controlled substances, to patients residing in the State of New Hampshire, pursuant to any oral, written or online prescription order that was generated based upon the patient's submission of an electronic or online medical history form. Such electronic or online medical questionnaires, even if followed by telephonic communication between practitioner and patient, shall not be deemed to form the basis of a valid practitioner-patient relationship.

XII-e. It shall be unlawful for any pharmacist to knowingly dispense a controlled substance pursuant to any oral, written, or electronic prescription order, which he or she knows or should have known, was generated based upon the patient's submission of an electronic or online medical history form. Such electronic or online medical questionnaires, even if followed by telephonic communication between practitioner and patient, shall not be deemed to form the basis of a valid practitioner-patient relationship.

7 New Section; Physicians and Surgeons; Definition of Physician-Patient Relationship. Amend RSA 329 by inserting after section 1-b the following new section:

329:1-c Physician-Patient Relationship. "Physician-patient relationship" means a medical connection between a licensed physician and a patient that includes an in-person exam, a history, a diagnosis, a treatment plan appropriate for the licensee's medical specialty, and documentation of all prescription drugs including name and dosage. A licensee may prescribe for a patient whom the licensee does not have a physician-patient relationship under the following circumstances: writing admission orders for a newly hospitalized patient; for a patient of another licensee for whom the prescriber is taking call; for a patient examined by a physician assistant, nurse practitioner, or other licensed practitioner; or for medication on a short-term basis for a new patient prior to the patient's first appointment. Prescribing drugs to individuals without a physician-patient relationship shall be unprofessional conduct subject to discipline under RSA 329:17, VI. The definition of a physician-patient relationship shall not apply to a physician licensed in another state who is consulting to a New Hampshire licensed physician with whom the patient has a relationship.

8 New Subparagraph; Physicians and Surgeons; Disciplinary Proceedings. Amend RSA 329:17, VI by inserting after subparagraph (k) the following new subparagraph:

(l) Has knowingly obtained, attempted to obtain or assisted a person in obtaining or attempting to obtain a prescription for a controlled substance without having formed a valid physician-patient relationship pursuant to RSA 329:1-c.

9 Effective Date. This act shall take effect January 1, 2009.

2008-0473h

**Amendment to HB 1397-FN**

**Proposed by the Minority of the Committee on Election Law - R**

Amend the bill by replacing section 1 with the following:

1 Statement and Receipt Retention. Amend RSA 664:7-a to read as follows:

664:7-a Statement *and Receipt* Retention. Statements or reports required to be filed under RSA 664:6 and 664:7 shall be held in original form for 6 years from the election for which they are filed, after which time they may be destroyed. *Political committees and candidates shall hold in original form receipts for all expenditures exceeding \$50 reported under RSA 664:6 or 664:7 for 2 years from the election for which they were reported, after which time they may be destroyed.*

AMENDED ANALYSIS

This bill requires that political committees and candidates retain for 2 years their receipts of expenditures exceeding \$50.

2008-0736h

**Amendment to HB 1405-FN**

**Proposed by the Committee on Science, Technology and Energy - C**

Amend the title of the bill by replacing it with the following:

AN ACT regulating outdoor wood-fired hydronic heaters.

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

1 New Chapter; Outdoor Wood-Fired Hydronic Heaters. Amend RSA by inserting after chapter 125-Q the following new chapter: CHAPTER 125-R  
OUTDOOR WOOD-FIRED HYDRONIC HEATERS

125-R:1 Definitions.

I. "Clean wood" means wood that has not been painted, stained, coated, preserved, or treated with chemicals such as copper chromium arsenate, creosote, or pentachlorophenol. The term does not include construction and demolition debris as defined in RSA 149-M:4, IV-a.

II. "Commissioner" means the commissioner of the department of environmental services.

III. "EPA" means United States Environmental Protection Agency.

IV. "Municipality" means cities, towns, and counties in which there are located unincorporated towns or organized places. Municipality shall not mean village districts.

V. "Outdoor wood-fired hydronic heater" (OWHH) or "outdoor wood boiler" means a fuel burning device:

(a) Designed to burn wood or other solid fuels;

(b) That the manufacturer specifies for outdoor installation or in structures not normally occupied by humans, including structures such as garages and sheds; and

(c) Which heats building space and water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

VI. "Person" means any individual, partnership, firm or co-partnership, association, company, trust, corporation, department, bureau, agency, private or municipal corporation, or any political subdivision of the state, the United States or political subdivisions or agencies thereof, or any other entity recognized by law as subject to rights and duties.

VII. "Phase I OWHH" means an OWHH that has been certified or qualified by the EPA as meeting a particulate matter emission limit of 0.6 pounds per million British Thermal Units input and is labeled accordingly.

VIII. "Phase II OWHH" means an OWHH that has been certified or qualified by the EPA as meeting a particulate matter emission limit of 0.32 pounds per million British Thermal Units output and is labeled accordingly.

125-R:2 Unit Requirements.

I. Beginning January 1, 2009, no person shall sell or distribute for sale an OWHH that is not a Phase I or Phase II OWHH.

II. Effective April 1, 2010, no person shall sell or distribute for sale an OWHH that is not a Phase II OWHH. This paragraph shall not take effect if the EPA does not establish or is delayed later than April 1, 2009 in establishing a certification or qualification process for Phase II OWHHs as determined by the commissioner.

125-R:3 Permitted Fuels. Any person that owns or operates an OWHH shall not use a fuel other than the following:

- I. Clean wood;
- II. Wood pellets made from clean wood;
- III. Home heating oil, natural gas, or propane that complies with all applicable sulfur limits and is used as a starter or supplemental fuel for dual-fired OWHHs; or
- IV. Other fuels as approved by the commissioner through rules adopted pursuant to RSA 541-A.

125-R:4 Exemption. An OWHH that is specifically designed to burn wood pellet fuel with metered fuel and air feed and controlled combustion engineering, is operated according to manufacturers' specifications and burns only wood pellet fuel shall be exempt from this chapter.

125-R:5 Enforcement.

I. The commissioner shall enforce the provisions of this chapter. Any person who violates any provision of this chapter or any rule adopted under this chapter shall be guilty of a violation and may be assessed by the commissioner, after notice and hearing, an administrative fine for the first offense not to exceed \$250 and for each subsequent offense not to exceed \$500. All fine proceeds shall be deposited in the general fund.

II. Whenever the commissioner finds a person has violated any of the provisions of this chapter or rule established under this chapter, the commissioner may issue an order of abatement establishing a compliance schedule with which the person shall comply. Any order of abatement shall become final and enforceable by the commissioner within 30 days of its issuance unless an appeal is filed with the air resources council before the expiration of said 30-day period. The council shall hold a hearing on any such appeal promptly, and shall thereafter issue a decision upholding, modifying, or abrogating the commissioner's order of abatement or any part thereof. The council's decision shall become final 10 days after it is issued.

125-R:6 Municipal Authority. Nothing in this chapter shall be construed to limit the authority of a municipality to prevent and remove nuisances and protect public health in accordance with RSA 147, or to adopt and enforce land use ordinances and regulations pursuant to RSA 674 and 675 relative to OWHHs, including but not limited to provisions relative to setbacks and stack heights, prohibiting the installation of OWHHs in one or more zoning districts, or requiring in one or more zoning districts the installation of cleaner versions of OWHHs that have been certified or qualified under this chapter. A municipality shall not establish quantifiable emission limits, require testing, monitoring, or certification, or specify the types of fuels used. In exercising its authority under this section, a municipality shall not unreasonably limit the installation of or hinder the operation of OWHHs.

2 Report to Air Pollution Advisory Committee. The department shall review outdoor wood boiler technology, including the achievable emission limits and emission rates of

outdoor wood boilers. The department shall report its findings and recommendations, including any recommendations for legislation, by November 1 of each year until 2012, to the air pollution advisory committee established pursuant to RSA 125-J:11.

3 Effective Date. This act shall take effect 30 days after its passage.

#### AMENDED ANALYSIS

This bill establishes requirements for the sale, installation, and use of outdoor wood-fired hydronic heaters.

2008-0632h

#### Amendment to HB 1410

##### Proposed by the Committee on Criminal Justice and Public Safety - C

Amend the title of the bill by replacing it with the following:

AN ACT relative to youth training and employment in firefighting.

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

1 New Subdivision: Youth Training and Employment in Firefighting. Amend RSA 276-A by inserting after section 22 the following new subdivision:

Youth Training and Employment in Firefighting

276-A:23 Limitations on Youth Training and Employment.

I. Except when enrolled in an explorer program approved by the New Hampshire department of labor under rules adopted by the commissioner, no youth under 16 years of age shall be employed or permitted to work in firefighting.

II. Fire organizations shall follow the requirements of this subdivision and federal orders regulating youth employment in hazardous occupations, as referenced in rules adopted by the commissioner, when any youth is employed or permitted to work in support of firefighting at all times and in all places.

III. The supervising person responsible for following the requirements of this subdivision shall be the chief authority of the fire organization or his or her designee.

IV. Youths shall not be employed at any task or duty in support of firefighting prior to completing training pursuant to RSA 276-A:24, I.

V. Fire organizations shall follow the requirements of RSA 276-A:4, VIII and RSA 276-A:24 and rules adopted by the commissioner when employing or permitting 16 or 17 year old youths to work in support of firefighting.

276-A:24 Minimum Training Requirements.

I. Youths shall successfully complete an initial course of basic wild land fire training as outlined by the National Fire Protection Association and as offered by the department of resources and economic development, division of forest and lands, along with training on the use of communications equipment and fire extinguishers.

II. Upon the successful completion of the training requirements under paragraph I, the youth shall complete the fire standards and training firefighter level 1 course in accordance with rules adopted by the department of safety.

III. Initial training shall qualify a youth to perform non-hazardous firefighting duties such as scouting on the ground, fire line construction, mopping up, and permitted use of non-motorized equipment such as back pack pumps, hand tools, hoses, and radio equipment. This training shall not qualify a youth to perform hazardous duties, including operation of motorized equipment such as motor vehicles, bulldozers, tractors and pumps, or serving as a traffic director.

276-A:25 Advanced Training. For so long as a youth remains by age subject to this subdivision, advanced training shall be the firefighter level 1 training program as administered by the fire standards and training commission. Youths who have completed this course with at least 70 percent in practical and academic testing shall be certified by the commission as junior firefighters.

276-A:26 Identification Card. A youth employed in support of firefighting shall carry an identification card, signifying completion of training with at least 70 percent in practical and academic testing, and signed by the chief authority within the fire organization.

2 Effective Date. This act shall take effect upon its passage.

**AMENDED ANALYSIS**

This bill clarifies the conditions and requirements for persons who are 16 and 17 years of age to train and be employed as firefighters.

2008-0524h

**Amendment to HB 1420**

**Proposed by the Majority of the Committee on Municipal and County Government  
- R**

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Zoning Variance; Junk Yards. Amend RSA 674:33 by inserting after paragraph V the following new paragraph:

VI. Notwithstanding subparagraph I(b), any zoning board of adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, to an existing junk yard required to be licensed under RSA 236:114, for the purpose of making improvements to bring the yard into compliance with the best management practices developed by the department of environmental services for the automobile salvage industry, provided that all other requirements for granting the variance are met, and further provided that these requirements shall apply only to the proposed improvements to the existing use.

**AMENDED ANALYSIS**

This bill allows a zoning board of adjustment to grant a variance to a licensed junk yard for the purpose of complying with best management practices developed by the department of environmental services.

2008-0429h

**Amendment to HB 1422**

**Proposed by the Committee on Health, Human Services and Elderly Affairs - C**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study the prevention of childhood obesity.

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

1 Committee Established. There is established a committee to study the prevention of childhood obesity.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

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

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall identify and consider legislative and policy strategies that may be effective in the prevention of childhood obesity in New Hampshire. The committee shall seek input from individuals or entities that the committee deems relevant to its study. The committee's study shall include but not be limited to:

(a) The efficacy of current laws, regulations, education and certification standards, and clinical protocols in promoting physical activity and healthy eating.

(b) An examination of evidenced-based or promising practices from other states and jurisdictions relative to statewide policy, local ordinance, and educational programming strategies.

(c) The health consequences and economic impact of childhood obesity in the state and the economic impact of any prevention policies or strategies.

(d) Strategies to address the needs of particular regions of the state or certain populations within the state most impacted by childhood obesity.

4 Chairperson; Quorum. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Two members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 15, 2009.

6 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill establishes a committee to study the prevention of childhood obesity.

2008-0617h

#### **Amendment to HB 1424**

##### **Proposed by the Committee on Municipal and County Government - C**

Amend RSA 24:9-d as inserted by section 1 of the bill by replacing it with the following:

24:9-d Notice. The clerk of the convention, *or his or her designee*, shall mail to each member of the convention a notice stating the time, place and purpose of further meetings at least 7 days before the day of the meeting and shall cause to be published a like notice at least 7 days before the day of the meeting in a newspaper of general circulation in the county. Mailing such notice is not required during any session of the general court, if the notice is printed for 2 legislative days in the journal of the house of representatives.

#### AMENDED ANALYSIS

This bill allows the clerk of the county convention to have his or her designee give notice of a meeting of the county convention.

2008-0757h

#### **Amendment to HB 1429**

##### **Proposed by the Majority of the Committee on Environment and Agriculture - R**

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

1 New Paragraph; Private Landfills; Permit Required. Amend RSA 149-M:9 by inserting after paragraph XIV the following new paragraph:

XV. A privately owned landfill shall be required to conduct a pre-modification review prior to commencement of construction of any material modification to any existing privately owned landfill. The review shall be sufficient to allow the commissioner to make determinations that the proposed construction or modification will not cause or contribute to a failure to attain or maintain any public benefits required by RSA 149-M:11. Prior to commencement of construction or modification, the applicant shall submit the required information to the commissioner. No facility may materially modify a landfill without obtaining a modification permit from the department. The commissioner's review of the submitted information shall be no less stringent than a review of an initial permit application, and shall require that no permit shall be issued for modifications unless the facility meets all the requirements for review and for initially obtaining a permit under this section. For the purposes of this paragraph, a "material modification" is either a change in location for previously permitted capacity or a material change in the facts or circumstance upon which the public benefit determination was made.

2 Commission Established. RSA 149-M:2 set a goal of 40 percent solid waste diversion by 2000 and RSA 149-M:3 established a hierarchy of solid waste management preferred methods for the state: source reduction; recycling and reuse; composting; waste-to-energy

technologies; incineration without resource recovery; and landfilling. The general court finds that the state has not attained the 40 percent diversion goal and has failed to achieve positive gains in limiting landfilling. In an effort to guide the department of environmental services to achieve these solid waste management goals and ensure that the state has sufficient capacity for its own solid waste needs, there is hereby established a commission to study solid waste management and reduction.

3 Membership and Compensation.

I. The commission shall consist of the following members:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Three members of the senate, appointed by the president of the senate.

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

(d) The director of the office of energy and planning, or designee.

(e) A representative of the private solid waste industry, appointed by the governor.

(f) A representative of a municipal solid waste facility, appointed by the New Hampshire Municipal Association.

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

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission. Non-legislative members shall receive no compensation.

4 Chairperson; Quorum. The members of the commission shall elect a chairperson and vice-chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Seven members of the commission shall constitute a quorum at least 4 of whom shall be members of the general court.

5 Duties. The commission shall:

I. Review current solid waste capacity needs and availability and estimates of capacity needs and availability for the next 20 years.

II. Investigate the resources needed to assist municipalities and businesses in diverting greater amounts of the waste stream from disposal in landfills and incinerators, with the goal of preserving disposal capacity in New Hampshire.

III. Review the current distribution of capacity in New Hampshire in terms of the state's demographics.

IV. Review and propose changes, if necessary, to the solid waste permitting requirements of the department of environmental services.

V. Investigate host community agreements and regional municipal agreements to facilitate development of disposal capacity.

VI. Make recommendations for a framework that better facilitates solid waste planning management, reduction, and permitting in New Hampshire.

6 Report. The commissioner shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

7 Definitions; Host Community Agreement. Amend RSA 149-M:4, X-a to read as follows:

**X-a. "Host community agreement" means a written, legally binding agreement between the owner or operator of a privately owned solid waste facility and the town in which the privately owned solid waste facility is located, governing the operation, location, development, or expansion of the privately owned solid waste facility.**

**X-b. "Incinerator" means a facility which employs a method of using controlled thermal combustion, including flame combustion, to thermally break down waste or other**

materials, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.

8 Modifications; No Permit Issued. Amend RSA 149-M:12 by inserting after paragraph III the following new paragraph:

IV. The department shall work with the host community to facilitate the creation of the host community agreement. The department shall not issue a permit for the modification of an existing privately owned solid waste facility or the construction of a new privately owned solid waste facility unless there is a host community agreement in place.

9 Effective date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill:

I. Requires private landfills making material modifications to existing landfills to receive a permit.

II. Requires the department of environmental services to facilitate the creator of host community agreements.

III. Establishes a commission to study solid waste management and reduction.

2008-0770h

#### Amendment to HB 1434

**Proposed by the Majority of the Committee on Science, Technology and Energy - R**

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

1 Findings.

I. New Hampshire signed a Memorandum of Understanding (MOU) with 9 other states wherein each state agreed to propose legislation or seek regulatory approval to implement an electric power sector cap and trade program on CO<sub>2</sub> emissions, known as the regional greenhouse gas initiative (RGGI). The MOU outlines the primary elements of RGGI including:

(a) Establishing a total CO<sub>2</sub> emissions allowance cap for the region as well as individual state allowance budgets;

(b) Setting aside a minimum of 25 percent of the state's allowances for consumer benefit and other strategic energy purposes;

(c) The limited use of documented CO<sub>2</sub> emission reductions outside the electric power sector to help with compliance and the expanded use of such reductions when certain price thresholds for allowances are exceeded; and

(d) Cooperation with other states in implementing the RGGI program.

II. RGGI is a modest first step in addressing greenhouse gas emissions consistent with the direction of the New England Governors/ Eastern Canadian Premiers goals and provides leadership in promoting a federal or international plan.

III. According to a recent economic study by the University of New Hampshire, implementation of the regional greenhouse gas initiative is in the best economic interests of New Hampshire and investment in energy efficiency and conservation will help to reduce energy costs for New Hampshire citizens.

IV. For these reasons, the general court supports the implementation of RGGI to achieve CO<sub>2</sub> emissions reductions through an electric power sector cap and trade program that encourages energy conservation and efficiency.

2 New Subdivision; Regional Greenhouse Gas Initiative. Amend RSA 125-O by inserting after section 18 the following new subdivision:

Regional Greenhouse Gas Initiative

125-O:19 Statement of Purpose and Findings. The general court finds that global climate change is a significant environmental problem which could already be contributing to changes in New Hampshire average temperatures, frequency of extreme storm events, number of days with snow cover, timing of spring river flows, and date of spring blooms. Recent studies and scientific evidence indicate that global climate change is caused by a

buildup of natural and manmade greenhouse gases in the atmosphere. Carbon dioxide (CO<sub>2</sub>) is a significant greenhouse gas that contributes to global climate change. Therefore, the purpose of this subdivision is to reduce greenhouse gas emissions resulting from energy use in New Hampshire.

125-O:20 Definitions. In this subdivision:

I. "Affected CO<sub>2</sub> source" means any source with one or more fossil fuel-fired electricity generating units having a nameplate rated capacity equal to or greater than 25 megawatts.

II. "Budget allowances" means those RGGI allowances comprising the state annual budget for CO<sub>2</sub> emissions specified in RSA 125-O:21, II.

III. "Commission" means the public utilities commission.

IV. "Compliance period" means a 3 calendar year time period, unless extended one calendar year by a stage-2 trigger event. The first compliance period is from January 1, 2009 to December 31, 2011, unless a stage-2 trigger event extends the first compliance period to December 31, 2012. Each subsequent sequential 3 calendar year period is a separate compliance period subject to a one-year extension if a stage-2 trigger event occurs during the compliance period. The compliance period shall never be longer than 4 calendar years.

V. "Consumer price index" or "CPI" means the U.S. Department of Labor, Bureau of Labor Statistics unadjusted consumer price index for all urban consumers for the U.S. city average, for all items on the latest reference base, or if such index is no longer published, such other index as the department determines is appropriate. The CPI for any calendar year is the 12-month average of the CPI published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

VI. "Department" means the department of environmental services.

VII. "Early reduction allowances" means allowances provided to affected CO<sub>2</sub> sources for eligible projects undertaken which have the effect of reducing emissions at the affected CO<sub>2</sub> source by an absolute reduction of emissions during calendar years 2006, 2007, and 2008, from a baseline approved by the department, through emission rate improvements or permanently reducing utilization of one or more units at a source.

VIII. "International trading programs" means international programs approved by the department such as the European Emission Trading Scheme (ETS) and offset credits established under the Clean Development Mechanism (CDM) to be used to obtain equivalent RGGI offset allowances.

IX. "Market settling period" means the first 14 months of any compliance period.

X. "Offset allowances" means allowances issued to projects determined to be eligible by the department undertaken outside of the electric power sector to reduce CO<sub>2</sub> or CO<sub>2</sub> equivalent emissions.

XI. "PSNH" means Public Service Company of New Hampshire or any successor to the company's public utility franchise.

XII. "Regional greenhouse gas initiative" or "RGGI" or "RGGI program" means the program to implement the memorandum of understanding (MOU) between signatory states, dated December 20, 2005, as amended on August 8, 2006 and April 20, 2007, and the corresponding model rule to establish a regional CO<sub>2</sub> emissions budget and allowance trading program for emissions from fossil fuel-fired electricity generating units.

XIII. "Regional organization" means a non-profit organization formed by the signatory states to RGGI to provide technical and administrative assistance for such things as: emissions and allowance tracking, offsets development and implementation, allowance market monitoring, and data collection. The organization shall have no regulatory or enforcement authority.

XIV. "Retire" means submitting a RGGI allowance to the department for compliance or other purpose or retaining a RGGI allowance by the department such that the allowance may never be sold or otherwise used again.

XV. "RGGI allowances" means a limited authorization to emit one ton of CO<sub>2</sub> issued by the department or other RGGI signatory state in accordance with this subdivision or the RGGI program and shall include budget allowances, offset allowances, and early reduction allowances.

XVI. "Stage-one trigger event" means a 12-month rolling average CO<sub>2</sub> allowance price that is equal to or greater than \$7 in 2005 dollars, such figure adjusted annually on January 1 of each calendar year according to the consumer price index, but only when such a rolling average price occurs in any 12-month period beginning after the end of the market settling period.

XVII. "Stage-2 trigger event" means a 12-month rolling average CO<sub>2</sub> allowance price that is equal or greater than \$10 in 2005 dollars, such figure adjusted annually on January 1 of each calendar year according to the consumer price index plus 2 percentage points, but only when such a rolling average price occurs in any 12-month period beginning after the end of the market settling period.

125-O:21 Carbon Dioxide Emissions Budget Trading Program.

I. The department shall establish and enforce a CO<sub>2</sub> emissions budget trading program consistent with this subdivision that shall be in substantial accordance with the RGGI program.

II. The program shall include a statewide annual budget allowance of 8,620,460 tons during the years 2009 through 2014. Beginning January 1, 2015 and ending December 31, 2018, the budget shall decline by 215,512 tons per year, resulting in a 10 percent total reduction from the initial budget, after which it shall remain unchanged until further legislative action.

III. The department shall make available for sale at one or more auctions all of the budget allowances for a given year, except for those granted or reserved under RSA 125-O:22, VI, 125-O:24, and 125-O:25. The department may also make available for sale at one or more auctions a portion of future year budget allowances. Such auctions may be conducted in coordination with other states. Revenues from the sale of allowances shall be deposited in the greenhouse gas emissions reduction fund established under RSA 125-O:23.

IV. The department shall grant to affected CO<sub>2</sub> sources early reduction allowances, at no cost, for projects eligible to receive such allowances.

V. The department shall grant offset allowances to owners of eligible offset projects located in New Hampshire.

VI. The department and the commission shall report on an annual basis to the air pollution advisory committee under RSA 125-J:11 and the legislative oversight committee on electric utility restructuring under RSA 374-F:5, on the status of the implementation of RGGI in New Hampshire with emphasis on the prices and availability of RGGI allowances to affected CO<sub>2</sub> sources, and the trends in electric rates for New Hampshire businesses and ratepayers. The report shall include but not be limited to:

(a) The number of allowances sold in the RGGI program and the type of entities purchasing allowances;

(b) The number of unsold allowances in the RGGI program;

(c) The available price data of allowances from the regional auction and secondary markets;

(d) Market monitoring reports;

(e) The CO<sub>2</sub> emissions by affected source, state, and RGGI region;

(f) The spending of revenues from auction allowances by each RGGI state; and

(g) The allocation and spending of the greenhouse gas emissions reduction fund, including associated energy savings and emissions reductions.

VII. The department may establish and enforce the CO<sub>2</sub> emissions budget trading program in cooperation and coordination with other states or countries that are participating in regional, national or international CO<sub>2</sub> emissions trading programs with the same or similar purpose including:

(a) Entering into any agreement or arrangement with the representatives of other states, including the formation of a for-profit or non-profit corporation, any form of association or any other form of organization, in this or another state; and

(b) Participating in any such corporation, association, or organization, and in any activity in furtherance of the purposes of this subdivision, in any capacity including, but not limited to, as directors or officers.

VIII. Any actions taken under this subdivision by the department or the commission shall not constitute a waiver of sovereign immunity and shall not be deemed consent to suit outside of New Hampshire.

125-O:22 Compliance; Permit Required.

I. Each affected CO<sub>2</sub> source shall obtain and retire a quantity of RGGI allowances equivalent to its CO<sub>2</sub> emissions from fossil-fueled fired generation for each compliance period.

II. An affected CO<sub>2</sub> source may use offset allowances for up to 3.3 percent of its compliance obligation, except that in a given compliance period:

(a) If a stage-one trigger event occurs, an affected CO<sub>2</sub> source may use offset allowances for up to 5 percent of its compliance obligation; and

(b) If a stage-2 trigger event occurs, the compliance period shall be extended to 4 years and an affected CO<sub>2</sub> source may use offset allowances for up to 10 percent of its compliance obligation, including offset allowances or credits permanently retired from eligible international trading programs, as approved by the department.

III. Purchasers or acquirers of RGGI allowances may retain unused RGGI allowances without limit. Affected CO<sub>2</sub> sources may use retained RGGI allowances in future compliance periods.

IV. No person shall operate an affected CO<sub>2</sub> source without a temporary or operating permit issued by the department in accordance with this chapter and RSA 125-C. An affected CO<sub>2</sub> source that is in operation upon the effective date of this subdivision, shall submit a complete application for a permit modification to the department no later than January 1, 2009. Applications for permits shall be upon such forms, and shall include such information as the commissioner requires under rules adopted pursuant to RSA 541-A. The commissioner shall act upon a permit application within a reasonable period of time.

V. In addition to the provisions set forth in RSA 125-O:7, an affected CO<sub>2</sub> source that fails to obtain and retire sufficient RGGI allowances during a compliance period, in accordance with RSA 125-O:22, I, shall obtain and surrender 3 RGGI budget or early reduction allowances in the next compliance period for each RGGI allowance that the affected CO<sub>2</sub> source was short in obtaining compliance.

VI. Budget allowances shall be provided to affected CO<sub>2</sub> sources as needed and upon request for CO<sub>2</sub> emissions in periods of operation during which an Operating Procedure 4 capacity deficiency alert is in force as established by the ISO New England Inc. The department shall reserve from auction for such emergency conditions a quantity of allowances equal to one percent of the annual budget allowances which shall be the maximum made available in a given year under this section. The department shall directly sell these allowances to the affected CO<sub>2</sub> sources at the last regional auction clearing price. Those allowances reserved but not sold in a given year as provided in this section shall be auctioned the following calendar year.

VII. Upon recommendation of the commission, the governor with consent of the executive council may declare an emergency supply crisis, and the governor and council may allow affected CO<sub>2</sub> sources to forgo strict compliance with paragraph I for a given compliance period and be given reprieve from any associated penalties, provided that those affected CO<sub>2</sub> sources obtain and retire an additional number of allowances during the next compliance period equivalent to any shortfall in allowances that may have occurred for the compliance period during which the declared emergency was made.

VIII. A distribution company may recover the actual, prudent and reasonable costs of investments in carbon emissions reduction or capture technologies through its default service charge pursuant to RSA 369-B:3, IV(b)(1)(A), provided that the commission first determines that the investment is in the public interest.

125-O:23 Greenhouse Gas Emissions Reduction Fund.

I. There is hereby established a greenhouse gas emissions reduction fund. This nonlapsing, special fund shall be continually appropriated to the public utilities commission to be expended in accordance with this section. The state treasurer shall invest the moneys deposited therein, as provided by law. Income received on investments made by the state treasurer shall also be credited to the fund. All programs supported by these funds shall be subject to audit by the public utilities commission as deemed necessary. A portion of the fund moneys shall be used to pay for commission and department costs to administer this subdivision, including contributions for the state's share of the costs of the RGGI regional organization. Any new employee positions to be paid for using fund moneys shall be approved by the fiscal committee of the general court. The public utilities commission shall transfer from the fund to the department such costs as may be budgeted and expended, or otherwise approved by the fiscal committee and the governor and council, for the department's cost of administering this subdivision.

