State of

New Hampshire

HOUSE RECORD

First Year of the 158th Session of the General Court

Calendar and Journal of the 2003 Session

Vol. 25 Concord N.H Friday, March 7, 2003 No. 20

Contains: Amendments for March 12 and 13

HOUSE CALENDAR

ALL LEGISLATORS ARE ASKED TO BRING THIS CALENDAR

FOR USE ON

WEDNESDAY, MARCH 12 AND THURSDAY, MARCH 13

WEDNESDAY, MARCH 12

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

2003-0057h

Amendment to HB 61

Proposed by the Committee on Fish and Game - R

Amend the bill by replacing section 1 with the following:

1 New Section; Migratory Game Birds; Taking in Connecticut River Zone; Reciprocity. Amend RSA 209 by inserting after section 5 the following new section:

209:5-a Connecticut River Zone.

I. A person holding a Vermont resident hunting license which allows the taking of migratory waterfowl and coots, may take migratory game birds except woodcock and snipe, as provided in RSA 209:5, from the Connecticut River zone, provided the state of Vermont grants the same right to a person holding a New Hampshire resident hunting license and waterfowl stamp which allows the taking of migratory game birds in the Connecticut River zone in Vermont pursuant to 10 VSA 4909.

II. The Connecticut River zone in New Hampshire shall include that portion of New Hampshire lying west of the line defined by New Hampshire Route 63 from the Massachusetts border north to Route 12; Route 12 north to Route 12-A; Route 12-A north to Route 10; Route 10 north to Route 135; Route 135 north to U.S. Route 3; U.S. Route 3 north to the intersection with the Connecticut River.

2003-0382h

Amendment to HB 82

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

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

AN ACT to change the name of "Mount Clay" to Mount Reagan.

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

1 Mount Reagan. The mountainous elevation known as "Mount Clay" (5535') which is located in the White Mountains and is approximately one mile away from Mount Washington shall hereafter be called and known as Mount Reagan.

2 Reaffirmation. The general court hereby reaffirms the actions of the general court in 1913, 96 in renaming "Mount Clinton" as "Mount Pierce."

3 Effective Date.

I. Section 2 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill changes the name of "Mount Clay" located in the White Mountains to Mount Reagan.

2003-0373h

Amendment to HB 109-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 relative to telemarketing practices.

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

1 Use of Automatic Telephone Dialing Systems; Chapter Heading Amended. Amend the chapter heading of RSA 359-E to read as follows:

CHAPTER 359-E

[~~USE OF AUTOMATIC TELEPHONE DIALING SYSTEMS AND CALLER IDENTIFICATION SERVICES~~]

TELEMARKETING

2 New Subdivision Heading; Use of Automatic Telephone Dialing Systems and Caller Identification Services. Amend RSA 359-E by inserting, preceding RSA 359-E:1, the following subdivision heading:

Use of Automatic Telephone Dialing Systems and Caller Identification Services

3 New Subdivision; Telemarketing Sales Calls. Amend RSA 359-E by inserting after section 6 the following new subdivision:

Telemarketing Sales Calls

359-E:7 Definitions. In this subdivision:

I. "Bureau" means the consumer protection and antitrust bureau of the office of the department of justice.

II. "Customer" means any natural person who:

(a) Is a resident of this state.

(b) Is or may be required to pay for or to exchange consideration for goods and services offered through telemarketing.

(c) Is a residential, business, mobile, or telephonic paging device telephone subscriber.

III. "Do-not-call registry" means the Federal Trade Commission's do-not-call registry, established pursuant to the Federal Trade Commission Telemarketing Sales Rule, 68 Fed. Reg. 19,4672 (2003) (to be codified at 16 C.F.R. part 310, section 310.4(b)(1)(iii)(B)), as amended.

IV. "Goods and services" means any goods and services, and shall include any real property or any tangible personal property or services of any kind.

V. "Person" means any natural person, association, partnership, firm, corporation and its affiliates or subsidiaries, or other business entity.

VI. "Telemarketer" means any person who, for financial profit or commercial purposes in connection with telemarketing, makes telemarketing sales calls to a customer when the customer is in this state or any person who directly controls or supervises the conduct of a telemarketer. For the purposes of this subdivision, "commercial purposes" shall mean the sale or offer for sale of goods or services.

VII. "Telemarketing" means any plan, program, or campaign which is conducted to induce payment or the exchange of any other consideration for any goods or services by use of one or more telephones and which involves more than one telephone call by a

telemarketer in which the customer is located within the state at the time of the call. Telemarketing shall not include the solicitation of sales through media other than by telephone calls.

VIII. "Telemarketing sales call" means a telephone call by a telemarketer originating in this state or outside of this state to a customer in this state for the purpose of inducing payment or the exchange of any other consideration for any goods or services. A telemarketing sales call shall not include a call made:

(a) In response to an express written or verbal request of the customer called.

(b) In connection with an existing business relationship, which has not been terminated by either party.

(c) On behalf of a nonprofit charity or political campaign.

359-E:8 Prohibited Telemarketing Sales Calls. Telemarketers are prohibited from conducting telemarketing sales calls to any customer who has registered his or her name or telephone number with the Federal Trade Commission's do-not-call registry.

359-E:9 Obligation to Obtain Do-Not-Call Registry. Telemarketers making telemarketing sales calls originating in the state shall obtain the do-not-call registry from the bureau. Telemarketers making telemarketing sales calls originating outside of the state shall obtain the do-not-call registry from the bureau or from the Federal Trade Commission. The bureau shall charge a fee for the registry in an amount sufficient to cover any costs incurred by the bureau in providing the registry.

359-E:10 Notice of Do-Not-Call Registry.

I. The bureau shall provide notice to customers of the do-not-call registry. Any customer who wishes to be included on the registry shall notify the Federal Trade Commission in such manner as the commission may prescribe or shall notify the bureau in writing or via the Internet. A customer may be removed from the registry upon the customer's written request to the bureau or in such manner as the commission may prescribe.

II. The bureau shall update and transmit to the Federal Trade Commission all new names and telephone numbers received for inclusion in the registry not less than quarterly.

359-E:11 Rulemaking. The department of justice shall adopt rules under RSA 541-A relative to the requirements of this subdivision.

359-E:12 Telemarketing; Disclosure Required.

I. If a telemarketer places a telemarketing sales call that is otherwise permitted by this subdivision, the telemarketer shall immediately disclose the caller's identity, the business on whose behalf he or she is soliciting, and the consumer goods or services being offered or sold.

II. If a sale or an agreement to purchase is completed, the telemarketer shall inform the customer of the customer's cancellation rights and give the telephone number and complete address of the telemarketer and the total price or cost of the sale or agreement. In addition, the telemarketer shall provide a detailed written description of the goods or services purchased, unless the customer waives the right to receive such description.

359-E:13 Penalties.

I. A violation of RSA 359-E:8 or RSA 359-E:12 shall constitute an unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right, remedy or power set forth in RSA 358-A, including those set forth in RSA 358-A:4, may be used to enforce the provisions of this subdivision. Such remedies shall be in addition to any other remedies provided by law or equity and shall be in addition to any other penalty provided by this section.

II. A violation of RSA 359-E:8 or RSA 359-E:12 shall result in the loss of ability to conduct telemarketing in this state for a period of 2 years and shall result in a fine of $11,000 per violation. Any funds so collected shall be used by the bureau to defray costs associated with the implementation and enforcement of this subdivision.

4 Effective Date. This act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill prohibits telemarketers from calling customers who have placed their names on the Federal Trade Commission's do-

not-call registry.

The bill also requires telemarketers to make certain disclosures relative to the identity of the caller and the nature of any sale or agreement.

2003-0545h

Amendment to HB 120

Proposed by the Committee on Election Law - C

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

AN ACT relative to sessions for the correction of the checklist and sessions for changes of party registration.

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

1 Cities and Wards; Voters and Checklists; Reference Deleted. Amend RSA 44:5 to read as follows:

44:5 Voters and Checklists. Any person having his ***or her*** domicile within the city, qualified to vote as provided in RSA 654:1-654:2 and 654:4-654:6 and whose name is on the checklist shall be qualified to vote in city elections. The supervisors of the checklist shall prepare, post, and revise the checklist for city elections in the same manner as for a state election as provided in RSA 654:25-654:31 [~~except that the session provided for in RSA 654:27 to be held on the Tuesday 3 weeks prior to the election shall not be required~~].

2 Voters and Checklists; Session for Correction. Amend RSA 654:27 to read as follows:

654:27 Session for Correction. In cities and towns, the supervisors of the checklist shall be in session for the correction of the checklist at some suitable place in the city or town on the Saturday 10 days prior to the election and upon which all hearings shall be finally closed; provided that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and [~~8:00~~] ***7:30*** p.m. and at the discretion of the supervisors for extended hours. Notice of the day, hour, and place of each session of the board of supervisors shall be given upon the checklists first posted and shall be published in a newspaper of general circulation in the city or town at least 7 days prior to each such session. The reconvening of any session which has been adjourned shall not require the publication of notice.

3 Voters and Checklists; Procedure. Amend RSA 654:28 to read as follows:

654:28 Procedure. The supervisors of the checklist shall hear all applications for a correction of the checklist and the evidence submitted thereon and shall correct it according to their best knowledge so that it contains only the names of those persons qualified to vote at said election. The names of all persons not qualified to vote at the time of any session, but who shall clearly be qualified to vote on election day, may be added to the checklist at that session. The session which is held on the Saturday 10 days prior to election day shall be held as a minimum requirement between 11:00 a.m. and [~~12:00 p.m.~~] ***11:30 a.m.*** and at the discretion of the supervisors for additional hours. No additions or corrections shall be made after the Saturday session, except as provided in RSA 659:12 or RSA 654:27, provided, however, that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and [~~8:00~~] ***7:30*** p.m. and at the discretion of the supervisors for extended hours. The additions and corrections resulting from such session shall be made to the previously posted checklist on or before midnight on the succeeding Friday either by additions or corrections to said checklist or by posting a new corrected checklist. Notice of such additions or corrections to the checklist shall also be given to the town or city clerk.

4 Voters and Checklists; Hearings on Alterations to Party Registration. Amend RSA 654:32 to read as follows:

654:32 Hearings on Alterations to Party Registration. Before each state or presidential primary election, the supervisors of the checklist shall be in session before each primary for the change of registration of legal voters as provided in RSA 654:34 or 654:34-a or both. Before the presidential primary, the session shall be on the Friday preceding the first day of the filing period, between [~~7~~] ***7:00*** p.m. and [~~9~~] ***7:30*** p.m. ***and at the discretion of the supervisors for extended hours.*** Before the state primary election, the session shall be on Tuesday before the first Wednesday in June between [~~7~~] ***7:00*** p.m. and [~~9~~] ***7:30*** p.m. ***and at the discretion of the supervisors for extended hours.***

5 Town Elections; Voters and Checklists. Amend RSA 669:5 to read as follows:

669:5 Voters and Checklists. An updated checklist shall be used at all town meetings and elections for the same purposes a

checklist is used at a state election and to insure that only qualified voters participate in town meeting discussions and votes, by voice or otherwise. The supervisors shall prepare, post, and revise the checklist for a town meeting or election in the same manner as for a state election as provided in RSA 654:25--654:31, provided, however, that the session for correction shall be held on Saturday 6 to 13 days prior to the election. The supervisors shall also hold one session for correction of the checklist on the day immediately prior to the first day of the filing period for candidates for town office, as provided in RSA 669:19 or 669:42, as applicable, from [~~7~~] ***7:00*** p.m. to [~~8~~] ***7:30*** p.m. and at the discretion of the supervisors for extended hours.

6 School District Elections; Checklist. Amend RSA 671:15 to read as follows:

671:15 Checklist. An updated checklist shall be used at all school district elections and meetings for the same purposes as checklists are used by towns as provided in RSA 669:5. Any school district which is coextensive with the town in which it is located may, at an annual meeting under an article in the warrant for such meeting, vote to adopt as the checklist for school meetings the checklist of the town. In case of such adoption, the supervisors of the town checklist, acting as supervisors of the school district checklist, shall correct, certify***,*** and post the checklist for the district as provided in RSA 654:25-654:31. [~~The session for correction of the checklist required by RSA 654:27 to be held 3 weeks prior to an election shall not be required for school district elections.~~] The session required to be held 10 days before the school district meeting or election may coincide with the session for correction held for the town meeting or election provided that the school meeting or election coincides with the town meeting or election. If the school meeting or election is held at a time other than the town meeting or election, a separate session for correction of the checklist shall be required to be held 10 days prior to the school district meeting or election.

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

AMENDED ANALYSIS

This bill shortens to ½ hour the minimum required length for sessions for the correction of the checklist and sessions for changes of party registration. This bill also deletes certain obsolete references.

2003-0577h

Amendment to HB 149

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 patient rights and disclosures.

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

1 New Paragraph; Patients' Bill of Rights; Disclosures Required. Amend RSA 151:21 by inserting after paragraph XX the following new paragraph:

XXI. The patient shall be entitled to know the cause or contributing cause of a patient injury. Such information shall be disclosed promptly to the patient or the patient's representative and shall be documented on the patient's record or chart.

2 Effective Date. This act shall take effect January 1, 2004.

AMENDED ANALYSIS

This bill requires that the cause or contributing cause of patient injury shall be disclosed to the patient or the patient's representative and documented on the patient's record or chart.

2003-0366h

Amendment to HB 181

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 limiting landowner liability for giving permission for horseback riding.

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

1 Liability of Landowners; Duty of Care. Amend RSA 212:34 to read as follows:

212:34 Duty of Care.

I. An owner, lessee or occupant of premises owes no duty of care to keep such premises safe for entry or use by others for hunting, fishing, trapping, camping, ***horseback riding,*** water sports, winter sports or OHRVs as defined in RSA 215-A, hiking, sightseeing, or removal of fuelwood, or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purposes, except as provided in paragraph III hereof.

II. An owner, lessee or occupant of premises who gives permission to another to hunt, fish, trap, camp, ***ride horseback,*** hike, use OHRVs as defined in RSA 215-A, sightsee upon, or remove fuelwood from, such premises, or use said premises for water sports, or winter sports does not thereby:

(a) Extend any assurance that the premises are safe for such purpose, or

(b) Constitute the person to whom permission has been granted the legal status of an invitee to whom a duty of care is owed, or

(c) Assume responsibility for or incur liability for an injury to person or property caused by any act of such person to whom permission has been granted except as provided in paragraph III hereof.

III. This section does not limit the liability which otherwise exists:

(a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or

(b) For injury suffered in any case where permission to hunt, fish, trap, camp, ***ride horseback,*** hike, use for water sports, winter sports or use of OHRVs as defined in RSA 215-A, sightsee, or remove fuelwood was granted for a consideration other than the consideration, if any, paid to said landowner by the state; or

(c) The injury caused by acts of persons to whom permission to hunt, fish, trap, camp, ***ride horseback,*** hike, use for water sports, winter sports or use of OHRVs as defined in RSA 215-A, sightsee, or remove fuelwood was granted, to third persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

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

AMENDED ANALYSIS

This bill adds horseback riding to the recreational activities in which landowner liability for personal injury or property damage is limited.

2003-0404h

Amendment to HB 274-A

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

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

2 Appropriation. The sum of $125,000 for the fiscal year ending June 30, 2004 is hereby appropriated to the division of parks and recreation, department of resources and economic development for the purposes set forth in this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Acceptance of Funds Authorized. The state is authorized to accept a sum not to exceed $125,000 raised by the "Lighthouse Kids" of North Hampton for the upkeep and future maintenance of the White Island Lighthouse.

AMENDED ANALYSIS

This bill makes an appropriation of $125,000 to the division of parks and recreation, department of resources and economic development for the purposes of repairing the White Island Light Station located off the coast of Rye, New Hampshire. The bill authorizes the department of resources and economic development to accept certain funds for the upkeep and future

maintenance of the White Island Light Station.

2003-0327h

Amendment to HB 277-FN

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

Amend RSA 656:6, I-a as inserted by section 1 of the bill by replacing it with the following:

I-a. As used in this section, a "law enforcement officer" is a sheriff or deputy sheriff of any county, a state police officer, 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, a juvenile probation and parole officer, or a conservation officer.

