

HOUSE RECORD

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Calendar and Journal of the 2006 Session

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Contains: Retained Bill Amendments

HOUSE CALENDAR

RETAINED BILL AMENDMENTS

ALL LEGISLATORS ARE ASKED TO BRING THIS CALENDAR FOR USE ON WEDNESDAY, JANUARY 4, 2006

WEDNESDAY, JANUARY 4 AMENDMENTS (LISTED IN NUMERICAL ORDER)

Amendment to HB 37-FN
Proposed by the Committee on Commerce - R

AMENDED ANALYSIS

Amendment to HB 39
Proposed by the Majority of the Committee on Education - R

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

AN ACT permitting a religious exemption from courses on human sexuality or family relations.

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

1 New Section; School Boards; Religious Exemption. Amend RSA 189 by inserting after section 10 the following new section:

189:10-a. Religious Exemption for Courses in Human Sexuality or Family Relations.

1-a) Each public and nonpublic school shall permit a pupil to claim a religious exemption from any course on human sexuality or family relations upon the execution of a notarized religious exemption form. The form shall be available in the school principal's office, school nurse's office, and the guidance office, and shall be as follows:

CERTIFICATE OF RELIGIOUS EXEMPTION

PUPIL'S NAME _____

BIRTH DATE _____

ADDRESS _____

NAME OF COURSE _____

The above-named school health course or health instruction in human sexuality or family relations conflicts with the above-named pupil's and/or parent/guardian's religious beliefs. By the affixed signature below, I/we the parent(s)/guardian(s) affirm that the above-named pupil is exempt from attendance or participation in such course. (Only one parent/guardian signature is necessary to execute this exemption.)

Signature of parent/guardian _____

Date _____

Signature of parent/guardian _____

Date _____

I hereby affirm that this affidavit was signed in my presence on this ____ day of _____ by _____, known to me or demonstrated to me to be the legal parent(s)/guardian(s) of the above-named pupil.

Notary Public Seal _____

Notary Public/Justice of the Peace

(b) The school district shall retain a copy of the executed form and shall furnish a copy to the parent or legal guardian of an exempt pupil.

II. The form shall be posted on the website of the department of education and the website of the local school district, and shall be contained in the policy handbook, orientation materials, or other similar publications presented to parents at the beginning of the school year.

III. Nothing in this section shall be construed to prohibit instruction in personal hygiene or biology.

IV. The execution of this form shall not constitute grounds for denial of credits to a pupil.

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

This bill implements a procedure requiring public and nonpublic schools to grant a religious exemption from any course on human sexuality or family relations.

AMENDED ANALYSIS

Amendment to HB 76
Proposed by the Majority of the Committee on Education - R

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

AN ACT relative to distribution of state aid to charter schools.

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

1 Charter and Open Enrollment Schools; Funding. Amend RSA 194-R:1, I to read as follows:

1. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school authorized by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department. For any charter school authorized by the state board of education, ~~the pupil's resident district shall pay tuition beginning July 1, 2006 and every fiscal year thereafter~~ and not approved by the local school district, the state shall pay education aid directly to the charter school for each pupil who is a resident of this state in attendance at such charter school ~~[even when not per-pupil determined]~~ as follows:

(a) For the fiscal year beginning July 1, 2005, \$3,500 annual tuition.

(b) For every fiscal year thereafter, the department of education shall determine the tuition rate by adjusting for the average annual percentage rate of inflation based on the northeast region consumer price index for all urban consumers as published by the Bureau of Labor Statistics, United States Department of Labor. The average shall be based on the 4 calendar years ending 18 months before the beginning of the fiscal year for which the tuition rate is to be determined.

(c) Tuition amounts shall be prorated on a pro diem basis for pupils attending a school for less than a full school year. To the extent permitted by law, tuition payments shall coincide with the distribution of equitable education grants under RSA 198:42 or on such other terms as are mutually acceptable.

(d) The source of funds for payments under this section shall be from moneys specifically set aside for charter schools.

2 Charter and Open Enrollment Schools; Definitions. Amend RSA 194-B:1, III to read as follows:

III. "Charter school" means an open enrollment public school, operated independent of any school board and managed by a board of trustees. A charter school shall operate as a nonprofit secular organization under a charter granted by the state board and in conformance with this chapter and shall not be affiliated with any religious institution or any nonpublic or sectarian school.

3 New Paragraph; Charter and Open Enrollment Schools; Board of Trustees. Amend RSA 194-B:5 by inserting after paragraph VI the following new paragraph:

VII. Any member of a charter school board of trustees who also serves as an employee, agent, or board member of any for-profit entity with whom the charter school contracts for goods or services shall make public disclosure of such fact and shall recuse oneself from any business the charter school may have with the for-profit entity. Any contract executed in violation of this paragraph shall be voidable at the discretion of the commissioner of the department of education. A member of a charter school board of trustees who executes a contract in violation of this paragraph may be held personally liable to the charter school for any damages caused by such contract.

4 Repeal. RSA 194-R:1, IX, relative to the issuance of reimbursement anticipation notes to charter schools, is repealed.

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

This bill:

I. Requires the state to pay education aid directly to a charter school approved by the state board of education.

II. Prohibits a charter school from being affiliated with a religious institution, nonpublic, or sectarian school.

III. Requires any member of a charter school board of trustees who also serves as an employee, agent, or board member of any for-profit entity with whom the charter school contracts for goods or services to make public disclosure of such fact and to recuse oneself from any business the charter school may have with the for-profit entity.

AMENDED ANALYSIS

2006-0162h

Amendment to HB 100-FN-A-LOCAL
Proposed by the Committee on Education - R

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

AN ACT amending the formula for funding public education.

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

1 School Money; Determination of Grants and Excess Tax. Amend RSA 198:41 to read as follows:

198:41 Determination of Grants and Excess Tax.

1. For each municipality the department of education shall determine the total education grant as follows:

(a) For the fiscal years beginning July 1, 2003 and July 1, 2007, add the amounts determined in RSA 198:40-a, RSA 198:40-b, and RSA 198:40-c for each municipality. Such amount shall also be used to determine a municipality's grant in the second year of such bienniums.

(b)(1) For the fiscal year beginning July 1, 2005, if a municipality's education grant as determined in subparagraph (a) is less than 85 percent of the education grant determined for such municipality for the fiscal year beginning July 1, 2004, under the version of RSA 198:41 in effect on July 1, 2004, then the municipality shall receive a transition grant equal to the excess of 85 percent of the education grant determined for such municipality for the fiscal year beginning July 1, 2004 over the municipality's grant determined in subparagraph (a).

(2) For the fiscal year beginning July 1, 2006, an eligible municipality shall receive the same amount as determined under subparagraph (b)(1).

(c)(1) For the fiscal year beginning July 1, 2007, if a municipality's education grant as determined in subparagraph (a) is less than 85 percent of the municipality's education grant determined in subparagraph (b), then the municipality shall receive a transition grant equal to the excess of 85 percent of the education grant determined for such municipality for the fiscal year beginning July 1, 2006 over the municipality's grant determined in subparagraph (a).

(2) For the fiscal year beginning July 1, 2008, an eligible municipality shall receive the same amount as determined under subparagraph (c)(1).

(d) The total education grant shall be the sum of subparagraphs (a), (b), and (c).

(e) The department of education shall notify municipalities of the estimated amounts of grants by the November 15 which precedes the fiscal year for which aid is determined.

- II. Annually, and in conjunction with setting tax rates under RSA 21-A:25, the department of revenue administration shall determine the amount of excess enhanced education tax for each municipality as follows:
- (a) If the average daily membership of the determination year is 2 or less, zero.
- (b) If the average daily membership of the determination year is greater than 2, then ~~the amount of the excess enhanced education tax to be remitted pursuant to RSA 198:46 shall be the greater of~~ *revenues from all applicable sources including the municipality's equitable education grant, but excluding the statewide enhanced education tax assessment, shall be subtracted from the total school appropriation, including appropriations of village districts for school purposes, for the year for which the tax rate is being set. If the resulting balance is:*
- (1) ~~None-- Greater than the statewide enhanced education tax assessment, then the excess statewide education tax shall be zero.~~
- (2) ~~The remainder-- when the determination year local tax assessed for vehicle payment to RSA 216 and the determination year statewide enhanced education tax that was not excess remitted to the state is subtracted from the statewide enhanced education tax to be assessed in the year for which said tax is being calculated~~ *Less than the statewide enhanced education tax assessment, then the balance shall be subtracted from the statewide enhanced education tax assessment. The remainder shall be excess statewide enhanced education tax to be remitted under RSA 198:46.*
- III. ~~The department of education shall notify municipalities of the estimated amounts of grants and excess statewide enhanced education tax payments by the November 15 which precedes the fiscal year for which said tax is determined.~~
- ~~For the year in which the scheme is established:~~ Total state aid for an equitable education shall be the sum total of ~~all~~ grants *in paragraph I*, plus the sum total of the statewide enhanced education tax assessed pursuant to RSA 768, less the total amount of excess statewide enhanced education tax ~~as per~~ remitted pursuant to RSA 198:46.
- 2 New Subparagraph; Determination of Excess Enhanced Education Tax Payments, Version Effective July 1, 2009. Amend RSA 198:41, I, as inserted by 2005, 257:8, by inserting after subparagraph I(b) the following new subparagraph:
- (c) The department of education shall notify municipalities of the estimated amounts of grants by the November 15 which precedes the fiscal year for which aid is determined.
- 3 Excess Statewide Enhanced Education Tax Payment. Amend RSA 198:46 to read as follows:
- 198:46 Excess Statewide Enhanced Education [Property] Tax Payment.
- 1 ~~The department of revenue administration shall annually determine a municipality's statewide enhanced education tax liability pursuant to RSA 198:44-46.~~ Any excess statewide enhanced education tax shall be remitted to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.
- II. The commissioner of the department of revenue shall ~~and~~ collect from the municipality the excess tax and pay the excess tax over to the state treasurer for deposit in the education trust fund established by RSA 198:39.
- III. The amount of such excess to be remitted shall not include any income derived from the investment of funds by the municipal treasurers under RSA 41:29 and RSA 48:16. Any funds remaining after full payment of the excess tax required in paragraph I shall become available for unrestricted use by the municipality.
- 4 Assessment and Abatement of Taxes; Commissioner's Warrant. Amend RSA 198:41, II to read as follows:
- II. The commissioner shall determine the amount of the excess tax computed in paragraph I for the selectmen or assessors of each municipality by December 15 directing them to assess such sum and pay it to the municipality ~~for the use of the school district or districts and, if there is an excess statewide enhanced education tax payment due pursuant to RSA 198:46, directing them to assess the amount of the excess payment and pay it to the department of revenue administration for deposit in the education trust fund.~~ Such sums shall be assessed at such times as may be prescribed for such selectmen or assessors of the municipality.
- 5 Cooperative School Districts; Certification of District Taxes. Amend RSA 195:14, I(b)-(d) to read as follows:
- (b) The commissioner shall certify to the state department of education the ~~total~~ amount to be apportioned among the pre-existing school districts. ~~[Insert total] This amount shall [insert] be the balance before the equitable education [insert for the district and the amount above the cost of an equitable education to be assessed and collected as local educational taxes] grant revenues are applied.~~
- (c) ~~Unless the provisions of RSA 195:14-a are adopted, the state department of education shall determine [per] each municipality's proportional share of the [insert above an equitable education to be assessed as local education taxes] net appropriation after application of the grants as follows:~~
- (1) First, the department shall determine each pre-existing district's proportional share of the ~~total~~ amount to be apportioned based on the cooperative school district formula.
- (2) Second, the department shall then deduct each pre-existing school district's equitable education ~~from [insert proportional share of the total amount to be apportioned] grant.~~
- (3) ~~Third, the department shall notify the commissioner of revenue administration of its determination.~~
- (4) ~~If the resulting amount [determined in subparagraph (b) for any pre-existing district] is less than zero, the department shall reduce the equitable education grant [payable to the cooperative district under RSA 198:44] under RSA 198:4 by the difference [between the amount determined in subparagraph (1) and the pre-existing district's equitable education tax].~~
- (f) ~~The department shall notify the commissioner of the department of revenue administration of its determination.~~
- 6 Cooperative School Districts; Alternative Method of Apportioning Operating Costs. Amend RSA 195:14, I to read as follows:
1. As an alternative to the apportionment of operating costs set forth in RSA 195:14, the cooperative school board may fix a specific percentage of the state equitable education grant amount received in a given year to be applied to the operating costs of the cooperative school district, before the apportionment of remaining cooperative school district operating costs. Such percentage shall not be less than zero percent and not more than 100 percent and shall be the same in each city or town in the cooperative school district.
7. Applicability. Upon the effective date of this act, any excess statewide enhanced education tax remitted to the state by a municipality for the tax year ending March 31, 2006 shall be refunded or adjusted, as the case may be, in accordance with the provisions of this act. Any expenditure of such refund by a municipality shall comply with RSA 31:95-b.
- 8 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

2006-0184h

Amendment to HB 115
Proposed by the Committee on Executive Departments and Administration - C

- Amend the bill by replacing all after the enacting clause with the following:
- 1 Pharmacist; Definition of Practice; Administration of Drugs. Amend RSA 318:1, XIV to read as follows:
- XIV. "Practice of pharmacy" means the professional acts performed by a pharmacist and shall include the interpretation and evaluation of prescription orders; the *administration*, compounding, dispensing, labeling and distribution of drugs and devices; the participation in drug selection ~~[and drug utilization review]~~ *and drug-related device selection; drug evaluation; utilization or regimen review; the monitoring of drug therapy and use; medication therapy management in accordance with collaborative pharmacy practice agreements;* the proper and safe storage and distribution of drugs and devices, and the proper maintenance of proper records; the responsibility of advising, when necessary or when regulated, of therapeutic values, hazards, and use of drugs and devices; and the offering or performing of these acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.
- 2 Pharmacist; Definition of Prescription. Amend RSA 318:1, XVI to read as follows:
- XVI. "Prescription" means a verbal, or written, or facsimile or electronically transmitted order for drugs, medicines and devices by a licensed practitioner, to be compounded and dispensed by licensed pharmacists in a duly registered pharmacy, and to be kept on file for a period of 4 years. A written order shall include an electronic transmission prescription received and retained in a form complying with rules adopted pursuant to RSA 319:5-a, XV. Prescriptions may also apply to the finished products dispensed or *administered* by the licensed pharmacist in the registered pharmacy, on order of a licensed practitioner as defined in this section.
- 3 New Paragraphs; Pharmacists; Definitions Added; Collaborative Practice. Amend RSA 318:1 by inserting after paragraph XXIV the following new paragraphs:
- XXV. "Attending practitioner" means a physician or advanced registered nurse practitioner who has the primary responsibility for the treatment and care of the patient.
- XXVI. "Collaborative pharmacy practice" means the practice of pharmacy whereby one or more pharmacists jointly agree, on a voluntary basis, to work in conjunction with one or more attending practitioners under written protocol whereby the collaborating pharmacist or pharmacists may perform medication therapy management authorized by the attending practitioner or practitioners under certain specified conditions and limitations.
- XXVII. "Collaborative pharmacy practice agreement" means a written and signed specific agreement between a pharmacist, an attending practitioner, and the patient or patient's authorized representative who has granted his or her informed consent, that provides for collaborative pharmacy practice for the purpose of medication therapy management for the patient.
- XXVIII. "Medication therapy management" means the review of medication therapy regimens of patients by a pharmacist for the purpose of evaluating and rendering advice to a practitioner, or evaluating and modifying the medication regimen in accordance with the collaborative pharmacy practice agreement. Decisions involving medication therapy management shall be made in the best interest of the patient. Medication therapy management shall be limited to:
- (a) Implementing, modifying, and managing medication therapy according to the terms of the collaborative pharmacy practice agreement;
- (b) Collecting and reviewing patient histories within the context of needs for pharmacy practice;
- (c) Obtaining and checking vital signs, such as pulse, temperature, blood pressure and respiration;
- (d) Ordering laboratory tests as specifically set out in the collaborative pharmacy practice agreement between the pharmacist and the attending practitioner that are specific to the medication or protocol directed;
- (e) Formulating a medication treatment plan that will be shared with the patient's attending practitioner;
- (f) Monitoring and evaluating the patient's response to therapy, including safety and effectiveness;
- (g) Performing a comprehensive medication review, in conjunction with the attending practitioner, to identify, resolve, and prevent medication-related problems, including adverse drug events;
- (h) Documenting the care delivered and, if applicable, communicating essential information to the patient's other health care providers; and
- (i) Providing education and training designed to enhance the understanding and the appropriate use of his or her medication.
- 4 New Paragraph; Rulemaking Added; Pharmacy Board. Amend RSA 318:5-a by inserting after paragraph XVI the following new paragraph:
- XVII. The education and training standards and other requirements for pharmacists who, pursuant to prescriber-approved protocol:
- (a) Administer prescription medications, including influenza immunizations.
- (b) Engage in collaborative pharmacy practices.
- 5 New Paragraph; Prescription Drugs. Amend RSA 318:42 by inserting after paragraph VII a the following new paragraph:
- VIIa. The management of medication therapy and administration of non-controlled prescription drugs including injectable medications, biologics, and immunizations by qualified pharmacists pursuant to collaborative pharmacy practice agreements.
- 6 New Section; Standards for Collaborative Pharmacy Practice. Amend RSA 318 by inserting after section 16 the following new section:
- 318:16-a Standards for Collaborative Pharmacy Practice.
- 1 For a pharmacist to participate in a collaborative pharmacy practice agreement, the pharmacist shall:
- (a) Hold an unrestricted and current license to practice as a pharmacist in New Hampshire.
- (b) Have at least \$1,000,000 of professional liability insurance coverage.
- (c) Have earned a Pharm.D. degree or completed 3 years of institutional clinical experience as a licensed pharmacist.
- (d) Complete at least 5 contact hours or 0.5 continuing education units of board approved continuing education each year. Such continuing education shall address the area or areas of practice generally related to the collaborative pharmacy practice agreement or agreements. The continuing education hours may be applied to the requirements for licensure as a pharmacist in this state.
- (e) In order to administer drugs by injection, have completed training that includes programs approved by the Accreditation Council on Pharmacy Education (ACPE) or curriculum-based programs from an ACPE accredited college of pharmacy or state or local health department programs or programs recognized by the board.
- II. Collaborative pharmacy practice agreements shall meet the following general requirements:
- (a) Each protocol developed, pursuant to the collaborative pharmacy practice agreement, shall contain detailed direction concerning the services that the pharmacist may perform for that patient. The protocol shall include, but not be limited to:
- (1) The specific drug or drugs to be managed by the pharmacist.
- (2) The terms and conditions under which drug therapy may be implemented, modified, or discontinued.
- (3) The conditions and events upon which the pharmacist is required to notify the collaborating practitioner.
- (4) The laboratory tests that may be ordered in accordance with medication therapy management.
- (5) In instances where drug therapy is discontinued, the pharmacist shall notify the collaborating practitioner of such discontinuance in the time-frame and manner established by the collaborative pharmacy practice agreement.
- (6) All activities performed by the pharmacist in conjunction with the protocol shall be documented as specified in the protocol.
- (b) The collaborative pharmacy practice agreement and protocols shall be on file at the pharmacist's place of practice. The collaborative pharmacy practice agreement and protocols shall be available to the appropriate licensing board for review upon request.
- (c) Collaborative pharmacy practice agreements shall be reviewed, at least every 2 years, by both the pharmacist and the practitioner, and may be terminated, in writing, by either party. When collaborative pharmacy practice agreements are terminated, the patient shall be informed and provided with details to allow for the uninterrupted continuation of his or her medication therapy management regimen.
- (d) Neither the attending practitioner nor the pharmacist in a collaborative pharmacy practice agreement may seek to gain personal financial benefit by participating in any incentive based program that influences or encourages therapeutic or product changes or the ordering of tests or services.
- III. A collaborative pharmacy practice agreement that complies with all the requirements of this section shall only be allowed in the following settings:
- (a) Hospital.
- (b) Long-term care facilities.
- (c) Licensed inpatient or outpatient hospice settings.
- (d) Ambulatory care clinics with onsite supervision by the attending practitioner and with a collaborating pharmacist who has no connection to any onsite retail pharmacy.
- 7 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill allows licensed pharmacists to enter into collaborative practice agreements with medical practitioners for certain patient care functions. The bill defines terms and adopts standards for such collaborative practice agreements.