II. Fund moneys shall be used to support energy efficiency, conservation, and demand response programs to reduce greenhouse gas emissions generated within the state, which may include programs proposed and administered by private entities, as well as by the department, the commission, and other state and local governmental agencies.

III. At least 5 percent of the moneys shall be used to assist low-income residential customers, as defined by the commission and in a manner compatible with other low-income programs administered by the commission, to reduce total energy use including heating fuels.

IV. Notwithstanding paragraphs I, II, and III, all amounts in excess of the threshold prices listed below for any allowance sale made prior to January 1, 2016 that is deposited in the fund shall be rebated to all electric ratepayers in the state on a per-kilowatt-hour basis, in a timely manner, to be determined by the commission. For the following years listed, the threshold price shall be:

- (a) 2009 and 2010, \$12/ton.
- (b) 2011 and 2012, \$13/ton.
- (c) 2013 and 2014, \$14/ton.
- (d) 2015, \$15/ton.
- (e) After 2015, no threshold price.

V. All penalties collected pursuant to this subdivision shall be deposited in the greenhouse gas emissions reduction fund.

VI. In selecting programs to be funded under this section the commission shall consider, at a minimum, the extent to which the proposed program can be expected to:

- (a) Reduce greenhouse gas emissions from all fuels used to provide electricity, heating, and cooling in New Hampshire;
- (b) Be cost-effective;
- (c) Reduce New Hampshire's peak electric load;
- (d) Promote market transformation, innovation, and energy cost savings; and
- (e) Otherwise be consistent with the public interest and the purposes of this subdivision.

125-O:24 Conversion of Allowances.

I. PSNH shall receive credit for allowances received prior to the inception of the RGGI program in the manner described in this section.

II. PSNH shall submit all necessary documentation to the department by January 30, 2009 relative to compliance with RSA 125-O:3, III(d).

III. PSNH shall submit all necessary documentation to the department within 90 days of effective date of this paragraph relative to RSA 125-O:5, III.

IV. As soon as practicable after the start of the program, the department shall determine the number of allowances previously allocated to PSNH under RSA 125-O:3, II or awarded to PSNH under RSA 125-O:5, III, that remain in PSNH's account of CO<sub>2</sub> allowances held by the department as banked allowances, after the company has completed compliance with the emissions cap of RSA 125-O:3, III(d) for the 2007 and 2008 calendar years.

V. At the distribution rate specified in paragraph VI, the department shall grant to PSNH budget allowances, at no cost, equivalent to the total of the banked allowances pursuant to paragraph IV minus the early reduction allowances granted to PSNH under RSA 125-O:21, IV. PSNH shall be obligated to apply for early reduction allowances for any eligible projects it has undertaken. For each budget allowance granted, one banked allowance shall be retired.

VI. The department shall grant budget allowances pursuant to this section as expeditiously as possible, but in no event shall the amount of budget allowances granted pursuant to this section total more than 2.5 million allowances per year in years 2009, 2010, and 2011, 1.5 million allowances in any one year thereafter.

VII. In the event the state no longer participates in the RGGI program due to legislative action or the RGGI program becomes invalid or unenforceable as determined by the department and certified to the secretary of state, the department shall cease granting budget allowances pursuant to paragraphs V and VI. Notwithstanding the other provisions of this section, PSNH shall have no right or claim to receive any additional budget allowances under this section beyond those already granted to it up to that point in time when participation in the program has ceased or the program has become invalid or unenforceable. If this point in time occurs part way through a year, the number of budget allowances given to PSNH for that year shall be pro-rated based on the distribution rate in effect for that year, provided the total amount of allowances calculated pursuant to paragraph IV has not already been granted to PSNH.

VIII. The department shall not grant budget allowances after December 31, 2014 pursuant to this section without legislative authorization to continue the granting of allowances. Notwithstanding the other provisions of this section, PSNH shall have no right or claim to receive any additional budget allowances under this section beyond those already granted by December 31, 2014, should the legislature not authorize continuation of the allowance granting.

IX. All remaining banked allowances held by the department originating from the calculation performed under paragraph IV, shall be retired after the department ceases to grant budget allowance in accordance with paragraph VII or VIII.

125-O:25 Set Aside for Voluntary Purchase of Renewable Energy Certificates.

I. The department shall reserve from auction, for retirement purposes, a quantity of budget allowances, not to exceed one percent of the annual budget, equivalent to the CO<sub>2</sub> emissions reductions associated with renewable energy certificates recognized under RSA 362-F and purchased voluntarily by electricity customers and not resold.

II. Budgeted allowances reserved under paragraph I not retired at the end of each year shall be auctioned the following calendar year.

125-O:26 Auction of Budget Allowances. Any rules adopted by the department relative to auctions, pursuant to RSA 125-O:8, I(d), shall provide that they:

I. Shall be conducted based on the schedule and frequency adopted by the department in consultation with other entities participating in the RGGI program;

II. Shall include the sale of allowances for current and future years to promote transparency and price stability in a manner to be determined by the department in coordination with the regional organization;

III. Shall include auction design elements that minimize allowance price volatility, guard against bidder collusion, and mitigate the potential for market manipulation;

IV. Shall include provisions to address, and to the extent practicable minimize, the potential for allowance market price volatility during the initial control period of the RGGI program;

V. Shall include provisions to ensure the continued market availability of allowances to entities regulated under a greenhouse gas emissions allowance trading program, taking into account the outcomes of auctions and monitoring of the allowance market, which may include the adoption of a flexible process that allows for ongoing modification of auction design and procedures in response to allowance market conditions and allowance market monitoring data, provided that the process allows for public comment and input; and

VI. May be open to all qualified participants, and all qualified participants may sell or otherwise agree to transfer any or all allowances to any eligible entity.

125-O:27 Review of the New Hampshire RGGI Program. At the time of the 2012 comprehensive review by the signatory states as required in the MOU, the commission and the department shall concurrently review New Hampshire specific elements of the RGGI program, in particular 125-O:23, III and 125-O:25 and include the results of such review in the agencies' annual report under RSA 125-O:21, VI.

125-O:28 Cost Recovery. If the owner of an affected CO<sub>2</sub> source is a public utility pursuant to RSA 362:2 that provides electric distribution service pursuant to RSA 374-F, the owner may recover through the utility's default service charge all prudently incurred costs of complying with the requirements of this subdivision in a manner approved by the public utilities commission. In the event PSNH sells an affected CO<sub>2</sub> source, any cost recovery associated with this chapter shall be governed by RSA 369-B:3-a.

3 Carbon Dioxide Cap. Amend RSA 125-O:3, III(d) to read as follows:

(d) 5,425,866 tons annually applicable to total carbon dioxide (CO<sub>2</sub>) emissions from the affected sources until December 31, ~~2010, and after December 31, 2010, a lower cap to be recommended by the department no later than March 31, 2004, with timely consideration by the legislature expected by July 1, 2005~~ **2008**.

4 Emissions Trade and Banking. Amend RSA 125-O:6, I to read as follows:

I. Develop a trading and banking program to provide appropriate compliance flexibility in meeting the emission caps established under RSA 125-O:3, III **and allowance requirements of RSA 125-O:21 and RSA 125-O:22**, and to encourage earlier and greater emissions reductions and the development of new emission control technologies in order to maximize the cost-effectiveness with which the environmental benefits of this chapter are achieved.

5 Rulemaking Authority. Amend RSA 125-O:8 to read as follows:

125-O:8 Rulemaking Authority.

I. The commissioner shall adopt rules under RSA 541-A, commencing no later than 180 days after the effective date of this section, relative to:

~~I.]~~ (a) The establishment of trading and banking programs as authorized by RSA 125-O:6, I.

~~II.]~~ (b) The establishment of a method for allocating allowances and other emissions reduction units or mechanisms as authorized by RSA 125-O:3, II and III.

~~III.]~~ (c) Emissions **and allowance** monitoring, **tracking**, recordkeeping, reporting, and other such actions as may be necessary to verify compliance with this chapter.

(d) **The method and requirements for auctioning budget allowances under RSA 125-O:21, which may use regional organizations.**

(e) **Defining eligible projects for early reduction allowances under RSA 125-O:21, IV, and establishing criteria to quantify and grant such allowances.**

(f) **Defining eligible projects for offset allowances under RSA 125-O:21, V, and establishing criteria to quantify and grant such allowances, including the accreditation of third-party verifiers.**

(g) **The forms and information required on applications for a temporary or operating permit required under RSA 125-O:22.**

**II. The public utilities commission shall adopt rules, under RSA 541-A, to administer the greenhouse gas emissions reduction fund pursuant to RSA 125-O:23.**

6 Compliance dates Amend RSA 125-O:9 to read as follows:

125-O:9 Compliance Dates. The owner or operator of each affected source shall comply with the provisions of this chapter, excluding the subdivision on mercury emissions, RSA 125-O:11 through 125-O:18, **and the subdivision for CO<sub>2</sub> emissions, RSA 125-O:19 through RSA 125-O:28**, by December 31, 2006.

7 Non-Severability. Amend RSA 125-O:10 to read as follows:

125-O:10 Non-Severability. No provision of this chapter shall be implemented in a manner inconsistent with the integrated, multi-pollutant strategy or this chapter [~~in its entirety~~], and to this end, the provisions of this chapter are not severable, **with the exception of RSA 125-O:19-28, which if found to be invalid by a court of law, such invalidity shall not affect the integrity of the multiple pollutant program provisions in RSA 125-O:1-18 that precede and predate RSA 125-O:19-28.**

8 New Subparagraph; Application of Receipts; State Treasurer. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:

(269) Moneys deposited in the greenhouse gas emissions reduction fund established in RSA 125-O:23.

9 New Section; Energy Conservation and Efficiency Board. Amend RSA 125-O by inserting after section 5 the following new section:

125-O:5-a Energy Conservation and Efficiency Board.

I. An energy conservation and efficiency board is hereby created to seek opportunities to coordinate energy efficiency and demand response programs in the state. The board's duties shall include but not be limited to:

(a) Review available energy efficiency and conservation programs and incentives and compile a report of available efficiency and conservation resources in New Hampshire.

(b) Develop a plan to achieve the state's energy efficiency potential for all fuels, including setting goals and targets for energy efficiency that are meaningful and achievable.

(c) Provide written advice at least annually to the public utilities commission on the administration and allocation of energy efficiency funds under the commission's jurisdiction.

(d) Explore opportunities to coordinate programs targeted at saving more than one fuel resource, including coordination between the natural gas and other programs or projects which seek to reduce the use of other fuels.

(e) Develop tools to enhance outreach and education programs to increase knowledge about energy efficiency among New Hampshire residents and businesses.

(f) Expand upon the state government's efficiency programs to ensure that the state is providing leadership on energy efficiency, reducing its use of energy, and reducing the state's fuel costs.

(g) Encourage municipalities to increase investments in energy efficiency through financing tools, and to create municipal energy committees.

(h) Work with community action agencies and the office of energy and planning to explore ways to ensure that all customers participating in programs for low-income customers and the Low Income Home Energy Assistance Program (LIHEAP) have access to energy efficiency improvements in order to reduce their energy bills.

(i) Investigate potential sources of funding for energy efficiency and delivery mechanisms for such programs, coordinate efforts between funding sources to reduce duplication and enhance collaboration, and review investment strategies to increase access to energy efficiency.

II. The members of the board shall be as follows:

(a) The chairman of the public utilities commission, or designee.

(b) The director of the office of energy and planning, or designee.

(c) The consumer advocate, or designee.

- (d) The commissioner of the department of environmental services, or designee.
- (e) The commissioner of the department of resources and economic development, or designee.
- (f) The president of the Business and Industry Association of New Hampshire, or designee.
- (g) The executive director of the New Hampshire Municipal Association, or designee.
- (h) A representative of energy services companies delivering energy efficiency services to residential and business customers, appointed by the chairman of the public utilities commission.
- (i) The executive director of New Hampshire Legal Assistance, or designee.
- (j) The president of the Homebuilders and Remodelers Association of New Hampshire, or designee.
- (k) Two members of the house science, technology and energy committee appointed by the speaker of the house of representatives.
- (l) One member of the senate energy, environment and economic development committee, appointed by the president of the senate.
- (m) Three representatives from groups representing energy, environmental, consumer, and public health issues and knowledgeable in energy conservation policies and programs, appointed by the chairman of the public utilities commission.
- (n) One representative from the investment community with expertise in efficiency investments and financing, appointed by the chairman of the public utilities commission.
- (o) One representative from each of the utility-administered electric and natural energy efficiency programs, appointed by the chairman of the public utilities commission.

III. The chairman of the public utilities commission shall call the first meeting of the board. The board shall elect a chairperson from among its members. The board shall make an annual report on December 1 to the governor, the speaker of the house of representatives, the president of the senate, the house science, technology and energy committee, the senate energy, environment and economic development committee, and the public utilities commission, to provide an update on its activities and recommendations for action.

IV. No member of the board shall vote on a matter in which the member, or the organization or entity represented by or employing the member, has a direct financial interest.

10 Repeal. RSA 125-O:5, III, relative to emissions allowances to PSNH for energy efficiency, new renewable energy projects, or conservation and load management projects, is repealed.

11 Contingency. If HB 1561 of the 2008 legislative session becomes law, section 9 of this act shall not take effect. If HB 1561 does not become law, section 9 of this act shall take effect October 1, 2008.

12 Effective Date.

I. Section 9 of this act shall take effect as provided in section 11 of this act.

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

**AMENDED ANALYSIS**

This bill authorizes a cap-and-trade program for CO<sub>2</sub> emissions pursuant to the regional greenhouse gas initiative.

This bill also establishes an energy conservation and efficiency board.

2008-0690h

**Amendment to HB 1435**

**Proposed by the Committee on Education - R**

Amend the bill by replacing sections 2-3 with the following:

2 New Paragraph; School Boards; Food and Nutrition Programs. Amend RSA 189:11-a by inserting after paragraph VII the following new paragraph:

VIII.(a) School districts shall ensure that food sold to pupils as part of the school meals program complies with the United States Department of Agriculture National School Lunch Program/School Breakfast Program guidelines for school meals.

(b) During breakfast and lunch periods, a public school shall be encouraged to sell foods as complete reimbursable meals in compliance with the federal meals program guidelines. This subparagraph shall not prohibit the sale of fruit, nonfried vegetables, legumes, beverages, dairy products, or grain products as individual food items if they meet the requirements set forth in subparagraph (a).

(c) For food and beverages made available through other school venues, the state shall adopt the current Institute of Medicine Nutrition Standards. The New Hampshire Coordinated School Health Council shall develop a definitions page for dissemination to schools to assist with implementation guidelines and shall create a science-based exceptions list of foods that are nutrient dense but exceed the Institute of Medicine standards. This shall not supersede any current or future federally approved national nutrition standards.

(d) These nutrition standards will apply to all foods outside of the school meals program made available to pupils from the beginning to the end of the school day and shall be implemented in the following manner:

(1) A la carte sales and vending machines beginning in school year 2008-2009.

(2) Snack bars and school stores beginning in school year 2010-2011.

(e) School-associated groups or other members of the school community sponsoring food related activities shall be encouraged to follow the nutrition standards whenever possible.

(f) The individual responsible for oversight and enforcement of the school wellness policy shall be responsible for monitoring the implementation of this paragraph.

3 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill implement procedures for the sale of food and beverages in public schools.

2008-0682h

#### **Amendment to HB 1436**

#### **Proposed by the Majority of the Committee on Labor, Industrial and Rehabilitative**

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

1 New Paragraph; Resolution of Disputes. Amend RSA 273-A:12 by inserting after paragraph VI the following new paragraph:

VII. For collective bargaining agreements entered into after the effective date of this section, if the impasse is not resolved at the time of the expiration of the parties' agreement, the terms of the collective bargaining agreement shall continue in force and effect, including but not limited to the continuation of any pay plan included in the agreement, until a new agreement shall be executed.

2 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill requires the continuation of the terms of a collective bargaining agreement if an impasse between public employers and employees is not resolved.

2008-0462h

#### **Amendment to HB 1441-LOCAL**

#### **Proposed by the Committee on Municipal and County Government - R**

Amend RSA 21:28, II as inserted by section 1 of the bill by replacing it with the following:

**II. The words “selectwoman,” “selectperson,” and “select board” may be used interchangeably with “selectman” in all instances, where appropriate.**

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

**AMENDED ANALYSIS**

This bill authorizes the use of the terms “selectwoman,” “selectperson,” and “select board” when appropriate.

2008-0568h

**Amendment to HB 1447-FN**

**Proposed by the Committee on Health, Human Services and Elderly Affairs - C**

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

1 Definitions; Work Incentive Program. Amend RSA 167:6, IX to read as follows:

IX. For purposes hereof, a person with a disability between 18 and 64 years of age who is eligible to participate in the work incentive program, **known as Medicaid for employed adults with disabilities (MEAD)**, shall be eligible for medical assistance as medically needy or categorically needy. The department of health and human services shall establish a sliding fee scale for participants to contribute to the cost of **such** medical assistance. Participants in the [~~work incentive~~] **MEAD** program shall be employed at the time of enrollment, **and may remain enrolled during temporary unemployment for medical reasons or other good cause.**

2 Rulemaking; Reference to Medicaid for Employed Adults with Disabilities Added.

Amend RSA 167:3-c, XII to read as follows:

XII. The **MEAD** work incentive program under RSA 167:6, IX **and RSA 167:3-i** as follows:

- (a) Eligibility for the program, including medical need and asset and income limits.
- (b) Participant employment requirements.
- (c) Premiums to be paid by participants, on a sliding fee scale based on the net income of program participants.
- (d) Termination of participation for nonpayment of premium or other good cause.
- (e) Requirements that the participant disclose any employer-sponsored health insurance available to the participant.

3 New Section; MEAD Work Incentive Program. Amend RSA 167 by inserting after section 3-h the following new section:

167:3-i MEAD Work Incentive Program.

I. Pursuant to section 1902(a)(10)(A)(ii)(XV) of the Social Security Act, 42 U.S.C. section 1396a(a)(10)(A)(ii)(XV), the department of health and human services shall establish and administer a work incentive program, known as Medicaid for employed adults with disabilities (MEAD). The purpose of the program shall be to ensure the availability of long-term supports to workers with disabilities who are medically eligible for Medicaid, enabling them to maximize their employment potential and financial independence and prevent impoverishment and dependence upon cash assistance programs.

II. In addition to the requirements of RSA 167:6, IX, the MEAD program shall:

- (a) Exclude from consideration resources accumulated from earnings, including interest earned by the resource, by a MEAD-eligible individual beginning on or after the date of eligibility through the period of MEAD eligibility and kept in a separate account from other resources, when determining future eligibility for other medical assistance programs.
- (b) Provide continued eligibility during periods of temporary unemployment provided that the individual is unable to work for medical reasons but is likely to return to work, or the individual becomes unemployed for other good cause and is actively seeking employment.
- (c) Define employment for eligibility purposes in a manner that permits a self-employed individual to earn less than the federal minimum wage.

(d) Permit individuals who are eligible for home and community-based care waiver services and who qualify for a special income limit, to receive medical assistance through the MEAD program, if they so choose, even if their total income is between the standard of need and the special income limit.

(e) Provide notice and an opportunity for a fair hearing in the event of any adverse action affecting eligibility for or enrollment in the MEAD program.

(f) Establish oversight and enforcement procedures to prevent fraud and to assure that participants are consistently engaging in gainful employment.

4 Effective Date. This act shall take effect 60 days after its passage.

2008-0726h

#### **Amendment to HB 1457**

##### **Proposed by the Committee on Commerce - R**

Amend the title of the bill by replacing it with the following:

AN ACT allowing smoking in cigar bars.

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

1 New Paragraph; Definition Added. Amend RSA 155:65 by inserting after paragraph I the following new paragraph:

I-a. "Cigar bar" means an establishment that occupies exclusively an enclosed indoor space that is engaged in the retail sale of cigar products for consumption on the premises, or other legally acceptable places, and derives revenue from the sale of food, alcohol, and other beverages for consumption on the premises, prohibits entry to a person under the age of 18, and holds a tobacco retailers license as required by RSA 78:2.

2 New Paragraph; Indoor Smoking Act; Exemption Added. Amend RSA 155:67 by inserting after paragraph XI the following new paragraph:

XII. Cigar bars where more than 60 percent of total business income is derived from cigar-related products.

3 New Paragraph; Written Policies. Amend RSA 155:68 by inserting after paragraph IV the following new paragraph:

V. Written policies shall require employers to have all employees working in cigar bars to sign a form which clearly states the potential dangers of inhaling second-hand smoke and that the employee chooses to work in such cigar bar. Such forms shall be kept on file with the employee's records. Any employer who fails to comply with this paragraph shall be subject to the penalty under RSA 155:76.

4 Effective Date. This act shall take effect January 1, 2009.

#### **AMENDED ANALYSIS**

This bill allows smoking in cigar bars where 60 percent of total business income is derived from cigar-related products.

2008-0633h

#### **Amendment to HB 1458**

##### **Proposed by the Committee on Environment and Agriculture - C**

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

1 New Section; Hauling and Stop Charges. Amend RSA 184 by inserting after section 110 the following new section:

184:111 Hauling and Stop Charges.

I. "Hauling and stop charges of milk" means those costs incurred in the process of picking up the milk from the milk producer and hauling or delivering the milk from the milk producer to the milk processor.

II. Hauling and stop charges of milk loaded at the farm shall not be charged back to the selling milk producer. No additional charges shall be made and no costs may be shifted from other benefits the farmer receives to contravene the purpose of this section. No funds

shall be transferred away from the milk producer in paid producer differentials or any premiums the farmer would receive, but for this section.

III. The commissioner may adopt rules pursuant to RSA 541-A relative to implementing the cessation of hauling and stop charges to the milk producer.

2 Effective Date. This act shall take effect July 1, 2009.

2008-0609h

**Amendment to HB 1469**  
**Proposed by the Majority of the Committee on Labor, Industrial and**  
**Rehabilitative Services - R**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the definition of public employee terms and conditions of employment.

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

1 Definitions. Amend RSA 273-A:1, XI to read as follows:

XI. "Terms and conditions of employment" means wages, hours, and other conditions of employment, *including matters directly related to safety considerations*, other than managerial policy within the exclusive prerogative of the public employer, or confided exclusively to the public employer by statute or regulations adopted pursuant to statute. The phrase "managerial policy within the exclusive prerogative of the public employer" shall be construed to include but shall not be limited to the functions, programs and methods of the public employer, including the use of technology, the public employer's organizational structure, and the selection, direction and number of its personnel, so as to continue public control of governmental functions.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill adds safety considerations to terms and conditions of employment.

2008-0445h

**Amendment to HB 1470**

**Proposed by the Committee on Criminal Justice and Public Safety - C**

Amend RSA 265-8:a, II(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Whenever there exists the probability of a high speed pursuit extending into another jurisdiction, the dispatcher or, if no dispatcher, the supervising officer in charge shall attempt to make radio notification to the other jurisdiction and the potential for the pursuit to enter their jurisdiction. If the pursuit enters a jurisdiction different from the jurisdiction from which it began, the entered jurisdiction shall have the authority consistent with its policies to order the termination of the high speed pursuit. For purposes of this section, the state police and sheriffs' departments are considered to have statewide jurisdiction.

2008-0711h

**Amendment to HB 1472**

**Proposed by the Majority of the Committee on Municipal and County Government**  
**- R**

Amend the bill by replacing section 2 with the following:

2 New Subdivision; Workforce Housing Opportunities. Amend RSA 674 by inserting after section 57 the following new subdivision:

Workforce Housing

674:58 Definitions. In this subdivision:

I. "Affordable" means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income.

II. “Multi-family housing” means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household.

III. “Reasonable and realistic opportunities for the development of workforce housing” means opportunities to develop economically viable workforce housing within the framework of a municipality’s ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are reasonable and realistic. If the ordinances and regulations of a municipality make the development of workforce housing sufficient to satisfy the municipality’s obligation under RSA 674:59 feasible, and such development is not unduly inhibited by natural features, the municipality shall not be in violation of its obligation under RSA 674:59 by virtue of economic conditions beyond the control of the municipality that affect the economic viability of workforce housing development.

IV. “Workforce housing” means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. “Workforce housing” also means rental housing, which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

#### 674:59 Workforce Housing Opportunities.

I. In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including multi-family workforce housing. In order to provide such realistic opportunities, lot size and overall density requirements for workforce housing shall be reasonable

II. A municipality shall not fulfill the requirements of this section by adopting voluntary inclusionary zoning provisions that rely on inducements that render workforce housing developments economically unviable.

III. A municipality that adopts land use ordinances and regulations shall allow, in its discretion, workforce housing to be located in a majority of, but not necessarily all, land areas in districts zoned to permit residential uses within the municipality.

IV. A municipality’s existing housing stock shall be taken into consideration in determining its compliance with this section. If a municipality’s existing housing stock is sufficient to accommodate its fair share of the current and reasonably foreseeable regional need for such housing, it shall be deemed to be compliant with paragraph I.

V. Paragraph I shall not be construed to require municipalities to allow workforce housing that does not meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

#### 674:60 Appeals.

I. Any person whose application to develop workforce housing is denied or is approved with conditions or restrictions which have a substantial adverse effect on the viability of the proposed workforce housing development may appeal the municipal action to the superior court under RSA 677:4 or RSA 677:15 seeking permission to develop the proposed workforce housing. The petition to the court shall set forth how the denial is due to the municipality’s failure to comply with the workforce housing requirements of RSA 674:59 or how the conditions or restrictions of approval otherwise violate such requirements.

II. A hearing on the merits of the appeal shall be held within 6 months of the date on which the action was filed unless counsel for the parties agree to a later date, or the court so orders for good cause. If the court determines that it will be unable to meet this requirement, at the request of either party it shall promptly appoint a referee to hear the appeal within 6 months. Referees shall be impartial, and shall be chosen on the basis of qualifications and experience in planning and zoning law.

2008-0627h

**Amendment to HB 1483**

**Proposed by the Minority of the Committee on Education - C**

Amend RSA 189:11-c as inserted by section 1 of the bill by replacing it with the following:

189:11-c Instruction in Internet Safety. In all public schools in the state, age appropriate instruction shall be provided to all pupils on the safe and appropriate use of the Internet. Such instruction shall be incorporated into the curriculum of all public elementary and secondary schools. The department of education shall issue guidelines to school districts regarding instructional programs related to Internet safety. The local school board shall ensure the implementation of Internet instruction in all schools within its jurisdiction.

2008-0533h

**Amendment to HB 1484**

**Proposed by the Committee on Executive Departments and Administration - C**

Amend subparagraph I(f) of section 2 of the bill by replacing it with the following:

(f) A representative of the New Hampshire Association of Chain Drug Stores who is associated with a chain of drug stores that have retail clinics, appointed by such association.

Amend paragraph I of section 2 of the bill by inserting after subparagraph (g) the following new subparagraph:

(h) A representative of the New Hampshire Hospital Association, appointed by the association.

2008-0458h

**Amendment to HB 1487**

**Proposed by the Committee on Health, Human Services and Elderly Affairs - R**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study practice by advanced dental hygiene practitioners and ways to increase access to oral health care.

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

1 Committee Established. There is established a committee to study practice by advanced dental hygiene practitioners and ways to increase access to oral health care.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

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

II. The committee shall solicit information from any agency, person, or entity the committee deems relevant to its study.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The committee shall study practice by advanced dental hygiene practitioners (ADHP) and shall study various models currently being proposed by the American Dental Association, the American Dental Hygienists Association, and other national and state groups to increase access to oral health care. The committee shall ascertain the fiscal and programmatic impacts on New Hampshire Medicaid dental programs.

4 Chairperson; Meetings. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

6 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill establishes a committee to study practice by advanced dental hygiene practitioners and ways to increase access to oral health care.

2008-0634h

#### Amendment to HB 1492

**Proposed by the Committee on Health, Human Services and Elderly Affairs - C**  
Amend RSA 318-B:9, IV as inserted by section 1 of the bill by replacing it with the following:

IV. No prescription shall be filled for more than a 34-day supply [~~or 100 dosage units, whichever is less,~~] upon any single filling for controlled drugs of schedules II or III; provided, however, that ***for controlled drugs, in schedules II or III, that are commercially packaged for dispensing directly to the patient, such as metered sprays and inhalers, liquids packaged in bottles with calibrated droppers, and certain topical preparations packaged with metered dispensing pumps may be filled for greater than a 34-day supply, but not more than 60 days, utilizing the smallest available product size, in order to maintain the dosing integrity of the commercially packaged containers; and, provided that*** with regard to amphetamines and methylphenidate hydrochloride, a prescription may be filled for up to a 60-day supply if either such prescription specifies it is being used for the treatment of attention deficit disorder, attention deficit disorder with hyperactivity, or narcolepsy.