2003-0496h

Amendment to HB 280-FN

Proposed by the Committee on Science, Technology and Energy - R

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

1 Purpose. The purpose of this act is to provide a sustainable and fiscally responsible funding mechanism to support the continuation of a statewide program for poison information that meets certification standards developed by the American Association of Poison Control Centers. The general court recognizes that the poison information center is an important emergency medical telephone service which complements and enhances the purposes of other emergency public health and safety efforts in New Hampshire.

2 New Section; Poison Information Center Surcharge. Amend RSA 378 by inserting after section 48 the following new section:

378:49 Poison Information Center Surcharge; Fund Established.

I. The poison information center, established pursuant to RSA 126-A:49, shall be funded through a surcharge to be levied upon each residence and business telephone exchange line, including PBX trunks and Centrex lines, each individual commercial mobile radio service number, and each semi-public and public coin and public access line. No such surcharge shall be imposed upon more than 25 business telephone exchange lines, including PBX trunks and Centrex lines, or more than 25 commercial mobile radio service exchange lines per customer billing account. In the case of local exchange telephone companies, the surcharge shall be contained within tariffs or rate schedules filed with the public utilities commission and shall be billed on a monthly basis by each local exchange telephone company. In the case of an entity which provides commercial mobile radio service the surcharge shall be billed to each customer on a monthly basis and shall not be subject to any state or local tax; the surcharge shall be collected by the commercial mobile radio service provider, and shall be identified on the customer's bill. Each local exchange telephone company or entity which provides commercial mobile radio service shall remit the surcharge amounts on a monthly basis to the department of health and human services, which shall be forwarded to the state treasurer for deposit in the poison information center fund. Such fund shall be continually appropriated to the department of health and human services and shall not lapse. The moneys in the account shall not be used for any purpose other than the poison information center developed or designated pursuant to RSA 126-A:49. The public utilities commission shall establish the surcharge based on the budget that has been approved or modified, and if appropriate, new tariffs or rate schedules shall be filed with the public utilities commission reflecting the surcharge amount.

II. Imposition of the poison information center surcharge shall begin not later than 4 months from the approval of the budget, in order to provide adequate funding for the poison information center designated pursuant to RSA 126-A:49.

III. The surcharge authorized by this section shall be sufficient to cover the poison information center designated pursuant to RSA 126-A:49, net of any funds obtained from any other sources.

IV. The poison information center surcharge shall be separately identified on the telephone customer’s bill.

3 New Subparagraph; State Treasurer; Poison Information Center Fund. Amend RSA 6:12, I by inserting after subparagraph (lllllllll) the following new subparagraph:

(mmmmmmmmm) Moneys received under RSA 378:49, which shall be credited to the poison information center fund

established in RSA 378:49.

4 Health and Human Services; Poison Information and Control. Amend RSA 125:9, IX to read as follows:

IX. Develop or designate a statewide [~~program for~~] poison information [~~and treatment~~] ***center*** under RSA 126-A:49 ***by soliciting proposals and selecting a vendor***.

5 Health and Human Services; Poison Information and Control. RSA 126-A:49 is repealed and reenacted to read as follows:

126-A:49 Poison Information and Treatment. The commissioner shall develop or designate a statewide poison information center which meets certification standards developed by the American Association of Poison Control Centers. The poison information center so established and designated by the commissioner shall provide New Hampshire residents with information and emergency medical consultation on a daily, 24-hour basis. Funding for this program may be included in the budget for the department of health and human services, and shall be from the surcharge authorized by RSA 378:49. The commissioner shall file an annual report with the health and human services oversight committee established pursuant to RSA 126-A:13 and the chairperson of the oversight committee on telecommunications established pursuant to RSA 374:22-h as to whether the designated poison information center provides services in such manner as to ensure continued accreditation by the American Association of Poison Control Centers and on the department's efforts to identify and accept additional funds. The commissioner shall attempt to obtain and shall accept in the name of the state any and all donations, grants, or fees, both real and personal, from any governmental unit or public agency, or third-party payors, or from any institution, person, firm, or corporation given specifically for the purpose of funding this program and the commissioner shall receive, utilize, and dispose of all such donations and grants consistent with the purpose or conditions of the donation or grant. The health and human services oversight committee shall, no later than July 1, 2007, review the accreditation standards of the American Association of Poison Control Centers to determine whether it is appropriate to continue to require the poison information center to meet such standards.

6 Initial Budget for Poison Information Center. For the purposes of initiating the budget for the poison information center, the commissioner of health and human services shall submit an initial budget to the legislative fiscal committee for final approval.

7 Health and Human Services; Poison Information and Control; References to Surcharge and Accreditation Review Eliminated. RSA 126-A:49 is repealed and reenacted to read as follows:

126-A:49 Poison Information and Treatment. The commissioner shall develop or designate a statewide poison information center which meets certification standards developed by the American Association of Poison Control Centers. The poison information center so established and designated by the commissioner shall provide New Hampshire residents with information and emergency medical consultation on a daily, 24-hour basis. Funding for this program may be included in the budget for the department of health and human services. The commissioner shall file an annual report with the health and human services oversight committee established pursuant to RSA 126-A:13 and the chairperson of the oversight committee on telecommunications established pursuant to RSA 374:22-h as to whether the designated poison information center provides services in such manner as to ensure continued accreditation by the American Association of Poison Control Centers and on the department's efforts to identify and accept additional funds. The commissioner shall attempt to obtain and shall accept in the name of the state any and all donations, grants, or fees, both real and personal, from any governmental unit or public agency, or third-party payors, or from any institution, person, firm, or corporation given specifically for the purpose of funding this program and the commissioner shall receive, utilize, and dispose of all such donations and grants consistent with the purpose or conditions of the donation or grant.

8 Repeal. The following are repealed:

I. RSA 378:49, relative to the poison information center surcharge.

II. RSA 6:12, I(mmmmmmmmm), relative to the poison information center fund.

9 Effective Date.

I. Sections 7 and 8 of this act shall take effect July 1, 2007.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes the poison information center surcharge as a funding mechanism to continue the statewide program for

poison information and treatment which meets certification standards developed by the American Association of Poison Control Centers.

The surcharge is repealed in 2007.

2003-0400h

Amendment to HB 281-FN

Proposed by the Committee on Executive Departments and Administration - C

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

AN ACT exempting automatic irrigation system installers from licensure by the electrician's board.

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

1 New Paragraph; Exemptions. Amend RSA 319-C:3 by inserting after paragraph X the following new paragraph:

XI. A person who makes or, as a business, hires or employs another to make, electrical installations, repairs, alterations, or maintenance on automatic irrigation systems operating at 30 volts or less.

2 Effective Date. This act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill exempts persons who install, repair, maintain, or alter automatic irrigation systems from regulation as electricians.

2003-0445h

Amendment to HB 288-FN

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

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

1 New Paragraph; Violation of Privacy; Dissemination of Certain Materials. Amend RSA 644:9 by inserting after paragraph II the following new paragraph:

III. A person is guilty of a class A misdemeanor if that person knowingly disseminates or causes the dissemination of any photograph or video recording of himself or herself engaging in sexual activity with another person, or of another person voluntarily engaging in sexual activity while in his or her presence without the express consent of the other person or persons who appear in the photograph or videotape. In this paragraph, "disseminate" shall have the same meaning as in RSA 649-A:2.

2 Effective Date. This act shall take effect January 1, 2004.

AMENDED ANALYSIS

This bill establishes a class A misdemeanor offense for any person who knowingly disseminates or causes the dissemination of any photograph or video recording of himself or herself engaging in sexual activity with another person, or of another person voluntarily engaging in sexual activity while in his or her presence without the express consent of the other person or persons who appear in the photograph or videotape.

2003-0482h

Amendment to HB 326

Proposed by the Majority of the Committee on Public Works and Highways - R

Amend RSA 9:3-a, III as inserted by section 1 of the bill by replacing it with the following:

III. The governor shall hold public hearings on the requests no later than June 30. [~~He~~] ***The governor*** may require officials of those departments submitting requests to attend and testify.

Amend RSA 9:3-a, VII as inserted by section 1 of the bill by replacing it with the following:

VII. The governor shall submit the capital budget to the general court no later than February 15 of each odd numbered year. ***The capital budget submitted shall identify all projects which are expected or planned to require funding in the first biennium and in subsequent bienniums of the 6-year capital budget in order to be completed.***

Amend the bill by replacing section 2 with the following:

2 New Sections; Capital Budget; Limitations on Appropriations; Review. Amend RSA 9 by inserting after section 3-a the following new sections:

9:3-b Capital Budget; Limitations on Appropriations.

I. For the 6-year capital budget requested under RSA 9:3-a or as adopted for state capital improvements projects, total appropriations of general fund revenues for the first biennium to which the 6-year capital budget applies shall not exceed an amount up to 8 percent of the state general fund unrestricted revenues for the most recently completed fiscal year.

II. For approved projects requiring appropriations in multiple bienniums to be completed, the maximum appropriation for the second biennium of the 6-year capital budget shall not exceed 4 percent of state general fund unrestricted revenues for the most recently completed fiscal year, and for approved projects extending into the third biennium, the maximum appropriation for the third biennium shall not exceed 2 percent of state general fund unrestricted revenues for the most recently completed fiscal year.

9:3-c Review and Update of Capital Budget. In the first year of each biennium the legislature shall review the 6-year capital budget and update the extended projects, and may approve new projects over the next 6 years under the same limitations outlined in RSA 9:3-b. The general court intends that once a capital budget project has been approved it shall be funded through each phase of the project unless some extreme and significant event makes further funding inappropriate.

Amend the bill by replacing section 5 with the following:

5 Department of Transportation; Major Capital Projects. Amend RSA 228:4, IV to read as follows:

IV. Any repair project authorized in the ***6-year*** capital budget which requires consultant services shall be [~~put into effect~~] ***initiated*** within 90 days after the ***date that the*** general court [~~passes~~] ***authorizes the project in*** the capital budget.

2003-0562h

Amendment to HB 326

Proposed by the Minority of the Committee on Public Works and Highways - R

Amend RSA 9:3-a, III as inserted by section 1 of the bill by replacing it with the following:

III. The governor shall hold public hearings on the requests no later than June 30. [~~He~~] ***The governor*** may require officials of those departments submitting requests to attend and testify.

Amend RSA 9:3-a, VII as inserted by section 1 of the bill by replacing it with the following:

VII. The governor shall submit the capital budget to the general court no later than February 15 of each odd numbered year. ***The capital budget submitted shall identify all projects which are expected or planned to require funding in the first biennium and in subsequent bienniums of the 6-year capital budget in order to be completed.***

Amend the bill by replacing section 2 with the following:

2 New Section; Capital Budget; Review and Update. Amend RSA 9 by inserting after section 3-a the following new sections:

9:3-b Review and Update of Capital Budget. In the first year of each biennium the legislature shall review the 6-year capital budget and update the extended projects, and may approve new projects over the next 6 years. The general court intends that once a capital budget project has been approved it shall be funded through each phase of the project unless some extreme and significant event makes further funding inappropriate.

Amend the bill by replacing section 5 with the following:

5 Department of Transportation; Major Capital Projects. Amend RSA 228:4, IV to read as follows:

IV. Any repair project authorized in the ***6-year*** capital budget which requires consultant services shall be [~~put into effect~~] ***initiated*** within 90 days after the ***date that the*** general court [~~passes~~] ***authorizes the project in*** the capital budget.

2003-0568h

Amendment to HB 353-FN-A

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

Amend the bill by replacing section 1 with the following:

1 Appropriation; Pilot Program to Study and Establish Protected Instream Flows and Water Management Plans on the Lamprey River and the Souhegan River. The sum of $1 is hereby appropriated to the department of environmental services for the biennium ending June 30, 2005, for the purpose of establishing a pilot program to study and establish protected instream flows and water management plans on the Lamprey River and the Souhegan River in accordance with 2002, 278. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

2003-0475h

Amendment to HB 387-FN

Proposed by the Majority of the Committee on State-Federal Relations and Veterans Affairs - R

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

AN ACT allowing free admission to the state park system for certain members of the New Hampshire national guard.

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Fees for Park System; Free Admission for Certain Active Members of the New Hampshire National Guard. Amend RSA 216-A:3-g by inserting after paragraph III the following new paragraph:

IV.(a) Any active member of a federally recognized unit of the New Hampshire national guard who is a legal resident of this state, and who meets the minimum requirements for satisfactory membership, as defined in the United States Department of the Army and the United States Department of the Air Force regulations, and is serving in pay grades E1 through E6 shall not be charged a fee for admission to the state park system. This section shall apply to members of the Active Guard and Reserve program in the New Hampshire national guard.

(b) Any fees for the use of enterprise activities as described in paragraph II of this section shall be charged.

AMENDED ANALYSIS

This bill provides that certain active members of the New Hampshire national guard, including members of the Active Guard and Reserve program, who are legal residents of this state, shall not be charged a fee for admission to the state park system.

2003-0442h

Amendment to HB 434-LOCAL

Proposed by the Committee on Municipal and County Government - C

Amend RSA 236:128, III as inserted by section 2 of the bill by replacing it with the following:

III. The local governing body or other enforcement official of the town, city, or unincorporated place, after providing notice, may impose a civil penalty of up to $50 for each day upon any person whose land is deemed a nuisance pursuant to RSA 236:119 until such time as the nuisance is removed or abated to the satisfaction of the governing body, or until the owner of the land acquires a license and is in compliance with the provisions of this subdivision. The building inspector or other local official with the authority to enforce the provisions of this section may commence an action to collect the civil penalty in the district court.

Imposition of a civil penalty under this paragraph shall not relieve the owner of any requirement to comply with the provisions of this subdivision, nor shall it preclude the imposition of further actions or remedies under this chapter. The proceeds from the assessment of civil penalties under this section shall be for the use of the town, city, or unincorporated place. Notwithstanding any other provision of law, this paragraph shall not apply to automotive recycling yards and junkyards properly licensed or pending license renewal under this subdivision.

2003-0319h

Amendment to HB 469

Proposed by the Committee on Fish and Game - C

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Hunting from Motor Vehicle, OHRV, Boat, or Aircraft; Crossbows Added. Amend RSA 207:7, II and III to read as follows:

II. No person shall have or carry, in or on a motor vehicle, OHRV, or aircraft, whether moving or stationary, ***a cocked crossbow,*** a loaded rifle or loaded shotgun***,*** or a rifle or shotgun with a cartridge in a magazine or clip attached to the gun.

III. No person shall have in or on a boat or other craft while being propelled by mechanical power, or in a boat or other craft being towed by a boat or other craft propelled by mechanical power, ***a cocked crossbow,*** a loaded rifle or loaded shotgun***,*** or a rifle or shotgun with a cartridge in a magazine or clip attached to the gun.

2003-0413h

Amendment to HB 533

Proposed by the Committee on Health, Human Services and Elderly Affairs - C

Amend RSA 161-C:3-b, VI as inserted by section 1 of the bill by replacing it with the following:

VI. The department may provide certain information to health carriers, as defined in RSA 420-G:2, public agencies or its contracted agents concerning individuals who are subject to an order to provide health insurance coverage for dependents administered by the office of child support enforcement services, and their dependent children covered by such medical support orders, as necessary to cross-match the individuals with policyholder and subscriber information pursuant to RSA 161-C:3-e and rules adopted by the commissioner pursuant to that section, for the purpose of enforcing orders for medical support. The department may identify such individuals by name, the last 4 digits of the individual's social security number or other taxpayer identification number, date of birth, last known address, employer, or any combination thereof.

Amend RSA 161-C:3-e, III as inserted by section 2 of the bill by replacing it with the following:

III. All information disclosed by the department for the purpose of the electronic cross-match shall remain property of the state of New Hampshire. Any health carrier, public agency, or contracted agent engaged by the department to perform the electronic cross-match shall purge any information received from the department pursuant to this section concerning individuals or dependents from its records and databases immediately upon the completion of the data match exchange.