2006-0176h

Amendment to HB 121
Proposed by the Committee on Municipal and County Government - C

- Amend the title of the bill by replacing it with the following:
- AN ACT relative to local land use approval for facilities requiring certain pollution control permits.
- Amend the bill by replacing all after the enacting clause with the following:
- 1 New Paragraph; Air Pollution Control Permit; Local Approval Required. Amend RSA 125-C:11 by inserting after paragraph V the following new paragraph:
- VI. The issuance of an air pollution control permit by the department shall not affect any obligation to obtain local approvals required under all applicable, lawful local ordinances, codes, and regulations not inconsistent with this chapter.
- 2 Liability for Cleanup Costs; Municipal Regulations; Local Approvals Required. RSA 146-C:1, III is repealed and reenacted to read as follows:
- III. The issuance of a facility permit by the department shall not affect any obligation to obtain local approvals required under all applicable, lawful local ordinances, codes, and regulations not inconsistent with this chapter.
- 3 Removal; Restoration; Equity Relief. Amend RSA 482-A:14-b, II to read as follows:
- II. Municipalities may apply to a justice of the superior court for injunctive relief against existing or impending violations of this chapter, or any rule or order issued under this chapter. The municipality shall give notice of any such action to the attorney general and the commissioner of environmental services, who may take such steps as they deem necessary to ensure uniform statewide enforcement, including but not limited to the joining the action, assuming sole prosecution of the action, or, as a right, dismissing the action in whole or in part. Such notice shall be given by each notice by any such action, unless immediate action is necessary to prevent irreparable environmental damage or other serious public harm, in which case such notice shall be given as soon as practicable, but in no event later than the date of commencement of the action. ~~(This paragraph shall not be construed to affect, in any manner, existing authority of municipalities to act based upon the provisions of other water and local ordinances).~~ *The issuance of a permit by the department shall not affect any obligation to obtain local approvals required under all applicable, lawful local ordinances, codes, and regulations not inconsistent with this chapter.*
- 4 Groundwater Protection Act; Effect on Local Ordinances. RSA 485-C:20 is repealed and reenacted to read as follows:
- 485-C:20 Effect on Local Ordinances. The issuance of a permit to the department shall not affect any obligation to obtain local approvals required under all applicable, lawful local ordinances, codes, and regulations not inconsistent with this chapter.
- 5 Permit Required; Presumption Removed. Amend RSA 149-M:5, VII to read as follows:
- VII. The issuance of a facility permit by the department shall not affect any obligation to obtain local approvals required under all applicable, lawful local ordinances, codes, and regulations not inconsistent with this chapter. ~~[Insert and use regulation of facility location shall be presumed lawful if administered in good faith, but such presumption shall not be exclusive]~~
- 6 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill clarifies that issuance of an air pollution control permit, an underground storage facility permit, a dredge and fill permit, a permit under the groundwater protection act, or a solid waste facility permit does not affect any obligation to obtain local approvals required under local ordinances, codes, and regulations.

2006-0057h

Amendment to HB 162
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 relative to general rules for vessels operating on water.
- Amend the bill by replacing all after the enacting clause with the following:
- 1 New Paragraphs; General Rules for Vessels Operating on Water. Amend RSA 270-D:2 by inserting after paragraph IX the following new paragraphs:
- X(a) No person shall operate a vessel at a speed greater than is reasonable and prudent under the existing conditions and without regard for the actual and potential hazards then existing. In all cases, speed shall be controlled so that the operator will be able to avoid endangering or colliding with any person, vessel, object, or shore.
- (b) Where no hazard exists that requires lower speed for compliance with subparagraph (a), the speed of any vessel in excess of the limit specified in this paragraph shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:
- (1) 25 miles per hour during the period from 1/2 hour after sunset to 1/2 hour before sunset; and
- (2) 45 miles per hour at any other time.
- (c) The speed limitations set forth in subparagraph (b) shall not apply to vessels when operated with due regard for safety under the direction of the peace officers in the chase or apprehension of violators of the law or of persons charged with, or suspected of, any such violation, nor to fire department or fire patrol vessels, nor to private emergency vessels when traveling to emergencies. This exemption shall not, however, protect the operator of any such vessel from the consequences of a reckless disregard of the safety of others.
- (d) The speed limitations set forth in subparagraph (b) shall not apply to boat racing permitted under RSA 270:27.
- XI. Any conviction under this section shall be reported to the commissioner of the department of safety, division of motor vehicles, and shall become a part of the motor vehicle driving record of the person convicted.
- 2 Effective Date. This act shall take effect January 1, 2007.

AMENDED ANALYSIS

This bill establishes general speed limitations for vessels. This bill also requires that violations of the general rules for vessels operating on water become a part of the motor vehicle driving record of the person convicted.

2006-0030h

Amendment to HB 162
Proposed by the Minority of the Committee on Resources, Recreation and Development - R

- Amend the title of the bill by replacing it with the following:
- AN ACT relative to safe operation of vessels on New Hampshire waters.
- Amend the bill by replacing all after the enacting clause with the following:

- 1 Careless and Negligent Operation of Boats; Driving Record. Amend RSA 270:29-a to read as follows:
270:29-a. Careless and Negligent Operation of Boats. Any person who shall operate a power boat upon any waters of the state in a careless and negligent manner or so that the lives and safety of the public are endangered shall be guilty of a misdemeanor. *Any conviction under this section shall be reported to the commissioner of the department of safety, division of motor vehicles, and shall become a part of the motor vehicle driving record of the person convicted.*
- 2 New Paragraph: General Rules for Vessels Operating on Water-Speed. Amend RSA 270:D-2 by inserting after paragraph IX the following new paragraph:
X. No person shall operate a vessel at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.
- 3 Boating and Water Safety: Penalties; Driving Record. Amend RSA 270:D-9 to read as follows:
270:D-9. Penalties. Any person who violates any provisions of this chapter or any rule adopted under RSA 270:D-8 shall be guilty of a violation. *Any conviction under RSA 270:D-2 shall be reported to the commissioner of the department of safety, division of motor vehicles, and shall become a part of the motor vehicle driving record of the person convicted.*
- 4 Effective Date. This act shall take effect January 1, 2007.

This bill establishes a general standard for vessel operation speed. This bill also makes certain vessel operation violations a part of the convicted person's driving record.

AMENDED ANALYSIS

2006-0123h

Amendment to HB 175
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 divestiture of PSNH generation assets, establishing an energy policy task force, and establishing a fund for the costs of the energy policy task force.

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

- 1 Divestiture of PSNH Generation Assets. Amend RSA 369-B:3-a to read as follows:
369-B:3-a. Divestiture of PSNH Generation Assets. The sale of PSNH fossil and hydro generation assets shall not take place before ~~April 30, 2006~~ **June 30, 2008**. Notwithstanding RSA 374:30, subsequent to ~~April 30, 2006~~ **June 30, 2008**, PSNH may divest its generation assets if the commission finds that it is in the economic interest of retail customers of PSNH to do so, and provides for the cost recovery of such divestiture. Prior to any divestiture of its generation assets, PSNH may modify or retire such generation assets if the commission finds that it is in the public interest of retail customers of PSNH to do so, and provides for the cost recovery of such modification or retirement.
- 2 Energy Policy Task Force.
1. There is established an energy policy task force.
- II. The members of the task force shall be as follows:
- (a) Five members of the house of representatives, at least 2 of whom shall be members of the legislative oversight committee on electric utility restructuring, appointed by the speaker of the house of representatives.
- (b) Five members of the senate, at least 2 of whom shall be members of the legislative oversight committee on electric utility restructuring, appointed by the president of the senate.
- (c) Three members appointed by the governor.
- III. Legislative members of the task force shall receive mileage at the legislative rate when attending to the duties of the task force.
- IV. The task force shall:
- (a) Review the state's energy policies and make recommendations for appropriate changes necessary to accommodate the changing energy environment in New Hampshire.
- (b) Review the divestiture of PSNH generation assets, and the policies for supply.
- V. The members of the task force shall elect a chairperson from among the members. The first meeting of the task force shall be called by the first-named house member. The first meeting of the task force shall be held within 45 days of the effective date of this section. Seven members of the task force shall constitute a quorum.
- VI. The task force 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 September 30, 2008.
- 3 Fund Established. The task force shall establish a fund which shall be held by the state treasurer. The fund shall consist of \$100,000 from assessments against the state's electric utilities made by the public utilities commission pursuant to the methodology defined in RSA 363-A:2. The fund may be used, with the prior approval of the fiscal committee of the general court, to pay costs for technical assistance incurred pursuant to section 2 of this act.
- 4 Effective Date. This act shall take effect upon its passage.

This bill extends the prohibition on the divestiture of PSNH generation assets to June 30, 2008 and establishes an energy policy task force. This bill also establishes for the costs of the energy policy task force.

AMENDED ANALYSIS

2006-0132h

Amendment to HB 203-FN
Proposed by the Committee on Commerce - C

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

AN ACT relative to the regulation of tracking devices and establishing a commission on the use of tracking devices.

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

- 1 New Chapter: Regulation of Tracking Devices. Amend RSA by inserting after chapter 358-B the following new chapter:

CHAPTER 358-B
REGULATION OF TRACKING DEVICES

- 358-B:1. Definitions.
1. "Consumer product" means a physical object that is, or is intended to be, used or consumed by a consumer and includes food, alcoholic and nonalcoholic beverages, and prescription and nonprescription drugs; clothing; merchandise; motor vehicles and their component parts; advertising and sales documents and literature; and books, magazines, and greeting and business cards. A "consumer product" does not include an identification document.
- II. "Identification document" means any document or object containing personal information that an individual uses alone or in conjunction with any other information to engage in government-regulated activities, or to engage in financial transactions. Identification documents shall include but shall not be limited to:
- (a) Drivers' licenses, identification cards, and license plates issued by the director of the division of motor vehicles, department of safety;
- (b) EZ Pass transponders;
- (c) Identification cards or badges issued to employees or contractors;
- (d) Insurance benefit cards;
- (e) Identification cards issued by public and private schools and educational institutions;
- (f) Benefit cards issued in conjunction with any government-supported aid program;
- (g) Credit, debit, and financial account cards;
- (h) Licenses, certificates, registrations, or other means to engage in a business or profession regulated by the state or its political subdivisions; and
- (i) Library cards issued by any public library.
- III. "Personal information" means information that can be used to identify an individual. Such information includes an individual's name, address, telephone and cellular telephone number, social security number, credit card and financial account numbers, driver's license number, e-mail address, date of birth, race, religion, ethnicity, nationality, political affiliation, photograph and digital image, fingerprint or other biometric identification, and any other unique personal identifier or number.
- IV. "RFID" or "radio frequency identification" means technologies that use radio waves to identify individual physical objects.
- V. "Tracking device" means any item or application that is passively or actively capable of transmitting unique identification or location information. Tracking devices shall include devices that use radio frequency identification technology; tracking device shall not include bar codes or similar markings that do not transmit information.
- VI. "Universally accepted symbol" means a graphical system designed to provide a standard way to show the presence of an RFID transponder, its frequency, and data structure.
- 358-B:2. Labels Required, Consumer Products.
1. No consumer product or identification document, to which a tracking device or devices have been affixed or implanted, shall be sold or offered for sale or provided to a consumer without a label containing a universally accepted symbol. This requirement shall also apply to any packaging relating to an individual consumer product or identification document that may contain a tracking device. A single such label may be used on a product or identification document that contains more than one tracking device.
- II. Identifying labels shall be affixed to the consumer product, identification document, or its packaging, by the entity that implants the tracking device in the product or by the entity that imports products that contain tracking devices.
- 358-B:3. Human Implantation Prohibited. No person shall implant or attempt to implant a tracking device into any individual without the informed, written consent of the individual, or an individual's legal guardian. No individual shall be offered an incentive, denied an opportunity, or in any way treated differently from any other individual as a consequence of providing or withholding such consent.
- 358-B:4. Restrictions on State Use of Tracking Devices.
1. The state or a political subdivision, department, or agency shall not issue, or permit others to issue on its behalf, any identification document that contains a tracking device or uses tracking devices to locate an individual, either directly or indirectly through other persons, except in the following circumstances:
- (a) To locate a person who is incarcerated in the state prison or county jail, is housed in a mental health facility pursuant to a court order after having been charged with a crime, is subject to court-ordered electronic monitoring, or is a resident of a state or county hospital, nursing facility or assisted living facility;
- (b) When the tracking device is implanted in an identification document that is to be used on a toll road or bridge owned or operated by the state or a political subdivision, department, or agency thereof, but only for the specific purpose of collecting funds for the use of that road or bridge; or
- (c) To locate a state employee engaged in the performance of his or her official duties during normal working hours.
- II. No identification document issued pursuant to this section shall contain, transmit, or enable the remote reading of any personal information other than a unique personal identifier number issued by the state.
- 358-B:5. Penalties.
1. Any person convicted of violating RSA 358-B:2 shall be guilty of a misdemeanor. Each such act shall constitute a separate offense.
- II. Any person convicted of violating RSA 358-B:3 shall be guilty of a felony.
- III. The state may bring suit for civil penalties for up to \$10,000, plus court costs and reasonable attorney's fees, for each violation of this chapter.
- 2 Commission on the Use of Tracking Devices.
1. There is hereby established a commission on the use of tracking devices. The commission shall study the use of tracking devices in government and business and monitor their effect on the economy and society.
- II. The members of the commission shall be as follows:
- (a) Three members of the house of representatives, including one member from the house commerce committee and one member from the house science, technology, and energy committee, appointed by the speaker of the house of representatives.
- (b) Two members of the senate, appointed by the president of the senate.
- (c) Two members of the public, appointed by the governor.
- (d) The attorney general, or designee.
- (e) One member of the New Hampshire High Technology Council, appointed by such council.
- (f) One member representing the Retail Merchants Association of New Hampshire, appointed by such association.
- (g) One member representing the Business and Industry Association of New Hampshire, appointed by such association.
- (h) One member representing the financial services industry, appointed by the New England Financial Services Association.
- (i) One member representing consumer or privacy interests, appointed by the governor.
- III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.
- IV. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Seven members of the commission shall constitute a quorum.
- V. The commission shall 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 annually on or before November 1 and shall submit a final report before dissolving on or before November 1, 2009.
- 3 Effective Date. This act shall take effect January 1, 2007.