#### AMENDED ANALYSIS

This bill allows prescriptions for certain controlled drugs to be filled for more than a 34-day supply.

This bill also removes the limitation of 100 dosage units from current law.

2008-0657h

#### Amendment to HB 1493

**Proposed by the Committee on Public Works and Highways - C**  
Amend the bill by replacing section 1 with the following:

1 Members Specified. Amend 2007, 207:2, I(a) and (b) to read as follows:

(a) Three members of the house of representatives, ***including one member of the public works and highways committee, one member of the finance committee, and one member of the ways and means committee,*** appointed by the speaker of the house of representatives.

(b) Three members of the senate, ***including one member of the finance committee, one member of the ways and means committee, and one member of the transportation and interstate cooperation committee,*** appointed by the president of the senate.

2008-0748h

#### Amendment to HB 1502-FN

**Proposed by the Committee on Environment and Agriculture - R**  
Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Educational Program. Amend RSA 149-M:27 by inserting after paragraph IV the following new paragraph:

V. The department shall cooperate with other departments, groups, and organizations interested in developing an educational program and materials designed to educate the public about the safe disposal of needles, syringes, and other similar medical instruments.

2 Refuse Reduction; Disposal of Needles. RSA 149-M:27, V is repealed and reenacted to read as follows:

V.(a) No person shall place any needles, syringes, or other medical instruments that are capable of puncturing the skin for the delivery of medication in any container used for the collection of solid waste, recyclable materials, construction and demolition debris, or compost.

(b) Any person who disburses, within this state, needles, syringes, or other medical instruments that are capable of puncturing the skin for the delivery of medication shall participate in a take-back disposal program for needles, syringes, and other similar medical instruments which is approved by the department.

(c) Any person who violates this paragraph may be subject to the penalties and enforcement provisions of RSA 149-M:16.

(d) The department shall cooperate with other departments, groups, and organizations interested in developing an educational program and materials designed to educate the public about the safe disposal of needles, syringes, and other similar medical instruments.

3 Effective Date.

I. Section 2 of this act shall take effect July 1, 2009.

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

#### AMENDED ANALYSIS

This bill:

I. Prohibits the disposal of medical needles in waste collection containers effective July 1, 2009.

II. Requires any person who disburses needles, syringes, or other similar medical instruments to participate in a take-back program approved by the department of environmental services effective July 1, 2009.

III. Requires the department of environmental services to develop an educational program to educate the public about the safe disposal of needles, syringes, or other similar medical instruments.

2008-0729h

#### **Amendment to HB 1505-FN**

**Proposed by the Committee on Health, Human Services and Elderly Affairs - C**  
Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Birth Conditions Registry. Amend RSA by inserting after chapter 141-I the following new chapter:

#### CHAPTER 141-J

#### BIRTH CONDITIONS PROGRAM

141-J:1 Birth Conditions Program Authorized. The department of health and human services may establish and maintain a statewide, population-based public health surveillance program on birth conditions, to be known as the New Hampshire birth conditions program if established. The program shall:

I. Determine the prevalence and trends of birth conditions among New Hampshire residents.

II. Develop and assess prevention strategies relating to birth conditions.

III. Promote scientific collaboration through data analysis, investigations, and epidemiological studies on the public health impact of birth conditions and possible cause of

birth conditions, including exposure to environmental or occupational hazards, maternal and stillborn fetal conditions, and illnesses or complications during pregnancy, labor, or delivery.

141-J:2 Definitions. In this chapter:

I. "Birth condition" means one or more of the birth conditions listed in the "Guidelines for Conducting Birth Defects Surveillance" established by the National Birth Defects Prevention Network.

II. "Commissioner" means the commissioner of the department of health and human services.

III. "Department" means the department of health and human services.

IV. "Health information" means: vital records, hospital discharge data, parental, stillborn fetal, pediatric, or infant medical records, hospital or clinic records, results of genetic tests relating to birth conditions in infants, children, or fetal death reports indicating the birth conditions only but not the tests themselves or any other information therefrom, laboratory reports, and infant, pediatric, or stillborn fetal autopsy reports.

V. "Individually identifiable health information" means health information that explicitly or by implication identifies the individual who is the subject of the information including names, street addresses, birth dates, death dates, admission or discharge dates, telephone numbers, facsimile numbers, electronic mail addresses, social security numbers, medical record numbers, health plan beneficiary numbers, account numbers, certificate/license numbers, biometric identifiers, including finger and voice prints, genetic tests, facial photographic or other images, any other unique identifying number, characteristic, or code.

141-J:3 Program Access to Health Information.

I. Health care providers, health care facilities, clinics, laboratories, medical records departments, and state offices, agencies, and departments shall allow the program to have access to individually identifiable health information relating to the occurrence of birth conditions in children, infants, or stillborn fetuses. The program may acquire the same information relating to New Hampshire residents from health care facilities, birth conditions surveillance programs, and other sources in other states. The program shall not provide individually identifiable health information relating to New Hampshire residents to any similar program operated by any other state or the federal government.

II. Except as otherwise provided in this chapter, no health care provider, health care facility, clinic, laboratory, medical records department, or state office, agency, or department shall be held liable in any action for civil damages for providing the department or the program with access to individually identifiable health information authorized by paragraph I.

141-J:4 Program Ability to Share Data. Program staff and authorized department employees, agents, and contractors may use or disclose individually identifiable health information solely for the purposes specified in RSA 141-J:1. Such uses or disclosures shall be limited to the minimum amount of individually identifiable health information necessary to further such purposes.

141-J:5 Election Not to Participate in the Program.

I. An individual who is the subject of individually identifiable health information may elect not to participate in the program. If the individual is a minor or is legally incompetent, the individual's parent or legal guardian may so elect on the individual's behalf.

II. The program shall notify each individual whose individually identifiable health information it proposes to include in the program of the election prior to obtaining any individually identifiable health information relating to the individual, other than name and address and diagnosis beyond 60 days.

III. The notices required by paragraph II shall be in writing, on a form developed and revised from time to time by the commissioner. At a minimum, the notice shall:

- (a) Be written in clear, plain language.
- (b) Contain the following:

- (1) A statement explaining the nature and purpose of the program.
- (2) A statement of the election in paragraph I and in RSA 141-J:6, I.
- (3) Contact information for the program.
- (4) A place for the individual to sign and date.

IV. If an individual elects not to participate in the program, the program shall acknowledge in writing that it has received and will honor the election.

V. If the program has notified an individual pursuant to paragraphs II or III, and within 60 days of providing such notice has not received the individual's election not to participate in the program, the program may obtain access to, or retain, as the case may be, individually identifiable health information relating to the individual.

VI. The program shall not acquire, retain, use or disclose individually identifiable health information, including birth condition, with respect to those individuals who have elected not to participate in the program under paragraph I or RSA 141-J:6, I. The program shall retain a list of those individuals who have elected not to participate in the program and the dates of such elections but shall not disclose this information to any other entity.

141-J:6 Rights of Individuals. An individual with respect to whom the program retains individually identifiable health information may:

I. Elect at any time not to participate in the program. Upon such election, the program shall remove any individually identifiable health information relating to the individual.

II. Review any individually identifiable health information in program records relating to the individual.

III. Upon payment of any reasonable costs involved, obtain a copy of any individually identifiable health information in program records relating to the individual.

IV. Request amendments or corrections to the individual's individually identifiable health information in program records.

V. Prohibit the release of individually identifiable health information in program records relating to the individual.

VI. Review and, upon payment of any reasonable costs involved, obtain a copy of the list of persons given access to individually identifiable health information relating to the individual.

141-J:7 Program Records Not Public Records. Any individually identifiable health information acquired, used, disclosed, or retained by the program shall not constitute a public record. The names and addresses of individuals who have elected not to participate in the program shall not be a public record. No individually identifiable health information retained by the program shall be discoverable or compelled to be produced pursuant to subpoena or compelled testimony in any legal proceeding without the written authorization of the person about whom the information relates. Analyses and compilations of data that do not disclose individually identifiable health information shall be available to the public under RSA 91-A.

141-J:8 Privacy and Confidentiality Protections.

I. Any person allowed access to individually identifiable health information in program records shall sign a confidentiality agreement, in a form specified by the department, requiring adherence to privacy and security protections equivalent to or greater than the protections provided in this chapter.

II. The department shall maintain a list of any persons other than program staff given access to individually identifiable health information. The list shall include:

- (a) The name of the person authorizing access.
- (b) The name, title, and organizational affiliation of each person given access.
- (c) The date of access.
- (d) The specific purpose for which the information was used.

III. Individually identifiable health information in the records of the program may be retained for 18 years or, if the information relates to a minor, until the individual reaches

the age of 18. Thereafter, the program may use and retain the information only in a form where an individual's identity cannot be discerned.

141-J:9 Rulemaking. The commissioner of the department of health and human services may adopt rules under RSA 541-A concerning the following:

I. The form and manner through which information shall be made available to and by the program under RSA 141-J:3 and 4.

II. The election procedure pursuant to RSA 141-J:5.

III. The rights of individuals under RSA 141-J:6.

IV. The privacy and confidentiality protections under RSA 141-J:8.

141-J:10 Penalties.

I. Any person who violates the provisions of this chapter is guilty of a class B misdemeanor.

II. An individual harmed by a person violating this chapter may bring a civil action against the person and, if successful, shall be awarded the greater of actual damages or liquidated damages of \$2,500 for each violation, reasonable attorneys' fees and other litigation costs reasonably incurred, and such other equitable relief as the court determines to be appropriate.

141-J:11 Advisory Panel. If the department establishes or maintains the New Hampshire birth conditions program, the department shall establish an advisory panel for the program. The panel shall provide technical guidance regarding the operation of the program and such assistance as needed to carry out the program's goals. The panel shall include representatives from:

I. Health care services.

II. Persons or agencies that may use program data in discharging duties or undertaking research.

III. The New Hampshire March of Dimes and other organizations concerned with birth conditions.

IV. Parents of children with birth conditions and adults with birth conditions.

2 Conditions of Genetic Testing. Amend RSA 141-H:2, III to read as follows:

III. Except as provided in paragraph II, ***or authorized by RSA 141-J***, no person shall disclose to any other person that an individual has undergone genetic testing, and no person shall disclose the results of such testing to any other person, without the prior written and informed consent of the individual, the parent, guardian, or custodian if the individual is a minor under the age of 18, or the legal guardian or conservator if the individual is an incompetent person. Discussion and disclosure of genetic testing for a patient, requested of a physician by a patient, by appropriate professionals within a physician's medical practice or hospital shall not be a violation of this chapter.

3 Effective Date. This act shall take effect upon its passage.

2008-0699h

#### **Amendment to HB 1513-FN**

**Proposed by the Committee on Health, Human Services and Elderly Affairs - C**  
Amend RSA 126-A:5, XVII as inserted by section 1 of the bill by replacing it with the following:

XVII. The commissioner shall develop an evidence-based prescription drug education program designed to provide health care providers who are licensed to prescribe or dispense prescription drugs with information and education on the therapeutic and cost-effective utilization of prescription drugs. The commissioner shall develop this program in collaboration with area health education centers programs administered by Dartmouth Medical School, the Medicaid medical director, and any organization in New Hampshire or other state that he or she shall see fit to consult. The commissioner may seek grants and financial gifts from non-profit charitable foundations to cover planning and development of

this program. The commissioner shall present a progress report on the development of the program to the oversight committee on health and human services by November 1, 2008.

2008-0350h

**Amendment to HB 1520-FN**

**Proposed by the Committee on Executive Departments and Administration - C**

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Retirement; Creditable Service; Peace Corps. Amend RSA 100-A:4 by inserting after paragraph VII the following new paragraph:

VIII. Any employee, teacher, permanent policeman, or permanent fireman who has completed at least 5 years of service and who terminates his or her employment in order to enter directly into the Peace Corps, shall be entitled to service credit for the period of such Peace Corps service, provided he or she again becomes employed within a year after the termination of such service, unless he or she is prevented from such reemployment by virtue of disability incurred during the period of such Peace Corps service, and provided further that he or she elects to make, and makes within a period of time equal to 3 times the length of time of such service, but not more than 5 years, all payments of the total actuarial cost to the system. The actuarial cost shall be the product of the member's annual rate of compensation at the time of buy-in, multiplied by the sum of the member and employer contribution rates in effect with respect to the member at the time of buy-in, multiplied by the number of years of Peace Corps service credit bought. The member's payment shall be credited to the member annuity savings fund. Not more than 2 years of Peace Corps services shall be eligible for service credit under this paragraph, provided that no member shall be permitted to purchase such credit if the member has purchased other permissive service credit, as defined in Internal Revenue Code section 415(n), when the total of purchased Peace Corps service credit and other permissive service credit exceeds 5 years. Creditable service purchased under this paragraph shall not be used for the purpose of eligibility for medical and surgical benefits as a retired employee under RSA 21-I:30, RSA 100-A:52, RSA 100-A:52-a, or RSA 100-A:52-b.

2008-0384h

**Amendment to HB 1533**

**Proposed by the Committee on Executive Departments and Administration - C**

Amend the bill by replacing section 2 with the following:

2 Investment of Funds. Amend RSA 6:8 to read as follows:

6:8 Investment of Funds. All funds over which the state has exclusive control, aside from such sums of money as the treasurer may deem necessary to hold or deposit for meeting current expenses, shall be invested by the treasurer, with the approval of the governor and council, in obligations of the United States government, in obligations of any county government, municipal government, or district or division thereof within the state of New Hampshire, in obligations which are legal investments for savings banks ~~[and trust companies, in all types of savings accounts,]~~ **pursuant to RSA 387**, in participation units in the public deposit investment pool established pursuant to RSA 383:22, ~~[in certificates of deposit of state or federally chartered banking institutions within New Hampshire, or in certificates of deposit of national banks within the commonwealth of Massachusetts]~~ **or in deposits, including money market accounts, or certificates of deposit, or repurchase agreements, and all other types of interest bearing accounts, of federally insured banks chartered under the laws of New Hampshire or the federal government with a branch within the state.**

Amend the bill by replacing section 18 with the following:

18 Duties of County Treasurers. Amend RSA 29:1 to read as follows:

29:1 Duties.

**I.** The county treasurer shall have custody of all moneys belonging to the county, and shall pay out the same only upon orders of the commissioners. The county treasurer shall deposit the same in participation units in the public deposit investment pool established pursuant to RSA 383:22, or in ~~[solvent banks in the state,]~~ ***federally insured banks chartered under the laws of New Hampshire or the federal government with a branch within the state,*** except that funds may be deposited in ***federally insured*** banks outside the state if such banks pledge and deliver to a third party custodial bank or the regional federal reserve bank collateral security for such deposits~~;~~ ***of the following types:***

- (a) United States government obligations,
- (b) United States government agency obligations~~;~~; or
- (c) Obligations of the state of New Hampshire in value at least equal to the

amount of the deposit in each case.

**II.** The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus.

**III.** The county treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the county treasury, and of all notes given by the county, with the particulars thereof. At the close of each fiscal year, the county treasurer shall make a report to the county, giving a particular account of all the treasurer's financial transactions during the year. The treasurer shall furnish to the commissioners statements from the books, and submit the books and vouchers to them and to the county auditors for examination, whenever so requested.

**IV.** Whenever the county treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the treasurer shall, with the approval of the commissioners, invest the same in obligations of the United States government, in participation units in the public deposit investment pool established pursuant to RSA 383:22, ***or in [savings bank] deposits, including money market accounts, or certificates of deposit, or repurchase agreements, and all other types of interest bearing accounts, of federally insured banks [incorporated] chartered*** under the laws of the state of New Hampshire or ~~[in certificates of deposits and repurchase agreements of banks incorporated under the laws of the state of New Hampshire or in banks recognized by the state treasurer]~~ ***the federal government with a branch within the state.*** Any person who directly or indirectly receives any such funds or moneys for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment, an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the county. Only securities defined by the bank commissioner in rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. At least yearly, the county treasurer, with the approval of the county commissioners, shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes. Amend the bill by replacing section 20 with the following:

20 School Districts; Treasurer's Duties. Amend RSA 197:23-a to read as follows:  
197:23-a Treasurer's Duties.

**I.** The treasurer shall have custody of all moneys belonging to the district and shall pay out the same only upon orders of the school board or upon orders of the 2 or more members of the school board empowered by the school board as a whole to authorize payments. The treasurer shall deposit the moneys in participation units in the public deposit investment pool established pursuant to RSA 383:22, or in ~~[solvent banks in the state]~~ ***federally insured banks chartered under the laws of New Hampshire or the federal government with a branch within the state,*** except that funds may be deposited in banks outside the state if such banks pledge and deliver to a third party custodial bank or the regional federal reserve bank collateral security for such deposits ***of the following types:***

- (a) United States government obligations,

(b) United States government agency obligations[.]; or

(c) Obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case.

**II.** The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus.

**III.** The treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the district treasury, and of all notes given by the district, with the particulars thereof. At the close of each fiscal year, the treasurer shall make a report to the district, giving a particular account of all of the treasurer's financial transactions during the year. The treasurer shall furnish to the school board statements from the books, and submit the books and vouchers to them and to the auditors for examination, whenever so requested.

**IV.** Whenever the treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the treasurer shall, with the approval of the school board, invest the same in participation units in the public deposit investment pool established pursuant to RSA 383:22, **or** in ~~[savings bank]~~ deposits, **including money market accounts, or certificates of deposit, or repurchase agreements, and all other types of interest bearing accounts,** of **federally insured** banks incorporated under the laws of the state of New Hampshire[.] or ~~[in certificates of deposits and repurchase agreements of banks incorporated under the laws of the state of New Hampshire or in banks recognized by the state treasurer,]~~ **the federal government with a branch within the state** and **in** obligations fully guaranteed as to principal and interest by the United States government. The obligations may be held directly or in the form of securities of or other interests in any open-end or closed-end management-type investment company or investment trust registered under 15 U.S.C. section 80a-1 et seq., if the portfolio of the investment company or investment trust is limited to such obligations and repurchase agreements fully collateralized by such obligations. Any person who directly or indirectly receives any such funds for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the district. Only securities defined by the bank commissioner as provided by rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. At least yearly, the school board shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.

Amend the bill by replacing all after section 22 with the following:

23 Administration of Motor Vehicle Laws; Comptroller. Amend RSA 260:61, I to read as follows:

I. Annually, on or before June 30, the state ~~[treasurer]~~ **comptroller** shall transfer, from road tolls collected, an amount equal to the number of licensed OHRVs and snowmobiles for the previous year times the average number of gallons consumed per year per OHRV and snowmobile times the gasoline road toll imposed under RSA 260:32, less any amount refunded for OHRV and snowmobile use for the previous year, to the fish and game department and the bureau of trails as follows. The road toll administrator shall report to the ~~[state treasurer]~~ **comptroller** if there is a balance of unrefunded road tolls collected. The administrator shall certify the amount to the ~~[state treasurer]~~ **comptroller** who shall credit 1/2 of such balance to the bureau of trails for use as provided in paragraph I-a, and 1/2 of such balance to the fish and game department. For the purposes of this section, "the average number of gallons consumed per year per OHRV or snowmobile" is 100.

24 Duties of Town Treasurer; Investment Policy. Amend RSA 41:29, IV to read as follows:

IV. Whenever the town treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the town treasurer shall invest the same

in accordance with the investment policy adopted by the selectmen under RSA 41:9, VII. The treasurer may invest in the public deposit investment pool established pursuant to RSA 383:22, **or** in deposits, including money market accounts, or certificates of deposit, **or repurchase agreements, and all other types of interest bearing accounts**, of federally insured banks chartered under the laws of New Hampshire or the federal government with a branch within the state, or in obligations fully guaranteed as to principal and interest by the United States government. The obligations may be held directly or in the form of securities of or other interests in any open-end or closed-end management-type investment company or investment trust registered under 15 U.S.C. section 80a-1 et seq., if the portfolio of the investment company or investment trust is limited to such obligations and repurchase agreements fully collateralized by such obligations.

25 City Treasurer. Amend RSA 48:16, III to read as follows:

III. Whenever the city treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the city treasurer shall invest the same in accordance with the investment policy adopted by the mayor and board of aldermen or city council under RSA 47:6, II. The treasurer may invest in participation units in the public deposit investment pool established pursuant to RSA 383:22, **or** in deposits, including money market accounts, or certificates of deposit, **or repurchase agreements, and all other types of interest bearing accounts**, of federally insured banks chartered under the laws of New Hampshire or the federal government with a branch within the state, or in obligations fully guaranteed as to principal and interest by the United States government. The obligations may be held directly or in the form of securities of or other interests in any open-end or closed-end management-type investment company or investment trust registered under 15 U.S.C. section 80a-1 et seq., if the portfolio of the investment company or investment trust is limited to such obligations and repurchase agreements fully collateralized by such obligations.

26 Unclaimed and Abandoned Property; Stocks and Other Intangible Interests. RSA 471-C:10 is repealed and reenacted to read as follows:

471-C:10 Stock and Other Intangible Interests in Business Associations.

I. Stock or other equity interest in a business association other than a consumers' cooperative association, is presumed abandoned 3 years after the earliest of:

- (a) The date of the most recent dividend, stock split, or other distribution unclaimed by the apparent owner; or
- (b) The date a statement of account or other notification or communication was returned as undeliverable.

II. Paragraph I applies to the underlying stock, share, or other intangible ownership interest of an owner, as well as to the stock, share, or other intangible ownership interest in dividend and non dividend paying business associations whether or not the interest is represented by a certificate. At the time the property is presumed abandoned, any other property right accrued or accruing to the owner as the result of the property interest and not previously presumed abandoned, is also presumed abandoned.

III. The running of the 3-year period of abandonment ceases immediately if the apparent owner has:

- (a) Communicated in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or
- (b) Otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee or authorized agent of the association.
- (c) Presented an instrument issued to pay interest or a dividend or other cash distribution. If any future dividend, distribution, or other sum payable to the owner as a result of the ownership interest is subsequently not claimed by the owner a new period in

which the property is presumed abandoned commences and relates back only to the time a subsequent dividend, distribution or other sum became due and payable.

IV. Any dividend, profit, distribution, interest, redemption, payment on principal, or other sum held or owing by a business association for or to its shareholder, certificate holder, member or holder of other equity interest who has not claimed it, or corresponded in writing with the business association concerning it, within 3 years after the date prescribed for payment or delivery, is presumed unclaimed.

27 Report of Abandoned Property. Amend RSA 471-C:19, I to read as follows:

I. A person holding property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the administrator concerning the property as provided in this section ***Reports containing 20 or more items shall be remitted in an electronic format as prescribed by the administrator. The administrator may waive this requirement when he or she determines that it creates an undue hardship.***

28 New Paragraph; Notice and Publication of Lists of Abandoned Property. Amend RSA 471-C:20 by inserting after paragraph VI the following new paragraph:

VII. Any information or records required to be furnished to the division of abandoned property shall be confidential except as is otherwise necessary in the proper administration of this chapter. Notwithstanding any other provision of law, any identifying information set forth in any report, record, claim, or other document submitted to the treasurer pursuant to this chapter concerning unclaimed or abandoned property is a confidential record and shall be made available for public examination or copying only in the discretion of the treasurer or the treasurer's designee.

29 Public Sale of Abandoned Property. Amend RSA 471-C:24, I-III to read as follows:

I. Except as provided in paragraphs II and III, the administrator, within one year after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever city in the state affords in the judgment of the administrator the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property for sale if in the judgment of the administrator the bid is insufficient. If in the judgment of the administrator the probable cost of sale exceeds the value of the property it need not be offered for sale. Any sale held under this section ~~[must]~~ ***shall*** be preceded by ***notice sent via regular mail to the last known address of the property owner at least 30 days in advance of sale and*** a single publication of notice, at least 3 weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

II. Securities listed on an established stock exchange shall be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator considers advisable.

III. Unless the administrator considers it to be in the best interest of the state to do otherwise, all securities, other than those presumed abandoned under RSA 471-C:10, delivered to the administrator shall be held for at least one year before the administrator may sell them. ***Sales of securities shall be preceded by regular mail notice as set forth in paragraph I.***

30 Abandoned Property Claims Filed with Administrator. Amend RSA 471-C:26 to read as follows:

471-C:26 Filing of Claim with Administrator.

I.(a) A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may file with the administrator a claim on a form prescribed by the administrator and verified by the claimant.

(b) A person claiming an abandoned utility deposit or any other abandoned property under the provisions of RSA 471-C:8 that was not deposited with the administrator pursuant to RSA 471-C:8, II or IV, may file a claim on a form prescribed by the administrator and verified by the claimant. Any claim paid by the administrator under this paragraph,

shall be reimbursable by the utility company which originally reported the property as abandoned *or the public interest payphone fund established under RSA 374:22-q*. The utility company *or the public interest payphone fund* shall remit such payment upon notification of the claim by the administrator.

*(c) If the administrator holds unclaimed property in the name of a deceased owner, the administrator may consider claims to the property as follows:*

*(1) In the case of an open estate, by the administrator or executor appointed by the probate court.*

*(2) In the case of a closed estate where the unclaimed property is valued at less than \$5,000 and does not include securities in share form, in accordance with the final distribution of assets as approved by the probate court.*

*(3) In the absence of an open estate or probate court decree of final distribution, and the unclaimed property is valued at less than \$5,000 and does not include securities in share form, by the surviving spouse of the deceased owner, or, if there is no surviving spouse, then to the next of kin in accordance with the provisions of RSA 561:1.*

*(4) In all other instances where the administrator holds property in the name of a deceased owner, a probate estate shall be opened, in an appropriate jurisdiction by the claimant, or other interested party, in order to determine the appropriate distribution of the unclaimed property under the law.*

II. The administrator shall consider each claim within 90 days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

III. If a claim is allowed, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds if it has been sold by the administrator, together with any additional amount required by RSA 471-C:23.

IV. [Repealed.]

31 Escheat Proceedings. Amend RSA 471-C:30, I to read as follows:

I. Within 36 months after the close of the ~~[calendar]~~ *state's fiscal* year in which any property presumed abandoned under this chapter is paid or delivered to the administrator, if no claim for the property has been made and established by any person, not including another state, entitled to the property *and notice pursuant to RSA 471-C:20 has occurred*, the administrator shall pay or deliver all such property to the appropriate county treasurer as required under RSA 471-C:31, subject to the state deduction under paragraph II.

32 Portion of Restitution Fees Deposited in Fund for Division of Field Services. Amend RSA 651:63, V to read as follows:

V. The court shall add 17 percent to the total restitution payment as an administrative fee to be paid by the offender. Such administrative fee shall be divided into the following components, to be designated as follows: 15 percent shall be continually appropriated to a special fund for the division of field services, department of corrections, \$22,500 of which shall lapse to the general fund at the end of each quarter should that amount be received, to maximize restitution collections, directly or through agents of contractors selected by the department; and 2 percent for the victims' assistance fund. *Unexpended account balances in the special fund for the division of field services in excess of \$50,000 at the end of the fiscal year shall lapse to the general fund.* Administrative fees shall be paid by the offender in addition to and when each restitution payment is made.

- 33 Repeal. The following are repealed:
- I. RSA 6:19, relative to removal of the state treasurer.
  - II. RSA 6:32 - 6:34, and the subdivision heading preceding RSA 6:32, relative to principles for investment of state funds in Northern Ireland.
  - III. RSA 471-C:3-a, relative to abandoned intangible property.
- 34 Effective Date. This act shall take effect 60 days after its passage.

2008-0707h

#### **Amendment to HB 1536**

##### **Proposed by the Majority of the Committee on Judiciary - R**

Amend RSA 524:6-a as inserted by section 1 of the bill by replacing it with the following:

524:6-a Periodic Payment of Judgments. Whenever judgment is rendered against any person in this state, the court in which the judgment is rendered shall either at the time of rendition of the judgment inquire of the defendant as to the defendant's ability to pay the judgment in full or, upon petition of the plaintiff after judgment, order the defendant to appear in court for such inquiry. ***The court shall require the presence of the plaintiff or his or her representative at any inquiry requested by petition of the plaintiff.*** The court may at either time order the defendant to make such periodic payments as the court in its discretion deems appropriate. If the court orders the defendant to make periodic payments at the time of rendition of judgment, the order shall not provide for payments to begin until after the appeal period has expired. Failure to make such periodic payments ~~shall~~ **may** constitute civil contempt of court. The court may order the appropriate agencies to make an investigation and recommendation as to the defendant's ability to pay the judgment. The judgment may be enforced against any property of any kind of the debtor, except such property as is now exempt from attachment or execution. Unless the parties otherwise agree, after an order for periodic payments has been issued by the court, no writ of execution shall be issued by the court without prior notice to the defendant.

#### **AMENDED ANALYSIS**

This bill requires the plaintiff's presence or the presence of the plaintiff's representative at a hearing requested by such plaintiff on a defendant's ability to make full payment of a judgment. The bill also removes the court's statutory directive that a failure to make periodic payments constitutes civil contempt, but gives the court discretion to hold the plaintiff in contempt for failure to make periodic payments.