IV. In any case where the department administers a medical child support order on behalf of a dependent child who does not receive temporary assistance to needy families or medical assistance, the transaction costs associated with the electronic cross-match shall be paid in advance by the custodial parent or guardian, and the non-custodial parent shall reimburse the custodial parent for such transaction costs.

V. Any health carrier who supplies information in accordance with this section and with rules adopted under RSA 161-C:28 shall have immunity from any civil or criminal liability that might otherwise be imposed or incurred.

2003-0522h

Amendment to HB 564-FN

Proposed by the Committee on Judiciary - C

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

1 New Section; Judicial Conduct Commission; Access to Information. Amend RSA 494-A by inserting after section 11 the following new section:

494-A:11-a Access to Information; Hearings on Confidential Cases.

I. Notwithstanding any other provision of law to the contrary, a person subject to the code of judicial conduct may provide to the members of the judicial conduct commission, its staff and agents, and in the performance of its official duties the judicial conduct commission may review, any tapes, transcripts, records of proceedings, information, files, and other documents which would otherwise be confidential. No member, staff, or agent of the judicial conduct commission shall disclose such information except in the course of official duty. Any member, staff, or agent of the judicial conduct commission who violates the provisions of this paragraph shall be guilty of a misdemeanor.

II. In a hearing under RSA 494-A:11, II if any part of the complaint involves the conduct of a person in a case required to be confidential by law, the commission may, by majority vote, conduct the hearing, or any part thereof, in a session not open to the public. In such circumstances the commission shall make available to the public a summary of the nature of the complaint, the names of the person complained against and the complainant, and the decision of the committee.

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

2003-0449h

Amendment to HB 577-FN-A-LOCAL

Proposed by the Committee on Election Law – R

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

AN ACT relative to implementing the Help America Vote Act of 2002 and relative to rulemaking by the secretary of state.

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

1 New Section; Election Fund. Amend RSA 5 by inserting after section 6-c the following new section:

5:6-d Election Fund.

I. There is established in the office of the state treasurer a nonlapsing fund to be known as the election fund which shall be kept distinct and separate from all other funds. The election fund is established to meet the requirements of section 254(b) of the Help America Vote Act, Public Law 107-252.

II. The treasurer shall deposit in the election fund all monies received by the state pursuant to the Help America Vote Act of 2002, Public Law 107-252 and all civil or administrative fines or penalties or filing fees collected by the secretary of state pursuant RSA 655; RSA 659; and RSA 664. The treasurer shall also deposit in the election fund such other funds received under state or federal law, or donated to the state by private parties, for the purposes of conducting elections, voter and election official education, election law enforcement, and related information technology projects and improvements, and shall credit any interest or income earned on monies on deposit to the fund.

III. The secretary of state is authorized to accept, budget, and, subject to the limitations of this paragraph, expend monies in the election fund received from any party for the purposes of conducting elections, voter and election official education, the purchase or lease of voting equipment which complies with Help America Vote Act of 2002, Public Law 107-252, election law enforcement, and improvements to related information technology. The secretary of state shall not expend any monies in the election fund unless the balance in the fund following such expenditures shall be at least 20 times the estimated annual cost of maintaining the programs established to comply with the Help America Vote Act of 2002, Public Law 107-252.

IV. All monies in the election fund shall be continually appropriated to the department of state and shall not lapse.

V. The treasurer, upon approval of the secretary of state shall pay the expenses of planning, equipping, administering, staffing, maintaining, and improving the election services provided by the secretary of state and related services provided by the department of safety, the department of health and human services, and the department of justice out of any monies in the election fund, subject to the limitations established in paragraph III, notwithstanding any other provision of law.

2 New Subparagraph; General Revenue Exceptions; Election Fund. Amend RSA 6:12, I by inserting after subparagraph (lllllllll)

the following new subparagraph:

(mmmmmmmmm) Moneys deposited in the election fund under RSA 5:6-d.

3 New Paragraph; Administrative Procedure Act; Exceptions; Guidelines or Rules Issued by Secretary of State. Amend RSA 541-A:21 by inserting after paragraph VI the following new paragraph:

VII. Guidelines or rules issued by the secretary of state under title LXIII in furtherance of executing and enforcing the election laws shall be exempt from the rulemaking requirements of RSA 541-A.

4 New Subdivision; Centralized Voter Registration Database. Amend RSA 654 by inserting after section 44 the following new subdivision:

Centralized Voter Registration Database

654:45 Centralized Voter Registration Database.

I. The secretary of state is authorized to plan, develop, equip, establish, site, and maintain a statewide centralized voter registration database and communications system, hereinafter referred to as the voter database, connecting users throughout the state. The voter database shall include the information on the voter registration form and the voter checklists maintained by each city, ward, and town in the state.

II. Any election official in the state, including any local election official, may obtain immediate electronic access to the information contained in the voter database related to individuals registered or registering to vote in the election official's jurisdiction.

III. The voter database shall, upon certification by the secretary of state, be the official record of eligible voters for the conduct of all elections held in this state.

IV.(a) The voter database shall have the following minimum components:

(1) An electronic communications system that provides access for election officials from at least one point in each city and town within the state.

(2) An interactive computer program allowing local election officials access to records contained in the database with a process to add, delete, modify, or print a voter registration record related to the election official's jurisdiction. The system shall be designed so that there can be regular updates to the database, the records reflect the name of each registered voter with no duplication, and the names of ineligible voters are removed. The system shall contain safeguards to ensure that the names of properly registered voters are not removed in error.

(b) Voter database record data shall be verified by matching the records with those of the department of safety and the federal social security administration as are required by law, and with the records of the state agency or division charged with maintaining vital records. For this purpose the voter registration record database may be linked to the state agency or division charged with maintaining vital records and the department of safety, provided that no linked agency or division may use or retain voter information for purposes other verifying the accuracy of the information contained in the voter database. The system shall facilitate the identification and correction of voter registration records whenever a registered voter has died or has been disenfranchised pursuant to part I, article 11 of the New Hampshire constitution or RSA 654:5 through RSA 654:6, or when the domicile address does not match the address provided by the same individual to the department of safety.

V. The secretary of state shall:

(a) Specify the election officials and the employees of the department of state authorized to access records contained in the voter database, subject to the limitations of paragraph VI.

(b) Provide adequate technological security measures to deter unauthorized access to the records contained in the voter database.

(c) Issue guidelines to implement the voter database. The voter database guidelines and any other guidelines or rules issued by the secretary of state in furtherance of executing and enforcing the election laws shall be exempt from the rulemaking requirements of RSA 541-A.

VI. The voter database shall be private and confidential and shall not be subject to RSA 91-A and RSA 654:31. The voter checklist for a town or city shall be available pursuant to RSA 654:31. Any person who discloses information from the voter database in any manner not authorized by this section shall be guilty of a misdemeanor.

5 Filing Fees; Deposit of Fees. Amend RSA 655:19, II to read as follows:

II. The fees paid to a town or city clerk by candidates for state representative shall be forwarded to the treasurer of the town or city and shall be for the use of the town or city. The fees paid to the secretary of state shall be deposited by [~~him~~] ***the secretary of state*** in the [~~general~~] ***election*** fund ***established pursuant to RSA 5:6-d***.

6 Administrative Assessment; Deposit of Assessment. Amend RSA 655:19-c, II to read as follows:

II. The administrative assessment paid to a town or city clerk by candidates for state representative shall be forwarded to the treasurer of the town or city and shall be for the use of the town or city. The administrative assessment paid to the secretary of state shall be deposited by [~~him~~] ***the secretary of state*** into the [~~general~~] ***election*** fund ***established pursuant to RSA 5:6-d***.

7 Registration of Political Committees; Deposit of Fees. Amend RSA 664:3, I to read as follows:

I. Any political committee, except the political committee of a political party, shall register with the secretary of state as provided in this section. The committee shall register with the secretary of state not later than 24 hours after receiving any contribution in excess of $500 or before making any expenditure in excess of $500. The registration shall be accompanied by a fee of $50, which shall be deposited by the secretary of state into the [~~general~~] ***election*** fund ***established pursuant to RSA 5:6-d***; provided, however, that the political committee of a candidate which registers under this section shall not be required to pay the $50 fee. Each political committee shall designate a treasurer or agent who is a citizen of this state and who is authorized to receive all process and other legal documents on behalf of the political committee, and through whom may be obtained access to all books and records of the political committee. The political committee shall file with the secretary of state a statement of the purpose of the committee and shall indicate whether the committee will be making independent expenditures in support of or in opposition to any candidate including a statement of the name, address, occupation, and principal place of business of its chairperson, treasurer or agent, and other officers.

8 Political Expenditures and Contributions; Penalty; Fines. Amend RSA 664:21, II to read as follows:

II. Any fine assessed under the provision of this section shall be paid to the secretary of state for deposit into the [~~general~~] ***election*** fund ***established pursuant to RSA 5:6-d***.

9 Ballot Law Commission; Additional Jurisdiction. Amend RSA 665:7 to read as follows:

665:7 Additional Jurisdiction. In addition to the jurisdiction of issues conveyed to the ballot law commission by other sections of this chapter, the commission shall hear and determine all disputes involving alleged violations of New Hampshire election laws of a non-criminal nature for which no specific statutory appeal procedure has already been provided. The commission shall also hear and determine petitions for review of cease and desist orders issued by the attorney general under RSA 664:18, II, if such petitions are filed within 3 days of the order***, and shall hear and resolve complaints of federal voting law violations, pursuant to the Help America Vote Act of 2002, Public Law 107-252, as provided in RSA 666:14***.

10 New Subdivision; Administrative Complaint Procedures. Amend RSA 666 by inserting after section 13 the following new subdivision:

Administrative Complaint Procedures

666:14 Administrative Complaint Procedures. The attorney general may establish an administrative complaint procedure for the resolution of complaints of federal voting law violations, pursuant to the Help America Vote Act of 2002, Public Law 107-252. The attorney general may adopt administrative rules under RSA 541-A to implement the complaint resolution procedures. The ballot law commission is hereby designated as the body providing alternative dispute resolution as required by section 402(a)(2)(I) of the Help America Vote Act of 2002, Public Law 107-252.

11 Appropriation. The sum of $1 for the fiscal year ending June 30, 2004, and the sum of $1 for the fiscal year ending June 30, 2005, are hereby appropriated to the election fund established in RSA 5:6-d. These sums shall be in addition to any other funds appropriated to the department of state. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

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

AMENDED ANALYSIS

This bill:

I. Establishes an election fund for moneys appropriated to the state pursuant to the Help America Vote Act of 2002 and requires that certain fees and fines be deposited in the fund.

II. Authorizes a statewide centralized voter registration database and communications network.

III. Exempts guidelines or rules issued by the secretary of state in furtherance of executing and enforcing the election laws from the rulemaking requirements of RSA 541-A.

2003-0190h

Amendment to HB 578-FN-A

Proposed by the Committee on Environment and Agriculture - R

Amend RSA 147-A:5, IV(c)(1) as inserted by section 2 of the bill by replacing it with the following:

(1) Small quantity hazardous waste generators in Rockingham and Strafford counties shall submit self-certification forms by January 1, 2004. A fee of $180 for the period of 2004, 2005 and 2006 shall be paid to the department by January 1, 2004. Self-certification forms and a $180 renewal fee shall be paid to the department by January 1, 2007, and every 3 years thereafter.

Amend the bill by replacing sections 8 and 9 with the following:

8 Appropriation. The sum of $249,382 is hereby appropriated to the department of environmental services for the fiscal year ending June 30, 2004, and the sum of $254,145 for the fiscal year ending June 30, 2005 for the purpose of funding the small quantity hazardous waste generator self-certification program, including the costs associated with the position salaries, benefits, and other program expenses. This appropriation shall be funded from the hazardous waste cleanup fund, under RSA 147-B.

9 Effective Date. This act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill establishes a program for self-certification by small quantity hazardous waste generators. The bill makes an appropriation from the hazardous waste cleanup fund for the purposes of the bill.

2003-0139h

Amendment to HB 608-FN-LOCAL

Proposed by the Majority of Committee on Ways and Means - R

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

AN ACT reducing the education property tax rate and relative to the calculation of adequate education grants.

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

1 Statement of Purpose; Legislative Findings. The general court recognizes the inherent imprecision and subjectivity involved in determining the cost of providing the opportunity for an adequate education. In the exercise of its constitutional authority and discretion, to provide the opportunity for pupils to obtain an adequate education, the general court has adopted an average costing methodology. The general court recognizes that this costing methodology may produce spending pressures and results that may not accurately reflect the cost of continuing to provide adequate educational opportunity over time. As a result, the general court finds that changing the base cost per pupil by reference to the consumer price index is the most appropriate way to calculate changes in the cost of an adequate education.

2 School Money; Determination of Statewide Adequate Education Cost. Amend the introductory paragraph of RSA 198:40, I to

read as follows:

I. For the biennium beginning July 1, [~~1999~~] ***2005***, and every biennium thereafter, the cost per pupil shall be established using the following formula:

3 Education Property Tax; Rate Reduced. Amend RSA 76:3 to read as follows:

76:3 Education Property Tax. An annual education property tax at the uniform rate of [~~$5.80~~] ***$4.92*** on each $1000 of the value of taxable property is hereby imposed on all persons and property taxable pursuant to RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F.

4 New Subparagraph; School Money; Determination of Statewide Adequate Education Cost. Amend RSA 198:40, I(b) by inserting after subparagraph (3) the following new subparagraph:

(4) No later than October 1 of each biennium, the department shall calculate the base cost per pupil by adding to the base cost per pupil of the immediately preceding biennium a percentage increase for inflation. The percentage shall be twice the average annual rate of inflation for the 4 calendar years immediately preceding the calendar year in which the new base cost is determined. Inflation shall be measured by the most recent available northeast region consumer price index for all urban consumers as published by the Bureau of Labor Statistics, United States Department of Labor.

5 Consumer Price Index Adjustments to the Base Cost Per Pupil Calculation for the Fiscal Years 2003-2004. The base cost per pupil shall be adjusted as follows:

I. For the fiscal year beginning July 1, 2003, the base cost per pupil shall be adjusted by the average annual percentage rate of inflation for the 4 immediately preceding calendar years.

II. For the fiscal year beginning July 1, 2004, the base cost per pupil shall be adjusted by the average annual percentage rate of inflation for the 4 immediately preceding calendar years.

6 School Boards, Transportation, and Instruction of Pupils; Definitions. RSA 189:1-d, IV is repealed and reenacted to read as follows:

IV. "Average daily membership in residence" means the average daily membership of pupils who are legal residents of a school district pursuant to RSA 193:12 or RSA 193:27, IV, and are attending, at the expense of a school district, a public school, a charter school, or a private school approved by the department of education.

7 School Money; Determination of Per Pupil Adequate Education Cost and Adequate Education Grant. Amend RSA 198:40, III to read as follows:

III. For each fiscal year, the statewide cost of an adequate education for all pupils shall be calculated by multiplying the average base per pupil cost of an adequate education by the statewide weighted average daily membership in residence of pupils and then adding [~~70~~] ***100*** percent of [~~total statewide~~] transportation costs ***as defined in RSA 198:38, XI***.

8 School Money; State Aid for Educational Adequacy. Amend RSA 198:38, XI to read as follows:

XI. "Transportation costs" means the [~~costs~~] ***cost*** of transporting pupils ***in kindergarten through grade 8*** to and from school [~~and other school activities~~] ***as*** reported by school districts on the [~~MS-25~~] ***DOE-25*** form.

9 School Money; Determination of Adequate Education Grants. Amend RSA 198:41, I(b) to read as follows:

(b) Add to the product of subparagraph (a), [~~70~~] ***100*** percent of the municipality's apportioned transportation [~~cost~~] ***costs as defined in RSA 198:38, XI***;

10 Effective Date. This act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill:

I. Provides that for fiscal years 2003 and 2004, the calculation of the statewide cost of an adequate education shall be indexed to the northeast regional consumer price index for all urban consumers for the 4 immediately preceding calendar years.

II. Reduces the education property tax rate from $5.80 to $4.92.

III. Changes the payment for transportation costs to include 100 percent of the total cost of transporting pupils in kindergarten through grade 8 to and from school.