This bill establishes labeling requirements for and prohibitions on the use of tracking devices and establishes a commission on the use of tracking devices.

AMENDED ANALYSIS

2006-0062h

Amendment to HB 221
Proposed by the Committee on Election Law - C

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

- 1 Absence, Religious Observance, and Disability Absentee Voting. Amend RSA 657:1 to read as follows:
657:1. Absence, Religious Observance, and Disability Absentee Voting. Any person who is absent on the day of any state election from the city, town, or unincorporated place in which he or she is registered to vote or who cannot appear in public on any election day because of his or her observance of a religious commitment or who is unable to vote there in person by reason of physical disability may vote at such elections as provided in this chapter. *A person who is unable to appear at any time during polling hours at his or her polling place because on employment obligation requires the person to remain physically at work or to be in transit to or from work from the time the polls open until after the time the polls close shall be considered absent for purposes of this chapter.*
- 2 Absentee Voter Affidavit; Absence from City or Town. Amend RSA 657:7, II(a) to read as follows:
(a) Absence from City or Town. A person voting by absentee ballot because of absence from the city or town in which he or she is entitled to vote shall fill out and sign the following certificate:
I do hereby certify, under the penalties for voting fraud set forth below, that I am a voter in the town of _____, New Hampshire, that I will be *unable to appear at any time during polling hours at my polling place because I will be working on election day or will be otherwise* absent on election day from said city or town and will be unable to vote in person; that I have carefully read (or had read to me because I am blind) the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot within and sealed it in this envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind).
- (Signature) _____
- In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.
- 3 Town Elections; Absentee Voting. Amend RSA 669:26 to read as follows:
669:26. Absentee Voting. Every town which has adopted an official ballot system for town elections as provided in RSA 669:12 or 669:13 shall provide for absentee voting. Any registered voter or armed services voter who is absent from such a town on the day of a town election, or who cannot appear in public on election day because of his observance of a religious commitment, or who, by reason of physical disability, is unable to vote in person may vote at a town election in accordance with the provisions of this section and RSA 669:27-669:29. *A person who is unable to appear at any time during polling hours at his or her polling place because on employment obligation requires the person to remain physically at work or to be in transit to or from work from the time the polls open until after the time the polls close shall be considered absent for purposes of this section and RSA 669:27-669:29.*
- 4 Absentee Voter Affidavit. Amend RSA 669:27, III to read as follows:
III. Envelopes of sufficient size to contain the ballots specified in paragraph I, on which shall be printed the following affidavit:
A person voting by absentee ballot because of absence from the place in which he or she is entitled to vote shall fill out and sign the following certificate:
I do hereby certify, under the penalties for voting fraud set forth below, that I am a voter in the town of _____, New Hampshire, that I will be *unable to appear at any time during polling hours at my polling place because I will be working on election day or will be otherwise* absent on election day from said town (city, village district, school district) and will be unable to vote in person; that I have carefully read the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot within and enclosed and sealed it in this envelope.
- (Signature) _____
- In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.
- 5 Absentee Voting; Application Forms. RSA 657:4 is repealed and reenacted to read as follows:
657:4. Forms. Prior to any state election, the secretary of state shall prepare the appropriate application forms for absentee ballots worded in substantially the following form. The secretary of state shall insert the names of all parties qualified as set forth in RSA 652:11 in the list of parties on the application form. The secretary of state shall prepare the application forms in such quantity as he or she deems necessary:
1. Absence (Excluding Absence Due to Residence Outside the Continental United States), Religious Observance, and Disability:
New Hampshire law requires that you vote in person at the polling place for your town or ward unless you:
a. Plan to be absent on the day of the election from the city, town, or unincorporated place in which you are registered to vote.
b. Cannot appear in public on election day because of observance of a religious commitment.
c. Are unable to vote in person due to a disability.
RSA 657:1. Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24.
I am requesting an absentee ballot for the following election:
____ State Primary. I am member of the:
____ Republican Party
____ Democratic Party
or I am now declaring my affiliation with that party and am requesting a ballot for that party's primary.
General Election
Applicant's Name _____
(Last) (First) (Middle) (DOB)

Applicant's Voting Domicile (home address):
(Street) _____ (City/Town) _____ (zip) _____
Mail the ballot to me at this address: _____

I hereby declare that:
____ I am a duly qualified voter who is currently registered to vote in this town/ward.
____ I am absent from the town/city where I am domiciled and will be until after the next election, or I am unable to register in person due to a disability, and request that the forms necessary for absentee voter registration be sent to me with the absentee ballot.
I will be entitled to vote by absentee ballot at the election designated above because:
____ I plan to be absent on the day of the election from the city, town, or unincorporated place where I am domiciled.
____ I cannot appear in public on election day because of observance of a religious commitment.
____ I am unable to vote in person due to a disability.
This application form must be signed by the applicant. The absentee ballot forms you receive will require you to sign an affidavit confirming that you are entitled to vote by absentee ballot due to one of the reasons stated above. The moderator is required to compare the signature on the affidavit to your signature on this form. The absentee ballot will not be counted if the affidavit and this form do not appear to have been signed by the same person. RSA 659:50.
Signature of the Applicant: _____
If. Any person that publishes, mails, or distributes in any manner any written communication that contains a form or postcard which a reasonable person would consider as intended to be used by the recipient of the communication to submit a request for an absentee ballot shall attach a copy of the form prepared by the secretary of state pursuant to paragraph I of this section to the communication or include in the communication a complete facsimile of the form prepared by the secretary of state pursuant to paragraph I of this section. Any person that violates this paragraph shall be subject to a civil penalty not to exceed \$1,000, to be imposed in the manner set forth in RSA 659:34, III.V.
III.(a) Absence Due to Residence Outside the Continental United States:
To the city or town clerk of _____
I, _____ hereby apply for an official absentee ballot. I am a duly qualified voter and entitled to vote in ward _____, city or town of _____
Mail absentee ballot to _____

Signature _____

Street and Number _____

City or Town, State and Country _____
(b) Overseas Voting:
To the city or town clerk of _____
I, _____ hereby apply for an official overseas citizens federal election absentee ballot. I am a duly qualified overseas voter and entitled to vote in federal elections held in the city or town of _____. Mail overseas citizens federal election absentee ballot to _____.

Signature _____

Street and Number _____

City or Town, Province, Country _____
(c) Armed Services Voting:
To the town or city clerk of _____
I, _____ hereby apply for an official armed services absentee ballot. I am:
a. A member of the armed forces of the United States. ()
Service Organization _____
b. A member of the merchant marine of the United States. ()
c. A civilian employee of the United States government serving outside the United States. ()
d. A member of a religious group or welfare agency assisting members of the armed forces. ()
Organization _____
e. A spouse or dependent of a person listed in a, b, c, or d above. ()
My complete service address is: _____

My (non-military) domicile in New Hampshire immediately prior to such service was: street and number _____, city or town _____
Signature of Applicant _____
6 Effective Date.
I. Section 5 of this act shall take effect January 1, 2007.
II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

Amendment to HB 234
Proposed by the Committee on Finance - C

Amend the title of the bill by replacing it with the following:
AN ACT relative to the development of a state and political subdivision information network.
Amend the bill by replacing all after the enacting clause with the following:
I Office of Information Technology; State and Political Subdivision Information Network. RSA 4-D:3 is repealed and reenacted to read as follows:
4-D:3 Special Duties; Plan for State and Political Subdivision Information Network. The chief information officer shall develop, with the advice of the information technology council established under RSA 4-D:4, the New Hampshire Municipal Association, and the New Hampshire Association of Counties, a plan for the implementation of a state and political subdivision information network. The plan shall be submitted to the joint legislative information technology oversight committee on or before March 30, 2007.
2 Effective Date. This act shall take effect upon its passage.
This bill requires the office of information technology to develop a plan for the implementation of a state and political subdivision information network.

AMENDED ANALYSIS

Amendment to HB 254-FN
Proposed by the Committee on Fish and Game - C

Amend the title of the bill by replacing it with the following:
AN ACT establishing lifetime licenses for bow and arrow, muzzle loading firearm, and crossbow and bolt licenses.
Amend the bill by replacing all after the enacting clause with the following:
1 New Section; Fish and Game; Lifetime Licenses for Bow, Muzzleloader, and Crossbow. Amend RSA 214 by inserting after section 9-c the following new section:
214-9-d Lifetime Licenses for Bow and Arrow, Muzzleloader, and Crossbow.
1.(a) The executive director, at the department of fish and game headquarters only, shall issue lifetime bow and arrow, muzzle loading firearm, and crossbow and bolt licenses for each type of game taken similar to that issued on an annual basis under RSA 208:5, RSA 208:5-a, or RSA 208:7-a, respectively, to any resident applicant upon payment of the proper fee, which shall be established by the executive director in accordance with the provisions of paragraph II. Lifetime bow and arrow, muzzle loading firearm, and crossbow and bolt licenses shall be issued only to residents who would be eligible to purchase annual licenses of the same type.
(b) In addition to the executive director may issue lifetime licenses under this section to any resident under 16 years of age. The parent or legal guardian of the applicant shall be a resident pursuant to RSA 207:1, XXIII. The bow and arrow, muzzle loading firearm, and crossbow and bolt licenses shall not be valid until the licensee has met all requirements for the issuance of such license. Upon meeting the requirements of RSA 214:23-a, the licensee shall have the license validated at the fish and game department headquarters only.
II. The executive director shall obtain an actuarial table based on an appropriate annuity from the commissioner of insurance and shall set the fee for the various licenses annually on July 15 of each year for the following year based on the age of the applicant. The fee for any applicant under 16 years of age shall be the same as the fee for a 16-year-old applicant. In addition the applicant shall pay the agent's fee in accordance with RSA 214:15, I.
III. In no case shall any lifetime license issued be transferable or any portion of the cost of the license refundable.
IV. Notwithstanding any other provision of law, the monies received from the sale of each lifetime bow and arrow, muzzle loading firearm, and crossbow and bolt licenses shall be deposited with the state treasurer who shall keep the same in the prepaid fish and game license fund. The state treasurer shall annually transfer to the fish and game fund from the prepaid fish and game license fund an amount equal to 9 percent of the portion of the principal balance in the fund each year attributed to lifetime bow and arrow, muzzle loading firearm, and crossbow and bolt licenses, and any interest that accrues to such portion of the prepaid fish and game license fund in excess of 5 percent.
V. In addition, the state treasurer shall pay the amount of one annual license fee to the fish and game fund from the proceeds of each lifetime bow and arrow, muzzle loading firearm, and crossbow and bolt license sold during the current year, the balance going into the prepaid fish and game license fund.
VI. Licenses issued pursuant to this section shall entitle the holder thereof to the same privileges and subject the licensee to the same restrictions as a holder of an annual license.
VII. The executive director shall, if necessary, adopt rules, pursuant to RSA 541-A, relative to the issuance and validation of the lifetime licenses.
2 Prepaid Fish and Game License Fund: Reference Added. Amend RSA 6:12, I(b) (163) to read as follows:
(163) Monies deposited in the prepaid fish and game license fund under RSA 214:9-c, IV and RSA 214:9-d, IV.
3 Wildlife Habitat Stamp: Exception. Amend RSA 214:14, I to read as follows:
3 No person shall at any time take wild animals or wild birds in this state without first procuring, in addition to any applicable licenses required by title XVIII, a wildlife habitat stamp or license under RSA 214:9, XV, for the same period. If a stamp is issued it shall be signed across the face in a permanent manner with the applicant's signature and shall be carried upon such person while engaged in taking wild animals or wild birds. A person under the age of 16 years may take wild animals or wild birds without such a stamp or license provided that, while so doing, the person is accompanied by an adult who has procured such stamp or license. This paragraph shall not apply to any person who takes wild animals or wild birds under a complimentary license, including any administrative fee, issued pursuant to RSA 214:3, RSA 214:7-a, RSA 214:13, RSA 214:13-b, or RSA 214:13-c, or a lifetime license issued pursuant to RSA 214:9-c or RSA 214:9-d that was purchased in a prior calendar year.
4 Fisheries Habitat Fee: Exception. Amend RSA 214:14, I to read as follows:
4 A one-dollar fisheries habitat fee shall be required to be paid by all persons 16 years of age or older, in addition to each applicable fishing or combination license required by Title XVIII, in order to take fish in the fresh waters of this state. This paragraph shall not apply to any person who takes fish under a complimentary license, excluding any administrative fee, issued pursuant to RSA 214:3, RSA 214:7-a, RSA 214:13, RSA 214:13-b, or RSA 214:13-c, or a lifetime license issued pursuant to RSA 214:9-c or RSA 214:9-d that was purchased in a prior calendar year.
5 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

Amendment to HB 298
Proposed by the Committee on Transportation - R

Amend the bill by replacing all after the enacting clause with the following:
1 New Chapter; Alcohol or Drug Impairment. Amend RSA by inserting after chapter 205 the following new chapter:
205-A:1 Definitions. In this chapter:
I. "Authorized agent" means any agent or inspector certified by the commissioner, after training, to police the public waters of the state.
II. "Boat" means and includes every type of watercraft used or capable of being used as a means of transportation on the water.
III. "OHRV" means an off-highway recreational vehicle as defined in RSA 259:69 or a snowmobile as defined in RSA 259:102.
IV. "Peace officer" means "peace officer" as defined in RSA 594:1 or any properly trained personnel of the United States Coast Guard.
Driving or Operating Under the Influence of Drugs or Liquor
205-A:2 Driving or Operating Under Influence of Drugs or Liquor; Driving or Operating With Excess Alcohol Concentration.
I. No person shall operate or attempt to operate an OHRV or drive or attempt to drive a vehicle upon any way:
(a) While such person is under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drugs; or
(b) While such person has an alcohol concentration of 0.08 or more or in the case of a person under the age of 21, 0.02 or more.
II. No person shall operate or attempt to operate a boat while under the influence of intoxicating liquor or a controlled drug or any combination of intoxicating liquor and a controlled drug or drugs, or while such person has an alcohol concentration of 0.08 or more or in the case of persons under the age of 21, 0.02 or more.
205-A:3 Aggravated Driving While Intoxicated. A person shall be guilty of aggravated driving while intoxicated if the person drives, operates, or attempts to operate an OHRV, or if the person drives or attempts to drive a vehicle upon any way, or if the person operates or attempts to operate a boat:
I. While under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drug or drugs and, at the time alleged:
(a) Drives or operates at a speed more than 30 miles per hour in excess of the prima facie limit;
(b) Causes a motor vehicle, boat, or OHRV collision resulting in serious bodily injury, as defined in RSA 625:11, VI, to the person or another;
(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlights or, in the case of a boat, navigational lamps while still in motion, or abandoning a vehicle, boat, or OHRV while being pursued; or
(d) Carries as a passenger a person under the age of 16;
II. While having an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21 at the time of the offense, 0.02 or more and, at the time alleged:
(a) Drives or operates at a speed more than 30 miles per hour in excess of the prima facie limit;
(b) Causes a motor vehicle, boat, or OHRV collision resulting in serious bodily injury, as defined in RSA 625:11, VI, to the person or another;
(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlights or, in the case of a boat, navigational lights while still in motion, or abandoning a vehicle, boat, or OHRV while being pursued; or
(d) Carries as a passenger a person under the age of 16;
III. While having an alcohol concentration of 0.16 or more.
205-A:4 Implied Consent of Driver or Operator to Submit to Determine Alcohol Concentration. Any person who drives, operates, or attempts to operate an OHRV, drives or attempts to drive a vehicle upon the ways of this state, or operates or attempts to operate a boat upon the public waters of the state shall be deemed to have given consent to physical tests and examinations for the purpose of determining whether such person is under the influence of intoxicating liquor or controlled drugs, and to a chemical, infrared molecular absorption, or gas chromatograph test or tests of any or all of any combination of the following: blood, urine, or breath, for the purpose of determining the controlled drug content of such person's blood or alcohol concentration if arrested for any offense arising out of acts alleged to have been committed while the person was driving, operating, attempting to operate, or in actual physical control of an OHRV, driving, attempting to drive, or in

actual physical control of a vehicle, or operating, attempting to operate, or in actual physical control of a boat while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration in excess of the statutory limits contained in RSA 265-A:2 or RSA 265-A:3. The test or tests shall be administered at the direction of a law enforcement officer, peace officer, or authorized agent having reasonable grounds to believe the person to have been driving, operating, attempting to operate, or in actual physical control of an OHV, driving or in actual physical control of a vehicle, or operating or in actual physical control of a boat while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration of 0.08 or more, or in the case of a person under the age of 21, 0.02 or more. A copy of the report of any such test shall be furnished by the law enforcement agency to the person tested within 48 hours of receipt of the report by the agency by certified mail directed to the address shown on such person's license or other identification furnished by the person. Results of a test of the breath shall be furnished immediately in writing to the person tested by the certified breath testing operator conducting the test. When the incident involves an accident resulting in death or serious bodily injury to any person as provided in RSA 265-A:16, the prerequisites of RSA 265-A:3 shall not apply. Properly trained personnel of the United States Coast Guard may arrest and conduct tests on persons who are believed to be under the influence of intoxicating liquor or controlled drugs, or a combination thereof, and who are in physical control of a boat operating upon the public coastal waters of this state.