2008-0744h

#### **Amendment to HB 1538**

##### **Proposed by the Committee on Environment and Agriculture - C**

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

1 Definitions; Mining and Reclamation. RSA 12-E:1 is repealed and reenacted to read as follows:

12-E:1 Definitions. As used in this chapter:

I. "Affected site" means the land or water upon, in or under which mining is conducted or is to be conducted including the mine and that land or water which is or will be substantially affected physically or chemically as is detailed in the mining plan pursuant to RSA 12-E:4.

II. "Commissioner" means the commissioner of the department of resources and economic development or his designee.

III. "Comparable natural contour" means a surface configuration which resembles the general surface configuration of adjacent land and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles and mining equipment eliminated.

IV. "Dimension stone" means rock that is cut, shaped, or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes and used for external or

interior parts of buildings, foundations, curbing, flagging, bridges, revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth as defined in RSA 155-E:1, I.

V. "Excavation area" means the surface area within an excavation site where excavation has occurred or is eligible to occur under the provisions of this chapter.

VI. "Financial assurance plan" means a mechanism prepared by the applicant, approved by the commissioner and the department of environmental services, to ensure that adequate financial support for closure, site assessment, reclamation, and long-term monitoring is current and sufficient to comply with all applicable federal, state, and local regulations governing the cessation of prospecting or mining operations in New Hampshire.

VII. "Mine" means all areas, surface mined or being mined underground as well as adjacent areas ancillary to the operation, together with cleaning, concentrating and preparation plants, storage area, haulageways, spoil areas, pipes, tunnels, waterways, sluiceways, ponds, pools, lagoons, roads or trails and any affected ground or surface waters.

VIII. "Mineral" means copper, diatomite, feldspar, garnet, lime, thorium, uranium and any similar solid material, rock, or metal substance excluding sand, gravel, and construction aggregate to be excavated from natural deposits or formations on or in the earth or in or underneath water, or for quarrying or crushing of rock or bedrock for the purpose of producing construction aggregate.

IX. "Mining" means the activities performed in the extraction of minerals including the excavation of pits, underground mines and drifts, borings used for solution mining, removal of minerals, removal of dimension stone, disposal of overburden and the construction of roads pipes, tunnels, ponds, pools, sluiceways, lagoons, and any affected ground or surface water, for transport and storage of mining materials; provided, however, the following shall not be subject to this chapter:

(a) Mining activities for which the permit site would be 100,000 square feet (or 50,000 square feet, or less, if within the protected shoreland zone, defined by RSA 483-B:4, XV) or less and would result in less than 2,000 cubic yards per year excavated; provided, however, that all mineral dredging activity in any waters of the state of New Hampshire, unless classified as small motor mineral dredging pursuant to RSA 482-A:3, XI shall, regardless of the size of area involved, be subject to the permit requirement and other conditions set forth in this chapter.

(b) Mining activities for the purpose of improvement of or use on the owner's property for which the permit site would be 100,000 square feet (or 50,000 square feet, or less, if within the protected shoreland zone, defined by RSA 483-B:4, XV) or less and would result in less than 2,000 cubic yards per year excavated; provided, however, that all mineral dredging activity in any waters of the state of New Hampshire, unless classified as small motor mineral dredging pursuant to RSA 482-A:3, XI shall, regardless of the size of area involved, be subject to the permit requirement and other conditions set forth in this chapter.

(c) Mining activities in existence on August 24, 1979, or mining activities for which mining permits have been granted as of the effective date of this paragraph.

(d) Mining or quarrying activities for the production of construction aggregate.

X. "Mining operations plans and reclamation plans" means technical data accompanied with the owner's permit application detailing the anticipated mining, blasting, and reclamation activities, environmental protection measures, as well as the plans that define daily operations of the mine and its ancillary equipment and areas impacted by mining operations, associated with mineral extraction subject to this chapter.

XI. "Mining operator" or "operator" means any person, firm, association, partnership, cooperative, corporation, or trust engaged in mining.

XII. "Overburden" means earth and other natural materials over and around the minerals which will be displaced by mining operations.

XIII. "Permit site" means the land surrounding and including the affected site and mine needed to internalize the mining operation to safeguard adjacent lands and interests.

XIV. "Pre-application meeting" means the mandatory meeting to be requested in writing by a permit applicant prior to submission of its permit application and to be scheduled by the commissioner, where the applicant, representatives of the department of resources and economic development, representatives from the department of environmental services, and the chair of the local planning board for the community in which the mine is to be located, or his or her designee, will meet to review the proposed application, and, if the commissioner so requests, conduct a site visit. The pre-application meeting and any documents submitted or exchanged for the purposes of the pre-application meeting are not public, or subject to public disclosure, pursuant to RSA 91-A.

XV. "Prospecting" means exploration for minerals with mechanized equipment which will result in disturbance of land and which could pose a danger to the public or cause significant environmental harm.

XVI. "Quarry" means an excavation in bedrock open to the surface excavated for the purpose of removing rock, minerals or metallic ores.

XVII. "Reclamation" means the restoration of the permit site by grading, backfilling, compacting, and landscaping to a compatible natural contour and the reestablishment of permanent self-regenerating vegetative cover of the same seasonal variety previously occurring in the area which is capable of self-regeneration equal to or greater than its productive capacity prior to the mining activities unless alternate plans for other uses are approved by the commissioner.

XVIII. "Rock" means granite, schist, quartzite, and any other solid material consisting of minerals. The crushing of rock for the purpose of producing construction aggregate shall be regulated pursuant to RSA 155-E.

IX. "Runoff" means any water on or flowing on or across the land surface.

XX. "Toxic substance" means any chemical substance which has the capacity to produce personal injury or illness to human health through ingestion, inhalation or absorption through any body surface.

XXI. "Wetlands" as defined by RSA 482-A:2, X means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

2 Duties of the Commissioner; Mining and Reclamation. RSA 12-E:2 is repealed and reenacted to read as follows:

12-E:2 Duties of the Commissioner. The commissioner shall:

I. Schedule and coordinate a pre-application meeting upon the receipt of a request from the potential permit applicant.

II. Evaluate and accept or reject all mining permit applications submitted by mining operators. If, in his or her evaluation, the commissioner determines the operation will not comply with this chapter or the impact of the mining operation is too great or is in an area unsuitable for mining because of historical, archaeological, or environmental reasons or the reclamation plans or pollution prevention measures are insufficient, the permit shall be denied. Upon rejection or conditional approval of the permit application, the commissioner shall state the reasons for such determination in writing. The operator shall have an opportunity to amend the application to conform to the commissioner's requirements. All permit applications shall be acknowledged within 5 working days and processed within 120 days pursuant to RSA 541-A:29 of receipt by the commissioner.

III. Have the authority to suspend or revoke any permit issued pursuant to this chapter for failure to comply with the permit or for noncompliance with rules adopted pursuant to this chapter. The commissioner may also suspend or revoke any permit issued pursuant to this chapter if he or she concludes that the operator lacks sufficient managerial,

technical, or financial resources to conduct mining activities in continuing compliance with the terms and conditions of any permit and in accordance with applicable rules.

IV. Supervise the leasing of state-owned lands for mining operations pursuant to RSA 12-E:9.

V. Have the power to subpoena witnesses and administer oaths in any proceeding or examination instituted before or conducted by the commissioner, and to compel the production of any account books, contracts, records, engineering surveys, documents, memoranda, and papers of any kind necessary to implement this chapter.

VI. Prepare an annual report. Such report shall include the number and geographic distribution of permit applications accepted and rejected, the acreage of the affected sites and permit sites, the names of the operators, corporate officers, and corporations making such applications and such other information as will enable the program to be evaluated. The report shall be submitted to the governor and council.

VII. Make announced and unannounced inspections and investigations on the permit site and affected site to ensure orderly operation of the mining plan in a responsible manner and make inspections based on a citizen complaint. All inspections shall be conducted in the presence of the operator or his or her duly authorized employees or representatives and the operator shall be available or make such persons available for inspections.

VIII. Adopt rules, pursuant to RSA 541-A, relative to:

- (a) The form of the mining permit application.
- (b) The form of application for renewal of the mining permit.
- (c) The form of application for prospecting permits.
- (d) Entry onto permit sites and adjacent properties.
- (e) Emergency actions to halt mining operations for the public safety.
- (f) Prospecting, mining, and reclamation activities in a manner to ensure public safety and protect the environment from the effects of such activities.

IX. Have the authority to reclaim land subject to the granted permit upon forfeiture of the performance bond.

X. Provide technical assistance, conduct research, experiments, and demonstrations, and disseminate information resulting therefrom and to receive federal, state, or other funds and allocate them for reclamation, education, or other research and assistance projects.

XI. Report any violation of a permit, or of any provision of this chapter, or of any rule promulgated hereunder, to the commissioner of the department of environmental services.

XII. Give notice to the commissioner of the department of environmental services of any proceeding to revoke, suspend, or modify any permit.

XIII. Give notice to the commissioner of the department of environmental services of any modification of any financial assurance plan required under this chapter.

3 New Section; Duties of Commissioner of Department of Environmental Services; Mining. Amend RSA 12-E by inserting after section 2 the following new section:

12-E:2-a Duties of the Commissioner of the Department of Environmental Services. The commissioner of the department of environmental services shall:

I. Report any violation of any environmental law by a mining operator to the commissioner.

II. Give notice to the commissioner of any proceeding by the department of environmental services to revoke, suspend, or modify any permit issued to a mining operator by the department of environmental services.

III. Investigate any alleged violation of any rule or condition to any permit issued by the department of environmental services by a mining operator and report the results of such investigation to the commissioner.

IV. Adopt rules, pursuant to RSA 541-A, relative to the environmental impacts, and mitigation and remediation thereof, of mining.

4 Prospecting Permit Required; Mining and Reclamation. Amend RSA 12-E:3, I to read as follows:

I. Prior to prospecting for minerals ***on any lands within the state*** a person shall obtain a prospecting permit from the commissioner upon payment of a fee pursuant to RSA 12-E:8. The commissioner may attach conditions upon issuance of the permit to minimize the environmental damage of such activities. ***In no instance shall a prospecting permit cover a surface area of greater than 20,000 square feet.*** Such prospecting permit shall be valid for a term of one year subject to renewal upon request to the commissioner. ***The prospecting permit shall not be effective until all required permits are obtained from the department of environmental services.***

5 Mining Permit Required; Reference Change. Amend the introductory paragraph of RSA 12-E:4 to read as follows:

12-E:4 Mining Permit Required. No person shall conduct mining on any lands in the state unless he holds a valid permit issued by the commissioner or is exempted pursuant to RSA 12-E:1, ~~[VI]~~ ***IX.***

6 New Paragraph; Mining Permit Required; Mining and Reclamation. Amend RSA 12-E:4 by inserting after paragraph I the following new paragraph:

I-a. A mining permit shall not become effective until all required permits and approvals from the department of environmental services have been obtained. This includes, as operations proceed, approvals for operations, remediation, closure, and reclamation.

7 Mining Permit Required; Mining and Reclamation. Amend RSA 12-E:4, II to read as follows:

II. Such mining permit shall include a mining plan, a blasting plan if such activities are anticipated, and a reclamation plan. Such permit shall be valid for a term of 3 years and, upon submission of a renewal permit application by the operator, shall be renewed 60 days prior to its expiration; provided, however, the commissioner determines that the operator has complied with the permit. ***The issuance of a mining permit shall not preclude the obligation of the applicant to obtain local approvals required under all applicable, lawful ordinances.*** The commissioner shall have the authority to modify a permit or renewal as he deems necessary consistent with regulations promulgated under this chapter. Renewal permits ~~[shall not]~~ ***may*** be subject to public hearings under the provisions of RSA 12-E:5 ***at the discretion of the commissioner.*** There is no limit to the number of renewals that may be issued for each operation provided the commissioner determines the operator has continued to comply with the original permit.

8 Mining Permit Required; Mining and Reclamation. RSA 12-E:4, III is repealed and reenacted to read as follows:

III. The permit application shall be submitted to the commissioner and shall include, at a minimum:

(a) The names and addresses of:

(1) The permit applicant;

(2) The operator if different from the applicant; and

(3) If any of these are business enterprises other than a single proprietor, the

names and addresses of the principal owners and resident agent and the names and addresses of every officer, partner, director, or person performing a function similar to a director;

(b) The names and addresses of:

(1) Every legal owner of record of the property both surface and subsurface in the permit area;

(2) The holders of record of any leasehold interest in the property; and

(3) The owners of record of all surface and subsurface areas adjacent to any part of the permit area.

(c) A list of all names under which the applicant, partner or principal owner previously operated a mining operation within the United States in the past 10 years;

(d) A statement as to whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant or principal owners of both this applicant and another corporation has held, within a 5-year period prior to submission of the application, a federal or state mining permit which has been suspended or revoked or has forfeited a reclamation bond or similar security and the reasons therefor. Whenever requested by the commissioner, the attorney general shall conduct a background investigation of the performance history and criminal record of the applicant and of its officers and directors, if any, and make a report to the department of resources and economic development. The cost of any investigation under this paragraph shall be borne by the applicant.

(e) A true copy of an original policy of insurance issued by an insurance company authorized to do business in this state covering all mining and reclamation operations of the applicant and affording personal injury protection in an amount not less than \$1,000,000 and property damage, including blasting damage, protection of not less than \$2,000,000;

(f) A geologic resources report, to include a description of the rock, mineral, or substance to be mined;

(g) A copy of the applicant's public notice published pursuant to RSA 12-E:5; and

(h) Proof that all pertinent federal, state, and local permits have been received prior to the initiation of work including, but not limited to, a standard dredge and fill permit pursuant to RSA 482-A and an alteration of terrain permit pursuant to RSA 485-A:17, processed by the department of environmental services.

9 Mining Permit Required; Mining and Reclamation. RSA 12-E:4, IV is repealed and reenacted to read as follows:

IV. The mining operations plan shall include, at a minimum:

(a) A description of prospecting activities other than those requiring a prospecting permit issued pursuant to RSA 12-E:3;

(b) A detailed description of the permit site stating the geometry and volume of the excavation and the number of acres to be included, noting the acreage and cubic yards of the deposit area and permit site, expected yield in tons of the extracted minerals, the drainage area above and below the site, the hydrology and geology of the area, a topographical map represented at 2 feet contours, and extensive soil data;

(c) A detailed description of the means of pollution prevention, buffer zones, grades and stabilization of excavation and waste management during the mining operations;

(d) A detailed map of the permit site drawn to scale, an aerial photograph of the permit site and any other maps or photographs specified in the rules and regulations;

(e) A cross section map or plans of the permit site showing location of aquifers and estimated elevation of the water table;

(f) A description of anticipated blasting activities during the mining operation which shall be done in accordance with established engineering principles for prevention of vibration and air blast damage to residences, buildings and surrounding land areas;

(g) An inventory of all public and private water supplies that lie within one-half mile radius of the permitted site boundary, pursuant to RSA 12-E:4, IV(d);

(h) A description of the projected impacts of mining activities on the surface water and groundwater hydrology of the permitted site, and downgradient and downstream properties and receptors;

(i) A description of daily operations, staging activities, runoff control, management of inventories, control measures for dust, noise, odor, and air emissions, a discussion of mining techniques to be utilized, and a description of all closure activities, including but not limited to the disposal of all wastes generated and stored on site, the disposition of all excess inventory, and other materials that must be removed prior to closure and reclamation; and

(j) A description of site investigation plans to be undertaken upon cessation of mining activities to identify contamination of soil, surface water or groundwater, or air

emissions for which remedial measures are necessary to achieve compliance with applicable state and federal cleanup laws and regulations; and estimate of anticipated remediation costs, including but not limited to the costs of waste disposal, remediation of soil surface water or groundwater, or other media, environmental monitoring costs and operations and maintenance costs.

10 Mining Permit Required; Mining and Reclamation. Amend RSA 12-E:4, V to read as follows:

V. The reclamation plan shall include, at a minimum, a detailed description of the reclamation activities, such as a schedule for reclamation and including an outline of anticipated contemporaneous reclamation activities when a large tract of land is subject to mining operations. The reclaimed ~~land~~ **quarry floor and any other near horizontal surface created by the removal of rock** shall be at least as capable of supporting the uses as it supported prior to any mining activity or shall be capable of supporting different post-mining uses so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution. **Reclaimed vertical faces or highwalls shall not exceed steps of 30 feet vertical and 20 feet horizontal, unless otherwise approved by the commissioner.** Such different post-mining uses may include agricultural, recreational, residential, commercial, industrial, forestry or open space land use. The proposed land use following reclamation may not be impractical or unreasonable or inconsistent with applicable land use policies and plans and shall be approved by the commissioner.

11 Mining Permits. Amend RSA 12-E:4, VII-VIII to read as follows:

VII. The operator may file amendments to the mining and reclamation plan with the commissioner. Upon the commissioner's approval, such amendments shall be incorporated into the permit. The commissioner may determine whether the plans will be altered to such a degree as to require an opportunity for hearing pursuant to RSA 12-E:5. Additional fees and ~~bonding~~ **financial assurances** may be required by the commissioner.

**VII-a. The adequacy of the current financial assurances bond to address the estimated closure/reclamation costs of the mining operation shall be assessed at the time of each request for amendment or, at a minimum, every 3 years at the time of permit renewal.**

VIII. A permit shall be denied by the commissioner in the following circumstances:

(a) The operator requesting such permit has a mining violation pursuant to RSA 12-E:10 outstanding in the state. If the operator has been involved in mining operations in another jurisdiction and has had similar violations filed against him **or her**, he **or she** shall present such information to the commissioner who may, in his **or her** discretion, approve or deny the permit based on such past activities;

(b) The operator has forfeited a reclamation bond anywhere in the United States during the past 5 years;

(c) The operator has not applied for a national pollutant discharge elimination system permit **and a storm water notice of intent and pollution prevention plan**, if required, granted by the federal environmental protection agency **and has not certified in writing that it has applied for and, has been granted, all other applicable local, state, and federal permits required under applicable environmental laws for the proposed mining operations;**

(d) If any of the corporate officers or principal owners have committed (a) or (b) above;

(e) If, in his **or her** determination, **and in consultation with the department of environmental services and the department of safety**, the mining operation would constitute an imminent **and substantial** danger to the health and safety of the public by causing substantial harm to persons outside of the permit site or substantial harm to the maintenance of environmental quality in and near the permit site; ~~or~~

(f) If the mining plan does not meet the requirements of this chapter or the rules [promulgated] **adopted** pursuant to this chapter;

**(g) The department of environmental services does not approve the mining operations plan or the reclamation plan, or does not concur with the commissioner's determination as to the amount of the financial assurance provided; or**

**(h) The department of safety does not approve of the blasting plan.**

12 Opportunity for Public Hearing; Mining and Reclamation. Amend RSA 12-E:5 to read as follows:

12-E:5 Opportunity for Public Hearing.

I. Upon filing of a permit application or an application for an amended permit, the **applicant** operator shall publish notice of such application in a newspaper in general circulation of each county wherein the affected land lies at least once each week for 2 successive weeks after filing the application. The **applicant** operator shall notify landowners within 1/2 mile of the proposed permit area in writing of the application and shall file a copy of the mining and reclamation plan, or amended plan with the town clerk or city solicitor of the town or city wherein the land lies.

II. The commissioner shall fix a reasonable period of time within which any person desiring to be heard may file a petition for a hearing. Such period of time shall not be less than ~~20~~ **30** days. Upon the expiration of such time period in the absence of a protest or a request for a hearing, the commissioner may act on the permit upon the basis of the application and of the submittals and all other factors under consideration. When a petition for a hearing has been made, and good cause has been shown therefor, the commissioner shall set a time and place for a hearing. Notice of such hearing shall be **posted in the local media no less than 30 days before the hearing, posted at public places within the affected community or communities, and** given to the operator, **all abutters,** and ~~to~~ any interested party.

III. Where an amended permit or permit renewal seeks to change the use, size, volume, or intent from the original permit, such amended permit or renewal shall be required to obtain local approvals required under all applicable, lawful local ordinances.

13 Performance Bonds; Mining and Reclamation. RSA 12-E:6 is repealed and reenacted to read as follows:

12-E:6 Financial Assurance Plan.

I. Upon approval of the mining and reclamation plans and prior to the issuance of a permit, the operator shall file with the commissioner proof of adequate financial assurances, as determined and required by the commissioner, payable to the state of New Hampshire with sureties or other security satisfactory to the commissioner to adequately secure compliance with this chapter. The amount provided shall equal at least 110 percent of the costs necessary to achieve the goals set forth in the approved reclamation plan, including the cleanup of waste piles, lagoons, and other sources of contamination associated with the permitted mining operation. The financial assurance provided shall cover removal of all surficial wastes, closure of the mine, remediation costs, a site investigation by a third party to confirm that no groundwater or other contamination exists, long-term monitoring, operations and maintenance of remedial systems, and reclamation. However, the commissioner, subject to obtaining the written concurrence of the department of environmental services, shall have the authority to adjust the financial assurances provided commensurate with the size and impact of the permitted mining operation. In determining the amount of the financial assurances required, the character and nature of the area adjacent to the permit site, the estimated cost of reclamation, including cleanup, closure and long-term monitoring of waste piles, lagoons, or other sources of contamination associated with the permitted mining operation, and the future suitable use of the land involved shall be considered to insure the performance of the operator's duties, but in no case shall the financial assurances provided be less than \$10,000 per acre of permitted site. The

anticipated cost of the operator's reclamation duties pursuant to RSA 12-E:7 and the mining operations and reclamation plans shall be covered by the financial assurances to ensure successful completion of any such reclamation activities upon default by the operator. The commissioners of the department of resources and economic development and environmental services shall review the adequacy of the financial assurances provided at least every 3 years, as well as at the time of permit renewal and at such times as amendments to the existing permits are requested. All proceeds of forfeited financial assurance or other security shall be expended by the commissioner, subject to the concurrence of the department of environmental services, for the reclamation and remediation of the land area for which the financial assurance was posted. Upon issuance of a certification in writing, signed by the commissioners of the department of resources and economic development and the department of environmental services, that all reclamation and remediation activities have been satisfactorily completed, the remainder of any financial assurance shall revert to the operator or other party as designated in the financial assurance plan.

II. A special performance bond for prospecting may be required by the commissioner whenever he or she determines possible injury to the land may occur when such activity is not included in the mining and reclamation plans.

III. All financial assurance provided or portions thereof may be released when reclamation and remediation of the affected area has been completed to the satisfaction of the commissioner and in no case sooner than 3 years from its filing. Upon release of the bond, accrued interest from the bond while in possession of the state shall be paid to the operator.

14 Duties of Operator During Mining and Reclamation. Amend the introductory paragraph of RSA 12-E:7, I to read as follows:

I. Upon approval of the permit application, issuance of permit and payment of ~~[performance bond]~~ **required financial assurances**, the mining operator may engage in such mining operations as detailed in the application during the term of the permit period subject to the following conditions. The operator shall:

15 Duties of Operator During Mining and Reclamation. Amend RSA 12-E:7, I(b) to read as follows:

(b) Provide a buffer zone from the mine of 200 feet from any property line, public right-of-way ~~or~~ **and 250 feet from any public** water body **protected by RSA 483-B** except for haulage roads;

16 Duties of Operator During Mining and Reclamation. Amend RSA 12-E:7, I(e)-(j) to read as follows:

(e) Create, if authorized in the permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that the size of the impoundment is adequate for its intended purposes. The impoundment dam construction shall be so designed as to achieve necessary stability with an adequate margin of safety as determined by the commissioner **and permitted by the department of environmental services pursuant to RSA 482**; the quality of impounded water shall be suitable on a permanent basis for its intended use and discharges from the impoundment shall not degrade the water quality below water quality standards established pursuant to applicable federal and state law in the receiving stream; the level of water shall be reasonably stable; final grading shall provide adequate safety and access for proposed water users; and such water impoundments shall not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses;

(f) Regrade the affected site to a comparable natural contour, except a different topography shall be accepted for another approved intended use. In the case of surface quarries in bedrock where regrading is technically and economically unfeasible, the commissioner shall require appropriate safety measures to be carried out and revegetation to screen quarries and enhance public views;

(g) Establish on the regraded areas, and all other lands affected, unless the land is intended for a different post-mining use and has commissioner approval, a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area. Introduced species may be used in the revegetation process, **excluding invasive species pursuant to RSA 430:51-57**, where desirable and necessary to achieve the future land use plan;

(h) Remove all metal, lumber, equipment or other refuse resulting from the operation. No refuse shall be placed or be caused to slide beyond the perimeter of the permit site;

(i) Insure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are disposed of in a manner consistent with applicable state law designed to prevent contamination of ground or surface waters. **The applicant shall successfully demonstrate that waste rock materials will not be net acid-forming;**

(j) File a closing notice with the commissioner **and the department of environmental services** that the mining operations are terminated; **and**

**(k) Comply with all applicable environmental laws and regulations.**

17 Duties of Operator During Mining and Reclamation. Amend RSA 12-E:7, II to read as follows:

II. All reclamation activities shall be **performed to current state standards and** carried to completion by the operator prior to the expiration of one year after termination of the mining operation unless the commissioner extends such deadline for good cause. Such activities shall proceed in an environmentally sound manner and as contemporaneously as practicable with the mining operations. The operator shall be responsible for 3 successive growing seasons after the completion of the reclamation plan. If the operator claims a mining operation is still functional but in the commissioner's determination, based upon the quarterly progress reports submitted by the operator pursuant to RSA 12-E:7, I(a), the operation is terminated, the operator shall be required to initiate reclamation activities. The commissioner shall establish a schedule for partial refund of the ~~[performance bond]~~ **financial assurances** as portions of reclamation activities are completed.

18 Leasing of State Owned Lands; Mining and Reclamation. Amend RSA 12-E:9, II-III to read as follows:

II. **Where deemed appropriate by the governor and council**, the commissioner shall issue prospecting permits to persons pursuant to rules adopted under RSA 12-E:2, ~~[VII(f)] VIII(f)~~ to entitle persons to prospect for valuable mineral and metal deposits, excepting common sand and gravel, on state owned lands. Any prospector who discovers a valuable mineral ~~[of] or~~ metal deposit, ~~[upon filing a claim thereof and a permit pursuant to RSA 12-E:4, may mine such area]~~ **may submit an application for a prospecting permit** pursuant to rules adopted by the commissioner.

III. The commissioner shall determine the terms of ~~[the leases]~~ **any mining lease requested**, including the amount of acreage, duration of lease, rental cost, royalties, and any conditions concerning extraction of minerals or reclamation of the leased land upon application for such lease by the prospector.

**IV. Any violation of the provisions of this chapter, or of any rule adopted or issued under this chapter, or of any term or condition of any permit issued under this chapter, may be enjoined by the superior court upon application of the attorney general. The superior court may by temporary or permanent injunction restrain an operator from conducting any activity at a permit site.**

19 Penalties and Other Relief; Mining and Reclamation. Amend RSA 12-E:12, I to read as follows:

I. Any person who violates any provisions of this chapter or any lawful regulation or cease and desist order of the commissioner issued pursuant to this chapter, or any condition or limitation in a permit or amendment issued under this chapter or who shall fail, neglect or

refuse to obey any order lawfully issued pursuant to this chapter shall be subject to a civil penalty not to exceed [~~\$10,000~~] **\$20,000** for each day the violation continues.

20 Effective Date. This act shall take effect 60 days after its passage.

2008-0560h

**Amendment to HB 1554-FN**

**Proposed by the Committee on Election Law - R**

Amend the bill by deleting section 3 and renumbering the original sections 4-6 to read as 3-5, respectively.

2008-0760h

**Amendment to HB 1561**

**Proposed by the Committee on Science, Technology and Energy - C**

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

1 New Section; Energy Conservation and Efficiency Board. Amend RSA 125-O by inserting after section 5 the following new section:

125-O:5-a Energy Conservation and Efficiency Board.

I. An energy conservation and efficiency board is hereby created to seek opportunities to coordinate energy efficiency and demand response programs in the state. The board's duties shall include but not be limited to:

(a) Review available energy efficiency and conservation programs and incentives and compile a report of available efficiency and conservation resources in New Hampshire.

(b) Develop a plan to achieve the state's energy efficiency potential for all fuels, including setting goals and targets for energy efficiency that are meaningful and achievable.

(c) Provide written advice at least annually to the public utilities commission on the administration and allocation of energy efficiency funds under the commission's jurisdiction.

(d) Explore opportunities to coordinate programs targeted at saving more than one fuel resource, including coordination between the natural gas and other programs or projects which seek to reduce the use of other fuels.

(e) Develop tools to enhance outreach and education programs to increase knowledge about energy efficiency among New Hampshire residents and businesses.

(f) Expand upon the state government's efficiency programs to ensure that the state is providing leadership on energy efficiency, reducing its use of energy, and reducing the state's fuel costs.

(g) Encourage municipalities to increase investments in energy efficiency through financing tools, and to create municipal energy committees.

(h) Work with community action agencies and the office of energy and planning to explore ways to ensure that all customers participating in programs for low-income customers and the Low Income Home Energy Assistance Program (LIHEAP) have access to energy efficiency improvements in order to reduce their energy bills.