IV. Changes the definition of average daily membership in residence for the purpose of calculating state aid for educational adequacy.

2003-0494h

Amendment to HB 619-FN-A

Proposed by the Committee on Education - C

Amend RSA 189:60, II (d) as inserted by section 1 of the bill by replacing it with the following:

(d) Apply for, receive, and expend any funds from federal, state, or non-state sources, including grants and matching funds which may be available, and accept private donations and gifts from any source.

Amend RSA 189:62, I as inserted by section 1 of the bill by replacing it with the following:

I. All programs shall be eligible to apply for dropout prevention and dropout recovery program and funds under this subdivision, provided that such programs and funds shall be targeted, to the extent available, to those high schools with the highest dropout rate, as determined by the department of education.

Amend RSA 189:63 as inserted by section 1 of the bill by replacing it with the following:

189:63 Report. The dropout prevention and dropout recovery oversight council shall annually submit a report to the speaker of the house of representatives, the president of the senate, the commissioner of the department of education, and the governor on the status of the dropout prevention and dropout recovery program. The report shall include details regarding an overall assessment of the effectiveness of the program, the utilization of available funds in the program, dropout rates of participating high schools or other participating entities, graduation rates of participating high schools, the percent of participating students pursuing postsecondary education, and the percent of participating students securing employment in the year following graduation.

Amend the bill by replacing section 2 with the following:

2 Appropriation. There is hereby appropriated the sum of $350,000 for the fiscal year ending June 30, 2004, and the sum of $350,000 for the fiscal year ending June 30, 2005, to the department of education for the implementation of the dropout prevention and dropout recovery program set forth in this act. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

2003-0289h

Amendment to HB 649-FN-A

Proposed by the Committee on Municipal and County Government - R

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

AN ACT establishing a building permit surcharge to fund regional planning initiatives.

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

2 Appropriation; Office of State Planning; University System of New Hampshire. The sum of $610,000 is appropriated from the regional planning initiatives fund established in section 3 of this act, for the biennium ending June 30, 2005, and allocated to the office of state planning and the university system of New Hampshire for the purposes and in the amounts provided in paragraphs I and II:

I. To the office of state planning:

(a) For the establishment of a statewide Grow Smart NH outreach, education and training program, the sum of $60,000 is

appropriated in each fiscal year 2004 and 2005 to support one position in the office of state planning and for associated training publications, material, and supplies.

(b) For the implementation of smart growth policies through master plan updates and locally developed and approved implementing ordinances, as well as other non regulatory means, $135,000 is appropriated in each fiscal year 2004 and 2005 to support staff planners at regional planning commissions in providing technical planning assistance to member communities.

II. To the university system of New Hampshire:

(a) For the continued development and maintenance of data required for community master plans, $50,000 is appropriated in each fiscal year 2004 and 2005 for partial support of a database development specialist and associated expenses. The priority data sets to be developed and maintained with the appropriation include the conservation/public lands data layer and the soils data layer.

(b) For the development of a web-based mapping tool, $60,000 is appropriated in each fiscal year 2004 and 2005 for partial support of a staff programmer and associated hardware and software expenses, to design and implement a web-based tool to assist communities in master planning activities.

3 New Section; Building Permit Surcharge; Regional Planning Initiatives Fund. Amend RSA 676 by inserting after section 13 the following new section:

676:13-a Building Permit Surcharge; Regional Planning Initiatives Fund.

I. The municipality shall impose the following surcharge on any building permit issued by the municipality:

(a) $40 for a commercial building or a residential building encompassing more than 2 dwelling units.

(b) $15 for a residential building encompassing no more than 2 dwelling units.

(c) $5 for an outbuilding or similar structure.

II. The municipality may retain $.50 from each building permit surcharge to defray administrative processing costs and shall forward the remainder to the state treasurer for deposit in the regional planning initiatives fund, under paragraph III.

III. There is hereby established the regional planning initiatives fund, a non-lapsing, revolving special fund continually appropriated to the office of state planning and to the university system of New Hampshire in accordance with this section. The fund shall be used by the office of state planning for the establishment of statewide Grow Smart NH outreach, education, and training programs relative to regional planning initiatives. The fund shall be used by the university system of New Hampshire for the continued development and maintenance of a statewide database to assist communities with master planning activities. The balance of the fund shall not exceed $305,000 on June 30 of each year, and any amounts in excess of $305,000 shall be deposited in the general fund as unrestricted revenue.

4 New Subparagraph; Application of Receipts; Regional Planning Initiative Fund. Amend RSA 6:12, I by inserting after subparagraph (lllllllll) the following new subparagraph:

(mmmmmmmmm) Moneys deposited in the regional planning initiatives fund under RSA 676:13-a.

5 Effective Date. This act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill establishes a surcharge on building permits. Money collected shall be deposited the regional planning initiatives fund, a dedicated fund appropriated to the office of state planning and the university system of New Hampshire to support regional planning activities.

2003-0504h

Amendment to HB 663-FN-A-LOCAL

Proposed by the Committee on Ways and Means - C

Amend section 1 of the bill by replacing paragraph I with the following:

I. The purpose of this act is to reauthorize the county obligation to fund a portion of the non-federal share of medicaid expenses for long-term care programs. The goal of this increase in long-term care expenditure is to reduce the substantial county medicaid deficit. The act ensures that county long-term care spending that is not currently matched through the medicaid program will be included in this program.

Amend the bill by replacing all after section 7 with the following:

8 Effective Date of Repeal Changed; Reimbursement of Funds for Persons Eligible to Receive Nursing Home Services; Limitation on County Payments. Amend 1998, 388:17, II to read as follows:

II. Paragraphs I and II of section 16 of this act shall take effect on July 1, [~~2003~~] ***2008***.

9 Rulemaking by Health and Human Services; Contingency.

I. Administrative rules relative to the administration of this chapter proposed by the commissioner of the department of health and human services pursuant to RSA 167:3-c, XIII, as inserted by section of this act, shall be filed pursuant to RSA 541-A:10 and shall be adopted within 120 days of the effective date of this section.

II. Payments by counties pursuant to RSA 167:18-b, as amended by this act, after January 1, 2004, shall not be required if the rulemaking requirement under paragraph I is not complied with and such rules are not adopted by the commissioner of health and human services.

10 Applicability. Nothing in this act shall be construed to create a new right on entitlement on behalf of any person to receive a service provided by the state.

11 Effective Date.

I. Section 8 of this act shall take effect June 30, 2003.

II. The remainder of this act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill:

I. Establishes a statutory county-state finance commission.

II. Extends and amends the payment provisions for counties relative to the nonfederal share of nursing home facility services.

III. Adds a county official to the health services planning and review board.

2003-0519h

Amendment to HB 669-FN

Proposed by the Committee on Executive Departments and Administration - R

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

AN ACT relative to dental insurance benefits and eligibility for medical benefits for retired state employees.

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

1 New Section; State Employees Group Insurance; Dental Group Insurance; Retired State Employees. Amend RSA 21-I by inserting after section 29 the following new section:

21-I:29-a Dental Group Insurance; Retired State Employees. Any retired state employee, as defined in RSA 21-I:30, and his or her spouse shall be eligible to participate at their own expense in the group dental insurance arrangement afforded full-time state employees.

2 Medical and Surgical Benefits; Definition of Qualifying Retired State Employee Changed. Amend RSA 21-I:30 to read as follows:

21-I:30 Medical and Surgical Benefits.

I. The state shall pay a premium for each state employee and permanent temporary or permanent seasonal employee as defined in RSA 98-A:3 including spouse and minor, fully dependent children, if any, and each retired employee, as defined in paragraph II of this section, and his or her spouse, or retired employee's beneficiary, only if an option was taken at the time of retirement and the employee is not now living, toward group hospitalization, hospital medical care, surgical care and other medical benefits plan or a self-funded alternative within the limits of the funds appropriated at each legislative session and providing any change in plan or vendor is approved by the fiscal committee of the general court prior to its adoption. Funds appropriated for this purpose shall not be transferred or used for any other purpose.

II. For the purposes of this section, "retired employee" means each group II state employee who retires. "Retired employee" also means each group I state employee who:

(a) Has at least 10 years of creditable service for the state ***if the employee's service began prior to July 1, 2003 or 20 years of creditable service if the employee's service began on or after July 1, 2003,*** and who also is at least 60 years of age at the time of retirement; or

(b) Has at least 30 years of creditable service for the state at the time of retirement, regardless of the employee's age; or

(c) Is but for the provisions of 1989, 376:10, otherwise eligible to receive medical and surgical benefits under this section notwithstanding subparagraphs (a) and (b), and paragraph IV, on June 30, 1989, and who retires between July 1, 1989, and June 30, 1994; or

(d) Dies or retires and is eligible for accidental death or accidental disability retirement benefits, regardless of the state employee's age or number of years of creditable service; or

(e) Retires and is eligible for ordinary disability retirement benefits, regardless of the state employee's age; or

(f) Dies and is eligible for ordinary death retirement benefits, if the state employee was eligible for service retirement at the time of his death, if the state employee had at least 10 years of creditable service for the state ***if the employee's service began prior to July 1, 2003 or 20 years of creditable service if the employee's service began on or after July 1, 2003***.

III. Any vested deferred state retiree may receive medical and surgical benefits under this section if the vested deferred state retiree is eligible. To be eligible, a vested deferred state retiree shall have at least 10 years of creditable service with the state ***if the employee's service began prior to July 1, 2003 or 20 years of creditable service if the employee's service began on or after July 1, 2003***. In addition, if the vested deferred state retiree is a member of group I, such retiree shall be at least 60 years of age to be eligible. If the vested deferred state retiree is a member of group II, such retiree shall not be eligible until 20 years from the date of becoming a member of group II and shall be at least 45 years of age.

IV. Each state employee who has at least 10 years of creditable service for the state ***if the employee's service began prior to July 1, 2003 or 20 years of creditable service if the employee's service began on or after July 1, 2003,*** and who elects to take a reduced service retirement allowance shall be defined as a "retired employee" for the purposes of being eligible to receive medical and surgical benefits under this section when the state employee reaches age 60.

V. No state employee who terminates his ***or her*** state service before he ***or she*** becomes eligible for retirement benefits as a "retired employee" as defined under paragraphs II-IV shall be eligible for medical and surgical benefits under this section.

3 Effective Date. This act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill allows retired state employees to participate at their own expense in the dental plan afforded state employees. The bill also changes the years of service required for retired state employees to be eligible for medical benefits.

2003-0407h

Amendment to HB 703-FN

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

Amend RSA 216-A:3-g, IV as inserted by section 1 of the bill by replacing it with the following:

IV. No disabled veteran of this state, upon providing satisfactory proof of a service-connected disability, shall be charged a fee for admission to the state park system. Special number plates issued to disabled veterans pursuant to RSA 261:86 or a letter issued by the United States Department of Veterans Affairs certifying that the veteran suffers from a service-connected disability shall constitute satisfactory proof under this section. Any fees for the use of enterprise activities as defined in paragraph II shall be charged.

2003-0539h

Amendment to HB 717-FN-LOCAL

Proposed by the Majority of the Committee on Ways and Means - R

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

1 Findings and Purpose. The general court finds that the present system of providing adequate education grants to support public elementary and secondary education does not sufficiently serve the objective of equalizing educational opportunity in the state, does not efficiently direct state resources to school districts based on fiscal need, and requires levy and collection of a statewide property tax that is divisive and unnecessary, if state resources are more efficiently directed. The purpose of this act is to direct state school aid more efficiently and effectively based on the relative fiscal need of local communities, and so better serve the objective of equalizing educational opportunity for pupils in the state's public elementary and secondary schools.

2 New Sections; Targeted Aid Grants; Transition Education Grants. Amend RSA 198 by inserting after section 41 the following new sections:

198:41-a Determination of Targeted Aid Grants.

I. For the biennium beginning July 1, 2003 and every biennium thereafter, except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the targeted aid grant for a municipality as follows:

(a) A municipality's targeted aid grant shall be the difference between its education need less its fiscal capacity, as determined in accordance with this paragraph.

(b) Education need shall mean the sum of a municipality's education operating need plus education transportation need.

(c) Education operating need shall be $4,870 multiplied by the municipality's total weighted pupils. This product shall be multiplied by the county relative cost of living factor applicable to the municipality. As used in this paragraph:

(1) A municipality's total weighted pupils shall mean the number of its elementary school pupils, including kindergarten pupils, plus 1.1 times the number of its high school pupils, plus the number of its special education pupils, plus the number of its pupils eligible to receive free or reduced price lunch, plus the number of its pupils with limited proficiency in the English language, plus the number of its scale pupils.

(2) The number of a municipality's scale pupils shall be determined by multiplying the number of its elementary pupils, including kindergarten pupils, by a scale factor as follows:

(A) 0.3, if the municipality's 2000 United States census population is less than 1,000 persons.

(B) 0.15, if the municipality's 2000 United States census population is at least 1,000 but less than 2,000 persons.

(C) 0.1, if the municipality's 2000 United States census population is at least 2,000 but less than 3,000 persons.

(D) zero, if the municipality's 2,000 United States census population is 3,000 or more persons.

(3) The county relative cost of living factor is:

(A) Belknap county municipalities: 0.99.

(B) Carroll county municipalities: 0.99.

(C) Cheshire county municipalities: 1.01.

(D) Coos county municipalities: 0.90

(E) Grafton county municipalities: 0.96.

(F) Hillsborough county municipalities: 1.07.

(G) Merrimack county municipalities: 1.03.

(H) Rockingham county municipalities: 1.07.

(I) Strafford county municipalities: 1.00.

(J) Sullivan county municipalities: 0.98.

(d) Education transportation need shall mean the sum of the municipality's number of pupils plus the number of its scale pupils, multiplied by $322. This product shall be multiplied by the county relative cost of living factor applicable to the municipality.

(e) Fiscal capacity shall mean the sum of the municipality's equalized property valuation as determined by the department of revenue administration as of April 1, 2001, excluding property subject to taxation under RSA 83-F, plus the municipality's total household income, divided by 2. The result shall then be multiplied by 0.019267. Total household income shall mean the municipality's median household income multiplied by the number of its households, as determined by the 2000 United States census.

(f) The calculation required under this paragraph shall be performed and distributed to school districts no later than November 1 of the year before the beginning of the biennium for which it is made.

II.(a) For the biennium beginning July 1, 2005, and every biennium thereafter, the department of education shall perform the calculations required under this section based on the most recent available data representing the number of elementary and high school pupils, special education pupils, pupils eligible for free or reduced price lunch, pupils with limited proficiency in the English language in each municipality, and the equalized property valuation, excluding property subject to taxation under RSA 83-F.

(b) For the biennium beginning July 1, 2005, and every biennium thereafter the amount of $4870 in the calculation of operating need and the amount of $322 in the calculation of transportation need shall each be adjusted according to the change in the consumer price index as calculated by the United States Department of Labor. Furthermore, the department shall recalculate a municipality's population, median household income, and number of households by reference to the most recently available data from the United States decennial census.

III. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the amount of the targeted aid grant for each municipality shall be the lesser of the following:

(a) The amount calculated in accordance with paragraph I or paragraph II of this section, as applicable; or

(b) The total amount paid for education expense as determined by the department of education.

198:41-b Transition Education Grants.

I. Notwithstanding the provisions of RSA 198:41-a, for the fiscal years 2004 through 2008, each municipality shall receive a transition education grant determined as follows:

(a) For fiscal year 2004, if a municipality's targeted aid grant calculated under RSA 198:41-a is greater than the adequate education grant it would be entitled to receive under the version RSA 198:41 in effect one day prior to the effective date of this section, the municipality shall be entitled to receive an amount equal to the amount of its adequate education grant. However, if a municipality's targeted aid grant is less than its adequate education grant, the municipality shall be entitled to receive 84.4 percent of the adequate education grant.

(b) For fiscal year 2005, if a municipality's targeted aid grant calculated for the fiscal year ending June 30, 2004 under RSA 198:41-a is greater than the adequate education grant it would have been entitled to receive for the same fiscal year under the version of RSA 198:41 in effect one day prior to the effective date of this section, the municipality shall be entitled to receive an amount equal to such adequate education grant, plus 15 percent of the difference, if any, between the amount of the fiscal year 2004 targeted aid grant and the fiscal year 2004 adequate education grant. However, if the municipality's fiscal year 2004

targeted aid grant is less than the fiscal year 2004 adequate education grant, the municipality shall be entitled to receive 84.4 percent of such adequate education grant.