265-A:5 Administration of Alcohol Concentration Tests.

I. Only a duly licensed physician, registered nurse, certified physician's assistant, or qualified medical technologist acting at the request of a law enforcement officer, authorized agent, or peace officer may withdraw blood for the purpose of a test required by RSA 265-A:4. Such licensed physician, registered nurse, physician's assistant, or qualified medical technician or medical technologist shall not be liable for damages or otherwise to the person from whom blood is withdrawn for any act performed in connection with such withdrawal provided the physician, registered nurse, physician's assistant, or qualified medical technologist acts with ordinary care.

II. All such blood and urine tests made under the direction of a law enforcement officer, authorized agent, or peace officer shall be conducted in the forensic science laboratory of the department of safety established in RSA 106-B:2-a or, in the case of blood and urine samples to be tested for the presence of controlled drugs, in any other laboratory capable of conducting such tests which is licensed under the laws of this or any other state and which has also been licensed by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1988, as amended.

III. The successful completion of the external standard reference check shall be admissible evidence that the instrument was properly calibrated at the time of the test. The external standard reference check shall be performed according to the schedule required by the commissioner of the department of safety pursuant to RSA 541-A.

IV. No test of blood, urine, or breath authorized by RSA 265-A:4 shall be considered as evidence in any proceeding before any administrative officer or court unless such test is performed in accordance with methods prescribed by the commissioner of the department of safety.

V. The commissioner of the department of safety shall adopt rules pursuant to RSA 541-A relative to:

- (a) Methods and procedures for the testing of blood, urine, and breath to determine alcohol concentration and controlled drug content of a person's blood;
- (b) Techniques or methods for ascertaining the qualifications and competence of individuals to conduct such tests;
- (c) Methods and procedures for the delivery and processing of samples of such tests;
- (d) Forms relative to taking samples for alcohol concentration tests for admission as evidence pursuant to RSA 265-A:2, IV;
- (e) Procedures for certification of any laboratory that conducts tests pursuant to RSA 265-A:7; and
- (f) Such other matters as are required to carry out the provisions of this chapter relative to alcohol concentration tests.

265-A:6 Administration of Physical Tests. Add. No post-arrest physical test or examination authorized by RSA 265-A:4 shall be considered as evidence in any proceeding before any administrative officer or court unless such test or examination is performed by a law enforcement officer who has been trained in the administration of such physical tests and examinations by a law enforcement agency or in a training program approved by the police standards and training council.

265-A:7 Additional Tests. Any person to whom RSA 265-A:4 is applicable shall have the right at his or her own expense to have similar tests made by a person of his or her own choosing who is competent to conduct the tests, as determined by the commissioner of the department of safety under RSA 265-A:5, and shall be so informed by the law enforcement officer at the same time as the person is requested to permit a test under the provisions of RSA 265-A:4. The failure or inability of an arrested person to obtain an arrest test at any time shall not constitute an admission of guilt.

I. A sample of blood taken pursuant to RSA 265-A:4 shall be of sufficient quantity to allow 2 tests; and the testing laboratory shall retain for a period of 30 days subsequent to the test conducted pursuant to RSA 265-A:4 a quantity of said sample sufficient for another test, which quantity shall be made available to the respondent or his or her counsel upon request.

II. The sample of breath taken pursuant to RSA 265-A:4 shall be captured in an appropriate medium approved by the commissioner of the department of safety pursuant to RSA 265-A:5, and shall be sufficient to allow an equivalent additional test for each breath sample taken pursuant to 265-A:4. The captured sample or samples shall be given to the respondent in a manner determined by the commissioner of the department of safety.

265-A:8 Prerequisites to Tests.

I. Before any test of a person's blood, urine or breath specified in RSA 265-A:4 is given, the law enforcement officer, authorized agent, or peace officer shall:

- (a) Inform the arrested person of his or her right to have a similar test or tests made by a person of his or her own choosing;
- (b) Advise the arrested person an opportunity to request such additional test; and
- (c) Inform the arrested person of the consequences of his or her refusal to permit a test at the direction of the law enforcement officer.

II. Before any post-arrest physical test specified in RSA 265-A:4 is given, the law enforcement officer, authorized agent, or peace officer shall inform the defendant of the consequences of the defendant's refusal to comply with the law enforcement officer's, authorized agent's, or peace officer's instructions for a post-arrest physical test.

III. If the law enforcement officer, authorized agent, or peace officer fails to comply with the provisions of this section, the test shall be inadmissible as evidence in any proceeding before any administrative officer and court of this state.

265-A:9 Effect of Evidence of Alcohol Concentration Test. The provisions of this subdivision do not limit the introduction of any other competent evidence bearing on the question of whether a person charged with the violation of RSA 265-A:2, I(a), or RSA 265-A:3, I, was under the influence of intoxicating liquor or any controlled drug.

265-A:10 Effect of Evidence of Refusal to Take Alcohol Concentration Test. If a person refuses to submit to a test as provided in RSA 265-A:4, such refusal may be admissible into evidence in a civil or criminal action or proceeding arising out of an act alleged to have been committed by that person while driving, operating, attempting to operate, or in actual physical control of an OHV, driving, attempting to drive, or in actual physical control of a vehicle, or operating, attempting to operate, or in actual physical control of a boat while under the influence of intoxicating liquor or any controlled drug.

265-A:11 Evidence.

I. Upon complaint, information, indictment, or trial of any person charged with the violation of RSA 265-A:2, the court may admit evidence of physical testing of the defendant for being under the influence of intoxicating liquor or controlled drugs as provided in RSA 265-A:4, and of the controlled drug content of the defendant's blood and the defendant's alcohol concentration, as shown by a test of his or her breath, blood, or urine as provided in RSA 265-A:4. Evidence that there was, at the time alleged, an alcohol concentration of 0.03 or less, is prima facie evidence that the defendant was not under the influence of intoxicating liquor. Evidence that there was, at the time alleged, an alcohol concentration of more than 0.03 and less than 0.08 is relevant evidence but is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant at the time the offense was committed. The defendant may introduce evidence that the defendant was not under the influence of intoxicating liquor. In addition, evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more shall, in conjunction with the evidence otherwise required by RSA 265-A:2, I(b), and (d) constitute a separate offense under RSA 265-A:3, II; and evidence that there was, at the time alleged, an alcohol concentration of 0.16 or more shall, in conjunction with the evidence otherwise required by RSA 265-A:3, III of driving or attempting to drive a vehicle upon a way, constitute a separate offense under RSA 265-A:3, III.

II. Upon complaint, information, indictment, or trial of any person charged with the violation of the provisions of RSA 265-A:2, II relative to the operation of boats by a person under the influence of intoxicating liquor or a controlled drug, the court may admit evidence of the defendant's alcohol concentration at the time alleged, as shown by a chemical, infrared molecular absorption, or gas chromatograph test or tests of his or her breath, urine, or blood. Evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more, is prima facie evidence that the defendant was under the influence of intoxicating liquor. Evidence that the defendant had, at the time alleged, an alcohol concentration of more than 0.03 and less than 0.08 is relevant evidence and may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor. Evidence that the defendant had, at the time alleged, an alcohol concentration of 0.03 or less is prima facie evidence that the defendant was not under the influence of intoxicating liquor.

265-A:12 Official Record of Tests.

I. Any person who is arraigned on a charge arising under RSA 265-A:1 shall file notice in said court, within 30 days immediately following the receipt by the person of the results of any alcohol concentration test administered to such person, requiring the attendance of the person who conducted the breath test, or in the case of any other chemical test, the certifying scientist. Failure to file notice shall be deemed a waiver to require attendance of the person who conducted the breath test, or in the case of any other chemical test, the certifying scientist at the trial. The official report of the test issued pursuant to RSA 265-A:4 shall be deemed conclusive evidence of the conduct and result of said test.

II. A copy of the preventive maintenance check form filled out by the forensic breath testing supervisor who performed the last preventive maintenance check on the breath testing machine in question prior to the time of the test of the test at issue shall be admissible evidence of the performance and successful completion of each check. Such check shall have been performed according to the schedule required in the rules adopted by the commissioner of the department of safety pursuant to RSA 541-A.

III. The successful completion of the external standard reference check shall be admissible evidence that the instrument was properly calibrated at the time of the test. The external standard reference check shall be performed according to the schedule required by the commissioner of the department of safety pursuant to RSA 541-A.

IV. A copy of the appropriate form filled out and signed by the person who took the sample for the alcohol concentration test in question shall be admissible evidence that the sample was taken by such person at the stated time on the stated date pursuant to the procedures prescribed by the commissioner of the department of safety pursuant to RSA 265-A:5, V.

V. Any person who is arraigned on a charge arising under RSA 265-A:2, RSA 265-A:3, or RSA 265-A:4 shall file, within 10 days of such person's receipt of the results of any toxicology test administered to such person for the presence of any controlled drug, a notice in said court requiring the attendance of the certifying scientist. Failure to file notice shall be deemed a waiver to require attendance of the certifying scientist at trial. The official report of the test issued pursuant to RSA 265-A:4 shall be deemed conclusive evidence of the conduct of the result of such test.

265-A:13 Incapacity to Give Consent. Any person who is deaf, unconscious, or who is otherwise in a condition rendering him or her incapable of refusing shall be deemed not to have withdrawn the consent provided by RSA 265-A:4 and the test or tests may be administered. The provisions of RSA 265-A:8 shall not apply to persons incapable of giving consent as provided for in this section.

265-A:14 Refusal of Consent.

I. If a person under arrest for any violation or misdemeanor under RSA 265 or RSA 215-A refuses upon the request of a law enforcement officer, authorized agent, or peace officer to submit to physical tests or to a test of blood, urine, or breath designated by the law enforcement officer, authorized agent, or peace officer to as provided in RSA 265-A:4, none shall be given, but:

- (a) This is the first refusal with no prior driving or operating while intoxicated or aggravated driving or operating while intoxicated convictions;
- (b) The director shall suspend his or her license to drive or nonresident driving privilege for a period of 180 days; or
- (c) If the person is a resident without a license or permit to drive a motor vehicle in this state, the director shall deny to the person the privilege to drive and the issuance of a license for a period of 180 days after the date of the alleged violation.

II. If the person has a prior driving or operating while intoxicated or aggravated driving or operating while intoxicated conviction or a prior refusal of consent under this section:

- (a) The director shall suspend his or her license to drive or nonresident driving privilege for a period of 2 years; or
- (b) If the person is a resident without a license or permit to drive a motor vehicle in this state, the director shall deny to the person the privilege to drive and the issuance of a license for a period of 2 years after the date of the alleged violation.

III. The 180-day or 2-year suspension period or denial of issuance period imposed pursuant to this section shall not run concurrently with any other penalty imposed under the provision of this chapter. Any such suspension or denial of a license or privilege to drive shall be imposed in addition to any other penalty provided by law, subject to review as provided in RSA 265-A:1.

IV. A refusal of consent for both post-arrest physical testing and testing of blood, urine, or breath following any one arrest shall be deemed one refusal for the purposes of this section.

265-A:15 Refusal of Consent to Submit to a Test.

I. The provisions and penalties of this section of relation to the refusal of consent shall apply to any person charged for any violation or misdemeanor involving the operation of a boat, after a hearing and upon satisfactory proof of the following:

- (a) That the authorized agent or peace officer had reasonable grounds to believe the arrested person had been operating, had been attempting to operate, or was in actual physical control of a boat upon the public waters of this state while under the influence of intoxicating liquor or controlled drugs or any combination thereof;
- (b) That the person has been arrested;
- (c) That the person refused to submit to the test upon request of the authorized agent or peace officer;
- (d) That the agent or officer informed the arrested person that he or she refused to submit to such a test would constitute a violation; and
- (e) That the person refused to inform the arrested person of his or her right to have a similar test or tests conducted by a person of his or her own choosing.

265-A:16 Preliminary Breath Test.

I. Any law enforcement officer, authorized agent, or peace officer, who has been certified by the police standards and training council according to standards for such certification contained in rules adopted by said council pursuant to RSA 541-A, having reasonable grounds to believe that a person has been driving, operating, attempting to operate, or in actual physical control of an OHV, driving, attempting to drive, or in actual physical control of a vehicle, or operating, attempting to operate, or in actual physical control of a boat upon the public waters of the state while under the influence of intoxicating liquor or controlled drug or while the person's alcohol concentration was 0.08 or more or in the case of a person under the age of 21, 0.02 or more or in the case of a person licensed to operate and operating a commercial vessel or operating a commercial vessel and licensed pursuant to RSA 270-2:2 at the time of the offense, 0.04 or more, without making an arrest, request that such person submit to a preliminary breath test for alcohol concentration to be administered by the officer. The results of any test administered under this section may be introduced into evidence in a court for any relevant purpose. Failure to submit to the test or not to consent to a violation of this chapter. Evidence of a failure to submit to a preliminary breath test shall not be admissible in court in any proceeding under this subdivision, except for the purpose of determining whether the officer had probable cause to arrest the person. The provisions of this section shall not limit the introduction of any other competent evidence bearing on the question of whether a person charged with violating RSA 265-A:2, I(a), RSA 265-A:2, II, or RSA 265-A:3 was under the influence of intoxicating liquor or any controlled drug. Nothing contained in this section shall be construed to prevent or require a subsequent test pursuant to RSA 265-A:4. The results of the test shall be furnished immediately to the person tested by the police officer administering the test and in writing, if requested.

II. No device may be used to give a chemical test under the provisions of this section unless it has been approved as to type and make by the department of safety.

III. The commissioner of the department of safety shall adopt rules, pursuant to RSA 541-A, relative to methods and procedures for evaluating and approval of preliminary breath test devices.

265-A:16 Blood Testing of Certain Motor Vehicle Fatalities. When a collision, boating accident, or OHV accident results in death or serious bodily injury to any person, all drivers or operators involved, whether living or deceased, and all deceased vehicle, boat, or OHV occupants and pedestrians involved shall be tested for evidence of alcohol or controlled drugs. A law enforcement officer, authorized agent, or peace officer shall request a licensed physician, registered nurse, certified physician's assistant, or qualified medical technician or medical technologist to withdraw blood from each driver or operator involved if living and from the body of each deceased driver or operator, deceased occupant, or deceased pedestrian, in accordance with RSA 611:6, I, for the purpose of testing for evidence of alcohol content or controlled drugs; provided that in the case of a living driver or operator the officer has probable cause to believe that the driver or operator caused the collision or accident. All tests made and conducted by the forensic science laboratory of the department of safety established in RSA 106-B:2-a or in any other laboratory capable of conducting such tests which is licensed under the laws of this or any other state and which has also been licensed by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1988, as amended. A copy of the report of any such test shall be kept on file by the medical examiner. The filed report is not a public record under RSA 91-A. However, the report shall be made available to the following:

I. A highway safety agency for use in compiling statistics to evaluate the effectiveness of its program; and

II. Any person, including his or her legal representative or attorney, who is not involved in a civil, criminal, or administrative action or proceeding arising out of an accident in connection with which the test was performed.

265-A:17 Arrest Without a Warrant. Notwithstanding any other statutory provision of law to the contrary, a law enforcement officer may, without a warrant, arrest any person involved in a traffic accident, OHV accident, or boating accident when the officer has probable cause to believe that such person has committed an offense, an element of which is driving under the influence of intoxicating liquors, controlled drugs or both. Notwithstanding any statutory provision of law to the contrary, a law enforcement officer may make such an arrest in such officer's own jurisdiction or on the property of any medical facility in another jurisdiction in this state where the person or others are taken for treatment for injuries suffered in such traffic accident.