(i) Investigate potential sources of funding for energy efficiency and delivery mechanisms for such programs, coordinate efforts between funding sources to reduce duplication and enhance collaboration, and review investment strategies to increase access to energy efficiency.

II. The members of the board shall be as follows:

(a) The chairman of the public utilities commission, or designee.

(b) The director of the office of energy and planning, or designee.

(c) The consumer advocate, or designee.

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

(e) The commissioner of the department of resources and economic development, or designee.

(f) The president of the Business and Industry Association of New Hampshire, or designee.

(g) The executive director of the New Hampshire Municipal Association, or designee.

(h) A representative of energy services companies delivering energy efficiency services to residential and business customers, appointed by the chairman of the public utilities commission.

(i) The executive director of New Hampshire Legal Assistance, or designee.

(j) The president of the Homebuilders and Remodelers Association of New Hampshire, or designee.

(k) Two members of the house science, technology and energy committee appointed by the speaker of the house of representatives.

(l) One member of the senate energy, environment and economic development committee, appointed by the president of the senate.

(m) Three representatives from groups representing energy, environmental, consumer, and public health issues and knowledgeable in energy conservation policies and programs, appointed by the chairman of the public utilities commission.

(n) One representative from the investment community with expertise in efficiency investments and financing, appointed by the chairman of the public utilities commission.

(o) One representative from each of the utility-administered electric and natural energy efficiency programs, appointed by the chairman of the public utilities commission.

III. The chairman of the public utilities commission shall call the first meeting of the board. The board shall elect a chairperson from among its members. The board shall make an annual report on December 1 to the governor, the speaker of the house of representatives, the president of the senate, the house science, technology and energy committee, the senate energy, environment and economic development committee, and the public utilities commission, to provide an update on its activities and recommendations for action.

IV. No member of the board shall vote on a matter in which the member, or the organization or entity represented by or employing the member, has a direct financial interest.

2 Effective Date. This act shall take effect October 1, 2008.

This bill creates the energy conservation and efficiency board.

2008-0364h

#### **Amendment to HB 1568-FN**

##### **Proposed by the Committee on Criminal Justice and Public Safety - C**

Amend RSA 485:35 as inserted by section 1 of the bill by replacing it with the following:

485:35 Prohibiting Use; Penalty. Whenever the department, upon investigation, becomes satisfied that a well, spring or other supply of water, used for domestic purposes, has become polluted so as to endanger the public health, it is authorized to prohibit the person or corporation owning or controlling said supply from furnishing such water for domestic purposes, until it becomes satisfied that said water supply has been purified and made fit for domestic use. Any person who **knowingly** violates the order of the department is guilty of a ~~misdemeanor~~ **class B felony** for each day he **or she** continues to furnish water after the order of the department has been served on **such person**.

##### **AMENDED ANALYSIS**

This bill increases the criminal penalty for **knowingly endangering** a public water supply.

2008-0790h

#### **Floor Amendment to HB 1572-FN**

##### **Proposed by Rep. Kepner**

Amend the bill by replacing all after section 1 with the following:

2 Cancer Research Number Plates; Initial Costs; Authorization to Receive Gifts. The initial costs associated with designing cancer research number plates and implementing and administering the cancer research number plate program authorized by section 1 of this act shall be paid by donations of private funds to the state. The governor and council are authorized to accept gifts totaling \$75,000 for purposes of starting up the cancer research number plates program, and such gifts shall be credited to the department of safety exclusively for such purposes. The commissioner of administrative services shall certify to the secretary of state and to the director of the office of legislative services the date upon which the state has received \$75,000 in gifts pursuant to this section. If the state has not received \$75,000 in gifts pursuant to this section by July 1, 2009, the commissioner of administrative services shall certify that fact to the secretary of state and to the director of the office of legislative services.

3 Contingency. If the commissioner of administrative services certifies that the state has received gifts totaling \$75,000 pursuant to section 2 of this act, section 1 of this act shall take effect upon the date of the certification and section 4 of this act shall not take effect. If the commissioner of administrative services certifies that the state did not receive gifts totaling \$75,000 by July 1, 2009 pursuant to section 2 of this act, section 4 of this act shall take effect upon the date of the certification and section 1 of this act shall be treated as having never taken effect.

4 Repeal. RSA 261:97-g, relative to cancer research number plates, is repealed.

5 Effective Date.

I. Sections 1 and 4 of this act shall take effect as provided in section 3 of this act.

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

2008-0430h

#### **Amendment to HB 1573-FN-LOCAL**

#### **Proposed by the Committee on Municipal and County Government - R**

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

1 Order; Contents. Amend RSA 155-B:3 to read as follows:

155-B:3 Order; Contents. The order shall state, in writing, the grounds therefor, specifying the necessary repairs, if any, and providing a reasonable time for compliance. It shall also state that a motion for summary enforcement of the order will be made to the court of the district or municipality in which the hazardous building is situated unless corrective action is taken, or unless an answer is filed within the time specified in RSA 155-B:6 ***and that any costs, attorney's fees, and expenses incurred by the municipality in bringing the property into compliance may be enforced as a lien against the subject property and any other property owned by the same owner in the state pursuant to RSA 155-B:9, II.***

2 Enforcement of Judgment. Amend RSA 155-B:9 to read as follows:

155-B:9 Enforcement of Judgment.

***I.*** If a judgment is not complied with in the time prescribed, the governing body may cause the building to be repaired, razed, or removed as set forth in the judgment. The cost of such repairs, razing, or removal shall be a lien against the real estate on which the building is located and may be levied and collected in the same manner as provided in RSA 80 for tax liens. When the building is razed or removed by the municipality, the governing body may sell the salvage and valuable materials at public auction upon 3 days' posted notice.

***II.*** ***If the value of the subject real estate is deemed by the municipality to have insufficient value, based on the current tax assessment, to cover the cost of repairs, razing, or removal, the governing body may place a lien for the balance of the cost on any other real property in the state that is owned by the same owner, which additional lien may be levied and collected in the same manner as provided in RSA 80 for tax liens; provided that RSA 80:59 giving such liens priority over all***

***other liens shall not apply. The municipal lien shall be subordinate to any lien of record on such real property.***

3 New Sections; Municipal Lien on Owner's Interest in Property Insurance Proceeds; Sale of Materials. Amend RSA 155-B by inserting after section 9 the following new section:

155-B:9-a Municipal Lien on Owner's Interest in Property Insurance Proceeds. If the owner has no other real property within the state, a municipality may assert a lien on the owner's interest in any real property insurance proceeds that are payable as a result of the damage or destruction of that property owner's real property located in the municipality. The municipal lien shall be subordinate to any lien holder of record, and to any rights, title, or interest in such real property insurance proceeds in favor of any lender holding a mortgage on such real property and who was named as an additional insured or loss payee, by means of loss payable endorsement or otherwise, on any policy of insurance insuring such real property. The insurer's obligations under this section shall commence upon its receipt of a copy of the order under RSA 155-B:4, and shall apply only to insurance proceeds held by the insurer as of that date and due to be paid to the owner. The lien, the estimated cost of which shall be approved by the court, shall be for the purpose of reimbursing the municipality for all costs permitted to be recovered by it under RSA 155-B if the municipality elects to demolish the property. Any unexpended funds from the lien shall be returned to the property owner. The property owner shall, within 72 hours of the receipt of a written request by the municipality, provide the municipality with the names, addresses, agents, and policy numbers of all insurance companies which have provided the property owner with insurance on the property. The lien shall automatically expire if the owner rebuilds or demolishes the real property in the manner required by this chapter.

4 Effective Date. This act shall take effect upon its passage.

2008-0202h

#### **Amendment to HB 1576-FN**

**Proposed by the Committee on State-Federal Relations and Veterans Affairs - R**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the employment of veterans on Veterans' Day.

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Veteran Holidays. Amend RSA 115-A by inserting after section 28 the following new subdivision:

Veteran Holidays

115-A:29 Veteran Holidays.

I. Any veteran who has received an honorable discharge from the armed forces shall have a preference not to work on Veterans' Day or within 24 hours of the aforementioned holiday without penalty.

II. Emergency responders such as police, firefighters, and 911 operators shall have the holiday preference described in paragraph I so long as there is another qualified emergency responder available.

#### **AMENDED ANALYSIS**

This bill allows honorably discharged veterans no longer active in the armed forces a preference not to work on Veterans' Day.

2008-0550h

#### **Amendment to HB 1579-FN**

**Proposed by the Committee on Resources, Recreation and Development - C**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study issues relating to land development and land development regulation in New Hampshire.

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

1 Commission Established. There is established a commission to study land development regulations and the effects of land development within upland areas that may affect wetlands and surface waters of the state.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Two members of the house of representatives, including at least one member of the resources, recreation, and development committee, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

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

(d) The executive director of the fish and game department, or designee.

(e) The director of the office of energy and planning, or designee.

(f) The commissioner of the department of resources and economic development, or designee;

(g) A representative of the New Hampshire Association of Regional Planning Commissions, appointed by that organization.

(h) A representative of the New Hampshire Municipal Association, appointed by that organization.

(i) A representative of the Home Builders and Remodelers Association of New Hampshire, appointed by that organization.

(j) A representative of the Associated General Contractors of New Hampshire, appointed by that organization.

(k) A representative of the New Hampshire Association of Conservation Commissions, appointed by that organization.

(l) A representative of the New Hampshire Association of Natural Resource Scientists appointed by that organization.

(m) A representative of the New Hampshire Audubon Society, appointed by that organization.

(n) A representative of the United States Natural Resources Conservation Service, appointed by that organization.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study:

I. The effects of land development on surface and ground water quality and quantity, and terrestrial and aquatic habitat.

II. The adequacy and consistency of local, state, and federal programs as they relate to the regulation and management of land development, including regulations of wetland buffers and setbacks, stormwater management, and cumulative effects of development.

III. The opportunities for integration of land use controls, open space protection techniques, and environmental and public health protection laws to promote land development patterns that maintain ecosystem health and integrity while providing desirable communities in which to live and work. This shall include study of any programs of this kind underway in other states or nations.

IV. The potential legal, fiscal, regulatory, and technical obstacles for creating an integrated approach to land development.

V. Legislation that may be necessary to implement the recommendations of the commission.

4 Chairperson; Quorum. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section.

5 Report. The commission shall make an interim report on or before November 1, 2008, with a final report on its findings and any recommendations for proposed legislation to the

speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2009.

6 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill establishes a commission to study issues relating to land development and land development regulation in New Hampshire.

2008-0704h

#### Amendment to HB 1581-FN-LOCAL

#### Proposed by the Majority of the Committee on Municipal and County Government - R

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

1 Construction. Amend RSA 149-I:1 to read as follows:

149-I:1 Construction. The mayor and aldermen of any city may construct and maintain all main drains or common sewers, **stormwater treatment, conveyance, and discharge systems**, sewage and/or waste treatment, works which they adjudge necessary for the public convenience, health or welfare. Such drains ~~and~~, sewers, **and systems** shall be substantially constructed of brick, stone, cement, or other material adapted to the purpose, and shall be the property of the city.

2 Taking Land. Amend RSA 149-I:2 to read as follows:

149-I:2 Taking Land. Whenever it is necessary to construct such main drains or common sewers, **stormwater treatment, conveyance, and discharge systems**, sewage and/or waste treatment facilities across or on the land of any person and the city cannot obtain for a reasonable price any land or easement in land required by it, the mayor and aldermen may lay out a sufficient quantity of such land for the purpose and assess the owner's damages in the same manner as in the case of taking land for highways pursuant to RSA 230 and the owner shall have the same right of appeal, with the same procedure.

3 Contracts; Treatment Facilities. Amend RSA 149-I:4 to read as follows:

149-I:4 Contracts; Sewage or Waste Treatment Facilities. The mayor and aldermen of any city may lease, enter into contracts to provide, sell, or purchase **stormwater treatment, conveyance, and discharge systems, and** sewage or waste treatment facilities to or from any other city, town, village district or person whenever they judge the same necessary for the public convenience, health and welfare.

4 Bylaws and Ordinances. Amend RSA 149-I:6, I to read as follows:

I. In municipalities where the sewage **or stormwater** is pumped or treated, the mayor and aldermen may adopt such ordinances and bylaws relating to the system, pumping station, treatment plant or other appurtenant structure as are required for proper maintenance and operation **and to promote the objectives of the sewage system or stormwater utility**.

5 New Subdivision; Stormwater Utilities. Amend RSA 149-I by inserting after section 6 the following new subdivision:

Stormwater Utilities

149-I:6-a Definitions. In this chapter:

I. "Equivalent residential unit" or "ERU" means the fee unit basis for all fees assessed by a stormwater utility.

II. "Stormwater" means stormwater runoff from precipitation, snow melt runoff, and street wash waters related to street cleaning or maintenance, infiltration, and drainage.

III. "Stormwater utility" means a special assessment district established to generate funding specifically for stormwater management.

IV. "Stormwater utility commission" means the governing body managing the activities of the stormwater utility. When the utility encompasses more than one municipality, representation on the commission shall be proportional to the number of fee units within each jurisdiction.

149-I:6-b Stormwater Utility Authorized. The formation of a stormwater utility is hereby authorized upon approval by a majority vote of the legislative body of a municipality. In the case where a stormwater utility encompasses land within more than one municipality, the utility may be authorized by majority vote of the legislative bodies within each affected jurisdiction. Inter-municipal stormwater utilities shall be governed by a stormwater utility commission.

149-I:6-c Criteria for Stormwater Utilities. The stormwater utility shall address flood and erosion control, water quality management, ecological preservation, and annual pollutant load contained in stormwater discharge.

I. Utilities may collect reasonable fees that are directly related to the cost of providing services.

II. Properties charged assessments shall have equal opportunity to receive proportional benefit from the utility.

III. The utility shall offer credits or fee abatements based on on-site management of water quality impairment or peak runoff storage, or both. The utility shall adopt design standards to determine the amount of abatement.

IV. In assessing fees, the stormwater utility district shall forecast the annual cost of each component in the district's stormwater management program. This forecast shall be the basis for annual assessments distributed equally among the number of fee units within the district.

V. A minimum assessment may be established for fee units based on single family residences. This equivalent residential unit (ERU) can serve as the fee unit basis for all fees. Government property and non-profit organizations shall be subject to the fee structure.

VI. Boundaries of the district are not required to coincide with municipal boundaries.

149-I-6-d System for Fee Units. Each stormwater utility commission shall establish a system for fee units based on at least one of the following property-specific attributes:

I. Total impervious area.

II. Calculated lot runoff.

III. Total lot area.

IV. Land use classification developed for assessment of fees.

6 Levying. Amend RSA 149-I:7 to read as follows:

149-I:7 Levying. The mayor and aldermen may assess upon the persons whose drains enter such main drains, common sewers, **stormwater treatment, conveyance, and discharge systems**, or treatment facilities, or whose lands receive special benefit therefrom in any way, their just share of the expense of constructing and maintaining the same or paying off any capital debt or interest incurred in constructing and/or maintaining the same.

7 Combined Billing Permitted. Amend RSA 149-I:9 to read as follows:

149-I:9 Combined Billing Permitted. In [~~cities~~] **municipalities** which assess sewer rents, **or have established fees for a stormwater utility**, such assessments may be combined in a bill with assessments for other municipal services.

8 New Section; Stormwater Utility Funds. Amend RSA 149-I by inserting after section 10 the following new section:

149-I:10-a Stormwater Utility Funds.

I. The funds received from stormwater utility fees shall be kept as a separate and distinct fund to be known as the stormwater utility fund. Such fund shall be allowed to accumulate from year to year, shall not be commingled with town or city tax revenues, and shall not be deemed part of the municipality's general fund accumulated surplus. Such fund may be expended only for stormwater treatment, conveyance, and discharge systems.

II. Except when a capital reserve fund is established pursuant to paragraph III, all stormwater utility funds shall be held in the custody of the municipal treasurer. Estimates of anticipated revenues and anticipated expenditures from the stormwater utility fund shall be submitted to the governing body as set forth in RSA 32:6 if applicable, and shall be

included as part of the municipal budget submitted to the local legislative body for approval. If the municipality has a properly-established stormwater utility commission, then notwithstanding RSA 41:29 or RSA 48:16, the treasurer shall pay out amounts from the stormwater utility fund only upon order of the stormwater utility commission. Expenditures shall be within amounts appropriated by the local legislative body.

III. At the option of the local governing body, or of the stormwater utility commission if any, all or part of any surplus in the stormwater utility fund may be placed in one or more capital reserve funds and placed in the custody of the trustees of trust funds pursuant to RSA 35:7. If such a reserve fund is created, then the governing body, or stormwater utility commission if any, may expend such funds pursuant to RSA 35:15 without prior approval or appropriation by the local legislative body, but all such expenditures shall be reported to the municipality pursuant to RSA 149-I:25. This section shall not be construed to prohibit the establishment of other capital reserve funds for any lawful purpose relating to municipal water systems.

9 Liens and Collection of Sewer Charges. Amend RSA 149-I:11 to read as follows:

149-I:11 Liens and Collection of Sewer Charges. In the collection of sewer charges **or *underwater utility fees*** under RSA 149-I:7 and 149-I:8, municipalities shall have the same liens and use the same collection procedures as authorized by RSA 38:22. Interest on overdue charges shall be assessed in accordance with RSA 76:13.

10 Correction of Assessments. Amend RSA 149-I:14 to read as follows:

149-I:14 Correction of Assessments.

**I.** If any error is made in any assessment under RSA 149-I:7 or RSA 149-I:8, it may be corrected by the mayor and aldermen by making an abatement and a new assessment, or either, as the case may require. The same lien, rights, liabilities and remedies shall attach to the new assessment as to the original.

**II. *If any error is made in any assessment under RSA 149-I:6-c or RSA 149-I:7, it may be corrected by the governing body by making an abatement or a new assessment, or both. The same lien, rights, liabilities, and remedies shall attach to the new assessment as to the original.***

11 Assessments Not Required. Amend RSA 149-I:17 to read as follows:

149-I:17 Assessment Not Required. Nothing herein contained shall be construed to prevent any city from providing, by ordinance or otherwise, that the whole or a part of the expense of constructing, maintaining and repairing main drains, common sewers, ***stormwater treatment, conveyance, and discharge system***, or sewage and waste treatment facilities shall be paid by such city.

12 Application of Chapter. Amend RSA 149-I:24 to read as follows:

149-I:24 Application of Chapter. The provisions of this chapter shall be in force in such town and village districts as may adopt the same ***by vote of the legislative body***; and the [~~selectmen~~] ***governing body*** shall perform all the duties and possess all the powers in the town or the district, as the case may be, conferred by this chapter upon the mayor and aldermen, and the rights of all parties interested shall be settled in the same way.

13 Entering Without Permit. Amend RSA 149-I:22 to read as follows:

149-I:22 Entering Without Permit. Any person who digs or breaks up the ground in any street, highway, lane or alley in any city, for the purpose of laying, altering, repairing or entering any main drain, ***stormwater treatment, conveyance, and discharge system***, or common sewer therein, without permission from the mayor and aldermen, shall be guilty of a violation.

14 Malicious Injury; Penalty. Amend RSA 149-I:23 to read as follows:

149-I:23 Malicious Injury; Penalty. Any person who shall wantonly or maliciously injure any part of any sewer system, ***stormwater treatment, conveyance, and discharge system***, or sewage disposal plant shall be liable to pay treble damages to the owner thereof, and shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

15 Reports. Amend RSA 149-I:25 to read as follows:

149-I:25 Reports. In towns and village districts adopting this chapter, the selectmen or district commissioners, or board of sewer commissioners if any, ***or stormwater utility commission*** shall annually, at the time other town or district officers report, make a report to the municipality of the condition of the plant financially and otherwise, showing the funds of the department, the expenses and income thereof, and all other material facts. This report shall be published in the annual report of the municipality.

16 New Subparagraph; Application of Receipts; Stormwater Utility Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:

(269) Moneys deposited in the stormwater utility fund established under RSA 149-I:10-a.

17 Effective Date. This act shall take effect 60 days after its passage.

2008-0772h

### **Amendment to HB 1583-FN**

#### **Proposed by the Committee on Science, Technology and Energy - R**

Amend RSA 106-H:2, V-a as inserted by section 1 of the bill by replacing it with the following:

V-a. "Emergency notification system" or "ENS" means a notification system that enables a public safety answering point to send a pre-recorded voice message to the wired telephone of every resident and business within a specific area in a short period of time for the purpose of alerting the public about an emergency situation.

Amend RSA 106-H:16, III as inserted by section 2 of the bill by replacing it with the following:

III. The bureau shall, to the greatest extent possible, ensure that the ENS is fully geographic information system (GIS) capable and able to define an emergency zone by address, by telephone exchange, or by geographic area. Wired telephone line numbers shall be linked to a GIS mapping database and able to perform a query based on address, telephone number, or a general geographic area.

Amend RSA 106-H:16, V(b) and (c) as inserted by section 2 of the bill by replacing them with the following:

(b) Provides for simultaneous delivery of emergency notifications to telephones and/or other communication devices.

(c) Incorporates a wide range of existing communication methods and devices to make emergency notifications, to land-based telephones, pagers, and land mobile radios.

Amend RSA 106-H:16, V as inserted by section 2 of the bill by inserting after subparagraph (i) the following:

(j) Is designed and configurable to allow the system to insure the network integrity of all service providers.

(k) Requires the emergency notification message to contain notice provided by the person or entity initiating the emergency notification message of where to receive further information, including sources such as television, radio, and websites.

(l) States that there is an opt-out provision for municipalities and individual subscribers.

Amend the bill by replacing section 3 with the following:

3 Funding. Amend RSA 106-H:9, II to read as follows:

II. Imposition of the enhanced 911 services surcharge shall begin not later than 4 months from the approval of the budget, in order to provide adequate funding for the development of the enhanced 911 database and other operations ~~[necessary to the development]~~ of the enhanced 911 system ***and emergency notification system***.

4 Effective Date. This act shall take effect January 1, 2010.

2008-0722h

**Amendment to HB 1587-FN**  
**Proposed by the Majority of the Committee on Health, Human Services and**  
**Elderly Affairs - R**

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

1 Statement of Purpose and Intent. The general court:

- I. Believes that informational privacy is a core value of New Hampshire citizens.
- II. Recognizes that the confidentiality of personal health information has been an ethical standard of health care providers since the time of Hippocrates.
- III. Recognizes that a critical element in an individual's relationship with a health care provider is trust in the health care provider's confidentiality ethics, as well as established confidentiality rules. This trust encourages individuals to share information they would not want publicly known. This trust also promotes public health, as individuals with potentially contagious or communicable diseases are not inhibited from seeking treatment.
- IV. Recognizes that there are clinical, societal, and economic reasons for a shift to electronic health records and an interoperable network of such, if there are reasonable privacy and confidentiality measures. A paper-based health records system has clinically incomplete and fragmented information, as well as challenges in achieving security and clear auditable trails of record access. While this fragmentation often has the positive privacy consequence of preventing unauthorized disclosure of personal health information, an individual is at risk of vital information not being available in emergencies, of difficulty in maintaining continuity of care, and of adverse health outcomes due to errors. Societal concerns include an unnecessary waste of health care resources and an inability to compile aggregate data on health measures and outcomes.
- V. Recognizes that people differ widely in their opinions regarding privacy and confidentiality, opinions that may be influenced by the individual's health condition as well as cultural, religious, or other beliefs, traditions, or practices. By providing individuals with reasonable choices concerning the uses and disclosures of their personal health information, the health care system and society demonstrate respect for persons. Furthermore, limiting excessive and unnecessary disclosure of personal health information helps to prevent health-based discrimination.
- VI. Recognizes that public support for the electronic health record exchange depends upon public confidence and trust that personal health information will be protected. In an age in which electronic transactions are increasingly common and security lapses are reported widely, the health care industry must commit to incorporating privacy and confidentiality protections that permeate the entire health records system and respect the individual.
- VII. Recognizes the difficulty in balancing the interests of privacy and confidentiality against the clinical, economic, and societal benefits of the electronic health record exchange. However, individual and societal interests are not necessarily inconsistent. There is a strong societal interest in privacy and confidentiality to promote the full candor on the part of the individual needed for quality health care. At the same time, individuals have a strong interest in giving health professionals the ability to access their personal health information to treat health conditions and safely and efficiently operate the health care system. Both the society as a whole and each individual have an interest in improvements in public health, research, and other uses of personal health information.
- VIII. Recognizes that there is commercial value in personal health information and that an electronic format makes this information more accessible.
- IX. Finds that commercial access to personal health information may negatively affect the patient-provider relationship, and that commercial access should, therefore, be limited.

2 Health Care Information and Rights. RSA 332-I is repealed and reenacted to read as follows:

CHAPTER 332-I  
HEALTH CARE INFORMATION AND RIGHTS

332-I:1 Purpose.

I. The general court finds that:

(a) Health information is the property of the individual and should be protected at all times;

(b) Individuals are entitled to control access to their protected health information and to obtain an audit trail of who has accessed their protected health information.

II. The purpose of this chapter is to recognize the individual's ownership of his or her health information, to recognize the individual's right to privacy in the content of his or her health information, and to establish safeguards to protect health information that exceed the regulatory requirements under sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA):

332-I:2 Definitions. In this chapter:

I. The following terms have the same meaning as given in the regulations under sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA):

- (a) Business associate;
- (b) Disclosure;
- (c) Health care operations;
- (d) Health plan;
- (e) Individually identifiable health information;
- (f) Protected health information;
- (g) Person;
- (h) Treatment;
- (i) Use; and
- (j) Payment.

II. "Audit trail" means a chronological record identifying specific persons who have accessed an electronic medical record, the date and time the record was accessed, and, if such information is available, the area of the record that was accessed.

III. "Commissioner" means the commissioner of the department of health and human services.

IV. "Department" means the department of health and human services.

V. "Health care provider" means any person, corporation, facility, or institution either licensed by this state or otherwise lawfully providing health care services, including, but not limited to, a physician, hospital, office, clinic, health center, or other health care facility licensed under RSA 151, dentist, nurse, optometrist, pharmacist, podiatrist, physical therapist, or mental health professional, and any officer, employee, or agent of such provider acting in the course and scope of employment or agency related to or supportive of health care services. If not otherwise included in the foregoing, "health care provider" also has the meaning provided in the regulations adopted under sections 262 and 264 of HIPAA.

VI. "Health information exchange" means an entity established for the primary purpose of enabling and overseeing the exchange of protected health information for clinical decision-making purposes. The entity may operate on a regional, statewide, or multi-state basis. The entity may be developed by multiple stakeholders, including, but not limited to, the department of health and human services, a non-profit entity, or a for-profit entity. For the purpose of this chapter, "health information exchange" does not include entities solely owned and operated by health care providers, integrated delivery systems, or pharmacy exchanges.

VII. "Health promotion" means the provision of public health programs by the health care provider directly or through a business associate that attempt to prevent illness and injury. "Health promotion" includes, but is not limited to:

- (a) Reminders to individuals about routine preventive procedures; and

(b) Mailings providing information on dietary practices, new developments in healthcare, support groups, organ donation, cancer prevention, and health fairs.

VIII. "Individual" means the subject of the protected health information, including a guardian or other legal representative, as appropriate.

IX. "Marketing" means:

(a) To make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless the communication is made:

- (1) For treatment of the individual;
- (2) For case management or care coordination for the individual;
- (3) To direct or recommend to the individual:
  - (A) Alternative treatments or therapies if recommended by the

individual's health care provider;

- (B) Health care providers;
- (C) Settings of care; or

(4) For treatment-related reminders or health promotion activities by health care providers.

(b) An arrangement between a health care provider and any other person whereby the health care provider discloses protected health information to the other person, in exchange for direct or indirect remuneration, for the other person or an affiliate of the other person to make a communication about the person's own product or service that encourages recipients of the communication to purchase or use that product or service.

X. "Medical emergency" means medically necessary care which is immediately needed to preserve life, prevent serious impairment to bodily functions, organs, or parts, or prevent placing the physical or mental health of the patient in serious jeopardy.

XI. "Medical record" means any report, notes, orders, photographs, diagnostic imaging, or other recorded data or information whether maintained in written, electronic, or other form which is received or produced by a health care provider and contains information relating to the medical history, examination, diagnosis, or treatment of an individual.

332-I:3 Protected Health Information; Rights of the Individual. The individual has the following rights in regards to his or her protected health information that is in the possession of a health care provider or a business associate of the health care provider:

I. All medical information contained in the medical records in the possession of any health care provider or a business associate of a health care provider shall be deemed to be the property of the individual.

II. The charge for the copying of an individual's medical records shall not exceed \$15 for the first 30 pages or \$.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost. When available and at a reasonable cost, the individual may request and receive a copy of his or her protected health information in an electronic format.

III. The individual has the right to receive an audit trail, including an explanation of the audit trail, regarding access to his or her electronic medical record for any period, as identified by the individual, within the 3 years prior to the request for the audit trail. The health care provider or the business associate of a health care provider may impose a reasonable charge for providing the audit trail. Notwithstanding any provision of law to the contrary, if the individual who requests the audit trail is receiving Medicaid, the department of health and human services shall pay the full charge for the audit trail.