(c) For fiscal year 2006, a municipality shall be entitled to receive a transition education grant in an amount equal to the amount it was entitled to receive for fiscal year 2005 under this paragraph, plus 25 percent of the difference, if any, between the amount of the targeted aid grant it would be entitled to receive in fiscal year 2006 under RSA 198:41-a and the amount it was entitled to receive in fiscal year 2005.

(d) For fiscal year 2007, a municipality shall be entitled to receive a transition education grant in an amount equal to the amount it was entitled to receive for fiscal year 2005 under this paragraph, plus 50 percent of the difference, if any, between the amount of the targeted aid grant it would be entitled to receive in fiscal year 2006 under RSA 198:41-a and the amount it was entitled to receive in fiscal year 2005.

(e) For fiscal year 2008, a municipality shall be entitled to receive a transition education grant in an amount equal to the amount it was entitled to receive for fiscal year 2007 under this paragraph, plus 50 percent of the difference, if any, between the amount of the targeted aid grant it would be entitled to receive in fiscal year 2008 under RSA 198:41-a and the amount it was entitled to receive in fiscal year 2005.

II. For fiscal years following 2008, a municipality shall be entitled to receive an amount determined in accordance with RSA 198:41-a.

3 Distribution Schedule and Appropriation. RSA 198:42 is repealed and reenacted to read as follows:

198:42 Distribution Schedule of Adequate Education Transition Education and Targeted Aid Grants; Appropriation.

I. The transition education grant determined in RSA 198:41-b, and beginning in fiscal year 2009, the targeted aid grant determined in RSA 198:41-a, shall be distributed to each municipality's school district or districts legally responsible for the education of the pupils who attend approved public schools within the district or in other districts or who attend approved programs for educationally disabled children, as the case may be, from the education trust fund in 4 payments of 20 percent on August 1, 20 percent on September 1, 30 percent on January 1, and 30 percent on April 1 of each school year; provided that for a dependent school district, the grant determined in RSA 198:41-a or RSA 198:41-b shall be distributed to the municipality, which shall appropriate and transfer the grant funds to its dependent school department.

II. For the fiscal year beginning July 1, 1999, and every fiscal year thereafter the amount necessary to fund the grants under RSA 198:41 is hereby appropriated from the education trust fund created under RSA 198:39 to the department of education. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of adequate education grants.

III. The department of education shall certify the amount of each grant to the state treasurer and direct the payment thereof to the school district. When a payment of a grant is made to a school district, the municipality on whose behalf the payment is made, shall receive notification from the state treasurer of the amount of the payment made to its school district or districts.

4 Maintenance of Local Control. RSA 198:48 is repealed and reenacted to read as follows:

198:48 Maintenance of Local Control. Distributions under RSA 198:42 depend only on the provisions of RSA 198:41-a and RSA 198:41-b, and are independent of how the municipalities decide to spend the distributions or other funds they may raise for education. Notwithstanding any other provision of law, nothing in this subdivision is intended in any way to limit or control how school districts operate or spend their budgets except that adequate education grants must be expended for educational purposes. Transition education grants and targeted aid grants shall not be considered unanticipated funds under RSA 198:20-b.

5 Repeals. The following are repealed:

I RSA 21-I:18, I(1), relative to the purchase of services by the department of administrative services for the administration of low and moderate income homeowners property tax relief.

II. RSA 76:3 , relative to the education property tax.

III. RSA 83-F:9, relative to exemption from the education property tax

IV. RSA 198:38, I, V-X, and XII, relative to certain definitions regarding state aid for educational adequacy.

V. RSA 198:39, I(g), relative to deposit of excess property tax payments

VI. RSA 198:40-41, relative to determination of per pupil adequate education cost and adequate education grant.

VII. RSA 198:44, relative to duties of the department of education and the board of education.

VIII. RSA 198:46-47, relative to excess education property tax payment and forms.

IX. RSA 198:49, relative to the adequate education and education financing commission.

X. RSA 198:56-61, relative to low and moderate income homeowners property tax relief.

6 Effective Date.

I. RSA 198:41-a, I(f) as inserted by section 2 of this act shall take effect January 1, 2004.

II. Paragraph II of section 5 of this act shall take effect March 31, 2003.

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

AMENDED ANALYSIS

This bill:

I. Provides for targeted aid grants to municipalities based on a revised cost calculation formula.

II. Provides for transition education grants to municipalities for fiscal years 2004-2008.

III. Repeals the education property tax.

IV. Repeals excess education property tax payments.

V. Repeals the low and moderate income homeowners property tax relief program.

2003-0354h

Amendment to HB 719-FN-A

Proposed by the Committee on Public Works and Highways - R

Amend RSA 12-G:2, XXII-a as inserted by section 3 of the bill by replacing it with the following:

XXII-a. "Slip" means a volume of water at least 25 feet long, 8 feet wide, and 3 feet deep as measured at normal high tide and located adjacent to a structure such as a dock, wharf, or pier to which a vessel may be secured.

Amend RSA 12-G:42, IV and V as inserted by section 10 of the bill by replacing them with the following:

IV. Be authorized and empowered to contract with and secure the services of a port terminal operating firm, subject to approval of governor and council, for the purpose of having such firm operate a part or all of the facilities of the authority, including piers, wharves, warehouses, parking and storage areas, or other facilities owned or leased by the authority acting through the division, with such operating firm having the exclusive right to operate the business of a port terminal operator and stevedore, including but not limited to the handling of cargo, the collection of fees from wharfage and dockage and other marine terminal operations, the maintenance and security of the premises, and the promotion, encouragement, and solicitation of business for such port facility or facilities. Such contract with an operating firm shall include the following provisions:

(a) Said firm shall file with the division for its approval a tariff clearly defining the terms "wharfage" and "dockage" and the charges to be made therefor;

(b) The amount of minimum payments per year satisfactory to the authority to be paid to it for the exclusive right to operate

upon the marine terminal, as described in the contract, the business of a port terminal operator and stevedore;

(c) The amount retained by said firm from all fees for which it is accountable, said amount being a percentage to cover administrative costs of collection;

(d) Said firm to supply a ship's manifest for every vessel using said facilities;

(e) Said firm to provide a performance bond in an amount and form acceptable to the authority, as well as insurance in amounts acceptable to the authority for fire and extended coverage, public liability, property damage, and other risks as required by the authority, the insurance company or companies to be licensed to do business in New Hampshire and to be acceptable to the authority;

(f) Said firm to file quarterly reports with the division indicating the amount of all fees for which it is accountable to the authority, the amounts collected, and the amounts retained, with a certified audit prepared by a certified public accountant submitted annually;

(g) Such other appropriate provisions which in the opinion of the attorney general will carry out the intent of this section and best protect the interest of the authority and of the state.

V. Be authorized and empowered, in lieu of the provisions set forth in paragraph IV, to undertake the business of a port terminal operator and stevedore as to any division property, including but not limited to the handling of cargo, the setting and collection of fees from wharfage and dockage and other marine terminal operations, the maintenance and security of the premises, and the promotion, encouragement, and solicitation of business for such port facility or facilities. In undertaking the business of a port terminal operator or stevedore on any division property the authority may exercise any of the powers granted it under this chapter. Notwithstanding any other provision of this chapter, any person granted by the authority a non-exclusive lease or license relative to division property who, pursuant to such lease or license, handles or manages or in any way participates in the handling or management, including but not limited to, the loading, unloading, stockpiling, storing, or other transfer, of cargo owned, controlled, or otherwise lawfully in the possession of or being delivered to or from any such non-exclusive lessee or licensee shall not be deemed to be operating the business of a port terminal operator and stevedore as set forth in paragraph IV.

Amend the bill by replacing section 17 with the following:

17 Pease Development Authority; Construction with Other Laws. Amend RSA 12-G:53, III - IV to read as follows:

III. Except for rules adopted pursuant to RSA 12-G:42, [~~VIII~~] ***X***, ***which shall be subject to the provisions of RSA 541-A:3 through RSA 541-A:15,*** the authority shall be exempt from the provisions of RSA 541-A and may adopt rules and bylaws in accordance with its own procedures***, including, but not limited to, rules regulating the conduct of hearings***. Except for rules adopted pursuant to RSA 12-G:42, [~~VIII~~] ***X***, the authority shall file in the office of legislative services a copy of all rules and bylaws adopted, amended, or repealed by the authority. All such rules and bylaws shall be filed in the office of legislative services within 7 days of such adoption, amendment, or repeal.

IV. Any rule adopted by the authority pursuant to [~~RSA 12-G:42, VIII or~~] RSA 12-G:47 shall be adopted in accordance with the provisions of RSA 541-A***; any rule adopted by the authority pursuant to RSA 12-G:42, X shall be adopted in accordance with the provisions of RSA 541-A:3 through RSA 541-A:15***.

Amend the bill by replacing all after section 18 with the following:

19 Administrative Procedure Act; Exemption of the Pease Development Authority. Amend RSA 541-A:21, I(n) to read as follows:

(n) Except for rules adopted by the ***authority acting through the*** division of ports and harbors ***under RSA 12-G:42, X***, ***which shall be subject to the provisions of RSA 541-A:3 through RSA 541-A:15,*** RSA 12-G, relative to the Pease development authority.

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

2003-0576h

Amendment to HB 728-FN-A

Proposed by the Committee on Environment and Agriculture - R

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

1 Certification; Section Heading Amended. Amend the section heading of RSA 426:6-b to read as follows:

426:6-b Certification***; Fund Established***.

2 New Paragraph; Certification Inspections; Funds Established. Amend RSA 426:6-b by inserting after paragraph III the following new paragraphs:

IV. There is hereby established in the office of the state treasurer a fund to be known as the organic processors and handlers certification inspection fund. All revenues generated from fees for the certification and inspection of organic processors and handlers adopted by rule pursuant to RSA 426:8 shall be deposited in the fund. The fund shall only be used to support the certification and inspection of organic processors and handlers by the commissioner. The state treasurer may invest moneys in the fund as provided by law and all interest received on such investment shall be credited to the fund. The commissioner shall be authorized to accept grants, gifts, and donations from any public or private sources for deposit in the fund. Moneys in the fund shall be continually appropriated to the commissioner. Any moneys in the fund at the end of each biennium in excess of $5,000 shall lapse to the general fund.

V. The commissioner shall prepare and submit to the pertinent house and senate policy and finance committees by October 1 of each year, beginning in 2004, a report detailing the generation and use of moneys in the organic processors and handlers certification inspection fund during the prior fiscal year.

3 Rulemaking. Amend RSA 426:8 to read as follows:

426:8 Rulemaking; Fees. The commissioner may adopt rules, pursuant to RSA 541-A, for carrying out the provisions of this chapter, including the fixing of fees for inspections and certifications authorized by RSA 426:6-b and RSA 426:7. Such fees shall be credited to the general funds of the state***, except as provided in RSA 426:6-b, IV.***.

4 New Subparagraph; Application of Funds. Amend RSA 6:12, I by inserting after subparagraph (lllllllll) the following new subparagraph:

(mmmmmmmmm) Moneys received pursuant to RSA 426:6-b, which shall be credited to the organic certification inspection fund established in RSA 426:6-b, IV.

5 Certification; Section Heading Amended. Amend the section heading of RSA 426:6-b to read as follows:

426:6-b Certification[~~; Fund Established~~].

6 Rulemaking. Amend RSA 426:8 to read as follows:

426:8 Rulemaking; Fees. The commissioner may adopt rules, pursuant to RSA 541-A, for carrying out the provisions of this chapter, including the fixing of fees for inspections and certifications authorized by RSA 426:6-b and RSA 426:7. Such fees shall be credited to the general fund of the state[~~, except as provided in RSA 426:6-b, IV~~].

7 Repeal. The following are repealed:

I. RSA 426:6-b, IV and V, relative to organic certification inspection fund.

II. RSA 6:12, I(mmmmmmmmm), relative to organic certification inspection fund.

8 Effective Date.

I. Sections 5-7 of this act shall take effect July 1, 2007.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a dedicated fund for organic certification inspections, and prospectively repeals the fund on July 1, 2007.

2003-0553h

Amendment to HB 732-FN

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

Amend RSA 227-J:15, I as inserted by section 2 of the bill by replacing it with the following:

I. A person is guilty of a class B felony if the loss is greater than $1,000 or otherwise guilty of a misdemeanor who in the course of buying and selling of a forest product, as defined under RSA 227-G:4, VII***, recklessly***:

(a) Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity as provided under RSA 438; or

(b) Sells, offers, or exposes for sale or delivers less than the represented quantity of any [~~commodity~~] ***forest product*** or service; or

(c) Takes or attempts to take more than the represented quantity of any [~~commodity~~] ***forest product*** or service when as buyer the person furnishes the weight or measure; or

(d) Sells, offers, or exposes for sale adulterated or mislabeled commodities; or

(e) Does not remunerate the owner of the timber for the value of the forest products pursuant to a written [~~or verbal~~] contract; or

(f) Does not furnish the owner, upon ***written*** request, with all scale slips to verify the amount of the forest products removed from the owner's property.

Amend the bill by replacing all after section 6 with the following:

7 New Section; Guidance on Yield Tax. Amend RSA 79 by inserting after section 30 the following new section:

79:31 Guidance on Yield Tax.

I. The department of revenue administration shall make available on its internet site the average stumpage value list provided pursuant to RSA 79:1, III(b).

II. The department shall prepare for persons responsible for payment of the normal yield tax an information guide on how local assessing officials determine the tax assessment. The guide shall include, among other matters, the internet address of the stumpage value list prepared by the department, and the process for appealing an assessment. The department shall make the guide available to the public on its internet site and by any other cost effective means.

III. The department shall include on the intent to cut form, prior to the signature line of the owner, language that makes reference to the internet address of the information guide and to a department phone number where information on the 10 percent normal yield tax can be obtained.

8 Interim Dissemination of Information. The department of revenue administration shall immediately attempt to gain voluntary assistance, as is practical, from municipalities, foresters, and loggers to inform owners of the information sources detailed in RSA 79:31 concerning the normal yield tax.

9 Effective Date.

I. Section 2 of this act shall take effect 60 days after its passage.

II. Sections 7-8 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect January 1, 2004.

AMENDED ANALYSIS

This bill requires the commissioner of the department of resources and economic development to establish a unified fine schedule and allows pleas to be entered by mail in lieu of court appearances.

This bill also clarifies deceptive forestry business practices, and provides for the dissemination of information on the normal yield tax.

2003-0333h

Amendment to HB 733-FN

Proposed by the Majority of the Committee on Transportation - R

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

AN ACT relative to drivers' licenses held by members of the national guard or military reserve.

Amend the bill by replacing section 1 with the following:

1 New Paragraph; License Expiration, Members of the Armed Forces, Spouses; National Guard or Military Reserve. Amend RSA 263:11 by inserting after paragraph II the following new paragraph:

III. Any person who is a member of the national guard or military reserve and who, at the time of a call to active duty of 30 days or greater duration, was a resident of this state and was a holder of a valid New Hampshire license to drive motor vehicles in this state, is entitled to renewal of such license at 1/2 cost by application to the division. The application shall be accompanied by a letter giving date of expiration of active duty, signed by a commissioned officer. Such a person while driving a motor vehicle shall carry upon his or her person the license issued. The privilege of this section remains in effect for 90 days after the discharge or release of such a person from active duty. Nothing in this section permits a person against whom a revocation or suspension of license is in force, or a person who has been refused a license by the director, to drive a motor vehicle.

AMENDED ANALYSIS

This bill entitles a member of the national guard or military reserve called to active duty to renew a driver's license at ½ cost.