265-A:18 Penalties for Offenses of Drugs Offenses.

I. Except as otherwise provided in this section:

- (a) Any person who is convicted of any offense under RSA 265-A:2, I shall be:
 - (1) Guilty of a class B misdemeanor;
 - (2) Fined not less than \$500;
- (b) Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or the department of safety to complete, an impaired driver intervention program (I.D.I.P.) or any similar program in any jurisdiction, the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention detention center program (M.O.I.P.) or an equivalent 7-day residential intervention program approved by the commissioner of health and human services;
- (c) The person's driver's license or privilege to drive shall be revoked for not less than 9 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. The court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) within 45 days after conviction, or as soon thereafter as any extenuating circumstances approved by the department of health and human services allow:
 - (1) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate; and
 - (2) The court in which the person was convicted may reduce the conviction to a violation filed by either party at least one year after the date of the conviction. In deciding whether to reduce the conviction to a violation, the court may consider the person's subsequent driving record, any evidence of drug or alcohol treatment, the hardship that having a criminal record may cause for the person, and any other factors that the court deems relevant.
- (d) Any person who is convicted of any aggravated DWI offense under RSA 265-A:3, except as provided in subparagraph (c), shall be:
 - (1) Guilty of a class A misdemeanor;
 - (2) Fined not less than \$750;
- (e) Sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 265-A:40, which sentence shall begin no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space, the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order.
- (f) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) as soon as any extenuating circumstances approved by the department of health and human services allow:
 - (1) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other test as the court may deem appropriate; and
 - (2) The court in which the person was convicted may reduce the conviction to a violation filed by either party at least one year after the date of the conviction. In deciding whether to reduce the conviction to a violation, the court may consider the person's subsequent driving record, any evidence of drug or alcohol treatment, the hardship that having a criminal record may cause for the person, and any other factors that the court deems relevant.
- (g) A person who leaves the relevant driver intervention program required by subparagraph IV(a)(3) before completion and fails to return and complete it as soon as extenuating circumstances approved by the department of health and human services allow or who fails to begin following treatment recommendations within the time required by subparagraph IV(a)(3) shall be in contempt of court and shall serve a minimum of 14 days in the county correctional facility.
- (h) Any person who is convicted of aggravated DWI under RSA 265-A:3, I(b) or I(b), shall be:
 - (1) Guilty of a class B felony;
 - (2) Fined not less than \$1,000;
- (i) Sentenced to a mandatory sentence of not less than 21 consecutive days of which 14 consecutive 24-hour periods shall be served in the county correctional facility followed by 7 consecutive 24-hour periods served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 265-A:40, which sentence shall begin no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space, the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order.
- (j) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) as soon as any extenuating circumstances approved by the department of health and human services allow.

II. Any person convicted of a violation of RSA 265-A:18, II shall be subject to the penalties set out in this section for a violation of RSA 265-A:3. Any person convicted of a violation for any other provision in RSA 265-A:19 or a violation of RSA 265-A:2, II shall be subject to the penalties set out in this section for a violation of RSA 265-A:2, I.

III. Any person who is convicted of an offense under RSA 265-A:2, I, RSA 265-A:3, I, or RSA 630:3, II and the offense occurred while the person was under the age of 21 shall be sentenced according to the provisions of this section, except that in all cases the person's driver's license or privilege to drive shall be revoked for not less than one year.

IV. Upon conviction of any offense under RSA 265-A:2, I or RSA 265-A:3, based on a complaint which alleged that the person has had one or more prior convictions under RSA 265-A:2, I or RSA 265-A:3, or RSA 630:3, II, or on reasonably equivalent offenses in an out-of-state jurisdiction, within 10 years preceding the date of the second or subsequent offense, the person shall be subject to the following penalties in addition to those provided in paragraph I:

- (a) For a second offense:
 - (1) The person shall be guilty of a class A misdemeanor.
 - (2) The person shall be fined not less than \$750.
- (b) If the complaint alleges that the prior conviction occurred within 2 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 37 consecutive days of which 30 consecutive 24-hour periods shall be served in the county correctional facility followed by 7 consecutive 24-hour periods to be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 265-A:40 within 21 days after conviction, except that in circumstances where the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 30 consecutive 24-hour periods or such other time as the court may order.
- (c) If the prior offense occurred more than 10 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 265-A:40, which sentence shall begin no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order.

(a) The person's driver's license or privilege to drive shall be revoked for not less than 3 years.

(b) The person shall pay a fee to the commissioner, as established under RSA 129-A:43, for the costs of the state-operated 7-day multiple DWI offender intervention detention center program prior to license restoration. If the person attends an approved equivalent 7-day residential intervention program, the fees and costs shall be paid to the program.

(c) A person who leaves the program before completion and fails to return and complete it as soon thereafter as extenuating circumstances approved by the department of health and human services allow, or who fails to begin following treatment recommendations within the time required by subparagraph IV(a)(3) shall be in contempt of court and shall serve a minimum of 30 days in the county correctional facility.

(d) For a third offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraph (c) except that:

- (1) The person's driver's license or privilege to drive shall be revoked indefinitely and shall not be restored for at least 5 years. At the end of the 5-year minimum revocation period the person may petition the court for eligibility to reapply for a driver's license and the court, for good cause shown, may grant such eligibility subject to such terms and conditions as the court may prescribe. Any untimely petition under this subparagraph shall be dismissed without a hearing. If such petition is granted and the person is otherwise eligible for license restoration, the person may then apply to the director for restoration of driver's license, but the license shall not be restored until the provisions of RSA 265-A:5 and all other requirements under law are met.
- (2) The mandatory sentence of not less than 180 consecutive days of which 30 consecutive 24-hour periods shall be served in the county correctional facility followed by a residential treatment program of at least 28 days duration or an intensive course of substance abuse treatment based upon a formal evaluation by a licensed alcohol and other drug counselor and approved by the department of health and human services before the driver's license may be restored. The remainder of the sentence may be deferred for a period of 2 years. The court may, at the satisfactory completion of any ordered treatment, suspend any remaining deferred sentence. Failure to successfully complete any court-ordered intervention program or recommended treatment shall result in the imposition of any remaining deferred sentence.

(e) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.

(f) For a fourth or subsequent offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraph (a) and (b) except that the person shall be guilty of a felony, and the person's driver's license or privilege to drive shall be revoked indefinitely and the person shall not petition for eligibility to reapply for a driver's license as provided in subparagraph (b)(1) for at least 7 years.

(g) For a third or subsequent offense when any prior offense under this paragraph is negligent homicide under RSA 630:3, II, or reasonably equivalent offense in an out-of-state jurisdiction, the person convicted under this paragraph shall be subject to all the penalties of subparagraph (a) and (b) except that the person's driver's license or privilege to drive shall be revoked indefinitely and the person shall not petition for eligibility to reapply for a driver's license as provided in subparagraph (b)(1) for at least 10 years.

V. Voluntary completion of an impaired driver intervention program, or an appropriate equivalent, and commencement of treatment recommended by the program may be considered by a court when determining a sentence in this section.

VI. If a person is convicted of a violation of RSA 265-A:2, I or RSA 265-A:3, and the conviction is not based upon a complaint which alleges prior convictions as provided in paragraph IV, but the person is found to have had one or more such prior convictions in this state or in an out-of-state jurisdiction within 10 years preceding the date of the offense, the person's driver's license or privilege to drive shall be revoked for not less than one year nor more than 3 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that within 45 days after conviction the person has entered the 7-day program at the state-operated multiple DWI offender intervention detention center program or an equivalent 7-day residential intervention program approved by the commissioner of health and human services, as provided in RSA 265-A:10 and RSA 265-A:12. The person's license shall not be restored until the person has

IV. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to the impaired driver intervention programs and those programs equivalent to the M.O.P. as required in RSA 265-A:18 and RSA 265-A:42 with respect to:

- Procedures and forms to be followed in order for drivers who have completed such programs to regain their licenses or driving privileges.
- Times of business and areas of the state in which approved programs may operate.
- Records and reports.
- Schedule of fees and charges.

(c) Such other matters as the commissioner of the department of health and human services and the commissioner of safety may prescribe for the protection of the public.

V. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to the operation of impaired driver intervention programs with respect to:

- Course content and standards of instruction.
- Certification and recertification of instructors.
- A per client fee to be paid by program providers sufficient to cover the costs of monitoring course content, establishing and maintaining standards of instruction, data collection, and administrative support.
- A per other matter related to the proper administration of this section.

265-A:40 Multiple DWI Offender Intervention Detention Center Program

I. The commissioner of the department of health and human services shall be responsible for administration and operation of the 7-day multiple DWI offender intervention detention center program which persons convicted under RSA 265-A:2 or RSA 265-A:3 or sentenced pursuant to RSA 651:2, V(b) may be required to attend.

II. Any person who attends the 7-day multiple DWI offender intervention detention center program shall be required to pay the fees for confinement and intervention costs, except that prior payment shall not be required of any person. The fees shall be sufficient to make the program self-supporting, exclusive of start-up costs. The fees collected shall be deposited in a special account in the office of the state treasurer and utilized as provided in RSA 265-A:41.

III. The state-operated 7-day multiple DWI offender intervention detention center program shall furnish to the courts a report indicating when a person has completed attendance at the program, and shall furnish to the division of motor vehicles, department of safety, a report indicating when a person who attends the program pursuant to RSA 265-A:18 has successfully completed the program and treatment or involvement in a substance abuse program when appropriate and warranted.

IV. The commissioner of the department of health and human services shall submit an annual report on the 7-day state-operated multiple DWI offender intervention detention center program, on or before January 1 of each year, to the speaker of the house of representatives and the president of the senate.

V. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to the operation of the 7-day multiple DWI offender intervention detention center program with respect to:

- Program curriculum and content.
- Bed availability schedules.

(c) Any other matter related to the proper administration of this section.

265-A:41 Utilization of fees from the fees collected by the commissioner of the department of health and human services under RSA 265-A:18 shall be paid over to the state treasurer within 10 days of the close of the accounting month, or at an earlier date, for deposit into a separate account in the treasury known as the 7-day multiple DWI offender intervention detention center program account. These funds are appropriated as indicated in the operating budget as a source of funds for the 7-day multiple DWI offender intervention detention center program. Any funds remaining in the account over the appropriation indicated shall lapse into the general fund at the end of each fiscal year.

265-A:42 Attendance at Impaired Driver Intervention Program Required.

I. The director shall not restore the license or driving privilege of any person whose license or privilege has been revoked or suspended pursuant to RSA 265-A:2, I or 265-A:3 until such person has furnished proof of successful completion of an impaired driver intervention program which is:

- Approved by the commissioner of the department of health and human services and the commissioner of safety pursuant to RSA 265-A:39 and RSA 265-A:40;
- Approved by the court or the department of safety, in the case of a person who is not a resident of this state; or
- Operated by the department of corrections and approved pursuant to RSA 265-A:39, II.

II. For the purposes of this section, "successful completion" means meeting further counseling requirements, if any, arising out of the final evaluation given to the offender at the I.D.I.P. or the M.O.P. or its equivalent; provided, however, that the offender shall have the right to a hearing before the commissioner or designee, who shall determine whether the further counseling requirements arising out of the final evaluation are warranted and appropriate, and whether the offender should be eligible for license restoration.

III. Successful completion shall also include payment of all assessed I.D.I.P., M.O.P., and equivalent program fees, except in the case of attendance at programs operated by the department of corrections. Failure of the offender to make full payment of the assessed fee may also result in petition for contempt of court charges against the offender.

IV. (a) Upon enrolling in an impaired driver intervention program, the offender shall provide to the program an original certified copy of the person's driver's license record. Such record shall be secured from the division of motor vehicles, or from the state in which the person holds a driver's license, if an out-of-state resident. The person shall pay for all costs involved in securing the certified copy.

(b) In the case of enrollment in the state-operated 7-day multiple DWI offender intervention detention center, a person shall provide such certified copy at the time of enrollment or prior to the issuance of a report under RSA 265-A:40, III and RSA 265-A:18, VIII.

V. (a) A person shall be presumed to have furnished proof of successful completion of an impaired driver intervention program if the person furnishes a report indicating that he or she has completed attendance at the I.D.I.P., the M.O.P., or an equivalent program, and that he or she has paid all assessed program fees. The presumption may be overcome by a hearing requested by the department, or the I.D.I.P., the M.O.P., or an equivalent program, with notice to and an opportunity to be heard by the person, which shall have the burden of proving that the person has not successfully completed an impaired driver intervention program.

(b) The I.D.I.P., the M.O.P., or an equivalent program shall inform the department in writing of any further treatment it deems necessary in order to be considered a completed program before a license suspension should be restored. The department shall notify the licensee of his or her ability to request a hearing to dispute the findings and the licensee shall inform the department of safety if the licensee requests a hearing within 20 days of receipt of such notice. At such hearing the I.D.I.P., the M.O.P., or an equivalent program shall have the burden of proving the person has not successfully completed an impaired driver intervention program. The I.D.I.P., the M.O.P., or an equivalent program shall inform the department in writing within 5 days after the end of the program attended by the licensee.

Other Alcohol and Drug Offenses

265-A:43 Possession of Drugs. Any person who drives on any way a vehicle while knowingly having in his or her possession or in any part of the vehicle a controlled drug or controlled drug analog in violation of the provisions of RSA 318-B shall be guilty of a misdemeanor, and his or her license shall be revoked or his or her right to drive denied for a period of 60 days and at the discretion of the court for a period not to exceed 2 years.

265-A:44 Transporting Alcoholic Beverages.

I. The words "liquor" and "beverage" as used in this section shall have the same meanings as defined in RSA 176:1.

II. Except as provided in paragraph V, no driver shall transport, carry, possess, or have any liquor or beverage within the passenger area of any motor vehicle upon any way in this section entered in the original container and with the seal unbroken. Securely capped partially filled containers of liquor or beverages shall be stored and transported in the trunk of the motor vehicle. If the motor vehicle does not have a trunk, such containers shall be stored and transported in that compartment or area of the vehicle which is the least accessible to the driver.

III. Except as provided in paragraph V, no person shall transport, carry, possess, or have any liquor or beverage within any passenger area of any motor vehicle upon any way or in an area principally used for public parking in this state except in the original container and with the seal unbroken. Securely capped partially filled containers of liquor or beverages may be stored and transported in that compartment or area of the vehicle which is the least accessible to the driver.

IV. Any person who violates this section shall be guilty of a violation and shall be subject to a fine of \$150. In addition, a person who violates paragraph II of this section may have his or her driver's license, if a resident, or driving privilege, if a nonresident, suspended 60 days for a first offense and up to one year for a second or subsequent offense.

V. This section shall not apply to persons transporting, carrying, possessing, or having any liquor or beverage in a chartered bus, in a taxi, or in a limousine for hire; provided, however, that the driver of any said vehicles is prohibited from having any liquor or beverage in or about the driver's area.

VI. For the purposes of this section only:

- "Passenger area of any motor vehicle" shall not include any section of a motor vehicle which has been designed or modified for the overnight accommodation of persons or as living quarters.
- "Way" shall mean the entire width between the boundary lines of any public highway, street, avenue, road, alley, park, or parkway, or any private way laid out under authority of statute, or any such way provided and maintained by a public institution to which state funds are appropriated for public use or any such way which has been used for public travel for 20 years.

265-A:45 Transportation of Alcoholic Beverages by a Minor.

I. Notwithstanding RSA 265-A:4, II, no driver under the age of 21 shall, except when accompanied by a parent, legal guardian, or legal age spouse, transport any liquor or beverage in any part of a vehicle. A driver violating this section may have his or her license or privilege to drive suspended for 60 days. The words "liquor" and "beverage" as used in this section shall have the same meanings as defined in RSA 176:1. "Legal age spouse" means a person 21 years of age or older.

II. This section shall not apply to a driver under 21 years of age employed under RSA 179:23.

2 Reference Changed. Amend RSA 6:12, 106(147) to read as follows:

- (147) Moneys deposited in the 7-day multiple DWI offender intervention detention center program account under RSA ~~(265-A:40)~~ 265-A:41.

3 Reference Changed. Amend RSA 6:12, 106(170) to read as follows:

- (170) Moneys deposited in the alcoholism and alcohol abuse account under RSA ~~(265-A:40)~~ 265-A:29.

4 Reference Changed. Amend RSA 21:P-14, II(d) to read as follows:

- (dd) The methods, procedures, and techniques for the testing of blood, urine, and breath to determine alcohol concentration as described under RSA ~~(265-A:40)~~ 265-A:5, V.