IV. The individual has the right to restrict disclosure of protected health information in accordance with section 332-I:4.

332-I:4 Protected Health Information; Disclosure for Treatment, Payment, and Health Care Operations.

I. As necessary, a health care provider may disclose an individual's protected health information for treatment of the individual, for payment for services rendered to the

individual, or for the health care provider's essential health care operations, unless the individual elects otherwise in writing in accordance with paragraph III.

(a) Health care operations are not essential when those operations can be carried on with reasonable effectiveness and efficiency without protected health information.

(b) Health care operations that are not essential include: fundraising and disclosure of protected health information for sale, rent, or barter.

II.(a) For the purposes of this section, one or more health care providers who as of January 1, 2008 are affiliated or business associates for the purpose of sharing an electronic medical record system or comprise an organized health care arrangement, shall be considered one health care provider, if the following criteria are met:

(1) The electronic medical record system is not structured to restrict disclosure as required by this section; and

(2) After January 1, 2008, only active medical staff or other health care providers in the local community or service area who were offered the opportunity to share in the electronic medical record system prior to such date may be added to the foregoing arrangement.

(b) Active medical staff or other health care providers who have not received an offer to share in an electronic medical records system prior to January 1, 2008 may share in such an electronic medical record arrangement only when the electronic medical record system restricts disclosure between the separate providers in accordance with this section.

III. At the initial encounter with an individual, a health care provider shall inform the individual of the right to elect to restrict disclosure of the individual's protected health information pursuant to paragraph I. The following procedures shall apply to such election:

(a) If the individual elects to restrict disclosure, at the initial encounter or any time thereafter, the health care provider shall inform the individual of the possible consequences associated with such an election. The health care provider shall also supply a form, as described in paragraph VIII, on which the individual shall make the election to restrict disclosure in writing, including by electronic signature. The election is effective on the date the written election is made and the health care provider is not liable for disclosures made prior to receipt of such election.

(b) An individual may at any time revoke an election to restrict disclosure. Such revocation is effective on the date an oral or written election to revoke is made, received, and documented by the health care provider. The health care provider shall not be liable for an access denial made prior to such election.

(c) Notwithstanding an individual's election to restrict disclosure, a health care provider may, at its discretion, send an individual's name and address to a health information exchange.

IV. Notwithstanding an election by an individual to restrict disclosure, a health care provider may disclose protected health information to:

(a) An insurance issuer or other person when a written request for protected health information from the insurance issuer or other person includes the individual's signature authorizing disclosure;

(b) A pharmacist when the health care provider arranges with the individual to submit a prescription directly to the pharmacy, by phone, electronic format, or other direct submission method, and the individual does not object or request a paper prescription; or

(c) The state, when required by state law.

V. An election to restrict disclosure under this section shall not prohibit the disclosure of protected health information during a medical emergency when the treating health care provider is unable to obtain the individual's authorization due to the individual's condition or the nature of the medical emergency. The treating health care provider shall make the clinical determination as to whether or not a medical emergency exists.

VI. A health care provider shall not be required to provide treatment to an individual who elects not to disclose protected health information that the health care

provider deems clinically necessary, unless such treatment is required by law. No health care provider who, in good faith, renders reasonable care shall be held liable for any adverse health outcome to an individual that results from that individual's election to limit access to his or her protected health information permitted by this section.

VII. If the individual elects to restrict disclosure of protected health information for the purpose of payment, the health care provider may condition treatment upon self-payment by the individual, unless such condition would otherwise be prohibited by law. If the individual elects to restrict disclosure for the purpose of payment, the health care provider is prohibited from submitting a claim to a health plan or other insurer. A health plan or other insurer shall not be liable for the failure to pay a claim if the individual has elected to restrict disclosure of protected health information for the purpose of payment and the individual has not provided the health plan or other insurer with sufficient information to pay the claim.

VIII. The form on which an individual elects to restrict disclosure of protected health information shall be developed, and revised as necessary by the commissioner, and that process shall be exempt from the requirements of RSA 541-A. At a minimum, the form shall:

- (a) Be written in clear, plain language, in large-type font;
- (b) Contain the name of the health care provider;
- (c) Meet any applicable requirements of the regulations under sections 262 and 264 of HIPAA; and
- (d) Contain the following in a clear and conspicuous manner:
  - (1) A statement of the election;
  - (2) A statement that the election may be revoked at any future time, orally or in writing;
  - (3) A statement that the authorization will be effective until revoked;
  - (4) A statement that the individual has been informed of the risks and benefits associated with such an election; and
  - (5) Contact information for the department of justice for submission of a complaint.

#### 332-I:5 Use and Disclosure of Protected Health Information; Marketing.

I. A health care provider, or a business associate of the health care provider, shall obtain an authorization for any use or disclosure of protected health information for marketing. Such authorization shall meet the authorization implementation specifications for marketing under the regulations adopted pursuant to sections 262 and 264 of HIPAA.

II. Protected health information disclosed for marketing shall not be disclosed by voice mail, an unattended facsimile, or through other methods of communication that are not secure.

332-I:6 Use and Disclosure of Protected Health Information; Research. A business associate of a health care provider shall adhere to the standard for use and disclosure of protected health information for research purposes that applies to covered entities under the regulations adopted pursuant to sections 262 and 264 of HIPAA.

#### 332-I:7 Use and Disclosure of Protected Health Information; Health Information Exchange.

I. A health care provider or a business associate of a health care provider may disclose an individual's protected health information and information about the location of the individual's medical records to a health information exchange. Only a health care provider, for purposes of treatment, may have access to protected health information in a health information exchange.

II. A health information exchange shall adhere to the protected health information requirements for health care providers in state and federal law.

III. A health information exchange shall maintain an audit log of health care providers who access protected health information, including:

- (a) The identity of the health care provider accessing the information;

(b) The identity of the individual whose protected health information was accessed by the health care provider;

(c) The date the protected health information was accessed; and

(d) The area of the record that was accessed.

IV. A health information exchange shall be certified to be in compliance with nationally accepted interoperability standards and practices.

V. No person shall require a health care provider to participate in a health information exchange as a condition of payment or participation.

#### 332-I:8 Unauthorized Disclosure.

I. In the event of a disclosure, not permitted by this chapter, of protected health information by a health care provider, the health care provider shall promptly notify in writing the individual or individuals whose protected health information was disclosed.

II. In the event of a disclosure, not permitted by this chapter, of protected health information by a business associate of a health care provider, the business associate shall promptly notify the health care provider and the attorney general. The health care provider shall promptly notify in writing the individual or individuals whose protected health information was disclosed. The business associate shall be responsible for the cost of such notification.

#### 332-I:9 Complaints; Right of Action.

I. An individual may make a written complaint relative to a violation of 332-I:1 through 332-I:8 by a health care provider to the board or agency that licenses or certifies the health care provider. Upon receipt of such complaint, the board or agency shall review the complaint and, where sufficient evidence of a violation is presented, conduct investigations to determine whether a violation of this subdivision has occurred and take appropriate action against the health care provider.

II. An individual may make a written complaint relative to a violation of 332-I:1 through 332-I:8 by a business associate of a health care provider to the department of justice. Upon receipt of such complaint, the department of justice shall review the complaint, and where sufficient evidence of a violation is presented, conduct investigations to determine whether a violation of this subdivision has occurred. Any violation of these provisions by a business associate of a health care provider shall constitute an unfair and deceptive trade practice within the meaning of RSA 358-A:2. Any right or remedy set forth in RSA 358-A may be used to enforce the provisions.

III. An aggrieved individual may bring a civil action under this subdivision and, if successful, shall be awarded special or general damages of not less than \$1,000 for each violation, and costs and reasonable legal fees.

#### Health Care Rights

##### 332-I:10 Health Care Rights of the Individual.

I.(a) The individual has the right to courtesy, respect, dignity, responsiveness, and timely attention to his or her needs.

(b) The individual has the right to receive information from the health care provider and to discuss the benefits, risks, and costs of appropriate treatment alternatives.

(c) The individual shall be fully informed by the health care provider of his or her medical condition, health care needs, and diagnostic test results, including the manner by which such results will be provided and the expected time interval between testing and receiving results, unless medically inadvisable and so documented in the medical record.

(d) The individual has the right to make decisions regarding the health care that is recommended by the health care provider. Accordingly, unless required by state law, individuals may accept or refuse any recommended medical treatment and be involved in experimental research upon the individual's written consent only.

(e) The health care provider shall not reveal confidential communications or information without the consent of the individual, unless provided for by law or by the need to protect the welfare of the individual or the public interest.

II. Facilities subject to RSA 151:21 and RSA 151:21-b shall be exempt from paragraph I.

3 Commission Established. There is established a commission to develop and recommend a form to elect to restrict disclosure of protected health information and to develop a reasonable charge for an audit trail.

4 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Four members of the house of representatives, 2 of whom shall be from the committee on health, human services and elderly affairs, appointed by the speaker of the house of representatives.

(b) One member of the senate who shall be from the health and human services committee, appointed by the president of the senate.

(c) A representative of the department of justice, appointed by the attorney general.

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

(e) A representative of the New Hampshire Hospital Association, appointed by the association.

(f) One representative of county nursing homes, appointed by the New Hampshire Association of Counties.

(g) A representative of the New Hampshire Home Care Association, appointed by the association.

(h) A representative of the New Hampshire Medical Society, appointed by the society.

(i) A representative of the New Hampshire Medical Group Management Association, appointed by the association.

(j) A representative of the New Hampshire Institute for Health Policy and Practice, appointed by the institute.

(k) A representative of the Institute for Health, Law and Ethics at Franklin Pierce Law Center, appointed by the dean of the law center.

(l) A representative of the New Hampshire Citizens Health Initiative, appointed by the governor.

(m) The state director of the New Hampshire chapter of AARP, or designee.

(n) The executive director of the National Alliance on Mental Illness New Hampshire, or designee.

(o) A representative of the New Hampshire Council on Developmental Disabilities, appointed by the council.

(p) A representative of an AIDS and HIV service organization, appointed by the governor.

(q) The executive director of the New Hampshire Civil Liberties Union, or designee.

(r) A representative of the New Hampshire Health Information Management Association, appointed by such association.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

5 Duties.

I. The commission shall develop:

(a) A form to elect to restrict disclosure of protected health information for use by all New Hampshire health care providers which shall include, but shall not be limited to, the elements identified in RSA 332-I:4, VIII.

(b) A standardized, simplified procedure to ease the burden on individuals who want to opt-out of future marketing contacts.

(c) A public education plan, including education of health care providers.

(d) A recommendation for a reasonable charge for an audit trail.

II. The commission shall recommend the form or forms developed pursuant to this section to the commissioner who shall finalize the form and post it on the department's website.

6 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Eleven members of the commission shall constitute a quorum.

7 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

8 Effective Date.

I. Sections 3-7 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2009.

#### AMENDED ANALYSIS

This bill establishes procedures for access to health care information that is in the possession of health care providers. The bill specifies the rights of the individual who is the subject of the health care information. This bill also establishes a commission to develop a form to restrict disclosure of protected health care information.

2008-0425h

#### **Amendment to HB 1589-FN**

#### **Proposed by the Minority of the Committee on Judiciary - R**

Amend the title of the bill by replacing it with the following:

AN ACT prohibiting the lethal injection of potassium chloride as part of the abortion process.

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Prohibiting the Use of Lethal Injections of Potassium Chloride in Abortions. Amend RSA 132 by inserting after section 28 the following new subdivision: Prohibiting the Use of Lethal Injections of Potassium Chloride in Abortions

132:29 Use of Lethal Injections of Potassium Chloride in Abortions Prohibited. No person performing abortions shall use a lethal injection of potassium chloride into a fetus or umbilical cord as part of the abortion process. For the purposes of this section, "fetus" means a fetus of the species homo sapiens carried in the womb. Any person violating the provisions of this subdivision shall be guilty of a felony.

#### AMENDED ANALYSIS

This bill prohibits the lethal injection of potassium chloride as part of the abortion process.

2008-0697h

#### **Amendment to HB 1590-FN**

#### **Proposed by the Committee on Public Works and Highways - R**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a DWI victim fatality sign program.

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

1 New Subdivision; DWI Victim Fatality Sign Program. Amend RSA 236 by inserting after section 48 the following new subdivision:

DWI Victim Fatality Sign Program

236:48-a DWI Victim Fatality Sign Program.

I. A next of kin may apply to the department of transportation to sponsor a sign memorializing an individual who was fatally injured in a traffic accident, occurring after July 1, 2006, in which there is substantial evidence gathered by law enforcement that

another driver caused the accident while driving in violation of RSA 265-A:2 or RSA 265-A:3. The applicant shall complete a DWI victim fatality sign application furnished by the department. The applicant shall include with the application:

- (a) The date of the accident.
- (b) The location of the accident.
- (c) The name of the driver driving while intoxicated or under the influence of

drugs.

(d) An affidavit by the applicant that the individual to be memorialized was fatally injured in the traffic accident and that there is substantial evidence gathered by law enforcement that the other driver was at fault and that drugs or alcohol were involved.

(e) The name of the individual who was fatally injured as it should appear on the name plaque.

II. Within 60 days, or as soon as practical, after the department of transportation receives a correctly completed application submitted under paragraph I and the department has inspected the proposed site for the sign, the department shall send a written decision to the applicant as to whether the proposed sign installation is in compliance with this section.

III.(a) A sign that the department approves under this section shall be placed in the state-maintained highway right-of-way, at cost to an applicant, near the location of the accident and facing the oncoming traffic, without obstructing the visibility of an existing traffic sign.

(b) Signs shall not be placed within an interstate right-of-way, or on-ramps and off-ramps of such highways.

(c) The department shall furnish, install, and retain ownership of the DWI fatality sign.

IV. If a sign is applied for under paragraph I and approved by the department, the department shall install a DWI fatality sign that reads "PLEASE DON'T DRINK AND DRIVE" and a separate name plaque that reads "IN MEMORY OF (the victim's name)."

V. No more than 3 name plaques of victims may appear below the DWI fatality sign on a single sign installation.

VI. Unless it determines that public safety requires removal, the department shall keep a sign installation in its designated location for 2 years after the date of its installation. After the 2-year period ends, the department shall remove the sign. No petition for time extension or re-erection of such sign shall be accepted.

2 Rulemaking. Amend RSA 21-L:12 by inserting after paragraph XLVII the following new paragraph:

XLVIII. Application procedures for DWI fatality signs authorized by RSA 236:48-a.

3 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill establishes a DWI victim fatality sign program.

2008-0237h

#### Amendment to HB 1591-FN

#### Proposed by the Committee on Commerce - C

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

1 New Section; Retail Installment Sales; Lien Payoff on Motor Vehicles Accepted in Trade. Amend RSA 361-A by inserting after section 10-b the following new section:

361-A:10-c Lien Payoff on Motor Vehicles Accepted in Trade.

I. When a person enters into a retail transaction where a consumer trades in or sells a vehicle that is subject to a lien, the person shall, within 21 calendar days of the date of sale, remit payment to the lien holder to pay off the lien on the traded-in or sold motor vehicle, unless the underlying contract has been rescinded before expiration of 21 calendar days.

II. In this section, the term "date of sale" shall be the date the parties entered into the transaction as evidenced by the date written in the contract executed by the parties, or

the date the person took possession of the traded-in or sold vehicle. In the event the date of the contract differs from the date the person took possession of the traded-in vehicle, the "date of sale" shall be the date the person took possession of the traded-in vehicle.

2 Effective Date. This act shall take effect January 1, 2009.

#### AMENDED ANALYSIS

This bill provides that when a person accepts a motor vehicle with an outstanding lien as part of a retail transaction, the person shall pay off the outstanding lien within a specified period of time.

2008-0679h

#### Amendment to HB 1603-FN-A

#### Proposed by the Committee on Ways and Means - C

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

1 Return of Payment. Amend RSA 6:11-a to read as follows:

6:11-a Return of [~~Checks, Drafts and Money Orders~~] **Payment**; Fee.

I. Any [~~check, draft or money order~~] **payment** received by any state department or institution for [~~the payment of~~] a fee, license, or product which is returned to the state department or institution as uncollectible [~~may~~] **shall** be returned to the sender and not deposited with the state treasurer. Whenever [~~any check, draft or money order issued in~~] payment of any fee or for any other purpose is returned to any state department or institution as uncollectible, the department or institution may charge a fee of \$25 or 5 percent of the face amount of the [~~check~~] **payment**, whichever is the greater, plus all protest and bank fees, in addition to the amount of the [~~check, draft or money order~~] **initial payment** to the person presenting the [~~check, draft or money order~~] **payment** to the department or institution to cover the costs of collection.

II. A [~~check, draft or money order~~] **payment** received by any state department or institution for [~~the payment of~~] a fee, license, or product [~~may~~] **shall** be returned to the sender and not deposited with the state treasurer and any application received by a state department or institution may be returned to the sender under any of the following circumstances:

- (a) The amount of the [~~check, draft or money order~~] **payment** is incorrect.
- (b) The application is required to be submitted with the payment of a fee and is not so submitted or is improperly or incorrectly submitted.
- (c) A license applicant has not complied with one or more statutory requirements entitling him **or her** to make such application.
- (d) The requested product is unavailable.

III. The department or institution may charge a fee, if appropriate, of at least \$25 plus all protest and bank fees, if any, to the person presenting an application [~~, check, draft or money order~~] **or payment** which is unacceptable to a state department or institution, as provided in paragraph II.

2 Waiver in Lieu of Court Appearance. Amend RSA 262:44, III(a) to read as follows:

III.(a) Whenever a defendant:

- (1) Does not enter a plea-by-mail with the director of the division of motor vehicles within 30 days of the date of the summons or, if required to appear in court personally, does not appear personally or by counsel at the court on or before the required date or move for a continuance; or
- (2) Fails to pay a fine or other penalty in connection with a conviction of a title XXI offense or [~~issues a bad check in~~] payment of such fine or other penalty **is uncollectible or unacceptable pursuant to RSA 6:11-a**, the defendant shall be defaulted. In cases where the defendant has failed to enter a plea-by-mail with the director, the director of designee shall determine what the fine would be upon a plea of guilty or nolo contendere and shall impose an administrative processing fee in addition to the fine and penalty assessment. In cases where the defendant has defaulted on a court obligation, the court

shall determine what the fine would be upon a plea of guilty or nolo contendere and shall impose an administrative processing fee in addition to the fine and penalty assessment. In any case, the defendant's driving privileges shall be suspended as provided in RSA 263:56-a.

3 Waiver in Lieu of Court Appearance. Amend 262:44, IV(b) to read as follows:

(b) Fails to pay a fine or other penalty imposed in connection with a conviction of any offense which a court has determined ~~he~~ **the defendant** is able to pay, or ~~issues a bad check in~~ payment of a fine or other penalty **is uncollectible or unacceptable, pursuant to RSA 6:11-a**; or

4 Effective Date. This act shall take effect 60 days after its passage.

2008-0489h

#### **Amendment to HB 1607-FN**

##### **Proposed by the Committee on Labor, Industrial and Rehabilitative Services - C**

Amend the title of the bill by replacing it with the following:

AN ACT relative to firefighter services leave for state employees.

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

1 New Section; Firefighter Services Leave. Amend RSA 227-L by inserting after section 5 the following new section:

227-L:5-a Firefighter Services Leave.

I. Any state employee who is a certified volunteer wildland firefighter may, with the authorization of the employee's supervisor, be granted a leave of absence with pay to participate in wildland fire emergencies to include non-wildland fire emergencies in another state or province pursuant to an agreement with the following: The Northeastern Interstate Forest Fire Protection Compact and the United States federal government. Requests for assistance shall be received and dispatched via the department of resources and economic development, division of forests and lands.

II. An employee, under this section, after completing one year in state service, may be entitled to not more than 30 working days in any fiscal year for such duty. Each participating employee shall be paid the employee's regular pay plus overtime. Upon the employee's return, the division of forests and lands shall bill the agency that requested aid for all reimbursable costs incurred pursuant to the terms of the agreement with the Northeastern Interstate Forest Fire Protection Compact and/or the United States federal government. The division shall provide reimbursement to the departments for which the firefighter is employed.

III. This section shall not apply to employees of the department of resources and economic development.

2 Effective Date. This act shall take effect 60 days after its passage.

#### **AMENDED ANALYSIS**

This bill allows state employees who are certified volunteer wildland firefighters to have a leave of absence, with pay, to provide emergency assistance in other states under certain ci

2008-0620h

#### **Amendment to HB 1613-FN**

##### **Proposed by the Majority of the Committee on Criminal Justice and Public Safety - R**

Amend RSA 263:56-a, I(a)(4) as inserted by section 3 of the bill by replacing it with the following:

~~(d)~~ **(4) Is a sexual offender as defined in RSA 651-B:1, III and fails to comply with the registration requirements under RSA 651-B, and where the failure to comply persists for more than 30 days; or**

Amend RSA 632-A:2, IV as inserted by section 7 of the bill by replacing it with the following:

IV. A person is guilty of aggravated felonious sexual assault when such person ~~[marries, or lives together with, under the representation of being married,]~~ **engages in**

*sexual penetration as defined in RSA 632-A:1, V with* another person under 18 years of age whom such person knows to be his or her ancestor, descendant, brother or sister of the whole or half blood, uncle, aunt, nephew, or niece. The relationships referred to herein include blood relationships without regard to legitimacy, stepchildren, and relationships of parent and child by adoption.

2008-0214h

**Amendment to HB 1614-FN**

**Proposed by Minority of the Committee on Criminal Justice and Public Safety - R**  
Amend RSA 283-A as inserted by section 1 of the bill by deleting RSA 283-A:11 and renumbering the original RSA 283-A:12 to read as RSA 283-A:11.

**AMENDED ANALYSIS**

This bill:

- I. Prohibits the offering of aid to illegal aliens.
- II. Allows the issuance of identification cards.
- III. Requires law enforcement to investigate the immigration status of certain offenders.
- IV. Requires employers to verify the immigration status of employers.
- V. Prohibits the dispensation of certain state benefits to illegal aliens.
- VI. Allows the attorney general to enter into a memorandum of understanding with the federal government.
- VII. Prohibits illegal aliens from receiving a tuition discount from state universities.

2008-0752h

**Amendment to HB 1615-FN-A**

**Proposed by the Committee on Health, Human Services and Elderly Affairs - C**  
Amend the title of the bill by replacing it with the following:

AN ACT establishing the state office of rural health in the department of health and human services and establishing a commission to recommend policies and programs to increase the number of persons in health professions servicing New Hampshire's rural and underserved areas.

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

1 Statement of Intent.

- I. The general court hereby finds and declares that:
  - (a) The health of the citizens of New Hampshire is of paramount importance.
  - (b) The education of health care professionals must be reshaped.
  - (c) The delivery of health care services must be improved.
  - (d) A focus on health professions education will aid in the recruitment of health care professionals and their retention in the state.
  - (e) Health professions education should incorporate clinical experience in rural and underserved areas and provide improved availability of health care services throughout the state, especially in rural and underserved areas.
  - (f) The state investment in such education and services must be contained within reasonable limits.
  - (g) A need exists throughout the state for a greater number of primary care, oral health, behavioral health, and addiction care providers. Allied health care professionals for improved accessibility to adequate health care throughout the state are necessary, especially in rural and underserved areas.
  - (h) The state's health professions schools are finding it difficult to satisfy the ever increasing demand for qualified persons to deliver these health care services.
  - (i) The state's institutions of higher education and rural health care facilities existing throughout the state are a major educational resource for training students in these health care services, as well as a major resource for providing health care to underserved citizens of this state.

II. Therefore, the general court hereby requires the department of health and human services and the university system of New Hampshire board of trustees to support the establishment of specific programs for the purposes of increasing health care in rural and underserved areas.

2 New Paragraph; State Office of Rural Health. Amend RSA 126-A:5 by inserting after paragraph XVI the following new paragraph:

XVII.(a) The commissioner shall establish the state office of rural health (SORH) within the department. The SORH shall:

- (1) Link rural health and human service providers with state and federal resources.
- (2) Find long-term solutions to the challenges of rural health.
- (3) Increase access to health care in rural and underserved areas of the state.
- (4) Improve recruitment and retention of health professionals in rural areas.
- (5) Provide technical assistance and coordination to rural communities and health organizations.
- (6) Maintain a clearing house for collecting and disseminating information on rural health care issues and innovative approaches to the delivery of health care in rural areas.
- (7) Coordinate rural health interests and activities.
- (8) Participate in strengthening state, local, and federal partnerships.

(b) The commissioner may adopt rules, pursuant to RSA 541-A, relative to accomplishing the goals under subparagraph (a).

(c) The commissioner shall make an annual report beginning on November 1, 2009 to the speaker of the house of representatives, the senate president, and the governor on the health status of rural residents incorporating current data from the bureau of health statistics and data management and the SORH.

3 Commission Established. There is established a commission to recommend policies and programs related to increasing and expanding the number of New Hampshire individuals in health professions servicing New Hampshire's rural and underserved areas with a focus on primary oral, behavioral health, and addiction care.

4 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) One member of the house of representatives, appointed by the speaker of the house of representatives.

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

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

(d) The commissioner of postsecondary technical education, or designee.

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

(f) The dean, or designee, from a public health science school, appointed by the governor.

(g) The dean, or designee, from a private health science school, appointed by the governor.

(h) The dean of the College of Health and Human Services, university of New Hampshire, or designee.

(i) A representative of the New Hampshire Medical Society, appointed by the society.

(j) A representative of the New Hampshire Dental Society, appointed by the society.

(k) A representative of the New Hampshire Nurse Practitioner Association, appointed by the association.

(l) A representative of the New Hampshire Mental Health Coalition, appointed by the coalition.

(m) Five representatives from the state's rural health care facilities, including 3 practitioners and 2 administrators, appointed by the governor.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

5 Duties.

I. The commission's study shall include, but not be limited, to a recommendation of policies and programs related to increasing and expanding the number of New Hampshire citizens in health professions serving New Hampshire's rural and underserved areas with a focus on primary care, oral, and behavioral health. The commission shall also determine the feasibility of the following:

(a) Establishing local programs including the development of scholarships and state loan repayment programs for New Hampshire students in health professions training programs, including "purchased seats" at Dartmouth Medical School and out-of-state medical and dental schools to ensure slots are available for New Hampshire students.

(b) Requiring the department of health and human services to prepare a plan for the development of primary health care education sites in existing health care facilities to provide opportunities for health professions students to receive additional training and clinical experience under the direction of primary care practitioners providing care in rural areas.

(c) Requiring the department of health and human services in conjunction with the department of education to develop a plan to be established in the state's secondary schools for mentoring students interested in health professions careers with special consideration given to students from rural areas.

II. The commission may solicit information from any person or entity the committee deems relevant to its study.

6 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

7 Report. The commission shall make an interim report of its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008 and a final report on or before September 1, 2009.

8 Effective Date. This act shall take effect upon its passage.

**AMENDED ANALYSIS**

This bill establishes the state office of rural health (SORH) in the department of health and human services. This bill also establishes a commission to recommend policies and programs to increase the number of persons in health professions servicing New Hampshire's rural and underserved areas.

2008-0621h

**Amendment to HB 1619-FN**

**Proposed by the Committee on Criminal Justice and Public Safety - C**

Amend the title of the bill by replacing it with the following:

AN ACT requiring a report of the number of female inmates incarcerated in a state correctional facility receiving sex offender treatment.

Amend the bill by replacing section 1 with the following:

1 Female Inmates Receiving Sex Offender Treatment. No later than November 1, 2008, the commissioner of the department of corrections shall submit a report to the speaker of the house, the president of the senate, and the governor detailing the number of female inmates incarcerated in a state correctional facility as "sexual offenders" and "offenders against children," as those terms are defined in RSA 651-B:1, the number of such female inmates

who are receiving sex offender treatment, and the sex offender treatment options available to such female inmates.

**AMENDED ANALYSIS**

This bill requires the commissioner of the department of corrections to report on the number of female inmates incarcerated in a state correctional facility who are receiving sex offender treatment.

2008-0625h

**Amendment to HB 1623-FN**

**Proposed by the Minority of the Committee on Criminal Justice and Public Safety - R**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the penalty for possession of marijuana.

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

1 New Subparagraph; Controlled Drug Act; Penalties. Amend RSA 318-B:26, II by inserting after subparagraph (d) the following new subparagraph:

(e) In the case of marijuana in a quantity of less than .25 ounces including any adulterants or dilutants, the person shall be guilty of a violation, and notwithstanding paragraph XIII of this section, subject to a fine not to exceed \$200 for each offense.

2 Effective Date. This act shall take effect January 1, 2009.

**AMENDED ANALYSIS**

This bill makes the penalty for marijuana possession in a quantity of less than .25 ounces a violation.

2008-0651h

**Amendment to HB 1628**

**Proposed by the Majority of the Committee on Science, Technology and Energy - R**

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

1 New Section; Renewable Energy Incentive Payments. Amend RSA 362-A by inserting after section 6-a the following new section:

362-A:6-b Renewable Energy Incentive Payments.