2003-0492h

Amendment to HB 735-FN

Proposed by the Committee on Health, Human Services and Elderly Affairs - R

Amend the bill by replacing section 1 with the following:

1 New Chapter; Access to Prescription Drugs. Amend RSA by inserting after chapter 161-J the following new chapter:

CHAPTER 161-K

ACCESS TO PRESCRIPTION DRUGS

161-K:1 Definitions: In this chapter:

I. "Commissioner" means the commissioner of the department of health and human services.

II. "Department" means the department of health and human services.

III. "Division" means the division of elderly and adult services, department of health and human services.

161-K:2 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, necessary for the implementation of this chapter.

Medicaid Rx Senior Eligibility

Expansion Program

161-K:3 Definitions: In this subdivision:

I. "Qualified medicare beneficiaries" means medicare beneficiaries with incomes equal to or below 100 percent of the federal poverty level who are eligible for medicaid assistance for the part A and part B medicare premiums and for medicare deductibles

and co-insurance requirements as set forth in section 1905(p)(1) of Title XIX of the Social Security Act.

II. "Specified low-income medicare beneficiaries" means medicare beneficiaries who have incomes greater than 100 percent of the federal poverty level and less than and equal to 120 percent of the federal poverty level and meet the requirements set forth in section 1902(a)(10)(E)(iii) of Title 19 of the Social Security Act.

161-K:4 Medicaid Rx Senior Eligibility Expansion Program Established.

I. There is hereby established the medicaid Rx senior eligibility expansion program. To be eligible for the program, an individual shall:

(a) Be a U.S. citizen or a lawfully admitted alien;

(b) Be a state resident;

(c) Be at least 65 years of age or an individual between the ages of 19 and 64 who is otherwise eligible for benefits under Title II of the Social Security Act (Federal Old Age, Survivors, and Disability Insurance);

(d) Meet the definition of a qualified medicare beneficiary or a specified low-income medicare beneficiary as set forth in subparagraph (c); and

(e) Be ineligible for and/or not receiving a prescription drug benefit through a medicare supplemental policy or any other third party payer prescription benefit.

II. Individuals eligible for the medicaid Rx senior eligibility expansion program shall be entitled to the medicaid prescription drug coverage as provided to medicaid recipients as set forth in Title XIX of the Social Security Act.

III. Individuals eligible for the program established under this subdivision shall be provided a benefit of not more than $2,000 per year and shall be subject to a $5 copayment per prescription.

161-K:5 Administration.

I. The medicaid Rx senior eligibility expansion program shall be administered by the division. The department shall apply for a federal medicare 1115 demonstration waiver from the Secretary of Health and Human Services to expand medicaid eligibility for the purposes of prescription drug coverage to qualified medicare beneficiaries and specified low-income medicare beneficiaries under the medicaid Rx senior eligibility expansion program.

II. The commissioner shall make an annual report beginning one year after the effective date of this chapter to the general court relative to the effectiveness of the medicaid Rx senior disability eligibility program.

Amend the bill by replacing section 3 with the following:

3 Task Force Established. There is established a task force to study the feasibility of establishing a New Hampshire Rx patient assistance program.

Amend the bill by replacing section 5 with the following:

5 Duties. The task force shall study the feasibility of establishing a New Hampshire Rx patient assistance program. The committee shall consider eligibility guidelines and enrollment fees.

Amend the bill by replacing section 8 with the following:

8 Prospective Repeal. RSA 161-K:1 through RSA 161-K:5, relative to prescription drug access, is repealed.

AMENDED ANALYSIS

This bill requires the department of health and human services to establish certain programs to increase access to prescription drugs for seniors. The bill grants rulemaking authority to the commissioner of health and human services for the purposes of the bill.

This bill requires the department of health and human services to encourage health plans and health care systems participating in the medicaid program to use case management incorporating evidence-based practice guidelines.

The bill also establishes a 3-year task force to study increasing access to prescription drug medicines.

2003-0538h

Amendment to HB 746-FN-A

Proposed by the Committee on Ways and Means - R

Amend the introductory paragraph of RSA 198:56, III(a) as inserted by section 2 of the bill by replacing it with the following:

III.***(a)*** "Household income" means the sum of [~~the adjusted gross income for federal income tax purposes~~] ***net income from all sources*** of the claimant and any adult member of the claimant's household who resides in the homestead for which a claim is made. ***The net income shall be determined by deducting from all moneys received from any source, including social security and pension payments, the amount of any of the following or the sum thereof:***

Amend RSA 198:57, VI(a)(2) as inserted by section 6 of the bill by replacing it with the following:

(2) $1,500.

Amend the bill by replacing section 7 with the following:

7 Reference Change; Public Contractors Added. Amend RSA 21-I:18, I(l) to read as follows:

(l) Purchases of services from private ***and public*** contractors by the department of revenue administration with respect to the administration of [~~low and moderate income homeowners~~] ***state education*** property tax ***homeowners*** relief claims.

AMENDED ANALYSIS

This bill revises the current "low and moderate income homeowners property tax relief" program as the "state education property tax homeowners relief" program. This relief program will be available to any resident homeowner whose total net property taxes exceed 10 percent of household income or 8 percent of household income if such resident homeowner filed a federal income tax return as head of household. This bill allows a rebate from education property taxes paid in the amount of the difference between total net property tax paid and 8 percent or 10 percent of household income depending on federal income tax filing status, or $1,500, whichever is less.

2003-0489h

Amendment to HB 788-FN-A

Proposed by the Majority of the Committee on Health, Human Services and Elderly Affairs - R

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

AN ACT transferring the duties of the health services planning and review board.

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

1 Certificate of Review. RSA 151-C is repealed and reenacted to read as follows:

CHAPTER 151-C

CERTIFICATE OF REVIEW OF PROPOSED

NEW INSTITUTIONAL HEALTH SERVICES

151-C:1 Legislative Findings; Public Interest; Review and Assessment of New Health Services. It is declared to be the public policy of this state that:

I. The general welfare and protection of the lives, health, and property of the people of this state require that all new inpatient institutional health services be offered or developed in a manner which avoids unnecessary duplication, contains or reduces increases in the cost of delivering services, and promotes rational allocation of health care resources in the state;

II. The state has a compelling interest in working with the health care delivery system to set standards relative to the size, type, level, quality, and affordability of health services offered in New Hampshire; and

III. The state has an interest in promoting and stimulating collaboration among providers in the health care marketplace as a means of managing the increases in health care costs.

151-C:2 Definitions. In this chapter:

I. "Ambulatory surgical facility" means a health care facility or a portion of a health care facility which provides surgical treatment to patients not requiring hospitalization, and does not include the offices of private physicians or dentists, whether in individual or group practices.

II. "Applicant" means a person responding to a request for application for certificate of review.

III. "Bed capacity" means the total number of licensed beds in a facility licensed under RSA 151; or in the case of state facilities, it means the total number of beds in service (staffed).

IV. "Business day" includes any day, Monday through Friday, except legal holidays.

V. "Capital expenditure" means an expenditure which, under generally accepted accounting principles consistently applied, is not properly chargeable as an expense of operation or maintenance, and includes acquisition by purchase, by transfer, or by lease or comparable arrangement, or through donation, if the expenditure would have been considered a capital expenditure if acquisition had been by purchase.

VI. "Categories of service" means health services offered in or through a health care facility which were not offered on a regular basis in or through such health care facility within the 12-month period before the time such services would be offered.

VII. "Certificate of review" means a certificate issued by the state agency approving the offering or development of a proposed new inpatient institutional health service.

VIII. "Confidential commercial information" means any information filed either by a health care facility in an application for certificate of review or data disclosure under RSA 126:25 that contains either a trade secret or other commercial information:

(a) That has not yet been revealed to persons other than (i) employees, agents, or attorneys of the filing party; (ii) other persons or entities with which the filing party is engaging in a joint venture or other commercial action in concert; and (iii) other persons or entities with which the filing party is actively negotiating for the purchase or sale of goods or services; and

(b) That would, if revealed, substantially and adversely affect the ability of the filing party or its affiliated interests to compete with other entities offering or proposing to offer the same goods and services in the same market.

IX. "Confidential financial information" means any financial information filed by a health care facility in accordance with an application for certificate of review or data disclosure under RSA 126:25:

(a) That has not yet been revealed to persons other than (i) employees, agents, or attorneys of the health care facility; (ii) other persons or entities with which the health care facility is jointly participating in an effort to obtain financing; and (iii) other persons or entities to which the health care facility has applied for financing;

(b) That would, if revealed, substantially, predictably, and adversely affect the ability of the health care facility or its affiliated interests to obtain financing on reasonable terms in competition with others seeking similar types of capital; and

(c) That could lawfully be concealed under applicable laws governing financial transactions.

X. "Construction" includes actual commencement of any construction or fabrication of any new building, or addition to any existing facility, or any expenditure, relating to the alteration, remodeling, renovation, modernization, improvement, relocation, repair, or replacement of a health care facility or health maintenance organization which adds inpatient beds or is with the intent to add a new inpatient institutional service.

XI. "Consumer of health care" means a person who is not a provider of health care.

XII. "Conversion" means change of the distribution of existing beds in a health care facility affecting acute care, skilled nursing care, intermediate care, psychiatric care, and substance abuse care as defined in the applicable state or federal law.

XIII. "Days" means calendar days, unless otherwise specified.

XIV. "Health care facility" means hospitals, ambulatory surgical facilities, specialty hospitals and licensed nursing homes including all services and property owned by such. Health care facilities shall include facilities which are publicly or privately owned or for-profit or not-for-profit, and which are licensed or required to be licensed in whole or in part by the state.

XV. "Health maintenance organization" means a public or private organization, organized under the laws of any state or the federal government which:

(a) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out-of-area coverage; and

(b) Is compensated, except for co-payments, for the provision of the basic health care services listed in subparagraph (a) to enrolled participants on a predetermined periodic basis without regard to the date on which health care services are provided; a predetermined periodic basis shall be fixed without regard to the frequency, extent, or kind of health care service actually provided; and

(c) Provides physician services primarily (1) directly through physicians who are either employees or partners of such organization, or (2) through arrangements with individual physicians or one or more groups of physicians organized in a group practice or individual basis, or (3) a combination of (1) and (2), as provided herein.

XVI. "Health services" means clinically related diagnostic, treatment, or rehabilitative services, as well as preventive services, and includes, without limitation, alcohol, drug abuse, and mental health services.

XVII. "Hospice" means a concept of care to assist dying patients to live their remaining weeks or months as free of symptoms and as much in control as possible. Such care can be provided in the individual’s home, in a residential setting outside of the individual’s home or in a hospital or long-term care facility.

XVIII. "Hospice house" means a free standing 24-hour residential setting licensed under RSA 151 as a supported residential care facility for terminally ill individuals with less than one year to live who no longer have a home or cannot remain safely there. Palliative care such as room, meals, personal care, medication monitoring and emotional support, is provided. Additional health care services may be provided to residents through arrangements with outside organizations as is currently available if the resident was in his or her own home.

XIX. "Hospital" means an institution which is engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term "hospital" includes psychiatric and substance abuse treatment hospitals.

XX. "Inpatient services" means all care delivered to patients staying more than 24 hours in a health care facility, including, but not limited to, alcohol and drug dependency, psychiatric services, physical rehabilitation, cardiology services, obstetrical services, and general medical and surgical services.

XXI. "Institutional health service" means any proposed project for which a standard must be developed under RSA 151-C:5, II.

XXII. "Intermediate care facility" means an institution which, on a regular basis, provides health-related care and services of a lower level than those provided by a hospital or skilled nursing facility but above the level of room and office.

XXIII. "Location" means service area.

XXIV. "Major new facilities" means the construction, development, or other establishment of a new inpatient health care facility.

XXV. "Nursing home or facility" means a place which shall provide, for 2 or more persons, basic domiciliary services (office, room, and laundry), continuing health supervision under competent professional medical and nursing direction, and continuous nursing care as may be individually required.

XXVI. "Office" means the office of planning and research, department of health and human services.

XXVII. "To offer", when used in connection with health services, means that a health care provider holds itself out as capable of providing, or as having the means for the provision of, specified health services.

XXVIII. "Outpatient services" means all care delivered to patients who are not required as a part of treatment to stay in excess of 24 hours from time of admission in a health care facility.

XXIX. "Person" means an individual, trust, state, partnership, committee, corporation, nonprofit health service corporation, association and other organizations such as joint stock companies and insurance companies, or a political subdivision or instrumentality of a state, including a municipal corporation.

XXX. "Physical facility or site" means the total buildings, structures, and land of a health care facility.

XXXI. "Provider of health care" means a person:

(a) Who is a direct provider of health care, including a physician, dentist, nurse, podiatrist, optometrist, physician assistant, or ancillary personnel employed under the supervision of a physician, in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions, including hospitals, long-term care facilities, rehabilitation facilities, alcohol and drug abuse treatment facilities, outpatient facilities, and health maintenance organizations, in which such care is provided and, when required by the laws of this state, who has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration;

(b) Who holds a fiduciary position with, or has a fiduciary interest in, any entity described in subparagraph (c)(2) or (c)(4) of this paragraph other than an entity described in either such subparagraph which is also an entity described in section 501(c)(3) of the Internal Revenue Code of 1954 and which does not have as its primary purpose the delivery of health care, the conduct of research, the conduct of instruction for health professionals, or the production of drugs or articles described in subparagraph (c)(3) of this paragraph;

(c) Who receives (either directly or through the person's spouse) more than 1/5 of his gross annual income from any one or combination of the following:

(1) Fees or other compensation for research into or instruction in the provision of health care;

(2) Entities engaged in the provision of health care or in research or instruction in the provision of health care;

(3) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care; or

(4) Entities engaged in producing drugs or such other articles;

(d) Who is the member of the immediate family of an individual described in subparagraph (a), (b), or (c); or

(e) Who is engaged in issuing any policy or contract of individual or group health insurance, hospital, or medical service benefits. An individual shall not be considered a provider of health care solely because the individual is a member of the governing office of an entity described in subparagraph (c)(2) or (c)(4).

XXXII. "Psychiatric hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis, treatment, and rehabilitation of mentally ill and emotionally disturbed persons.

XXXIII. "Rehabilitation facility" means an inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services which are provided under competent professional supervision.

XXXIV. "Request for application" means a formal publication of need for a specific service based on an existing standard, revised standard, or new standard as developed pursuant to RSA 151-C:5 and 6.

XXXV. "Review" means the review of applications submitted in response to a request for application published by the office.

XXXVI. "Skilled nursing facility" means an institution or a distinct part of an institution which is primarily engaged in providing to injured, disabled, or sick inpatients skilled nursing care, and rehabilitative and related services.

XXXVII. "Standard" means a health policy guideline developed by the office and instituted under the provisions of RSA 541-A.

151-C:3 Ambulatory Surgical Facilities. An ambulatory surgical facility may provide beds or other accommodations for the

overnight stay of up to 5 patients not to exceed 24 hours from the time of admission. Thereafter, an individual patient shall be discharged in an ambulatory condition or shall be transferred to an inpatient health care facility. The rules adopted pursuant to 1996, 299:4 regarding quality and safety standards for overnight beds in ambulatory surgical facilities shall remain in effect.

151-C:4 Prohibitions.

I. No new inpatient institutional health service shall be offered or developed within the state, nor shall any arrangement or commitment for financing the offering or developing of a new inpatient institutional health service be made, except pursuant to obtaining a certificate of review for such service.

II. No certificate of review shall be granted by the office unless a standard has been developed which delineates the need for the service and outlines the criteria which must be met by any person proposing such a service.

III.(a) No certificate of review shall be granted by the office for any nursing home, skilled nursing facility, intermediate care facility or rehabilitation facility from the effective date of chapter 310, laws of 1995, department of health and human services reorganization act, through the period ending June 30, 2003, except that a certificate of review shall be issued for replacement or renovation of existing beds as necessary to meet life safety code requirements or to remedy deficiencies noted in a licensing inspection pursuant to RSA 151 or state survey and certification process pursuant to titles XVIII and XIX of the Social Security Act.

(b) No certificate of review shall be granted by the office for any nursing home, skilled nursing facility or intermediate care facility if it will result in the total number of licensed nursing facility beds in the region exceeding 40 beds per each 1,000 persons aged 65 and older living in the region.

IV. Any applications for certificates of review for nursing homes or facilities or rehabilitation facilities pending on the effective date of this paragraph shall be suspended pending revision of such standard of need.