5 Reference Changed. Amend RSA 21:P-14, IV(c) to read as follows:

- (c) Suspension or revocation of a driver's license or driving privilege, as authorized by RSA ~~(265-A:40)~~ 265-A:25 through RSA 265-A:26, [am] RSA 263:78, 265-A:26, and RSA 265-A:29.
- (d) Appeals of driver's license denial, suspension, or revocation, as authorized by RSA 263:75, RSA 265-A:24, and 263:76.

6 Reference Changed. Amend RSA 21:P-14, IV(e) to read as follows:

- (e) Administrative suspension of motor vehicle licenses pursuant to RSA ~~(265-A:40)~~ 265-A:9, b and RSA 265-A:9, c and RSA 265-A:30 through RSA 265-A:32, including notices, forms, temporary driving permits, hearing procedures, and procedures for restoration after the suspension period.

7 Reference Changed. Amend RSA 179:27, a, II to read as follows:

- II. Any partially consumed bottle of table wine which is to be removed from the premises under paragraph I shall be securely sealed and bagged, by the licensee, either to be in conformance with any applicable local open container law for those patrons on foot, or transported as required by RSA ~~(265-A:40)~~ 265-A:44, in the trunk of a motor vehicle. If the vehicle is not equipped with a trunk, the securely sealed opened table wine bottles may be stored and transported in that compartment or area of the vehicle which is the least accessible to the driver.

8 Reference Changed. Amend RSA 214:20, f to read as follows:

- 214:20, f Administration of Blood Alcohol Concentration Tests. All and any alcohol concentration tests performed as authorized in RSA 214:20, d shall be conducted pursuant to the requirements of RSA ~~(265-A:40)~~ 265-A:5, relative to the testing of blood, urine, and breath.

9 Reference Changed. Amend RSA 214:20, g to read as follows:

- 214:20, g Additional Tests. The provisions of RSA ~~(265-A:40)~~ 265-A:7, relative to the right of an arrested person to obtain additional tests, shall apply to any person to whom RSA 214:20, d is applicable.

10 Reference Changed. Amend RSA 214:20, i to read as follows:

- 214:20, i Official Record of Tests. The provisions of RSA ~~(265-A:40)~~ 265-A:12, relative to notice to the court and the admissibility of the official report of tests, shall govern admissibility of the official records related to the tests taken pursuant to this RSA 214:20, d as well as the notice required to compel the attendance of any person who conducted such tests at trial.

11 Reference Changed. Amend RSA 215-A:19, VI(b) to read as follows:

- (b) RSA ~~(265-A:40)~~ 265-A:2, I and RSA 265-A:2, relative to operating an OHV while intoxicated or under the influence of drugs.

12 Reference Changed. Amend RSA 215-A:20, XX(b) to read as follows:

- (b) Any person who violates this section by operating an OHV in this state during the period of suspension or revocation of such person's license or driving privilege for a violation of RSA ~~(265-A:40)~~ 265-A:2, I, RSA 265:79, RSA ~~(265-A:40)~~ 265-A:26, or 265-A:2, I, RSA 265-A:2, and RSA 630:3, II shall be guilty of a misdemeanor and shall be sentenced in accordance with RSA 263:64, IV.

13 Reference Changed. Amend RSA 215-A:20, XX(b) to read as follows:

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41 Reference Changed. Amend RSA 215-A:20, XX(b) to read as follows:

- felony; the usual fines for violations of the provisions of title XVIII on fish and game laws, excluding any offense which is a misdemeanor or felony; and the usual fines for violations of the provisions of title XIX-A on forestry laws, excluding any offense which is a misdemeanor or felony. The defendant shall be given a notice of fine indicating the amount of the fine plus penalty assessment at the time the summons is issued; except, if, for cause, the summoning authority wishes the defendant to appear personally. Defendants summoned to appear personally must do so on the arraignment date specified in the summons, unless otherwise ordered by the court. Defendants who are issued a summons and notice of fine and who wish to plead guilty or nolo contendere shall enter their plea on the summons and return it with payment of the fine plus penalty assessment to the division of motor vehicles within 30 days of the date of summons. Defendants in violation of the provisions of title XVIII shall be subject to the provisions of RSA 207:18 and RSA 214:19.
- 31 Applicability: **Plas by Mail.** Section 30 of this act shall apply only to courts which are not computerized in coordination with the division of motor vehicles.
- 32 References Changed. Amend RSA 630:3, II-III to read as follows:
- II. A person is guilty of a class A felony when in consequence of being under the influence of intoxicating liquor or a controlled drug or any combination of intoxicating liquor and controlled drug while operating a propelled vehicle, as defined in RSA 637:9, III or a boat as defined in RSA ~~(676:44)~~ 265-A:1, II, he or she causes the death of another.
- III. In addition to any other penalty imposed, if the death of another person resulted from the negligent driving of a motor vehicle, the court may revoke the license or driving privilege of the convicted person for up to 7 years. In cases where the person is convicted under paragraph II, the court shall revoke the license or driving privilege of the convicted person indefinitely and the person shall not petition for eligibility to reapply for a driver's license for at least 7 years. In a case in which alcohol was involved, the court may also require that the convicted person shall not have a license to drive reinstated until after the division of motor vehicles receives certification of installation of an ignition interlock device as described in RSA ~~(666:44-a)~~ 265-A:36, which shall remain in place for a period not to exceed 5 years.
- 33 Reference Changed. Amend RSA 631:2, V(b) to read as follows:
- (b) In cases of a person convicted of a felony or class A misdemeanor, a court may sentence such person to 7 consecutive 24-hour periods to be served at the state-operated 7-day multiple DWI offender intervention detention center program established under RSA ~~(179:34-b)~~ 265-A:40, if the evidence demonstrates that alcohol was a contributing factor in the commission of the offense and provided that space is available in the program and such person pays the fees for the program in full prior to admission.
- 34 References Changed. Amend the introductory paragraph of RSA 631:3, III to read as follows:
- III. Except as provided in RSA ~~(666:44-a)~~ 265-A:2, I or in paragraphs V and VI, any person convicted of an offense may petition for annulment of the record of arrest, conviction, and sentence when the petitioner has completed all the terms and conditions of the sentence and has thereafter been convicted of no other crime, except a motor vehicle offense classified as a violation other than driving while intoxicated under RSA ~~(666:44-a)~~ 265-A:2, I, for a period of time as follows:
- 35 References Changed. Amend RSA 631:6, I(b)-(4) to read as follows:
- (b) Has previously been convicted of a violation of RSA 630:3, II, RSA ~~(666:44-a)~~ 265-A:2, I(b) or I(b), or any crime in any other jurisdiction involving driving or attempting to drive a motor vehicle under the influence of controlled drugs or intoxicating liquors, or both, and such person has committed a crime as defined under RSA 630:3, II or RSA ~~(666:44-a)~~ 265-A:2, I(b) or I(b); or
- (c) Has twice previously been convicted in this state or any other jurisdiction, for driving or attempting to drive a motor vehicle under the influence of intoxicating liquors or controlled drugs, or both, and such person has committed a crime as defined under RSA 630:3, II or RSA ~~(666:44-a)~~ 265-A:2, I(b) or I(b).
- 36 Repeal. The following are repealed:
- I. RSA 172-B:2-a through 172-B:2-c, relative to impaired driver intervention programs.
- II. RSA 215-A:11 through 215-A:11-q, relative to DWI provisions for OHRVs.
- III. RSA 263:14-a, relative to probationary licenses.
- IV. RSA 263:65-a, relative to attendance at impaired driver intervention programs.
- V. RSA 263:66, relative to revocation of license for driving while intoxicated and appeals.
- VI. RSA 263:67, relative to not guilty findings; return of license.
- VII. RSA 263:71-a, relative to license restoration upon proof of financial responsibility.
- VIII. RSA 263:68, relative to commercial drivers prohibited from driving with any alcohol in their systems.
- IX. RSA 263:96, relative to implied consent requirements for commercial motor vehicle drivers.
- X. RSA 265:80, relative to possession of drugs.
- XI. RSA 265:81, relative to transporting alcoholic beverages.
- XII. RSA 265:81-a, relative to transportation of alcoholic beverages by a minor.
- XIII. RSA 265:82, relative to driving under influence of drugs or liquor; driving with excess alcohol concentration.
- XIV. RSA 265:82-a, relative to aggravated driving while intoxicated.
- XV. RSA 265:82-b, relative to penalties for intoxication or operating under the influence of drugs or offenses.
- XVI. RSA 265:82-c, relative to annulment; plea bargaining.
- XVII. RSA 265:82-d, relative to payment of all obligations prior to restoration.
- XVIII. RSA 265:83, relative to arrests without a warrant.
- XIX. RSA 265:84, relative to implied consent of driver to submit to testing.
- XX. RSA 265:88, relative to administration of alcohol concentration tests.
- XXI. RSA 265:85-a, relative to administration of physical tests.
- XXII. RSA 265:86, relative to additional tests.
- XXIII. RSA 265:87, relative to prerequisites to tests.
- XXIV. RSA 265:88, relative to effect of evidence of alcohol concentration tests.
- XXV. RSA 265:88-a, relative to evidence of refusal to take alcohol concentration tests.
- XXVI. RSA 265:89, relative to evidence.
- XXVII. RSA 265:90, relative to official records of tests.
- XXVIII. RSA 265:91, relative to incapacity to give consent.
- XXIX. RSA 265:91-a, relative to administrative license suspensions.
- XXX. RSA 265:92, relative to refusal of consent.
- XXXI. RSA 265:92-a, relative to preliminary breath test.
- XXXII. RSA 265:93, relative to blood testing of certain motor vehicle fatalities.
- XXXIII. RSA 265:93-a through 265:93-c, relative to alcohol ignition interlock program.
- XXXIV. RSA 270:47 through 270:58-b, relative to implied consent for boaters.
- XXXV. RSA 215-C:11 through 215-C:27, relative to DWI provisions for snowmobiles.
- 37 Effective Date. This act shall take effect January 1, 2007.

2006-0163h

Amendment to HB 512
Proposed by the Committee on Children and Family Law - C

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

AN ACT relative to the appointment of parenting coordinators.

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

1 New Section: Parental Rights and Responsibilities; Parenting Coordinators. Amend RSA 461-A by inserting after section 11 the following new section:

461-A:11-a Parenting Coordinators.

I. In this section:

(a) "Parenting coordinator" is a child-focused dispute resolution process in which an impartial parenting coordinator assists both conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, educating parents about children's needs, and with the prior approval of the parties or of the court, making decisions within the scope of the court order or appointment contract.

(b) "Parenting coordinator" means a person who is responsible for resolving issues in resolving issues relating to disputes in resolving issues relating to disputes.

II. In any proceeding under this chapter involving the determination or enforcement of parental rights and responsibilities, if both parents agree, the court may appoint a parenting coordinator if the court finds that the parties demonstrate a pattern of continuing high conflict, or if the court otherwise determines the appointment is in the best interest of the child or children. The parenting coordinator may be appointed at any stage of the proceeding to assist parents in developing and/or implementing a parenting plan.

III. The order of appointment shall specify the duration of appointment, to be a specific number of hours or a period of time that is one year or less.

IV. If both parents agree to the appointment of a parenting coordinator, reasons the court may choose to order a parenting coordinator include, but are not limited to:

- (a) An issue or issues appear to be intractable or have been subject to re-occurring litigation.
- (b) The well-being of a minor child is placed at risk by the parents' inability to co-parent civilly.
- (c) There is a finding of domestic violence.
- (d) One or both parents are chemically dependent or mentally ill.

V. Even if both parents agree to the appointment of a parenting coordinator, reasons the court may choose not to order a parenting coordinator include, but are not limited to:

- (a) A showing of undue hardship to a party.
- (b) An agreement between the parties for alternate dispute resolution.
- (c) A qualified parenting coordinator is not available within a reasonable period of time.

VI. The role of the parenting coordinator in a particular case shall be specified in the appointment order. The role of the parenting coordinator is to promote the best interests of the child or children by assisting the parents to implement any part of the parenting plan or other duties as designated by the court including:

- (a) Educating the parents about effective communication and their child's needs.
- (b) Facilitating resolution of ongoing disagreements on the following issues:
- (1) Minor alterations in parenting schedule which do not alter the basic time share allocation.
- (2) Childcare arrangements.
- (3) Parenting exchanges and transportation responsibility.
- (4) Medical, dental, and vision care.
- (5) Psychological counseling and related arrangements for the children.
- (6) Education, including but not limited to, school choice, tutoring, and participation in special education programs.
- (7) Discipline.
- (8) Manner and methods of communication between parties and each party and the child or children.
- (9) Schedule and conditions of telephone or electronic communication with the child or children.
- (10) Other issues as the parents may agree or the court may order.

(c) Co-parenting arbitration about issues such as those listed in subparagraph (b), except as provided in paragraph VII.

VII. Either parent or the parenting coordinator may seek a further order of the court to clarify or change the list of issues set out in the order.

VIII. A parenting coordinator shall not have the authority to decide:

- (a) Termination of parenting plans or court orders.
- (b) Changes in the parenting schedule other than minor alterations, as specified in subparagraph VI(b)(1).
- (c) Modification of parenting plans other than the issues listed in paragraph VI.
- (d) The need for supervised visitation by either parent.
- (e) Relocation of the residence of children.
- (f) Formal or informal religious training.
- (g) Legal residence of a child for school attendance.
- (h) The need for psychological or psychiatric treatment for either parent.

IX. After a decision by the parenting coordinator, either party may, by motion, submit the disputed issue for de novo hearing by the court. The decision of the parenting coordinator shall remain in effect until the court enters an order.

X. The parenting coordinator shall not have the authority to release, privilege information, including school records, physicians, mental health providers, guardians ad litem, other professionals involved with the family and related court records.

XI. The fee for the parenting coordinator shall be the responsibility of the parents in the proportion ordered by the court. The court shall determine the ability of parents to pay by evidence of the financial affidavit as filed. The parties shall sign an agreement with the parenting coordinator as to the fee, hourly rate, and deposit if any.

XII. A parenting coordinator shall submit a written report to the court and to the parties on decisions and recommendations as often as ordered by the court. In the report, the parenting coordinator may give an opinion regarding whether the parenting coordination is succeeding and should continue. Parties may file an objection to the report with the court within 10 days.

XIII. The court shall remove the parenting coordinator:

- (a) On the request and agreement of both parties; or
- (b) On the motion of a party or by court order, if good cause is shown, or
- (c) By request of the parenting coordinator.

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

This bill establishes a procedure for appointing parenting coordinators in family law cases.

AMENDED ANALYSIS

2005-0074h

Amendment to HB 317-PV
Proposed by the Committee on Resources, Recreation and Development - R

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

AN ACT relative to mooring fees.

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

1 Mooring of Boats on Public Waters; Annual Mooring Fee. Amend RSA 270:62, V to read as follows:

V. **A fee of \$125 shall be charged for each initial decal issued pursuant to this subdivision which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.** An annual mooring fee of ~~(646)~~ \$50 shall be charged for each decal ~~(renewed)~~ renewed pursuant to this subdivision which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

2 Effective Date. This act shall take effect January 1, 2007.

This bill increases mooring fees.

AMENDED ANALYSIS

2006-0225h

Amendment to HB 325
Proposed by the Committee on Children and Family Law - C

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

AN ACT relative to proceedings under the Child Protection Act.

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

1 Filing Reports, Evaluations, and Other Records. Amend RSA 169-C:12-b to read as follows:

169-C:12-b Filing Reports, Evaluations, and Other Records. All reports, evaluations, and other records from the department of health and human services, counselors, and guardians ad litem in proceedings under this chapter shall be filed with the court and all other parties at least 5 business days prior to any hearing. **Any reports, evaluations, or other records filed after this deadline shall be inadmissible as evidence in such hearing.** Once filed with the court and given to all other parties, the report, evaluation, or other record need not be refiled during the proceeding. Failure to comply with the provisions of this section shall not be grounds for dismissal of the petition.

2 New Sections: Medical Examinations of Child; Department Interviews With Child. Amend RSA 169-C by inserting after section 12-b the following new section:

169-C:12-c Medical Examinations of Child. Parents who are the subject of an abuse or neglect petition not involving sexual abuse shall be entitled to request a medical examination of each child involved by a physician of the parents' choice at the parents' expense. If timeliness of an examination to verify or dispute an injury is an issue for trial, the department shall cooperate by promptly delivering the child for the requested medical examination with or without court order.

169-C:12-d Department Interviews With Child. Any interview of a child conducted by the department or its contractors, other than caregivers or therapeutic counseling, pursuant to this chapter shall be videotaped or audio recorded. If the interview is videotaped, it shall be videotaped in its entirety. If the interview cannot be videotaped in its entirety, an audio recording of the entire interview shall be made.