I. The public utilities commission shall make and administer a one-time payment of \$3 per watt of nominal generation capacity up to a maximum payment of \$6,000, or 50 percent of system costs, whichever is less, per facility to any owner of a small renewable generation facility, as defined in RSA 72:73, having a total peak generation capacity of less than 5 kilowatts, that is built on or after July 1, 2008 and is located on the owner's property.

II. Such payments shall be allocated from the renewable energy fund established in RSA 362-F:10, up to maximum aggregate payment 10 percent of the fund per year.

2 New Paragraph; Rulemaking. Amend RSA 362-F:13 by inserting after paragraph VII the following new paragraph:

VIII. Develop and implement an expedited application process to allow small energy users that install a customer sited source on their property after July 1, 2008, to be eligible to receive funding from the renewable energy fund established in RSA 362-F:10 to the extent such funding is available. The application process shall include verification of costs for parts and labor, certification that the equipment used meets the applicable safety standards of the American National Standards Institute (ANSI) or Underwriters Laboratory (UL) or similar safety rating agency, and that the facility meets local zoning regulations, and receives any required inspections.

3 New Paragraph; Commission Review and Report. Amend RSA 362-F:5 by inserting after paragraph VIII the following new paragraph:

IX. The distribution of the renewable energy fund established in RSA 362-F:10.

4 Effective Date. This act shall take effect upon its passage.

**AMENDED ANALYSIS**

I. Authorizes the public utilities commission to make a one-time payment from the renewable energy fund to certain owners of small renewable generation facilities.

II. Directs the public utilities commission to develop rules for creating an expedited process to allow certain energy users to be eligible to receive funding from the renewable energy fund.

2008-0677h

**Amendment to HB 1633-FN**

**Proposed by the Committee on Executive Departments and Administration - C**

Amend RSA 330-C:1 as inserted by section 1 of the bill by deleting paragraph V and renumbering the original paragraphs VI through XXII to read as V through XXI, respectively.

Amend RSA 330-C:5, I as inserted by section 1 of the bill by replacing it with the following:

I. Examine applicants for licensure, license, and renew licenses of duly qualified individuals, and issue certifications for duly qualified recovery support workers.

Amend RSA 330-C:5, VI as inserted by section 1 of the bill by replacing it with the following:

VI. Determine and enforce appropriate disciplinary action against licensees and certificate holders found guilty of violating this chapter or the rules adopted under this chapter.

Amend RSA 330-C:5, X as inserted by section 1 of the bill by replacing it with the following:

X. Establish and collect fees required in this chapter.

Amend RSA 330-C:8 as inserted by section 1 of the bill by replacing it with the following:

330-C:8 Fees; Charges.

I. The board shall charge fees for the application, issuance, renewal, and reinstatement of all licenses and certifications authorized by this chapter, including fees for temporary licenses and the reinstatement of inactive licenses. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses for the board for the previous fiscal year.

II. The board may provide the following services and make administrative charges for:

(a) The administration of examinations required by this chapter.

(b) The transcription and copying of records.

(c) The actual costs of a criminal conviction record check required pursuant to

RSA 330-C:20.

(d) The sale of a list of licensees and certification holders who have given their written authorization to have their names included on such list. Such list shall be updated at least monthly.

(e) The approval of continuing education programs and program providers.

(f) The verification of license status or educational credentials.

Amend RSA 330-C:9, I as inserted by section 1 of the bill by replacing it with the following:

I. Application procedures and eligibility requirements for the issuance of all initial, temporary, and renewal licenses issued by the board, including the issuance of such licenses to applicants holding a currently valid license or other authorization to practice in another jurisdiction.

Amend RSA 330-C:9, V as inserted by section 1 of the bill by replacing it with the following:

V. The process for approval of education programs for the continuing education requirements of this chapter and providers of such programs, and the process for approval of providers engaged in clinical supervision.

Amend RSA 330-C:9, XI - XIII as inserted by section 1 of the bill by replacing it with the following:

XI. The examinations approved by the board.

XII. Testing procedures to be used by the board.

XIII. The requirements for peer collaboration and the documentation of peer collaboration hours.

Amend the introductory paragraph of RSA 330-C:10, I as inserted by section 1 of the bill by replacing it with the following:

I. The scope of practice of the MLADC is the screening, assessment, diagnosis, treatment planning, and treatment of substance use disorders and the screening and referral of mental health disorders. The scope does not include the treatment of co-occurring disorders, unless the MLADC is in an academic internship as part of a master's program in a mental health field or employed as a MLADC and working toward mental health licensure under RSA 330-A, RSA 329, or RSA 326-B. The practice of alcohol and drug counseling includes the following performance areas which encompass the 12 core functions and practice dimensions of addiction counseling:

Amend the introductory paragraph of RSA 330-C:11, I as inserted by section 1 of the bill by replacing it with the following:

I. The scope of practice of the LADC is the screening, assessment, diagnosis, treatment planning, and treatment of substance use disorders and the screening and referral of mental health disorders under clinical supervision as defined in this chapter. The scope does not include the treatment of co-occurring disorders, unless the LADC is in an academic internship as part of a master's program in a mental health field or employed as a LADC and working toward mental health licensure under RSA 330-A, RSA 329, or RSA 326-B. The practice of alcohol and drug counseling includes the following performance areas which encompass the 12 core functions and practice dimensions of addiction counseling:

Amend RSA 330-C:12 as inserted by section 1 of the bill by deleting paragraph III.

Amend RSA 330-C:17, II as inserted by section 1 of the bill by replacing it with the following:

II. Pass testing procedures of a nationally recognized credentialing entity specified by the board. Such procedures shall be based on the core functions and practice dimensions of addiction counseling.

Amend RSA 330-C:18, III as inserted by section 1 of the bill by replacing it with the following:

III. Have 4,000 hours of experience as a clinical supervisor supervising professionals providing alcohol and drug counseling, which hours may be accumulated by the applicant as part of the experience requirements in paragraph II;

Amend the section heading of RSA 330-C:19 as inserted by section 1 of the bill by replacing it with the following:

330-C:19 Certified Recovery Support Worker; Initial Certification.

Amend RSA 330-C:24, II(b) and (c) as inserted by section 1 of the bill by replacing them with the following:

(b) For licensed clinical supervisor, 6 hours of training on clinical supervision which may be incorporated into the hours needed for LADC re-licensure in the 24 months subsequent to the date of licensure or re-licensure.

(c) For certified recovery support workers, 12 hours of approved continuing education in the 24 months subsequent to the date of certification or re-certification.

Amend the section heading of RSA 330-C:26 as inserted by section 1 of the bill by replacing it with the following:

330-C:26 Privileged Communications Between Licensees and Certificate Holders and Their Clients.

Amend RSA 330-C:27, III(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Engaging in the practice of substance use counseling or supervision in a manner harmful or dangerous to the client or public.

Amend RSA 330-C:27, III(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Engaging in sexual relations, soliciting sexual relations, or committing an act of sexual abuse or sexual misconduct with a current client or with a person who was a client. Amend RSA 330-C:27, III as inserted by section 1 of the bill by deleting subparagraph (m) Amend the introductory paragraph of RSA 330-C:27, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The board, after notice and a public hearing, or as part of a settlement hearing, may take disciplinary action against a licensee or certificate holder in any one or more of the following ways:

Amend RSA 330-C:28, II as inserted by section 1 of the bill by replacing it with the following:

II. The board may retain legal counsel, expert witnesses, special advisors, or other qualified persons to assist with any investigation or adjudicative proceeding.

Amend RSA 330-C:28, IV(a) as inserted by section 1 of the bill by replacing it with the following:

(a) The board may administer oaths or affirmations, preserve testimony, and, after consultation with an attorney employed by the state of New Hampshire, issue subpoenas for witnesses and for documents and things only in a formal investigation or an adjudicative hearing, except that subpoenas for medical records and pharmacy records, as provided in paragraph V, may be issued at any time.

Amend RSA 330-C:29, VI as inserted by section 1 of the bill by replacing it with the following:

VI. The board shall hear any complaint not resolved at or prior to a prehearing conference.

Amend RSA 330-C:32 as inserted by section 1 of the bill by replacing it with the following:

330-C:32 Penalty. Any person convicted of violating RSA 330-C:31 shall be guilty of a class A misdemeanor if a natural person or guilty of a felony if any other person.

Amend section 2 of the bill by replacing paragraph II with the following:

II. Any person who on the effective date of this act holds a license as a licensed alcohol and drug counselor, and is engaged in independent practice, shall be permitted to continue to engage in such practice upon participating in peer collaboration requirements as required by the board in addition to all continuing education requirements for licensure as a licensed alcohol and drug use counselor.

2008-0428h

#### **Amendment to HB 1634**

#### **Proposed by the Committee on Health, Human Services and Elderly Affairs - C**

Amend RSA 171-A:32, II(h) as inserted by section 1 of the bill by replacing it with the following:

(h) Make an annual report beginning on April 1, 2009 to the governor, the speaker of the house of representatives, the president of the senate, the commissioners of the department of health and human services and department of education, the members of the house committees on education, health, human services and elderly affairs, and finance, and the members of the senate committees on education, health and human services, and finance.

Amend section 1 of the bill by deleting RSA 171-A:33.

Amend the bill by replacing section 2 with the following:

2 Applicability. The first meeting of the New Hampshire council on autism spectrum disorders, established in RSA 171-A:32, shall be called by the commissioner of the department of health and human services within 45 days of the effective date of this act.

#### **AMENDED ANALYSIS**

This bill establishes the New Hampshire council on autism spectrum disorders to coordinate supports and services for individuals and their families.

This bill resulted from the commission to study autism spectrum disorders in New Hampshire, established under 2007, 171.

2008-0501h

**Amendment to HB 1635-FN**

**Proposed by the Committee on Environment and Agriculture – C**

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Definitions. Amend RSA 149-M:4 by inserting after paragraph VIII the following new paragraph:

VIII-a. “End-of-life motor vehicle” means a wrecked, worn-out, junk, or other motor vehicle that is no longer intended for use according to its original purpose and is destined for final disposal. The term does not include a motor vehicle that is being kept for repair or restoration, or that is temporarily impounded pending identification of last owner of record or settlement of an insurance claim.

Amend the bill by replacing section 3 with the following:

3 New Paragraphs; Definitions. Amend RSA 149-M:4 by inserting after paragraph XI the following new paragraphs:

XI-a. “Motor vehicle crusher” means a mechanical device used to intentionally flatten and reduce the volume of end-of-life motor vehicles to facilitate the transportation of such vehicles to a scrap processing facility. The term includes both mobile and stationary devices. The term also includes loggers and balers.

XI-b. “Motor vehicle salvage facility” means a place where end-of-life motor vehicles are received, kept and drained, dismantled, or otherwise processed for final disposal at a scrap metal processing facility. The term shall not include any facility that does not require a license under RSA 236:111-129.

Amend RSA 149-M:59, III(c) through (e) as inserted by section 6 of the bill by replacing it with the following:

(c) A copy of the local license when required under RSA 236:111-129 or a signed statement explaining why a local license has not been issued.

(d) A signed statement certifying compliance with the terms and conditions of the general permit provided under this section or, if the facility is not in compliance, a proposed plan and schedule for achieving compliance within a reasonable time.

(e) A dated, signed receipt showing that a copy of the required registration information has been submitted to local officials responsible for issuing local licenses under RSA 236:111-129.

Amend RSA 149-M:60,III (d)(2) as inserted by section 6 of the bill by replacing it with the following:

(2) A telephone number where the owner or operator can be directly contacted when the crusher is operating at other locations.

Amend RSA 149-M:60,III (g) as inserted by section 6 of the bill by replacing it with the following:

(g) A signed statement certifying compliance with the terms and conditions of the general permit provided under this section.

2008-0742h

**Amendment to HB 1640-FN**

**Proposed by the Committee on Criminal Justice and Public Safety - R**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the classification of convicted sex offenders and offenders against children and revising the provisions requiring DNA testing of criminal offenders.

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

1 Registration of Criminal Offenders. RSA 651-B:1 is repealed and reenacted to read as follows:

651-B:1 Definitions. In this chapter:

I. “Department” means the department of safety.

II. "Division" means the division of state police, department of safety.

III. "Local law enforcement agency" means the chief of police in the city or town where the person resides or is temporarily domiciled, or, if the municipality has no police chief or if the person resides in an unincorporated place, the division.

IV. "Sexual offender" means a person who is required to register for any sexual offense.

V. "Sexual offense" means the following offenses where the victim was 18 years of age or older at the time of the offense:

(a) Capital murder, RSA 630:1, I(e); first degree murder, RSA 630:1-a, I(b)(1); aggravated felonious sexual assault, RSA 632-A:2; felonious sexual assault, 632-A:3; sexual assault, 632-A:4, I(a) or RSA 632-A:4, III; violation of privacy, RSA 644:9, I(a) or RSA 644:9, III-a; second or subsequent offense within a 5-year period for indecent exposure and lewdness, RSA 645:1, I(a).

(b) A law of another state, country, territory, tribal territory, or the federal government reasonably equivalent to a violation listed in subparagraph (a). For purposes of this section, the term "country" refers to Canada, Great Britain, Australia, and New Zealand, as well as any other country that the United States State Department has determined has an independent judiciary that generally enforces the right to a fair trial.

(c) Any offense for which the offender is required to register in the state where the conviction occurred.

(d) Any other criminal offense which is not specifically listed in subparagraph (a) if the court finds by clear and convincing evidence at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification and protection of the public would be furthered by requiring the person to register. In determining whether the offender should be required to register, the court may consider the offender's prior criminal history and any other relevant information. If the court determines that the offender should be required to register, the court shall determine whether the offender should be required to register pursuant to the requirements of a tier I, tier II, or tier III offender. In determining in which tier the offender should register, the court shall consider the nature of other offenses that are currently listed in each tier; the extent to which public safety would be furthered; whether the victim was a minor when the offense occurred; and any other relevant factors. The hearing at which such a determination is made shall comply with due process requirements, including a right to appeal the finding. The court shall provide the defendant an opportunity to be heard on the issue prior to the imposition of the registration requirement and shall state on the record the reasons for its findings and the reasons for requiring registration.

VI. "Offender against children" means a person who is required to register for an offense against a child.

VII. "Offense against a child" means the following offenses:

(a) Any of the following offenses, where the victim was under the age of 18 at the time of the offense: capital murder, RSA 630:1, I(e); first degree murder, RSA 630:1-a, 1(b)(1); aggravated felonious sexual assault, RSA 632-A:2; felonious sexual assault, RSA 632-A:3; sexual assault, RSA 632-A:4, I(a) or RSA 632-A:4, III; kidnapping, RSA 633:1; criminal restraint, RSA 633:2; false imprisonment, RSA 633:3; incest, RSA 639:2; violation of privacy, RSA 644:9, I(a) or RSA 644:9, III-a; a second or subsequent offense within a 5-year period for indecent exposure and lewdness, RSA 645:1, 1(a); indecent exposure and lewdness, RSA 645:1, I(b), RSA 645:1, II, and RSA 645:1, III; or prostitution, RSA 645:2.

(b) Intentional contribution to the delinquency of a minor, RSA 169-B:41, II; sexual assault, RSA 632-A:4, I(b) if the actor was 18 years of age or older at the time of the offense, endangering the welfare of a child, RSA 639:3, III; child pornography, RSA 649-A:3; computer pornography, RSA 649-B:3; certain uses of computer services prohibited, RSA 649-B:4; or obscene matters, RSA 650:2, II.

(c) A law of another state, country, territory, tribal territory, or the federal government reasonably equivalent to a violation listed in subparagraph (a) or (b). For purposes of this section, the term “country” refers to Canada, Great Britain, Australia, and New Zealand, as well as any other country that the United States State Department has determined has an independent judiciary that generally enforces the right to a fair trial.

(d) Any offense involving a victim under the age of 18 for which the offender is required to register in the state where the conviction occurred.

(e) Any other criminal offense which is not specifically listed in subparagraph (a) if the court finds by clear and convincing evidence at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification and protection of the public would be furthered by requiring the person to register. In determining whether the offender is required to register, the court may consider the offender’s prior criminal history and any other relevant information. If the court determines that the offender is required to register, the court shall determine if the offender shall register as a tier I, tier II, or tier III offender. In determining the tier in which the offender is to be registered, the court shall consider the nature of other offenses that are currently listed in each tier, the extent to which public safety would be furthered, whether the victim was a minor when the offense occurred, and any other relevant factors. The hearing at which such a determination is made shall comply with due process requirements, including a right to appeal the findings. The defendant shall have the opportunity to be heard prior to the imposition of the registration requirement, and the court shall state on the record the reasons for its findings and the reasons for requiring registration.

VIII. “Tier I offender” means a sexual offender or offender against children who is required to register pursuant to RSA 651-B:1, V(d) or RSA 651-B:1, VII(e), or is required to register as a result of any of the following offenses:

(a) RSA 632-A:4, I(a), RSA 632-A:4, I(b), RSA 632-A:4, III, RSA 644:9, I(a), RSA 644:9, III-a, a second or subsequent offense within a 5-year period for indecent exposure and lewdness, RSA 645:1, I(a), or RSA 645:1, I(b).

(b) A law of another state, territory, tribal territory, or the federal government reasonably equivalent to a violation listed in subparagraph (a).

(c) Any out-of-state offense for which the offender is required to register in the state where the conviction occurred and the division determines the offender is a tier I offender.

(d) Any offense not listed in subparagraph (a) where the court determined the offender is a tier I offender and required the offender to register.

IX. “Tier II offender” means a sexual offender or offender against children who is required to register pursuant to RSA 651-B:1, V(d) or RSA 651-B:1, VII(e), or is required to register as a result of any of the following offenses:

(a) RSA 169-B:41, II; RSA 632-A:3, I; RSA 632-A:3, II; RSA 632-A:3, IV; RSA 633:2; RSA 633:3; RSA 639:3, III; RSA 645:1, II; RSA 645:1, III; RSA 645:2; RSA 649-A:3; RSA 649-B:3; RSA 649-B:4; or RSA 650:2.

(b) A law of another state, territory, tribal territory, or the federal government reasonably equivalent to a violation listed in subparagraph (a).

(c) Any out-of-state offense for which the offender is required to register in the state where the conviction occurred and the division determines the offender is a tier II offender.

(d) The offender is required to register as a result of more than one sexual offense or offense against a child.

(e) Any offense not listed in subparagraph (a) where the court determined the offender is a tier II offender and required the offender to register.

X. “Tier III offender” means a sexual offender or offender against children who is required to register pursuant to RSA 651-B:1, V(d) or RSA 651-B:1, VII(e), or is required to register as a result of any of the following:

(a) RSA 630:1, I(e), RSA 630:1-a, I(b)(1), RSA 632-A:2, RSA 632-A:3, III, or RSA 633:1.

(b) Any sexual offense or offense against a child if the offender was sentenced to an extended term of imprisonment pursuant to RSA 651:6.

(c) Any person civilly committed as a sexually violent predator pursuant to RSA 135-E.

(d) A law of another state, territory, tribal territory, or the federal government reasonably equivalent to a violation listed in subparagraph (a).

(e) Any out-of-state offense for which the offender is required to register in the state where the conviction occurred, and the division determines the offender is a tier III offender.

(f) The offender is required to register as a result of more than 2 sexual offenses or offenses against a child.

(g) Any offense not listed in subparagraph (a) where the court determined the offender is a tier III offender and required the offender to register.

XI.(a) "Required to register" means that a sexual offender or offender against children was charged with an offense or an attempt, conspiracy, solicitation, or as an accomplice to commit a sexual offense or offense against a child that resulted in one of the following outcomes:

(1) Conviction.

(2) A finding of not guilty by reason of insanity.

(3) An adjudication as a juvenile delinquent and the court at the time of the dispositional hearing finds, pursuant to RSA 169-B:19, that the juvenile is required to register.

(4) An adjudication of juvenile delinquency or its equivalent in another state or territory of the United States if the juvenile is required to register under the laws of that jurisdiction.

(5) An order committing the person as a sexually violent predator pursuant to RSA 135-E.

(b) A juvenile certified to stand trial as an adult, who is convicted, found not guilty by reason of insanity, or committed as a sexually violent predator, shall be treated as an adult for all purposes under this chapter.

XII. "SOR system" means the division of state police sex offender registry system.

XIII. Notwithstanding RSA 21:6-a, "residence" means a place where a person is living or temporarily staying for more than a total of 5 days during a one-month period, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.

2 Registration of Criminal Offenders; Registration. Amend RSA 651-B:2, II-III to read as follows:

II. Upon receipt of information pursuant to RSA 106-B:14 concerning the disposition of any charges against any sex offender or offender against children, the division shall register such person and shall include the relevant information in the ~~[law enforcement name search (LENS)]~~ **SOR** system.

III. Upon receipt from any out-of-state law enforcement agency of information that a sex offender or offender against children has moved to New Hampshire, the division shall register such person and shall include the relevant information in the ~~[LENS]~~ **SOR** system.

3 Registration of Criminal Offenders; Release of Certain Sexual Offenders into the Community. Amend RSA 651-B:3 to read as follows:

***I.(a) When a person is convicted of a sexual offense or offense against a child that results in the person being required to register, the court shall notify the offender in writing and advise the offender of his or her duty to report under this chapter. The offender shall acknowledge in writing that he or she has received***

**such notice. The court shall forward a copy of the notice to the division along with a copy of each offense for which he or she was convicted, including a copy of any indictment, complaint, juvenile petition, mittimus, or other court orders. The division shall enter such information into the SOR system.**

(b) Upon release of any sexual offender or offender against children required to register, whether on probation, parole, conditional or unconditional release, completion of sentence, release from secure psychiatric care, release into the community after involuntary commitment, release from a juvenile detention facility, or for any other reason, the official in charge of such release shall notify the offender of the offender's duty to report under this chapter. The offender shall acknowledge in writing that he has received such notice. The official shall obtain the address at which the offender expects to reside upon release and shall report such address to the department. The department shall inform the local law enforcement agency in the city or town where the offender expects to reside. The local law enforcement agency in the city or town where the offender expects to reside may notify the superintendent of the school administrative unit and the principal of any school within its jurisdiction of the address at which the offender expects to reside. If such notification occurs, the local law enforcement agency shall also notify the superintendent of the school administrative unit and the principal of any school within its jurisdiction of any changes to the offender's information made pursuant to RSA 651-B:5. The division shall enter the information concerning the offender's release and notification in the ~~[LENS]~~ **SOR** system.

II. Upon receipt from any out-of-state law enforcement agency of information that a sex offender or offender against children has moved to New Hampshire, the department shall obtain the address at which the offender expects to reside and shall inform the local law enforcement agency. The local law enforcement agency in the city or town where the offender expects to reside may notify the superintendent of the school administrative unit and the principal of any school within its jurisdiction of the address at which the offender expects to reside. The department shall locate and shall serve notice upon such offender of the offender's duty to report under this chapter. Service by the department is not required if the offender has already registered with the local law enforcement agency in which the offender resides or is located as required by this chapter. At the time of the initial registration, the offender shall acknowledge in writing that the offender has received notice of the duty to report. The division shall enter the information concerning the offender's location in New Hampshire and notification in the ~~[LENS]~~ **SOR** system. This paragraph shall not apply to a sexual offender or offender against children who has moved to New Hampshire and has registered with a local law enforcement agency.

III. Semi-annually, the department shall verify, **in person**, the address at which the offender resides by sending a letter by certified non-forwarding mail to the offender. The address verification shall ~~[be sent to the offender]~~ **occur** prior to the offender's birthday and again prior to the offender's 6-month semi-annual registration. The address verification shall remind the offender of the obligation to register in person ~~[on a semi-annual basis]~~. The offender shall sign the **address verification** ~~[letter]~~ and return it to **the officer, if the address verification was made in person, or to the department via certified mail** within 10 business days of receipt. ~~[If the offender's mailing address is to a post office box, the department shall deliver by other means as determined by the department a letter to the offender's residence. The offender shall sign and return the letter within 10 business days of receipt.]~~

4 Registration of Criminal Offenders. RSA 651-B:4 through RSA 651-B:7 are repealed and reenacted to read as follows:

651-B:4 Duty to Report.

I. Any sexual offender or offender against children residing in this state shall report in person to the local law enforcement agency. The offender shall report in person as set forth in this section within 5 business days after the person's release, or within 5 business days after the person's date of establishment of residence, employment, or schooling in New

Hampshire. If an offender has more than one residence, the offender shall report in person to the local law enforcement agency having jurisdiction over their primary residence and report the addresses of all their residences, including those outside of New Hampshire. The division shall notify the local law enforcement agencies having jurisdiction over the offender's other residences of the offender's address in their jurisdiction. Thereafter, the offender shall report as follows:

(a) Every tier III offender shall report in person quarterly, within 5 business days after each anniversary of the offender's date of birth and every 3 months thereafter.

(b) Every tier I and tier II offender shall report in person semi-annually, within 5 business days after each anniversary of the offender's date of birth and every 6 months thereafter.

II. Any nonresident offender shall report in person to the local law enforcement agency having jurisdiction over the place of employment or school. In the event a nonresident offender required to register under this paragraph does not have a principal place of employment in this state, the offender shall register in person with the department in Concord.

III. Each time a sexual offender or offender against children is required to report, the offender shall provide the following information:

(a) Name, aliases, electronic mail addresses, and any instant messaging, chat, or other Internet communication name identities.

(b) Address of any permanent residence and address of any current temporary residence, with the state or out-of-state and mailing address. A post office box shall not be provided in lieu of a physical residential address. If the offender cannot provide a definite address, he or she shall provide information about all places where he or she habitually lives.

(c) Name, address, and date of any employment or schooling. For purposes of this section, the term "employment" includes volunteer work or work without remuneration. If the offender does not have a fixed place of work, he or she shall provide information about all places he or she generally works, and any regular routes of travel.

(d) Any professional licenses or certifications that authorize the offender to engage in an occupation or carry out a trade or business.

(e) Vehicle make, model, color, and license plate number and state of registration of any vehicle owned or regularly driven by the offender, and the place or places where such vehicles are regularly kept.

(f) Date of birth, including any alias date of birth used by the offender.

(g) Social security number.

(h) Physical description to include identifying marks such as scars and tattoos.

(i) Telephone numbers for both fixed location and cell phones.

(j) Passport, travel, and immigration documents.

(k) The name, address, and phone number of any landlord, if the offender resides in rental property.

IV. In addition to the information required pursuant to paragraph III, the department, at the time of the offender's registration, may require the offender to submit the following:

(a) A photograph taken by the law enforcement agency each time the person is required to report to the law enforcement agency under this section.

(b) A DNA sample.

(c) A set of major case prints, including fingerprints and palm prints of the offender.

(d) A photocopy of a valid driver's license or identification card issued to the offender. The consent of the registrant shall not be necessary to obtain this information. Such information may be used in the performance of any valid law enforcement function.

V. At periodic intervals, not less frequently than once each month, the commissioner of the department of corrections, the superintendent of each county department of corrections

and the commissioner of the department of health and human services shall forward to the division a statement identifying every sexual offender and offender against children who is confined in a facility under its control and who is eligible for any unsupervised work detail, release into the community following secure psychiatric care, or other assignment which may bring the offender into contact with members of the public. These statements shall include the information required in paragraph III and may include the information set forth in paragraph IV. In no event shall the statements include the identity of any victim.

VI. In addition to the requirements imposed under this section, the following provisions shall apply to any sexual offender or offender against children who is sentenced to an extended term of imprisonment pursuant to RSA 651:6, I(b):

(a) Every 90 days after the date of the offender's initial release or commencement of parole, the department shall mail a nonforwardable verification form to the offender's last reported address.

(b) The offender shall mail the verification form to the department within 10 days after receipt of the form.

(c) The verification form shall be signed by the offender, and state that the offender still resides at the address last reported to the local law enforcement agency.

651-B:5 Change of Registration Information; Duty to Inform.

I. When there is a change to any of the information that a sexual offender or offender against children is required to report pursuant to this chapter, the offender shall give written notification of the new information to the local law enforcement agency to which he or she last reported under RSA 651-B:4 within 5 business days of such change of information. In addition, any time a sex offender or offender against children changes residence, employment, or schooling, the offender shall report in person to the local law enforcement agency having jurisdiction over the offender's previous place of residence, place of employment, or school within 5 business days. The local law enforcement agency receiving notice of the change of registration information shall forward a copy to the division within 5 days after receipt. The division shall notify the local law enforcement agency at the new place of residence, place of employment, or school, or the appropriate out-of-state law enforcement agency if the new place of residence, place of employment, or school is outside New Hampshire. The division shall include any new information in the SOR system.

II. Upon receipt of notice that an offender has changed residence, employment or schooling to a place outside New Hampshire, the division shall notify the appropriate out-of-state law enforcement agency of that information. Within 10 business days after reporting the change of residence, employment, or schooling to the New Hampshire law enforcement agency, the offender shall report to the appropriate out-of-state law enforcement agency having jurisdiction over the new place of residence, place of employment or school. If the offender fails to report to the appropriate out-of-state law enforcement agency the division shall maintain the offender's information in the SOR system.