V. The office shall apply the revised standard of review to any suspended pending applications.

151-C:5 Standard Development.

I. Prior to development or review of any new institutional health service the office shall publish in one or more newspapers of general circulation within each county, a description of the scope of coverage of its program for development and review of standards and the review of applications responding to requests for applications (RFA's) including the activities covered in RSA 151-C:5, II and 151-C:13. Whenever the scope of such coverage is revised, the office shall publish a revised description thereof, as provided in this paragraph.

II. The office shall develop standards for new inpatient institutional health services. These include the following:

(a) The transfer of ownership, in whole or in part, of an existing health care facility, or the acquisition of all or substantially all of its assets or stock, except where the transfer of ownership would be subject to the provisions of reevaluation of assets as outlined in the Federal Deficit Reduction Act of 1984;

(b) The development and offering of new inpatient services;

(c) The increase or conversion of inpatient beds resulting in an increase of more than 10 beds or 10 percent of the total bed complement, whichever is less, during a 2-year period;

(d) A threshold amount for construction of ambulatory surgical centers within the service area of a hospital with fewer than 70 general hospital beds licensed by the department of health and human services shall be $500,000, which threshold shall be adjusted annually using an appropriate inflation index, unless there is an objection by such hospital, in which case the application shall be subject to review regardless of value. The office shall determine by rule the service areas of such hospitals.

III. The office shall develop, pursuant to rules adopted under RSA 541-A, standards of need on health care services listed in paragraph II of this section. All persons enumerated in paragraph I of this section shall receive notice of all the standards and public hearings relative to the standards. The office shall publish notice of proposed standards in a state-wide newspaper and at least one newspaper in each county of the state. Each notice shall include dates and locations of public hearings.

151-C:6 Procedures for Existing Standards; No Standards.

I. If a standard of need, which precludes additional services, has existed for longer than 24 months, any person may request that

the standard be reviewed to determine whether the standard should be continued. The 24-month requirement may be waived if it can be demonstrated that there has been a change in technology, market, or price which would warrant review of the standard. Notwithstanding RSA 541-A:4, the procedure shall be as follows:

(a) A request for a standard review shall be submitted in writing to the office.

(b) Within 30 days of the receipt of the request, the office must notify, in writing, the person making the request of the commencement of the 120-day standard review process or that the proposed project is not in accordance with RSA 151-C:5, II, and no standard review shall take place.

(c) The review of an existing standard shall take no longer than 120 days. Adoption of the standard shall be in accordance with RSA 541-A.

(d) The office shall notify persons, pursuant to RSA 151-C:5, I, of the beginning of the standard review period and the schedule for the review.

(e) If the office does not provide a standard allocating the new service or a statement on competition within the allotted 180 days, the proposed service shall not be required to obtain a certificate of review and shall not be subject to regulation under RSA 151-C.

II. In the case of a service for which there is no standard, any person may request, in writing, that the office develop a standard. Notwithstanding RSA 541-A:4, the procedure shall be as follows:

(a) A request for a standard development shall be submitted in writing to the office.

(b) Within 30 days of the receipt of the request, the office shall notify, in writing, the person making the request of the commencement of the 120-day standard development process or that the service is not in accordance with RSA 151-C:5, II, and no standard development shall take place.

(c) The development of a new standard shall take no longer than 120 days. Adoption of the standard shall be in accordance with RSA 541-A.

(d) The office shall notify persons, pursuant to RSA 151-C:5, I, of the beginning of the standard development period and the schedule for the review.

(e) The standard shall be either a standard allocating the new service by number, type, and location or a statement that the proposed new service is in the best competitive interest of health care in the state and shall not be subject to the provisions of RSA 151-C:8. The decision of the office shall be considered a final decision.

(f) If the office does not provide a standard allocating the new service or a statement on competition within the allotted 180 days, the proposed service shall not be required to obtain a certificate of review and shall not be subject to regulation under RSA 151-C.

III. In any standards for nursing facilities, the office shall provide that priority for a certificate of review for additional nursing facility beds shall be given to any facility which after January 1, 1999, has surrendered its certificate of review for the same or greater number of nursing facility beds. A facility may transfer to any other entity its priority status for a new certificate of review.

151-C:7 Criteria. Every standard developed by the office shall stipulate the criteria which must be met by any successful applicant applying to fill a need identified in the standard. At a minimum these shall include:

I. The immediate and long range financial feasibility of the proposed project, including the probable impact of costs and charges of the facility on health insurance premiums and personal health expenditures in the state or the region of the state.

II. The availability of resources for the proposed project including health and management personnel and funds, capital, and operating needs.

III. The degree to which the proposed project will be accessible to persons who are medically underserviced, including, but not limited to, persons with a disability and indigent persons.

IV. In the case of existing facilities or entities with other facilities, records of the quality of care which may include records from

state, federal, and private licensing and accreditation facilities. In the case of new entities, assurance of the quality of care stated in measurable terms.

151-C:8 Procedures for Certificate of Review.

I. If a standard developed through RSA 151-C:5 or 151-C:6 indicates a need for additional health services, the office shall issue a request for applications. The office shall publish, in other than the legal notices section, in a newspaper of statewide distribution and in at least one newspaper in every county, as well as notify all affected persons as defined in paragraph VI(b) of this section, a notice that the office is requesting applications for certificates of review for the specified service. At a minimum the notice shall include:

(a) A brief description of the service to be provided, including the amount, type, and location as established by the standard.

(b) The final date that applications are to be submitted which shall be no sooner than 60 days from the date of publication. An application in response to a request for application may be submitted prior to the deadline, but no review shall commence prior to the deadline.

(c) An address at which applicants may obtain copies of the application format as well as the minimum criteria and specifications which shall be the basis for judging the merits of each application.

II. The office shall be available to provide technical assistance to any applicant submitting an application in response to a request for applications.

III. All applications received in response to a single request for applications shall be reviewed simultaneously and shall be considered in relationship to each other.

IV. Every application shall contain such information as the office adopts by rule. The office shall not require any information which it has not adopted by rule. The information requirements established by the office may vary according to the purpose of the review or the type of health service being reviewed. In addition to the information required for submission to the office, any applicant may submit, and the office shall duly consider, any other information.

V.(a) The office shall examine every application for form and completeness, and the information required by RSA 151-C:7 as well as the specifications and standards outlined in the request for application. If an application is determined incomplete by the office, it shall notify the applicant by certified mail within 15 business days of receipt of the application. Such notification shall include a full explanation of the reasons for incompleteness. If no request for additional information is made by the office within the 15 business days, the application shall be considered complete.

(b) An applicant whose application is incomplete shall be allowed a maximum of 15 business days, from the date of receipt of notification of incompleteness, to provide the required additional information. The applicant shall not provide more than the required additional information. The office shall then review the additional information provided by the applicant; and, if satisfactory, the application shall be considered complete and the applicant shall be notified by certified mail. If the application is still found to be incomplete, the office shall mail the applicant a notification within 10 business days of receipt of the additional information. If no such notification is mailed to the applicant by the office within the 10 business days' period, the application shall be considered complete. Within 5 business days of the receipt of any information submitted pursuant to the second completeness notice, the office shall notify the applicant as to whether such information is satisfactory and the application shall be considered complete.

(c) Any applicant whose application is incomplete following the second completeness review under subparagraph (b) may, by certified mail, within 5 business days of receipt of the second notice of incompleteness:

(1) Provide the additional required information; or

(2) Stipulate that it wishes to have its application reviewed by the office notwithstanding its incompleteness. Any applicant whose application is incomplete and who fails to either provide the additional required information or stipulate that it wishes to have its application reviewed notwithstanding its incompleteness shall waive any right to have its application reviewed.

(d) The state agency shall review any application for which a stipulation has been filed pursuant to subparagraph (c).

(e) An applicant may withdraw an application at any time thereby terminating the review process.

VI.(a) Within 10 business days of completion of the completeness review under paragraph V of this section, the office shall mail,

to any qualified applicant, a notice that formal review of the application has begun and shall publish the notice in other than the legal notice section of one or more newspapers of general circulation in the state and in one or more newspapers of general circulation in the service area of the facility to be reviewed. The office shall provide all affected persons, as defined in subparagraph (b), with written notification of the beginning of a review. The notice shall include a statement that review has begun and the proposed schedule for review by the office.

(b) For purposes of this paragraph, "affected persons" include organizations of health care providers and organizations of health care consumers, as defined by the office by rules adopted pursuant to RSA 541-A, and members of the public who are to be served by the proposed project. For purposes of this paragraph, notification of all qualified applicants in which the proposed project is to be offered or developed shall be by certified mail. Notification to all affected persons shall be by mail and notification to members of the public shall be by newspaper. Notification by newspaper shall serve as appropriate notice to all health care facilities located within the state.

(c) If an affected person fails to receive notification which was provided in accordance with this paragraph, such failure of notice shall not be grounds for reversal of a decision made by the office, defeat any jurisdiction of the office, or adversely affect the regularity of any proceedings before the office.

VII. The date on which notification is sent to qualified applicants or the date on which notification to the members of the public first appears in a newspaper published in the state, whichever occurs later, shall be the date of notification and shall be the beginning date of the review cycle of the office.

VIII. The office shall establish review schedules which provide that no review by the office shall, to the extent possible, take longer than 90 calendar days from the beginning of the review cycle to the date of a final decision of the office. In accordance with the requirements of RSA 151-C:11, the office shall adopt exception criteria for determining when it would not be practicable to complete a review within 90 calendar days. If an application clearly meets such exception criteria, the agency may provide for a single extension of the review period for a total of 30 calendar days beyond the initial 90-day period. The total review period for certificate of review shall not extend beyond 120 days from the beginning of review.

IX. Upon request, the office shall provide for access by the general public to all applications reviewed by the office and to all other written materials pertinent to office review.

X. The office shall provide in its review procedures for a public hearing. The office shall, prior to such hearing, provide notice of such hearing in accordance with the notification provisions in paragraph VI of this section. The procedures for a public hearing shall include an opportunity for any person to present testimony regarding the proposed project, the right of any persons testifying to be accompanied and advised by legal counsel, the right of any qualified applicant to cross-examine witnesses, and the establishment of a formal record of the hearing. The office shall not impose any fee for such a public hearing.

XI. During the course of review of any application for a certificate of review, the office shall take reasonable measures to prohibit and prevent all ex parte communication relating to the merits of such application.

XII.(a) After an application has been filed with the office, the applicant may file a request to amend the application only during the 45 days after the date of notification of the beginning of review. If the office grants the applicant's request, the application shall be filed 30 days after the office's approval. The office shall examine the amended application for form and completeness, for information required in RSA 151-C:7, and for conformity to all applicable standards in the request for applications. If an application is determined incomplete, the office shall notify the applicant by certified mail within 10 business days of receipt of the amended application. The applicant whose application is incomplete shall be allowed a maximum of 10 business days from the date of receipt of the office's notification of incompleteness to provide the required additional information. The amended application shall then be considered complete and processed in accordance with the provisions of paragraph VIII.

(b) When an application is filed with the office, an applicant shall be required by the office to file an amendment of the application when any supporting documentation or other material submitted to the office by the applicant indicates that:

(1) The nature, scope, or location of the project will differ substantially from those described in the application;

(2) The method of financing will differ substantially from that described in the application in that the estimated capital expenditure will exceed that proposed in the application by 15 percent plus the inflation factor, as specified in RSA 151-C:12, IV.

(3) The identity of the applicant has changed.

(4) The office may waive the requirements of subparagraph (b)(1), (2) or (3) if it is determined that the proposed amendment of

the application is technical or otherwise insignificant.

(c) If an amendment is filed in accordance with subparagraph (a) or (b), the application shall return to the point in the review process defined in paragraph VI relative to the notification to the applicant that review of the application has begun.

XIII. Any action by the office or by an applicant pursuant to this section which results in a delay of the review process shall affect all applicants which filed under the same request for application and are considered by the office to be competing.

151-C:9 Decision Regarding Certificate of Review; Issuance of Certificate of Review; Reconsideration.

I. Upon completion of the review, the office shall render a decision on the applicant or applicants which filed in response to a request for application. The decision shall be in the form of an approval, denial, or an approval with conditions. An approval of a certificate of review shall be in conformance with the standard used as the basis for the request for application.

II. The office shall consider competing applicants in relationship to each other. The decision shall be based on the applicant who demonstrates superiority in cost effectiveness, quality, and affordability and who will best meet the specifications and criteria outlined in the standard.

III. If the office fails to issue a final decision within the time period specified for the review, a certificate of review shall be denied. The applicant may either request a reconsideration hearing under paragraph IV, or, within a reasonable time following the expiration of that period, petition the supreme court to require the office to render a final decision on the application.

IV.(a) Any person, for good cause shown, may request in writing a public hearing for purposes of reconsideration of a final decision of the office. The office shall adopt appropriate procedures for such a hearing. No fee may be imposed for the hearing. For purposes of this paragraph, a request for a reconsideration hearing, other than by an applicant denied a certificate of review, shall be good cause if it:

(1) Presents significant, relevant information not previously considered by the office;

(2) Demonstrates that there have been significant changes in factors or circumstances relied upon by the office in reaching its decision;

(3) Demonstrates that the office has materially failed to follow its adopted procedures in reaching its decision; or

(4) Provides such other basis for a public hearing as the office determines constitutes good cause.

(b) To be effective, a request for a reconsideration hearing shall be received by the office within 20 business days following the date of the office's decision. If granted, the hearing shall commence within 30 calendar days of receipt of the request. The applicant may waive the 30-day requirement. At least 14 calendar days prior to the reconsideration hearing, notification of the hearing shall be sent to the person requesting the hearing and to the persons proposing the new institutional health service and to others upon request. Within 25 business days after the conclusion of the hearing, the office shall make written findings which state the basis for its decision. The decision shall be considered the final decision of the office.

151-C:10 Appeals to the Supreme Court.

I. Any person submitting an application for a certificate of review, if aggrieved or dissatisfied with the decision of the office, shall have the right, upon a petition which provides a detailed statement of the grounds upon which the decision of the office is claimed to be erroneous and contrary to the facts and the law, to appeal from the decision to the supreme court pursuant to RSA 541.

II. The provisions of RSA 541 shall govern all appeals under this section.

III. The court shall affirm the decision of the office unless it finds it to be arbitrary or capricious or not made in compliance with applicable law.

151-C:11 Additional Rules.

I. The office shall adopt rules governing review of certificate of review applications consistent with and necessary to the proper administration of this chapter. All rules shall be adopted pursuant to RSA 541-A and as described in this section; except that, in the case of an irreconcilable conflict between the provisions of RSA 541-A and the provisions of this section, the provisions of this section shall control.

II. At least 45 days prior to adopting any rule, the office shall publish, in at least one newspaper of statewide circulation, a notice stating that rules for the review of certificate of review applications or any revisions thereof have been proposed for adoption and are available at specified addresses for inspection and copying by interested persons. Such notice shall appear in other than the legal notice section of such newspapers; in addition, notice may be given through other public information channels.

151-C:12 Validity of Certificates of Review; Compliance; Sanctions.

I. A certificate of review issued pursuant to this chapter shall expire upon failure to commence or complete the project authorized thereby within the time period specified in this section. The office's approval shall be terminated upon the expiration of such period, and the person proposing to offer or develop the new institutional health service shall be required to resubmit an application for certificate of review under RSA 151-C:8. In the event that only part of a project to offer or develop the new institutional health service has been commenced or completed within such period, the office's approval shall be terminated upon the expiration of such period solely with respect to the parts of the project which have not been commenced or completed. Project completion date requirements are as follows:

(a) In the case of construction projects, the following time periods apply:

(1) If the total estimated cost of the project is less than $ 1,000,000, the project must be commenced within one year of, and completed within 3 years of, the date of issuance of a certificate of review.

(2) If the total estimated cost of the project is greater than $1,000,000, then the project must be commenced within 18 months of, and completed within 5 years of, the date of issuance of a certificate of review.