3 Effective Date. This act shall take effect January 1, 2007.

AMENDED ANALYSIS

This bill changes the filing deadlines for certain reports and records to 5 business days prior to a child abuse or neglect hearing. The bill establishes certain requirements for medical examinations of children who are alleged to have been abused or neglected. This bill also requires interviews of children who may be victims of child abuse or neglect to be videotaped or audio recorded in their entirety.

2006-00408

Amendment to HB 331
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 restraining dogs and relative to livestock working dogs.

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

1 Dog Control Law; Working Livestock Dogs Exempt. Amend RSA 469:30-a, 1 to read as follows:

1. Notwithstanding any other provisions of this chapter, it shall be unlawful for any dog to run at large, except when accompanied by the owner or custodian, and when used for hunting, *for guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4), for supervised competition and exhibition, or for training* for such. For the purpose of this section, "accompaniee" means that the owner or custodian must be able to see or hear, or both, or have reasonable knowledge of where the dog is hunting, ~~[breeding]~~ where training is being conducted ~~[or]~~ where trials are being held, *or where the dog is guarding, working, or herding livestock.* Nothing herein provided shall mean that the dog must be within sight at all times.

2 Working Livestock Dogs and Dogs at Home not a Menace. Amend RSA 469:31, II(a)(4) to read as follows:

- (a) If a dog is "at large," which means it is off the premises of the owner or keeper and not under the control of any person by means of personal presence and attention as will reasonably control the conduct of such dog, unless accompanied by the owner or custodian. This subparagraph shall not include a dog which is being used for hunting, ~~[breeding]~~ supervised competition, ~~[or]~~ exhibition, or training for such activities if accompanied by the owner or custodian, *or a dog which is guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4),* meaning that the owner or custodian must be able to see or hear the dog, or have reasonable knowledge of where the dog is hunting or herding, or where training is being conducted or where trials are being held, provided that such dog does not have to be within sight at all time;
- (b) If it barks for sustained periods of more than 1/2 hour, or during the night hours so as to disturb the peace and quiet of a neighborhood or area, *not including a dog which is guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4);*
- (c) If it digs, scratches, or excretes or causes waste or garbage to be scattered on property other than its owner's;
- (d) If any female dog in season (heat) is permitted to run at large or be off the premises of the owner or keeper during this period except when being exercised on a leash by a responsible adult. At all other times such dog shall be confined within a building or enclosure in such manner that she will not come in contact (except for intentional breeding purposes) with a male dog. A female dog in heat shall not be used for hunting;
- (e) If it growls, snaps at, runs after, or chases any person or persons *not on the premises of the owner or keeper.*

3 Dogs at Large; Working Livestock Dogs Exempt. Amend RSA 469:31 to read as follows:

469:33 Dogs at Large. It shall be unlawful for the owner or custodian of any dog to permit such dog to run at large in territory inhabited by game birds or quadrupeds, or on lands where livestock is pastured, at any time of the year; provided that hares and rabbits may be hunted with dogs during the open season ~~[breeding]~~ under the owner's control and supervision. Any organized club may hold a club licensed or sanctioned field trial on game which is otherwise protected. Said club shall secure permission from the owner of the land on which said trial is to be held, and shall notify the executive director of the fish and game department at least 2 weeks in advance of the date and place of the trial. Whoever violates the provisions of this section shall be guilty of a violation. *Dogs which are guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4), shall be exempt from this section.*

4 Livestock Working Dogs; Added to Dogs Wearing Rabies Vaccination Tag. Amend RSA 436:102 to read as follows:

436:102 Duties of Veterinarian. It shall be the duty of each veterinarian, at the time of vaccinating any dog, cat, or ferret, to complete a certificate of rabies vaccination in triplicate which includes the following information: owner's name and address, description of dog, cat, or ferret (breed, sex, markings, age, name), date of vaccination, rabies vaccination tag number, type of rabies vaccine administered, manufacturer's serial number of vaccine, and the expiration date of the vaccination.

Distribution of copies of the certificate shall be: the original to the owner, one copy retained by the issuing veterinarian and, within 40 days of the vaccination, one copy to the town or city clerk where the dog, cat, or ferret is kept. The veterinarian and the owner shall retain their copies for the interval between vaccinations specified in RSA 436:100. A metal or durable plastic tag, serially numbered, shall be securely attached to the collar or harness of the dog. Whenever the dog is out-of-doors, off the owner's premises, and not under the control of the owner or handler while working the dog, the collar or harness with the vaccination tag shall be worn. For the purposes of this section, "working the dog" means a dog doing a defined functional canine activity with its owner or handler such as hunting, field work, drafting, and *guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4),* or participating in any lawful competitive event, including, but not limited to, conformation shows or obedience trials, field trials, agility events, hunts, sled races, or training activities pertinent to functional canine activities. Cats and ferrets shall not be required to wear the collar or harness with the tag.

5 New Subparagraph; Definition of Farming; Livestock Working Dogs Added. Amend RSA 21:34-a, II(b) by inserting after subparagraph (6) the following new subparagraph:

(7) The use of dogs for herding, working, or guarding livestock, as defined in RSA 21:34-a, II(a)(4).

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

This bill adds dogs who are guarding, working, or herding livestock to:

- I. Dogs that must be accompanied by an owner or custodian.
- II. The exceptions from dogs at large.
- III. The requirements for wearing a rabies vaccination tag.
- IV. The definition of "farming."

2006-01798

Amendment to HB 334
Proposed by the Committee on Judiciary - C

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

AN ACT relative to the type of notice provided in court proceedings.

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

1 Notices; Due Process of Law Standard. Amend RSA 514:14 to read as follows:

514:14 Notices. The court shall order notice to be given, in such manner as ~~[they think fit]~~ appears to the court due process of law requires, of any petition, complaint, libel, application, or motion in writing filed therein, and no judgment ~~[or]~~ decrees, *or ruling* shall be rendered thereon ~~[without]~~ absent compliance with such order.

2 Effective Date. This act shall take effect January 1, 2007.

This bill requires the court to give notice about certain proceedings in such manner as it appears to the court that due process of law requires.

2006-02358

Amendment to HB 343
Proposed by the Majority of the Committee on Election Law - R

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

1 Obtaining a Ballot; Identification Required. Amend RSA 659:13 to read as follows:

659:13 Obtaining a Ballot.

I. A person desiring to vote shall, before being admitted to the enclosed space within the guardrail, announce his or her name to one of the ballot clerks who shall thereupon repeat the name; and, if the name is found on the checklist by the ballot clerk, the ballot clerk shall put a checkmark beside it and again repeat the name. The ballot clerk shall state the address listed on the checklist for the voter, and ask if the address is correct; if the address on the checklist is not correct, the ballot clerk shall correct the address in red on the checklist. *The ballot clerk shall then require the person desiring to vote to furnish a state or federal government-issued identification meeting the requirements of the federal Real ID Act of 2005, Public Law 109-13 to verify the person's identity or, if the person states that he or she has not been issued a valid form of such identification, a voter identification affidavit pursuant to paragraph II.* The voter, if still qualified to vote in the election, shall be challenged as provided in RSA 659:27-33, *or unless failing to present the required identification, shall then be allowed to enter the space enclosed by the guardrail.* After the voter enters the enclosed space, the ballot clerk shall give the voter one of each ballot to be voted on in that election which shall be folded as it was upon receipt from the secretary of state.

II. *In any instance where a voter states to a ballot clerk that he or she has not been issued a valid state or federal government-issued identification meeting the requirements of the federal Real ID Act of 2005, Public Law 109-13, then as a substitute for such identification the voter shall be permitted to submit an affidavit, certified by the ballot clerk, in the following form:*

Voter Identification Affidavit

1. My name is _____, I reside at _____.

2. I have not been issued an identification card by a state or federal government that sets forth my name, birth date, sex, identification number, digital photograph, and address and is in effect as of the date of this affidavit.

3. This affidavit is dated _____.

I acknowledge that I have read and understand the above and do hereby swear, under the penalties for voting fraud, that all of the above is complete and accurate.

Signature

2 Effective Date. This act shall take effect November 1, 2007.

2006-02368

Amendment to HB 347
Proposed by the Majority of the Committee on Election Law - R

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

AN ACT relative to indicating citizenship on drivers' licenses and nondrivers' identification cards.

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

1 Identification Cards; Citizenship. Amend RSA 260:21, I-III to read as follows:

II. The department shall, before issuing a card to an applicant, require the applicant to furnish proof of his or her name, sex, age, citizenship, and address of residence.

III. The identification card shall bear the name, address, ~~[owner's name]~~ identification number, date of birth, blood type (optional), picture, and signature of the applicant, *an indication of whether or not the applicant is a United States citizen,* and in the case of a card issued pursuant to RSA 260:21, I(c), said card shall bear the notation "Golden Granite State Discount Card."

2 New Section; Issuance of Drivers' Licenses; Evidence of Citizenship. Amend RSA 260:21, I-III to read as follows:

260:21 Evidence of Citizenship. Before the department issues any license to any person under this chapter, the department shall have on file evidence of the person's citizenship.

3 Drivers' Licenses; Form of License. Amend RSA 260:30 to read as follows:

260:30 Form of License. The commissioner shall, upon payment of the required fee, issue to every applicant a driver's license subject to such conditions as the commissioner may deem expedient and in such form as the commissioner may prescribe. The license shall bear thereon a distinguishing number assigned to the licensee, *an indication of whether or not the licensee is a United States citizen,* and an instant full-face color photograph, image, or likeness of the licensee. There shall also be provided a space wherein the licensee may enter his or her blood type if ~~[he]~~ the licensee so desires.

4 Commercial Driver License; Information Included. Amend RSA 260:31, I(a)-(g) to read as follows:

- (a) The name of this state; ~~[and]~~
- (b) The expiration date; *and*
- (c) *Whether or not the licensee is a United States citizen.*

5 Contingency. If HB 345 of the 2006 regular session becomes law, sections 1-4 of this act shall take effect 60 days after its passage. If HB 345 of the 2006 regular session does not become law, sections 1-4 of this act shall not take effect.

- 6 Effective Date.
1. Sections 1-4 of this act shall take effect as provided in section 5 of this act.
- II. The remainder of this act shall take effect upon its passage.

This bill requires that drivers' licenses and nondrivers' identification cards indicate whether the holder is a United States citizen.

2006-00278

Amendment to HB 349
Proposed by the Committee on Election Law - C

Amend the bill by replacing section 1 with the following:

1 Placement and Removal of Political Advertising. Amend RSA 664:17 to read as follows:

664:17 Placement and Removal of Political Advertising. No political advertising shall be placed on or affixed to any public property including highway rights-of-way or private property without the owner's consent. ~~[The earliest date on which political advertising may be placed or affixed shall be the last Friday in July prior to a state primary. All political advertising shall be removed by the candidate no later than the second Friday following the election unless the election is a primary and the candidate is the winner of the election. Signs shall not be placed on utility poles or at highway points of entry. Political advertising may be placed within state-owned rights-of-way as long as the advertising does not obstruct the safe flow of traffic and the advertising is placed with the consent of the owner of the land over which the right-of-way passes. No person shall remove, deface, or knowingly destroy any political advertising which is placed on or affixed to any private property except the owner of the property or a law enforcement officer removing improper advertising; provided, however, that, before a law enforcement officer removes any advertisement, he shall notify the candidate that it is improper, and allow the candidate 24 hours to remove the advertisement himself. Political advertising placed on or affixed to any public property may be removed by state, city, or town maintenance or law enforcement personnel. Political advertising removed prior to election day by state, city, or town maintenance or law enforcement personnel shall be kept for one week at a place designated by the state, city, or town so that the candidate may retrieve the items.~~

- AMENDED ANALYSIS
- This bill:
- I. Establishes procedures for the removal of political advertising placed on public property.
 - II. Eliminates the requirement that law enforcement provide 24-hour notice to a candidate before removing political advertising improperly placed on private property.
 - III. Eliminates the date requirements for placement of political advertising.
 - IV. Permits the placement of political advertising in state-owned rights-of-way under certain circumstances.

2006-00598

Amendment to HB 380
Proposed by the Committee on Election Law - R

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Absentee Voting; Special Assistance to Emergency Services Workers. Amend RSA 657 by inserting after section 21 the following new subdivision:

Special Assistance to Emergency Services Workers

657:21-a Special Assistance to Emergency Services Workers.

1. If an emergency services worker receives notice after noon on the Friday before any state election that he or she is being called into service under circumstances that will prevent that person from obtaining an absentee ballot before leaving and from voting in person at the polls on election day, upon notification that such a call-out has occurred, the secretary of state with assistance from the attorney general and the department of safety shall make every reasonable effort to cause absentee ballot request forms, absentee ballots, absentee affidavits, and any other materials necessary to vote to be transported to the emergency services workers and to be returned to town or city clerk of each voter's town or ward.

II. For the purposes of this section, "emergency services worker" shall include law enforcement, emergency medical services personnel, firefighters, members of the New Hampshire national guard, utility workers, employees or volunteers for the American Red Cross, and any other emergency worker declared such by the bureau of emergency management in the division of emergency services, communications, and management, department of safety.

III. For the purposes of this section "every reasonable effort" includes, but is not limited to:

- (a) Employing local, county, or state law enforcement to transport ballots, affidavits, and other necessary materials to and from the site in New Hampshire where emergency services are temporarily housed, staged, or deployed for an in-state emergency.
- (b) Causing ballots, affidavits, and other necessary materials to be transported by the United States mail or commercial overnight courier to and from an out-of-state site where emergency services workers are temporarily housed, staged, or deployed for an out-of-state emergency.

IV. For the purposes of this section "circumstances that will prevent that person from voting in person at the polls on election day" shall include deployment to any disaster that has been declared by the President of the United States or the governor of New Hampshire.

V. Notwithstanding any provision of the law to the contrary, any ballot returned to a polling place pursuant to this section which arrives before the polls are closed shall be processed according to law and if found otherwise in conformance with law shall be counted.

VI. If, in the judgment of the secretary of state, time does not permit obtaining and transporting the ballot for each emergency worker for the purpose of this section.

VII. The secretary of state, in cooperation with the department of safety and the attorney general, shall develop procedures for implementing this section. The procedures shall include publication of an emergency telephone number available 24 hours during the period covered by this section, to allow after-hours and weekend notification to the secretary of state that his section is being invoked. Suitable information on the availability of this section shall be made available to persons covered by this section.

VIII. The public agency or employer of emergency services workers responsible for making call-outs subject to the provisions of this section shall provide the secretary of state with the name and domicile address of each person called out and an address where an absentee ballot may be delivered on the Saturday, Sunday, or Monday prior to the election at the site of the emergency.

IX. If the costs of executing this section at any election exceed \$500, the secretary of state shall certify the same to the state treasurer, and prepare a manifest to authorize the state treasurer to make payments from funds not otherwise appropriated. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill establishes special absentee voting procedures for emergency services workers who are unable to vote in person because they have been deployed to a disaster.

2006-00588

Amendment to HB 385
Proposed by the Committee on Criminal Justice and Public Safety - C

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

AN ACT establishing a committee to study the adequacy of current substance abuse treatment available in the state prison system.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study the adequacy of current substance abuse treatment available in the state prison system.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall evaluate the adequacy of current substance abuse treatment available in the state prison system.

Amend the bill by replacing section 5 with the following:

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, 2006.
AMENDED ANALYSIS

This bill establishes a committee to study the adequacy of current substance abuse

2006-0208h

Amendment to HB 391
Proposed by the Committee on Election Law - R

Amend the title of the bill by replacing it with the following:
AN ACT relative to election affidavits.

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

- 1 Right to Know Exemption. Amend RSA 654:31-a to read as follows:
654:31-a Right to Know Exemption. The information contained on the checklist of a town or city, specifically, the name, street address, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, and application for absentee ballot shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. **Citizenship and domicile affidavits are public records subject to RSA 91-A.** Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, ***citizenship and domicile affidavits***, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution.
 - 2 Affidavit. Amend RSA 659:30 to read as follows:
659:30 Affidavit. The affidavit of a challenged voter, a voter citizenship affidavit, a voter domicile affidavit, or any other affidavit required by the election statutes may be sworn before ~~any person authorized by law to administer oaths or before~~ any election officer.
 - 3 Preservation of Voting Materials. Amend RSA 659:101 to read as follows:
659:101 Preservation of Absentee Voting Materials, Election Day Affidavits, and Domicile Affidavits. The affidavit envelopes and application forms processed by the moderator as provided in RSA 659:50, and the citizenship affidavits and domicile affidavits as provided in RSA 654:12 and any other documentary proof of qualifications retained by the town or city clerk, the supervisors of the checklist, or other election official may be preserved in the same manner that ballots are preserved, ~~and~~
- Citizenship, voter registration, and domicile affidavits shall be retained for 3 years after the election in which they are used, and other materials may be destroyed one year after the first state general election at which the individual may vote.***
- 4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill makes citizenship and domicile affidavits public records subject to RSA 91-A and modifies requirements for their execution and preservation.