III. The local law enforcement agency in the city or town where the offender resides may notify the superintendent of the school administrative unit and the principal of any school within its jurisdiction of a new place of residence, a change of name, or a change of an alias, of a person required to be registered under this chapter.

651-B:6 Duration of Registration.

I. All tier II or tier III offenders shall be registered for life.

II. All tier I offenders shall be registered for a 15-year period from the date of release, provided that any such registration period shall not run concurrently with any registration period resulting from a subsequent violation or attempted violation of an offense for which the person is required to register.

III.(a)(1) All tier III offenders shall remain on the public list contained in RSA 651-B:7 for life.

(2) A tier II offender may petition the superior court to have his or her name and information removed from the public list. The petition shall not be filed prior to the

completion of all the terms and conditions of the sentence and in no case earlier than 15 years after the date of release. The petition shall be accompanied by a risk assessment prepared by a qualified psychiatrist or psychologist at the offender's expense. The court may grant the petition if the offender has not been convicted of any felony, class A misdemeanor, sex offense, or offense against a child, has successfully completed any periods of supervised release, probation, or parole, and has successfully completed an appropriate sex offender treatment program as determined by the court. If the court denies the petition, the offender shall not file another petition for 5 years from the date of denial.

(3) A tier I offender may petition the superior court to have his or her name and other information removed from the public list. The petition shall not be filed prior to the completion of all the terms and conditions of the sentence and in no case earlier than 5 years after the date of release. The petition shall be accompanied by a risk assessment prepared by a qualified psychiatrist or psychologist at the offender's expense. The court may grant the petition if the offender has not been convicted of any felony, class A misdemeanor, sexual offense, or offense against a child, has successfully completed any periods of supervised release, probation, or parole, and has successfully completed an appropriate sex offender treatment program as determined by the court. If the court denies the petition, the offender shall not file another petition for 5 years from the date of denial.

(b) Prior to granting any petition to remove an offender from the public list, the court shall provide notice to the county attorney who prosecuted the case, the victim advocate, and the victim or victim's family, and permit those parties to be heard on the petition. Prior to any decision granting the application, the court shall provide the victim with the opportunity to address the court. The victim may appear personally, or by counsel, or may provide a written statement to reasonably express his or her views concerning the offense, the person responsible, and the need for maintaining the registration requirement. The judge shall consider the statements of the victim pursuant to this section when making a decision regarding the application. The judge shall grant the application, after a hearing, only where, in the opinion of the court, removal from the registration requirements will assist the individual in the individual's rehabilitation and will be consistent with the public welfare.

IV. Registration of any juvenile required to register pursuant to RSA 651-B:1, XI (a)(3) or (4) shall end when the juvenile turns 17 years of age unless the court which adjudicated the juvenile as a delinquent retains jurisdiction over the juvenile pursuant to RSA 169-B:4, V, in which case registration of the juvenile shall end when the court terminates jurisdiction over the juvenile's case. When the registration of a juvenile terminates, the department shall remove information relating to the juvenile from the SOR system and records of the juvenile's registration shall be handled in accordance with RSA 169-B:35 and RSA 169-B:36.

651-B:7 Availability of Information to the Public and Law Enforcement.

I. Except as provided in this section, the records established and information collected pursuant to the provisions of this chapter shall not be considered "public records" subject to inspection under RSA 91-A:4. However, nothing in this chapter shall be construed to limit any law enforcement agency from making any use or disclosure of any such information as may be necessary for the performance of a valid law enforcement function. Nothing in this chapter shall be construed to limit an individual's ability to obtain access to the individual's own records, or to limit access to a person's criminal record under the provisions of RSA 106-B:14, including address information obtained under the provisions of this chapter.

II. The division shall maintain a list of all tier I, tier II, and tier III offenders required to register pursuant to this chapter. The list shall also include all offenders about whom the division receives notice pursuant to RSA 651-B:4, V. In addition to the information contained on the public list pursuant to paragraph III, the law enforcement list shall include all information reported to the local law enforcement agency or the department

pursuant to RSA 651-B:4. In addition, the information shall include the text of the statute under which the offender was convicted and the criminal history of the offender. The list maintained pursuant to this paragraph shall not be available to the public but shall be available to law enforcement officials for valid law enforcement purposes.

III.(a) The division shall maintain a separate public list of all tier I, tier II, and tier III offenders who are required to register as a result of an offense against a child, any offenders about whom the division receives notice pursuant to RSA 651-B:4, V that will be required to register as a result of an offense against children, and any offender who is required to register for more than one sexual offense or offense against a child. The public list shall include all of the following information.

(1) Offender's name, alias, age, race, sex, date of birth, height, weight, hair and eye color, and any other relevant physical description.

(2) Address of any permanent residence and address of any temporary residence, within the state or out-of-state.

(3) The offense for which the individual is required to register and the text of the provision of law defining the offense, and any other sex offense for which the individual has been convicted.

(4) The date and court of the adjudication on the offense for which the individual is registered.

(5) Outstanding arrest warrants, and the information listed in subparagraphs (a)(1)-(3), for any sexual offender or offender against children who has not complied with the obligation to register under this chapter.

(6) Criminal history of the offender, including the date of all convictions and the status of parole, probation, or supervised release, and; registration status.

(7) A photograph of the individual.

(8) The address of any place where the individual is or will be a student.

(9) The address of any place where the individual is or will be employed. If the individual does not have a definite employment address, information about his or her regular locations shall be included.

(b) Where such information is available, the public list may also include:

(1) Information on the profile of the victim of the individual's offense.

(2) The method of approach utilized by the individual.

(c) The public list shall not include:

(1) The identity of any victim either directly or indirectly. Sexual offenders convicted under RSA 632-A:2 shall be listed on the public list in a manner which does not disclose, directly or indirectly, that the victim and the defendant were related or members of the same household. For sexual offenders convicted under RSA 632-A:2, I, no specific reference to any statutory subparagraph shall appear on the public list.

(2) The social security number of the offender.

(3) Arrests of the offender which did not result in a conviction.

(4) The name of the employer or school which the offender attends.

(5) Information about a juvenile delinquent required to register pursuant to RSA 651-B:1, XI (a)(3) and (4).

IV.(a) The public list shall be made available to interested members of the public upon request to a local law enforcement agency. The department of safety shall also make the list available to the public through the use of the department's official public Internet website. The internet website shall be available to the public in a manner that will permit the public to obtain relevant information for each sex offender by a single query for any given zip code or geographic radius set by the user. The website may additional search parameters as determined by the department.

(b) Local law enforcement agencies may photograph, at the time of the registration, any individual who is required to be registered pursuant to this chapter. The

consent of the registrant shall not be necessary. Such photographs may be used in the performance of any valid law enforcement function.

(c) In the discretion of the local law enforcement agency, such agency may affirmatively notify the public that an offender who is included on the public list received by the agency pursuant to subparagraph IV(a) is residing in the community.

V. Local law enforcement agencies, employees of local law enforcement agencies, county and state officials, municipal and school officials, and municipalities and school districts shall be immune from civil and criminal liability for good faith conduct under this chapter, including any decision to provide or not provide affirmative notification to the public pursuant to subparagraph IV(c). Nothing in this paragraph shall be deemed to grant any such immunity to any person for that person's reckless or wanton conduct.

VI.(a) Any individual required to be registered whose name and information is contained on the public list described in paragraph III and who is required to register as a result of any violation or attempted violation of RSA 632-A:3, II in effect prior to January 1, 2007, or RSA 632-A:2, III if the acts constituting the pattern were in violation of RSA 632-A:3, II in effect prior to January 1, 2007, provided that the age difference between the individual required to register and the victim was 3 years or less at the time of the offense and the person has no prior adjudications requiring registration under RSA 651-B:2, may file with the clerk of the superior court for the county in which the judgment was rendered an application for review of the public registration requirement contained in RSA 651-B:7. This application shall not be filed prior to the completion of all the terms and conditions of the sentence and in no case earlier than 10 years after the date of release. After review of the application, the court may schedule a hearing. Prior to granting any petition to remove an offender from the public list, the court shall provide notice to the county attorney who prosecuted the case, the victim advocate, and the victim or victim's family and permit those parties to be heard on the petition. If the court denies the offender's petition, the offender may not file another application pursuant to this paragraph for 5 years from the date of the denial and shall include a risk assessment prepared at the offender's expense.

(b) The court shall provide notice of the application for review under this section to the victim within 30 days of any hearing. Prior to any decision granting the application, the court shall provide the victim with the opportunity to address the court. The victim may appear personally or by counsel and may reasonably express his or her views concerning the offense, the person responsible, and the need for maintaining the public registry requirement. The judge shall consider the statements of the victim pursuant to this section when making a decision regarding the application. The judge shall grant the application, after a hearing, only where, in the opinion of the court, removal from the public registry requirement under this section will assist the individual in the individual's rehabilitation and will be consistent with the public welfare. If an application for review is denied, any subsequent application may be filed only where good cause is shown, consistent with the provisions of this section. A decision granting an application for review under this section shall not remove any of the registration requirements contained in RSA 651-B:6.

5 Registration of Criminal Offenders. Amend RSA 651-B:9, II-IV to read as follows:

II. A sexual offender or offender against children who is required to register under this chapter and who knowingly fails to comply with the requirements of this chapter shall be guilty of a class B felony. An offender who is required to register for a period of ~~[10]~~ **15** years following his or her release, pursuant to RSA 651-B:6, II, shall be required to register for an additional ~~[10]~~ **15** years from the date of conviction for violating this paragraph. The obligation to register for an additional ~~[10]~~ **15** years from the date of conviction for violating this paragraph shall be consecutive to the registration period imposed pursuant to RSA 651-B:6 and shall be imposed even if the original registration period has elapsed.

III. A sexual offender or offender against children previously convicted pursuant to paragraph II who is required to register under this chapter and who knowingly fails to comply with the requirements of this chapter shall be guilty of a class A felony. An offender

who is required to register for a period of ~~[10]~~ **15** years following his or her release, pursuant to RSA 651-B:6, II, who is convicted for violating this paragraph shall be required to register for life.

IV. The penalties imposed under paragraphs I-III shall not apply to juveniles required to register pursuant to RSA 651-B:1, ~~[VII(a)(3) or (4)]~~ **XI(a)(3) or (4)**. The court with jurisdiction over such juveniles may impose an appropriate disposition for a violation of this section.

6 Registration of Criminal Offenders; Hearing and Fees. RSA 651-B:10 and RSA 651-B:11 are repealed and reenacted to read as follows:

651-B:10 Hearing.

I. Any offender required to register for an offense committed in another state, country, territory, tribal territory, or under federal law that is determined to be a reasonably equivalent offense to an offense listed RSA 651-B:1, V(a) or RSA 651-B:1, VII (a) or (b) may appeal that determination to the commissioner. The offender shall, within 10 days of notification, request a hearing on the matter before the commissioner. If such a request is made, the commissioner shall promptly schedule and conduct a hearing pursuant to rules adopted under RSA 541-A. The offender shall have the right to appeal the commissioner's decision in superior court.

II. Any offender required to register for an offense in the state of conviction pursuant to RSA 651-B:1, V(c), RSA 651-B:1, VII (d), or RSA 651-B:1, XI(a)(4) may petition the superior court for a hearing to review the registration requirement. In determining whether the offender should be required to register, the court may consider the facts of underlying the out-of-state conviction, the offender's prior criminal history, the extent to which public safety would be furthered by requiring the offender to register, and any other relevant information. If the court determines that the offender is required to register, the court shall determine whether the offender is required to register as a tier I, tier II, or tier III offender. In determining the appropriate tier, the court shall consider the nature of other offenses that are currently listed in each tier, the seriousness of the offender's offense, the extent to which public safety would be furthered, whether the victim was a minor when the offense occurred, and any other relevant factors. The hearing at which such a determination is made shall comply with due process requirements, including a right to appeal the findings. The court shall provide the defendant an opportunity to be heard on the issue and shall state on the record the reasons for its findings and the reasons for requiring registration.

651-B:11 Registration Fee.

I. An offender shall pay a fee of \$50 to the department within 10 days of the registration that occurs within the month of the anniversary of their birth. Such payment shall be made in person or shall be mailed to the department. The department shall retain \$40 of this amount to be used to defray the costs of maintaining the sex offender registry. Such funds shall be nonlapsing and shall be continually appropriated to the department for such use. The department shall forward the remaining \$10 to the law enforcement agency which registered the offender within the month of the anniversary of the offender's birth to defray any costs associated with implementing the provisions of this paragraph. The department shall forward these fees to the registering law enforcement agencies in a manner determined by the department but no less frequently than once a year.

II. An offender who cannot afford to pay the fee shall, within 10 days of registration, request a waiver of the fee and a hearing on the matter before the commissioner. In order to be considered for a waiver, the offender shall submit a financial affidavit on a form provided by the department. The division may at its discretion request such a waiver on behalf of an offender. If such a request is made, the commissioner shall promptly schedule and conduct a hearing pursuant to rules adopted under RSA 541-A, unless the commissioner or commissioner's designee determines a hearing is not necessary and waives the fee based on the offender's financial affidavit, or at the written request of the division. At the hearing, the burden shall be on the offender to prove that he or she is indigent. The offender may appeal

the commissioner's decision to the superior court. Under no circumstances shall the offender's request for a hearing or indigency relieve the offender of the obligation to register as required pursuant to this chapter.

III. Notwithstanding RSA 651-B:9, an offender who violates the provisions of this section shall be guilty of a violation for a first offense and a misdemeanor for a second or subsequent offense.

7 New Paragraph; Violation of Privacy. Amend RSA 644:9 by inserting after paragraph III the following new paragraph:

III-a. A person is guilty of a misdemeanor if, for the purpose of arousing or gratifying the person's sexual desire, he or she knowingly views another person, without that person's knowledge or consent, in a place where one would have a reasonable expectation of privacy. For purposes of this paragraph, "views" means looking at another person with the unaided eye or any device intended to improve visual acuity.

8 DNA Testing of Criminal Offenders. Amend RSA 651-C:1-7 to read as follows:

651-C:1 Definitions. In this chapter:

I. "CODIS" means the Combined DNA Index System, ~~[the FBI's national DNA identification index system]~~ **managed by the Federal Bureau of Investigation.**

II. "Department" means the department of safety.

III. "Division" means the division of state police, department of safety.

IV. "DNA" means deoxyribonucleic acid.

V. "DNA record" means the DNA identification information stored in ~~[the state DNA database or]~~ CODIS for the purpose of generating investigative leads ~~[or supporting statistical interpretation of DNA test results]~~. The DNA record is the objective form of the DNA analysis test and may include numerical representation of DNA fragment lengths, ~~[digital images of autoradiographs,]~~ discrete allele assignment numbers, and similar characteristics obtained from a DNA sample which are of value in establishing the identity of individuals. A DNA record may not specify the presence, absence, or alteration of any gene or chromosome.

VI. "DNA sample" means a blood, tissue, hair follicle, or other biological sample provided by any person or submitted to the division pursuant to this subdivision for analysis or storage or both.

VII. "FBI" means the Federal Bureau of Investigation.

VIII.(a) "Sexual offender" means ~~[a person who has been convicted of any violation of:~~

~~(1) RSA 632 A:2, RSA 632 A:3, or RSA 632 A:4; or~~

~~(2) A law of another state or the federal government reasonably equivalent to a violation listed in subparagraph (1).~~

~~(b) "Sexual offender" also means a juvenile who has been found delinquent because of actions which, if the juvenile were an adult, would be crimes under RSA 632 A:2, 632 A:3, or 632 A:4. In the case of a juvenile offender, a DNA sample shall be provided prior to the juvenile's eighteenth birthday, or in the case of a person sentenced under RSA 169 B:4, prior to such person's nineteenth birthday] a sexual offender as defined in RSA 651-B:1, IV.~~

IX. ~~["Violent crime" means a capital, first degree, or second degree murder, attempted murder, manslaughter, first degree assault, second degree assault, felony arson, kidnapping, robbery, felony burglary, or negligent homicide committed in consequence of being under the influence of intoxicating liquor or controlled drugs, as these crimes are defined by statute]~~ **"Offender against children" means an offender against children as defined in RSA 651-B:1, VI.**

X. **"Felon" means:**

**(a)(1) A person who has been convicted of a felony offense, or found not guilty by reason of insanity of a felony offense, or convicted of attempt, conspiracy, solicitation, or as an accomplice to commit a felony offense; or**

(2) *A person who has been convicted of under the law of another state or the federal government reasonably equivalent to a felony offense as defined by statute in this state; or*

(b) *A juvenile found delinquent for the commission of an act which, if the juvenile were an adult, would be a felony as defined by statute in this state.*

XI. *“Offender” means a sexual offender, an offender against children, or a felon as defined in this section.*

XII. *“SOR” means the sex offender registry within the division of state police, department of safety.*

XIII. *“SOR system” means the sex offender registry system.*

651-C:2 DNA Analysis Required.

I. *The commissioner of the department of corrections, the superintendent of a county correctional facility, or the commissioner of the department of health and human services shall identify those sexual offenders, offenders against children, or felons who are subject to DNA collection under this chapter and shall collect DNA samples from those offenders.* Upon intake or prior to the release of any offender [~~after conviction for the commission of any offense defined in RSA 651-C:1, VIII or IX, or commission of a similar offense prohibited by federal law or the laws of another state~~], whether on probation, conditional or unconditional release, completion of sentence, or release for any other reason, [~~or prior to the release of any juvenile offender after a finding of delinquency~~] *or as required under RSA 651-B*, such person shall have a DNA sample taken for DNA analysis to determine identification characteristics specific to the person.

II. The analysis shall be performed under the direction of the division, following procedures in conformance with the federal “DNA Identification Act of 1994”. Identifying characteristics of the resulting DNA profile shall be stored by the division in a DNA database compatible with and maintained by the CODIS system. Information in the database shall be made available only as provided in RSA 651-C:3.

III. The division shall prescribe procedures compatible with the Federal Bureau of Investigation’s requirements for the CODIS program, to be used in the collection, submission, identification, analysis, storage, and disposition of DNA samples and DNA records obtained pursuant to this subdivision.

IV. The division may contract with third parties for the purposes of this subdivision. Any DNA sample sent to third parties for analysis shall be coded to maintain confidentiality concerning the donor of the sample.

V. A certificate and the results of the analysis shall be admissible in any court as evidence of the facts stated in the analysis.

VI. *Any individual authorized to collect a DNA sample* or a law enforcement officer may use such means as are reasonably necessary to detain, restrain, and collect a DNA sample from an individual who refuses to cooperate in the collection of a sample.

VII. If the initial DNA sample collected from an individual is found to be deficient, a new sample shall be collected.

VIII. Any person required under this chapter to submit a DNA sample, including a juvenile offender [~~who is required to submit a DNA sample prior to the juvenile’s eighteenth birthday,~~] who knowingly refuses to submit such sample for a period of 30 days after receiving notice from the division, the department of corrections, probation, parole, or other authorized representative of law enforcement shall be guilty of a class A misdemeanor.

IX. Any entry into the database which is found to be erroneous shall not prohibit law enforcement officials from the legitimate use of the information in the furtherance of a criminal investigation.

X. Any authorized individual *who identifies an offender from whom a DNA sample shall be collected or who collects* [~~collecting~~] a DNA sample shall be immune from civil liability, provided such person acts with reasonable care under the circumstances.

***XI. In the case of a juvenile offender, a DNA sample shall be provided prior to the juvenile's eighteenth birthday, or in the case of a person sentenced under RSA 169-B:4, prior to such person's nineteenth birthday.***

651-C:3 Dissemination of Information in DNA Database.

I. It shall be the duty of the division to receive DNA samples and to analyze, classify, and store the DNA records of DNA samples submitted pursuant to this subdivision, and to make such information available to federal, state, and local law enforcement officers upon request made in furtherance of an official investigation of any criminal offense. Such law enforcement officers shall use such information only for the purposes of criminal investigations and prosecutions, or as necessary to the functions of an office of chief medical examiner. A request may be made by personal contact, mail, or electronic means. The name of the person making the request and the purpose for which the information is requested shall be maintained on file with the division. The information contained in the database shall not be a public record for the purposes of RSA 91-A, and shall not be available for inspection by any unauthorized individual.

***I-a. The division shall enter into the SOR system and the National Sex Offender Registry all information regarding DNA samples taken from offenders.***

II. The commissioner of the department of safety shall adopt rules under RSA 541-A to govern the methods of obtaining information from the state DNA database and CODIS and procedures for verification of the identity and authority of the requester.

III. Upon request, a copy of the request for a search shall be furnished to any person identified and charged with an offense as the result of a search of information in the database. Only when a sample or DNA record supplied by the person making the request satisfactorily matches a profile in the database shall the existence of data in the database be confirmed or identifying information from the database be disseminated.

IV. The division may create a separate statistical database comprised of DNA records of persons whose identities are unknown. Nothing in this subdivision shall prohibit the department from sharing or otherwise disseminating the information in the statistical database with law enforcement or criminal justice agencies within or without the state.

651-C:4 Unauthorized Dissemination or Use of DNA Database Information; Obtaining DNA Samples Without Authority; Penalties.

I. Any person who, without authority, disseminates information contained in the DNA database shall be guilty of a class B misdemeanor. Any person who disseminates, receives, or otherwise uses or attempts to use information in the database, knowing that such dissemination, receipt, or use is for a purpose other than as authorized by the provisions of this subdivision, shall be guilty of a class A misdemeanor. Except as authorized by law, any person who, for purposes of having a DNA analysis performed, obtains or attempts to obtain any sample submitted to the forensic science laboratory for analysis shall be guilty of a class B felony.

II. The division may use DNA samples for forensic validation and forensic protocol development, provided that all personally identifying information shall be removed and shall not be used.

III. The department and its employees shall not be liable for the erroneous collection and entry of a DNA sample into the database where the collection and entry were made in good faith reliance that the individual was ~~[convicted of a qualifying offense under RSA 651-C:2, I]~~ ***an offender and was required to provide a DNA sample under this chapter.***

651-C:5 Expungement of DNA Database Records Upon Reversal or Dismissal of Conviction.

I. A person whose DNA record has been included in the database pursuant to this chapter may request expungement on the grounds that the criminal conviction on which the authority for including such person's DNA record was based has been reversed or the case dismissed, provided that such person requesting expungement has no other ~~[criminal convictions]~~ ***offenses*** which would require inclusion of his or her record in the database. The

department shall purge all records and identifiable information in the database pertaining to the person and destroy all samples from the person upon receipt of a written request for expungement pursuant to this section and a certified copy of the court order reversing and dismissing the conviction.

II. The DNA record of any juvenile sexual offender shall be maintained in the database and shall not be automatically expunged from the database upon that individual's reaching the age of adulthood.

651-C:6 Cost. The court, ~~[upon conviction]~~ **at the time of a disposition that requires an offender to provide a sample**, may order the offender to pay the cost of testing. The court shall include a statement describing the responsibility for the cost of testing in the sentencing order.

651-C:7 Applicability.

I. The provisions of this chapter shall apply to ~~[those persons convicted of a violent crime]~~ **felons**, as defined in RSA 651-C:1, IX, on or after July 1, 2003, and to ~~[persons]~~ **felons** incarcerated in a state or county correctional facility, or on probation or parole, ~~[for a violent crime as defined in RSA 651-C:1, IX,]~~ on or after July 1, 2003.

II. The provisions of this chapter shall apply to ~~[those persons convicted of a sexual offense, as defined in RSA 651-C:1, VIII, on or after August 2, 1996, and to persons incarcerated in a state or county correctional facility for a sexual offense as defined in RSA 651-C:1, VIII, on or after August 2, 1996]~~ **all sexual offenders and offenders against children**.

9 Effective Date. This act shall take effect January 1, 2009.

#### AMENDED ANALYSIS

This bill creates a tier system for classification of sexual offenders and offenders against children and revises the type of information which must be collected, the duration of registration, the verification of sex offender registry information, public access to such information, and penalties for failure to register. The bill also revises the statutory provisions requiring DNA testing of criminal offenders.

This bill is a request of the study committee formed pursuant to 2006, 327:26 (HB 1692-FN).

2008-0672h

#### Amendment to HB 1642-FN Proposed by the Committee on Education - R

Amend the title of the bill by replacing it with the following:

AN ACT providing additional funding for charter schools for the 2009 fiscal year.

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

1 Charter School Appropriations for the Biennium Ending June 30, 2009. Amend 2007, 263:92 to read as follows:

263:92 Charter School Appropriations for the Biennium Ending June 30, 2009.

**I.** Notwithstanding the appropriations made in PAU 06, 03, 03, 01, 27, class 97, and any related footnotes, the total amount of charter school supplemental grants appropriated in PAU 06, 03, 03, 01, 27, class 97 for the biennium ending June 30, 2009 shall be available to the department of education for the fiscal year ending June 30, 2008, for disbursement to the Cocheco Arts and Technology Academy, the Franklin Career Academy, and the Seacoast Charter School. Any supplemental grant funds which are unexpended at the end of the 2008 fiscal year shall not lapse and shall be available for disbursement in the 2009 fiscal year **to all charter schools listed in paragraph III.**

**II.** *In addition to the provisions of paragraph I, and in addition to any funds distributed to charter schools pursuant to RSA 198:42, IV, the state treasurer shall distribute to the commissioner of the department of education, from the education trust fund established in RSA 198:39, the sum of \$1,500,000 for the fiscal year ending June 30, 2009 for disbursement to all charter schools in operation as of July 1, 2008.*

*The amount shall be calculated on a per pupil basis, as set forth in paragraph III, based on charter school pupil enrollment as of July 1, 2008, and shall be distributed pursuant to RSA 194-B:11, I(c).*

*III. The funds distributed to the commissioner of the department of education shall be allocated in the following manner:*

*(a) The Academy for Science and Design Charter School, Cocheco Arts and Technology Charter Academy, Franklin Career Charter Academy, New Hampshire Equestrian Academy Charter School, Seacoast Charter School, Strong Foundations Charter School and Surry Village Charter School shall each receive \$2,700 per pupil;*

*(b) CSI Charter School, Great Bay e-Learning Charter School and North Country Charter Academy shall each receive \$500 per pupil; and*

*(c) The Virtual Learning Academy Charter School shall receive \$250 for each full-time equivalent number of pupils.*

2 Moratorium on Charter School Authorization. Amend 2007, 263:93 to read as follows:  
263:93 Applicability. No new charter schools shall be approved by the state board of education under the provisions of RSA 194-B:3-a between July 1, 2007 and June 30, ~~2009~~ **2010**, provided that a charter school application filed prior to July 1, 2007 which is scheduled to be acted upon by the state board of education on or before October 1, 2007 shall be exempt from this prohibition. Nothing in this section shall affect the validity of a charter school approved by the state board of education under RSA 194-B:3-a prior to July 1, 2007.

3 Effective Date. This act shall take effect July 1, 2008.

#### AMENDED ANALYSIS

This bill provides funding for the fiscal year ending June 30, 2009 for all charter schools in operation as of July 1, 2008.

2008-0177h

#### Amendment to HR 21

**Proposed by the Committee on State-Federal Relations and Veterans Affairs – R**  
2008-0177h

Amend the title of the resolution by replacing it with the following:

A RESOLUTION urging Congress to oppose any attempt to remove the phrases “In God We Trust” and “E Pluribus Unum” from United States currency and coinage.

Amend the resolution by replacing all after the title with the following:

Whereas, “In God We Trust” has appeared on federal currency since the time of the Civil War; and

Whereas, by act of Congress in 1908 it became mandatory for “In God We Trust” to appear on certain currency minted by the United States Treasury; and

Whereas, “In God We Trust” was adopted as the national motto of the United States of America by the 84<sup>th</sup> Congress in 1956; and

Whereas, in 1970, the United States Court of Appeals for the Ninth Circuit ruled that the national motto was of a “patriotic or ceremonial character;” and

Whereas, the motto “E Pluribus Unum” has been used on federal currency since 1795; and

Whereas, the motto “E Pluribus Unum” means “Out of Many One” and appears on the Great Seal of the United States; and

Whereas, in 2007, the United States Mint placed into circulation the Thomas Jefferson \$1 coins; and

Whereas, these \$1 coins display “In God We Trust” and “E Pluribus Unum” in small print on the side edge of the coin; now, therefore, be it

Resolved by the House of Representatives:

That the New Hampshire house of representatives opposes the production and distribution of United States of America currency that does not clearly display the phrases

“In God We Trust” and “E Pluribus Unum” in a manner equal to or greater than its display on past minted currency; and

That the New Hampshire house of representatives urges Congress to take action to preserve the display of the phrases “In God We trust” and “E Pluribus Unum” in a manner equal to or greater than its display on past minted currency; and

That copies of this resolution, signed by the speaker of the house of representatives, be forwarded by the house clerk to the United States Secretary of the Treasury and to each member of the New Hampshire congressional delegation.

#### AMENDED ANALYSIS

This bill urges Congress to oppose any attempt to remove the phrases “In God We Trust” and “E Pluribus Unum” from United States currency and coinage.