(b) In the case of any plan for capital expenditures proposed by or on behalf of a health care facility, health maintenance organization, or health care provider under which a series of obligations for capital expenditures for discrete components of the plan is to be incurred over a period longer than one year, the office may allow up to 3 years following the date of approval for incurring such capital expenditures.

II. Pursuant to a showing of good cause by the person proposing the project, the office shall extend by 6 months the period for commencement. A maximum of 2 such extensions shall be allowed. Upon a showing of substantial, diligent progress and good cause by the person proposing the project, the office shall grant up to a maximum of 2 extensions of 6 months each for completion of the project. For purposes of this paragraph, "good cause" includes delay resulting from unpreventable or unexpected occurrences, such as emergency, strike, disaster, unforeseen shortage of materials or other reasonably unforeseeable event.

III. For the purposes of this chapter, a project shall be commenced if:

(a) The applicant has submitted to the office a certified copy of a written agreement executed between the applicant and a registered general contractor to construct and complete the project within a designated time schedule in accordance with final architectural plans and specifications; or

(b) The applicant has submitted evidence to the office that there has been construction work on the project to justify and require a progress payment by the applicant to the general contractor under the terms of the construction agreement, or, if the construction agreement does not require progress payments, then construction has progressed to the state at which an initial progress payment would otherwise be required in accordance with the usual and customary practices of the building industry.

IV. For purposes of this chapter, completion shall mean when the approved proposed project is sufficiently complete so that it becomes operational for the purpose for which the certificate of review was issued. A certificate of review shall be valid only for the designated scope of the project and for the premises and geographical area named in the application. A certificate of review granted for a project shall not be considered as an approval of that portion of the total actual cost of such a project which is in excess of the sum of: (a) the anticipated cost designated in the application; (b) an additional 15 percent of the total cost; and (c) cost increases clearly attributable to inflation.

IV-a.(a) Prior to completion of the proposed project, the office may require any applicant to file a change of scope when any documentation or other material submitted to the office indicates that:

(1) The nature, scope, or location of the project will differ substantially in the opinion of the office from those described in the application.

(2) The method of financing will differ substantially because the estimated capital expenditure will exceed that proposed in the application by 15 percent plus the inflation factor, as specified in RSA 151-C:12, IV.

(3) The identity of the applicant has changed.

(b) The office may waive the requirements of subparagraph (a)(1), (2) or (3), if it is determined that the proposed change in scope of the project is technical or otherwise insignificant.

V. All applicants receiving a certificate of review or a certificate of review with conditions shall file, at least semi-annually during the development stage and annually once the project is commenced, a report indicating that the project is in compliance with information provided in the application, and with the conditions outlined in the certificate of review. A report shall only be necessary for the first 5 years after completion of the project.

VI. Any applicant found not to be in reasonable compliance with any statement in its certificate of review application or with the conditions of the certificate of review shall be fined not more than 1/2 of one percent of the previous year's revenue minus contractual allowances or, in the case of a new facility, not more than 1/2 of one percent of the projected first year revenue minus contractual allowances.

VII. Funds collected under the provisions of this section shall be deposited in the general fund.

151-C:13 Exemptions.

I. The following are excluded from this chapter:

(a) Private offices or private clinics of physicians, dentists, or other practitioners of the healing arts, meaning the physical places which are occupied by such providers on a regular basis in which such providers perform the range of diagnostic and treatment services usually performed by such providers on an outpatient basis.

(b) Dispensaries and first-aid stations, located within business or industrial establishments, maintained solely for the use of employees, provided that such a facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than 24 hours.

(c) Infirmaries owned or operated by education institutions.

(d) Institutions or homes which provide remedial care or treatment only to residents or patients who rely solely upon treatment by prayer or spiritual means in accordance with the creed or attendance of any recognized church or religious denomination.

(e) Facilities and services which are intended to serve only outpatients.

(f) Hospice houses.

(g) The increase or conversion of 9 beds or fewer or less than 10 percent of the bed complement, whichever is less.

II. Nothing in this chapter shall exempt hospice houses from the licensing standards established under RSA 151.

151-C:14 Enforcement.

I. Any person who offers or develops any new institutional health service within the meaning of this chapter without first obtaining a certificate of review as required in this chapter, or who otherwise violates any of the provisions of this chapter, shall be subject to the following sanctions:

(a) The state shall not issue a license to any health care facility or health maintenance organization to operate, offer, or develop any new institutional health service in violation of this chapter and without a certificate of review issued pursuant to this chapter. The provisions of RSA 151 notwithstanding, in the case of an increase in actual bed capacity in contravention of the requirements of this chapter, any license for such beds shall be deemed to be revoked.

(b) The state shall not furnish from any reimbursement program administered by the state, nor shall any entity chartered under the laws of New Hampshire or any person licensed and doing business in the state, provide reimbursement for any new institutional health service offered or developed in contravention of the requirements of this chapter.

(c) Any person who violates this chapter shall be fined not more than 1/2 of one percent of the total operating budget of the previous year, or, in the case of a new facility, not more than ½ of one percent of the projected annual operating budget for the

first year of operation.

(d) In addition to all other sanctions, if any person offers or develops any new institutional health service without first having been issued a certificate of review, or violates any other provision of this chapter or any lawful rule adopted under this chapter, upon the posting of a bond or security, the office or health care facilities, health maintenance organizations, and health care providers located in the state shall have standing to maintain a civil action in the superior court of the county in which such alleged violation has occurred, or in which such person may be found, to enjoin, restrain, or prevent such violation. Upon written request by the office, it shall be the duty of the attorney general of the state to furnish such legal services as may be appropriate and to prosecute such action for injunctive relief to an appropriate conclusion.

151-C:15 Fees.

I. In addition to any other fees required of it, each acute care hospital, specialty hospital, and nursing home licensed under RSA 151 shall pay an annual administrative fee. The total amount collected shall be equal to the amount actually expended in that year for the health services planning and review component of the department of health and human services or $500,000, whichever is less. The amount to be collected shall be prorated at the end of each fiscal year among all health care facilities licensed under RSA 151, except those operated by county and municipal governments.

II. All persons filing an application in response to a request for applications shall pay a fee of one percent of the total capital cost of the project with a minimum fee of $1,500, and a maximum of $12,000. This paragraph shall not apply to health care facilities operated by counties or municipalities.

III. Persons requesting a standard development or standard review as outlined in RSA 151-C:6 shall pay a fee of $1,000 if the office determines that a standard review or a standard development process shall occur.

IV. Funds collected under this section shall be deposited in the general fund.

2 Transfer of Functions, Powers, Duties and Staff. All functions, powers, duties and staff of the health services planning and review board are hereby transferred to the office of planning and research, department of health and human services.

3 Reference Change. Amend RSA 126:25, II to read as follows:

II. In addition to the data listed in paragraph I, the commissioner of health and human services shall require all providers, including ambulatory care facilities, licensed or certified to practice in the state of New Hampshire to submit ambulatory health care data pursuant to a plan to collect such data developed by the office of planning and research, department of health and human services. This plan shall be submitted to the commissioner of health and human services by December 1, 1990.

4 Data Review; Reference Change. Amend RSA 126:26 to read as follows:

126:26 Data Review. The department of health and human services shall provide access, without restriction, to the data collected under RSA 126:25 to the [~~health services planning and review board~~] ***office of planning and research***. The department shall prepare a report on or before November 15, 1996, and annually thereafter, to the speaker of the house of representatives and president of the senate. The report shall contain, but not be limited to, an analysis and evaluation of the data collected and recommendations for improved efficiencies and for health care cost containment. The department of health and human services is also authorized to prepare periodic reports on price and utilization of health services for the purpose of encouraging competition.

5 Reference Change. Amend RSA 153-A:2, IX to read as follows:

XI. "Facility" means a hospital as defined in RSA 151-C:2, [~~XX~~] ***XIX***.

6 Reference Change. Amend RSA 161-J:2, II(d) to read as follows:

(d) A hospital as defined in RSA 151-C:2, [~~XX~~] ***XIX***.

7 Reference Change. Amend RSA 195-D:3, XII to read as follows:

XII. "Nursing home," notwithstanding any other provision of law to the contrary, means any nonprofit or charitable institution or organization, public or private, which is exempt from federal taxation pursuant to section 501 of the United States Internal Revenue Code of 1986 as amended, and which is engaged in the operation of, or formed for the purpose of operating, a facility in which nursing care, sheltered care, intermediate care, life-care or continuing care, and medical services are prescribed by or

performed under the general direction of persons licensed to practice medicine or surgery in New Hampshire, and in whole or in part is, or shall be upon completion, (a) licensed as a residential care facility under RSA 151:2, I(e) or (b) can be upon receipt of a certificate of [~~need~~] ***review*** under RSA 151-C licensed as a nursing home under the laws of New Hampshire.

8 Reference Changes. Amend RSA 281-A:2, XII-b to read as follows:

XII-b. "Health care provider" as used in this chapter includes doctors, chiropractors, rehabilitation providers, health services as defined in RSA 151-C:2, [~~XVIII~~] ***XVI***, health care facilities as defined in RSA 151-C:2, [~~XV-a~~] ***XIV***, and health maintenance organizations as defined in RSA 151-C:2, [~~XVI~~] ***XV***.

9 Reference Change. Amend RSA 318:29, XI to read as follows:

XI. "Facility" means a hospital as defined in RSA 151-C:2, [~~XX~~] ***XIX***.

10 Reference Changes. Amend the introductory paragraph of RSA 326-B:17, IX(a) to read as follows:

(a) The administration of medications by any person employed or under contract to provide direct care to residents of a hospice house as defined in RSA 151-C:2, [~~XIX-b~~] ***XVIII*** and licensed under RSA 151 and rules adopted under that chapter as a hospice house under the supported residential care level of care by the New Hampshire department of health and human services who:

11 Reference Change. Amend RSA 508:18, II to read as follows:

II. For purposes of this section, "health care facility" means "health care facility" as defined in RSA 151-C:2, [~~XV-a~~] ***XIV***.

12 Effective Date. This act shall take effect July 1, 2003.

AMENDED ANALYSIS

This bill transfers the duties of the health services planning and review board to the office of planning and research, department of health and human services. The bill increases the standard amounts for which a review is necessary.

2003-0569h

Amendment to HB 791-FN-A

Proposed by the Committee on Executive Departments and Administration - R

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

AN ACT establishing a rest area and state liquor store retail opportunities commission.

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

1 Rest Area and State Liquor Store Retail Opportunities Commission Established. There is established the rest area and state liquor store retail opportunities commission to examine and plan for the current and future sale of state and other merchandise and gift items at rest areas and state liquor stores. The commission shall focus on how selling merchandise at rest areas and state liquor stores may produce revenue for the state and effectively promote New Hampshire's products and services.

2 Membership and Compensation.

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

(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) A member of the governor's staff, appointed by the governor.

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

(e) The commissioner of the department of resources and economic development, or designee.

(f) A representative of the Retail Merchant's Association, appointed by such association.

(g) A representative of the Granite State Ambassadors, Inc., appointed by such organization.

(h) A representative of a local chamber of commerce, appointed by the governor.

(i) A representative of New Hampshire Stories, Inc., appointed by that organization.

(j) The chairperson of the liquor commission, 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:

I. Examine issues associated with the sale of merchandise at state rest areas and state liquor stores.

II. Determine the appropriate products to be sold and develop a list of products that are currently available at rest areas and state liquor stores.

III. Determine a method to evaluate the potential for retail sales at each rest area and state liquor store and the order in which sites shall be developed.

IV. Develop a plan for implementing merchandise sales at selected rest areas and state liquor stores.

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. Seven members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

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

AMENDED ANALYSIS

This bill establishes a commission to study the sale of merchandise at rest areas and state liquor stores.

2003-0560h

Amendment to HB 810-FN-A

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

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

1 New Paragraph; Excavating and Dredging; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph XIII the following new paragraph:

XIV. In processing an application for permits under this chapter, except for a permit by notification, the department shall:

(a) Within 14 days of receipt by the department, issue a notice of administrative completeness or send notice to the applicant, the address provided on the application, identifying any additional information required to make the application administratively complete and providing the applicant with the name and telephone number of the department employee who may be contacted regarding the application. Each receipt of additional information in response to any notice shall re-commence the 14-day period until the department issues a notice of administrative completeness.

(b) Within 75 days of the issuance of a notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 105 days for all other projects, request any additional information that the department is permitted by law to require to complete its evaluation of the application, together with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within 120 days of the request, the department shall deny the application.

(c) Where the department requests additional information pursuant to subparagraph (b), the department shall, within 30 days of the department's receipt of the information:

(1) Approve or deny the application, in whole or in part; or

(2) Commence a non-adjudicative proceeding in accordance with this chapter and rules adopted by the commissioner; or

(3) Extend the time for response for good cause and with the written agreement of the applicant.

(d) Where no request for additional information is made pursuant to subparagraph (b), the department shall, within 75 days from the issuance of the notice of administrative completeness, or 105 days if the application proposes more than one acre of jurisdictional impact:

(1) Approve or deny the application, in whole or in part; or

(2) Commence a non-adjudicative proceeding in accordance with this chapter and rules adopted by the commissioner.

(e) Where the department has commenced a non-adjudicative hearing on an application filed under this chapter, the department shall, within 60 days following the closure of the hearing record, approve or deny the application either in whole or in part.

(f) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to issue a notice of administrative completeness or render any other decision within the time limits provided in this paragraph, the application shall be deemed to be approved.

(g) The time limits prescribed by this paragraph shall not apply to an application where the applicant has been adjudicated after final appeal, or otherwise does not contest, the department's designation as a chronic non-complier in accordance with rules adopted pursuant to this chapter.

2 Excavating and Dredging Permits; Fee Changes. RSA 482-A:3, I is repealed and reenacted to read as follows:

I. No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire. The permit application fee shall be $100 for minimum impact projects under this chapter. The permit application fee for minor and major shoreline structure projects shall be $100 plus an impact fee, based on the area of dredge, fill, or dock surface area proposed, or a combination. The shoreline structure impact fee shall be $1 per square foot for permanent dock surface area; $.50 per square foot for seasonal dock surface area; and $.10 per square foot for dredge or fill surface area or both. The permit application fees for minor or major projects shall be $.10 per square foot of proposed impact for all other projects under this chapter. For projects involving the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be $100. At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed $10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-7 to read as 4-8, respectively:

3 Excavating and Dredging Permits; Fee Changes. Amend RSA 482-A:3, I to read as follows:

I. No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state

of New Hampshire. The permit application fee shall be $100 for minimum impact projects under this chapter. The permit application fee for minor and major shoreline structure projects shall be $100 plus an impact fee, based on the area of dredge, fill, or dock surface area proposed, or a combination. The shoreline structure impact fee shall be $1 per square foot for permanent dock surface area; $.50 per square foot for seasonal dock surface area; and $.10 per square foot for dredge or fill surface area or both. The permit application fees for minor or major projects shall be [~~$.10~~] ***$.06*** per square foot of proposed impact for all other projects under this chapter. For projects involving the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be $100. At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed $10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

Amend the bill by replacing section 8 with the following:

8 Effective Date.

I. Section 3 of this act shall take effect July 1, 2006.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Establishes time limits for the department of environmental services to process excavating and dredging permits.

II. Increases fees for certain permits.

III. Requires a report to the wetlands council.

IV. Establishes 2 new civil engineer positions.

V. Makes an appropriation for the new positions.

2003-0483h

Amendment to HB 828-FN-A-LOCAL

Proposed by the Committee on Ways and Means - C

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

AN ACT establishing a committee to study the effect of alternative transportation on state revenues.

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

1 Committee Established. There is established a committee to study the effect of alternative transportation on state revenues.

2 Membership and Compensation.

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

(a) Three members of the house, at least one of whom shall be a member of the ways and means committee, and at least one of whom shall be a member of the public works and highways committee, appointed by speaker of the house of representatives.

(b) Three members of the senate, appointed by 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:

I. Examine future revenues for the highway fund to replace road tolls as alternative fuel vehicles and hybrid vehicles become more common.

II. Examine the possibility of encouraging alternative fuel vehicles and hybrid vehicles.

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, 2003.

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

AMENDED ANALYSIS

This bill establishes a committee to study the effect of alternative transportation on state revenues.