2006-0121h

Amendment to HB 397
Proposed by the Committee on Children and Family Law - C

Amend the bill by inserting after section 1 the following and renumbering the original sections 2-3 to read as 3-4, respectively:

2 Emergency Interim Relief Petition Filed by Department of Health and Human Services. Amend RSA 169-C:6-a, IV to read as follows:

IV. If the court issues on parte orders, the department ~~or law enforcement officer~~ shall file a petition meeting the requirements of RSA 169-C:7 within 72 hours of the issuance of the orders, excluding Sundays and holidays.

Amend the bill by replacing section 4 with the following:

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

2006-0182h

Amendment to HB 410
Proposed by the Committee on Municipal and County Government - C

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

1 Property Tax Credit, Exemption, or Deferral Application; Confidentiality. Amend RSA 72:34, II to read as follows:

- II. For those exemptions having income or asset limitations, the assessing officials may request true copies of any ~~of the following~~ documents as needed to verify eligibility. ~~[Any documents submitted shall be considered confidential, handled so as to protect the privacy of the applicant, and returned to the applicant at the time a decision is made on the application. The documents are:~~
 - a) Federal income tax forms;
 - b) State interest and dividend tax forms; and
 - c) Property tax investment forms filed in any other form.

~~RSA 340-C shall not apply to the documents requested for verification under this section.] Unless otherwise provided for by law, all documents submitted with an application or as requested, as provided for in paragraphs I and II, and any copies shall be considered confidential, handled so as to protect the privacy of the individual and not used for any purpose other than the specific statutory purposes for which the information was originally obtained. All documents and copies of such documents submitted by the applicant shall be returned to the applicant after a decision is made on the application.~~

AMENDED ANALYSIS

This bill requires that all documents and copies of documents submitted with or requested to verify an application for a property tax credit, exemption, or deferral be considered confidential and returned to the applicant after a decision is made on the application.

2005-1929h

Amendment to HB 413
Proposed by the Committee on Judiciary - C

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

AN ACT relative to the appointment of the chief justice of the superior court and the number of superior court associate justices.

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

1 Superior Court. Contingency Appointment of Chief Justice; Contingency. Amend 2004, 741-2 to read as follows:

741 Superior Court; Appointment of Chief Justice. Amend RSA 491:1 to read as follows:

491:1 Justices. The superior court shall consist of a chief justice, appointed by the governor and council to a 5-year term, and 28 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided. ***The chief justice shall be appointed from among the associate justices. In the event that the chief justice resigns as chief justice or is not reappointed at the expiration of the 5-year term at a time when no associate justice vacancies exist, he or she may return to the position of associate justice.***

742 Contingency. Section 1 of this act shall take effect upon the date the next vacancy occurs in the position of superior court chief justice, ***provided that 2004, 240-4 has not taken effect.***

2 Superior Court Justices; Applicability; Contingency. Amend 2004, 240-4-5 to read as follows:

240-4 Superior Court Justices. Amend RSA 491:1 to read as follows:

491:1 Justices. The superior court shall consist of a chief justice ~~appointed by the governor and council to a 5-year term~~ and 21 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided.

240-5 Applicability; Contingency. Any superior court justice appointed prior to July 1, 2004 shall retain his or her position until resignation, retirement, or removal pursuant to the New Hampshire constitution. As vacancies occur in superior court justice positions, the vacancies shall remain unfilled until the number of superior court justices is reduced to 22. Section 4 of this act shall take effect on the date on which the number of superior court justices is reduced from 23 to 22, ***provided that 2004, 741 has not taken effect.***

3 Superior Court Justices. RSA 491:1 is repealed and reenacted to read as follows:

491:1 Justices. The superior court shall consist of a chief justice, appointed by the governor and council to a 5-year term, and 21 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided. The chief justice shall be appointed from among the associate justices. In the event that the chief justice resigns as chief justice or is not reappointed at the expiration of the 5-year term at a time when no associate justice vacancies exist, he or she may return to the position of associate justice.

4 Contingency. Section 3 of this act shall take effect upon the date the next vacancy occurs in the position of superior court chief justice or the date on which the number of superior court justices is reduced from 23 to 22, whichever occurs later.

- 5 Effective Date.
 1. Section 3 of this act shall take effect as provided in section 6 of this act.
 - II. The remainder of this act shall take effect upon passage.

AMENDED ANALYSIS

This bill establishes that the chief justice shall be appointed from among the associate justices of the superior court and may return to the position of associate justice upon resignation or the expiration of his or her term.

The bill also clarifies that the number of superior court associate justices is to be reduced to 21.

2005-2125h

Amendment to HB 459
Proposed by the Committee on Criminal Justice and Public Safety - C

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

AN ACT relative to access to criminal records and enhanced 911 system records.

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

2 Confidentiality of Enhanced 911 System Information and Records. Amend RSA 106-H:14 to read as follows:

106-H:14 Information not Subject to Right-to-Know Law. Any information or records compiled under this chapter shall not be considered a public record for the purposes of RSA 91-A. ***Notwithstanding any provision of law to the contrary, the bureau shall only make information or records compiled under this chapter available to a law enforcement agency that requires the information or records for investigative purposes.***

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

AMENDED ANALYSIS

This bill clarifies that law enforcement personnel have access to criminal justice data for proper investigative purposes. The bill allows access to criminal justice information by persons who maintain the state criminal justice information databases.

2006-0116h

Amendment to HB 485
Proposed by the Minority of the Committee on Children and Family Law - R

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

AN ACT relative to parental rights and responsibilities and visitation rights of grandparents and stepparents.

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

1 Determination of Parental Rights and Responsibilities; Best Interest Visitation Privilege Grandparents and Stepparents. Amend RSA 461-A:6, V to read as follows:

V. If the court determines that it is in the best interest of the children, it shall in its decree grant reasonable visitation privileges to a party who is a stepparent of the children or to the grandparents of the children pursuant to RSA 461-A:13. ~~[Nothing in this paragraph shall be construed to prohibit or require an award of parental rights and responsibilities to a stepparent or grandparent if the court determines that such an award is in the best interest of the child]~~

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

AMENDED ANALYSIS

This bill removes a reference to the court's authority to award parental rights and responsibilities to a stepparent or grandparent. The court's authority to grant visitation privileges to stepparents and grandparents remains unchanged in RSA 461-A:6, V, and grandparents' visitation rights are specifically addressed in RSA 461-A:13.

2006-0200h

Amendment to HB 489-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 Disclosure to Respective Boards; Ownership Interest. RSA 125:25-c is repealed and reenacted to read as follows:

125:25-a Disclosure to the Licensing Authority.

1. Notwithstanding any other section of the law, any health care practitioner who has an ownership interest in an entity which provides diagnostic or therapeutic services shall disclose such interest to the appropriate licensing authority regardless of whether any referrals are provided to the health care practitioner's entity or any other entity. In the disclosure to the appropriate licensing authority, the health care practitioner shall list all diagnostic and therapeutic services provided by any entity in which the health care practitioner has an ownership interest. Disclosure of ownership, as well as the percentage of ownership interest in each entity or entities, shall be made upon application for and renewal of the health care practitioner's license, on the application and renewal form.

II. An entity which provides diagnostic and therapeutic services shall include services provided by an entity within a hospital, but which is not owned by the hospital.

III. This section shall not apply to in-office ancillary services.

IV. Failure to report such ownership interest may result in the suspension of one's professional license or registration. Any applicant who falsifies disclosure information shall be subject to penalty.

2 Repeal. RSA 125:15-a, VIII, relative to rulemaking for certain disclosures, is repealed.

3 Effective Date. This act shall take effect July 1, 2006.

AMENDED ANALYSIS

This bill requires a health care practitioner to report an ownership interest in certain health care facilities and businesses to their respective licensing boards instead of the department of health and human services.

2006-0207h

Amendment to HB 501
Proposed by the Committee on Election Law - R

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

AN ACT relative to citizenship and domicile affidavits.

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

1 New Paragraph. Voter Registration: Determining Qualifications of Applicant; Affidavits. Amend RSA 654:12 by inserting after paragraph II the following new paragraph:

III. All information establishing the qualification of the affiant to vote that is provided in a citizenship affidavit or a domicile affidavit presented under this section must be accurate for the resulting vote to be valid.

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

AMENDED ANALYSIS

This bill declares that information provided in a citizenship or domicile affidavit must be accurate for the resulting vote to be valid.

2005-0565h

Amendment to HB 506
Proposed by the Committee on Labor, Industrial and Rehabilitative Services - R

Amend RSA 354-A:2, VII as inserted by section 1 of the bill by replacing it with the following:

VII. "Employer" does not include a club exclusively social, or a fraternal or religious association or corporation, if such club, association, or corporation is not organized for private profit, as evidenced by declarations filed with the Internal Revenue Service, nor does it include any employer with fewer than 6 persons in its employ, but shall include the state and all political subdivisions, boards, departments, and commissions thereof.

2006-0099h

Amendment to HB 515
Proposed by the Majority of the Committee on Commerce - R

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

AN ACT relative to purchasing alliances.

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

1 New Chapter; Purchasing Alliances. Amend RSA by inserting after chapter 420-K the following new chapter:

CHAPTER 420-L
PURCHASING ALLIANCES

420-L:1 Purpose. The purpose of this chapter is to:

- I. Increase the affordability, efficiency, and fairness of health insurance coverage for employers by setting standards for the licensure and oversight of purchasing alliances through which employers and their employees may purchase health coverage.
- II. Allow employers and their employees to obtain better value in purchasing health insurance by consolidating purchasing responsibilities and resources, thereby increasing purchasing expertise and reducing the administrative cost of health plan contracting, enrollment, premium collection, and payment for multiple employers.
- III. Foster competition based on value.

420-L:2 Definitions. In this chapter:

- I. "Commissioner" means the insurance commissioner.
- II. "Eligible dependent" means "eligible dependent" as defined in RSA 420-G:2, V.
- III. "Eligible employee" means "eligible employee" as defined in RSA 420-G:2, VI.
- IV. "Employee enrollee" means an eligible employee, self-employed individual or an eligible dependent of an eligible employee who is enrolled in a health benefit plan offered through an alliance by a participating carrier.
- V. "Health benefit plan" means "health coverage" as defined in RSA 420-G:2, IX.
- VI. "Health carrier" means "health carrier" as defined in RSA 420-G:2, VIII.
- VII. "Member employer" means an employer who enrolls in an alliance.
- VIII. "Participating carrier" means a carrier that contracts with the alliance.
- IX. "Purchasing alliance" means a non-risk bearing corporation or other entity licensed pursuant to RSA 420-G:10-a that provides health insurance coverage to member employers and their employees.
- X. "Qualified purchasing alliance" means a purchasing alliance that has obtained certification from the commissioner under Alliance RSA 420-L:13 as a qualified purchasing alliance with authority to operate in the same manner as a qualified association trust pursuant to RSA 420-G:10.
- XI. "Small employer" means "small employer" as defined in RSA 420-G:2, XVI.

420-L:3 Jurisdiction of the Commissioner; Penalties.

- I. The commissioner shall regulate the establishment and conduct of purchasing alliances.
- II. No person or entity, other than a qualified association trust, shall market, sell, offer, or arrange the sale of one or more health benefit plans to 2 or more employers or their eligible employees without first being licensed by the commissioner pursuant to this chapter.
- III. A person or entity, not licensed by the commissioner as a purchasing alliance and engaged in the purchase, sale, marketing, or distribution of health insurance or health care benefit plans shall not hold itself out as a health insurance purchasing alliance, health insurance purchasing cooperative, or a health insurance purchasing association.
- IV. 420-L:4 Purchasing Alliance Application and Licensing. To obtain authority to operate as a purchasing alliance, an application shall be completed and filed with the commissioner by an authorized representative of the corporation or other entity established to operate as a purchasing alliance. An application shall not be deemed filed until all information necessary to properly process the application has been received by the commissioner. Upon filing, the commissioner shall make a determination concerning the application and shall provide notice of the determination to the applicant. If approved, a copy of a license shall be provided to the purchasing alliance. The license shall serve as authorization to operate pursuant to this chapter.

420-L:5 Preparation of a Business Plan and Other Required Documents.

- I. The application for a purchasing alliance shall include a business plan containing the following information:
 - (a) A detailed, written plan of operations explaining how the applicant intends to fulfill the purposes and requirements of this chapter;
 - (b) The specific steps that the alliance will use to increase affordability, efficiency, and fairness of health insurance coverage;
 - (c) The specific steps that the alliance will use to allow employers and their employees to obtain better value in purchasing health insurance;
 - (d) The scope of services to be offered and the resources and expertise to be used to implement and administer those services;
 - (e) A provision requiring that any coverage procured by the alliance shall require that the members directly by the insurer of cancellation due to nonpayment of premium;
 - (f) The personal biographical information and descriptions of the officers of the alliance;
 - (g) A written statement demonstrating that those involved in the operation of the alliance have the expertise and experience to effectively and professionally represent employers and their eligible employees; and
 - (h) An affirmative demonstration that financial controls are in place as a condition of licensure.
- II. In addition to the business plan, each applicant shall file with the commissioner the following information or documents:
 - (a) A plan that affirmatively demonstrates that the alliance has the technical expertise and capacity to serve a specific group of employers and their eligible employees;
 - (b) A plan that demonstrates that the alliance has the technical capacity to provide service quality;
 - (c) The applicant's articles of incorporation, bylaws or other formation and business operation documents;
 - (d) A list of officers and directors of the applicant and the contract administrator, if one is employed, and personal biographical information or firm descriptions for each;
 - (e) Evidence of security and prudence in the accounting, banking, deposit, collection, handling, and transfer of money; and
 - (f) A description of the service area in which the alliance will be marketing and offering services.
- III. Material changes in the operations or the business plan shall not take effect without approval from the commissioner.
- IV. The commissioner shall conduct financial and performance audits or examinations of an alliance on a regular basis. The commissioner shall require audited financial statements from an alliance. The costs of examinations or audits shall be paid by the alliance.
- V. A purchasing alliance shall submit an annual report no later than April 1 of each year that includes quarterly financial statements that show:
 - (a) The alliance is operating in a sound financial fashion;
 - (b) The alliance is not a risk-bearing entity; and
 - (c) The alliance is utilizing sound financial controls and money management.

420-L:6 Revocation of License and Insolvency.

- I. The following intentional acts shall constitute grounds for denial, non-renewal, suspension or revocation of an application or existing license, following notice and an opportunity for hearing:
 - (a) Failure to comply with the provisions of RSA 420-G;
 - (b) Failure to comply with the business plan filed and approved by the commissioner;
 - (c) Failure to maintain adequate financial controls;
 - (d) Failure to extend alliance health benefit plan coverage to eligible employees;
 - (e) Failure to comply with a lawful order of the commissioner;
 - (f) Engaging in an unfair or deceptive act or practice;
 - (g) Filing any necessary form, including the application form, with the commissioner that contains false or materially incorrect information or omissions; or
 - (h) Misappropriation, conversion, illegal withholding, or refusal to pay over upon proper demand any moneys that belong to a person or participating carrier and that have been entrusted to the alliance in its fiduciary capacity.
- II. The commissioner shall require the removal and replacement of managerial or marketing staff or third party contractors if necessary to remedy compliance or performance problems.
- III. In the event the alliance becomes insolvent, the commissioner shall place the alliance in receivership if necessary to protect the interests of alliance enrollees.

420-L:7 Powers and Duties of Purchasing Alliances; Restrictions on Purchasing Alliances.

- I. A purchasing alliance shall:
 - (a) Offer health benefit plans that are available to all member employers;
 - (b) Establish administrative and accounting procedures for operating the alliance, for providing services to member employers and enrollees, and for preparing an annual budget;
 - (c) Develop standard enrollment procedures for enrolling employers and their eligible employees and dependents;
 - (d) Establish procedures for open enrollment periods;
 - (e) Establish conditions of participation for small employers that conform to the requirements of RSA 420-G and include, but are not limited to, the following:
 - (1) Assurances that the member employer is an employer group and is not formed for the purpose of securing health benefits coverage.
 - (2) Prepayment of premiums or other mechanisms to assure that payment will be made for coverage.
 - (f) Establish membership criteria that allow any employer to participate in the alliance or that limit participation to employers that are members of or affiliated with an association, trade group, or other entity that has been in existence for at least 10 years and was established and maintained for purposes other than the provision of health coverage;
 - (g) Provide that each eligible employee is permitted to enroll in any health benefit plan offered by any participating carrier so long as the health benefit plan provides coverage where he or she works or lives;
 - (h) Establish conditions of participation for participating carriers;
 - (i) Develop and make available a list of objective criteria that shall be met by a participating carrier offering coverage to alliance members;
 - (j) Establish conditions of participation for agents or brokers;
 - (k) Provide to alliance members clear, standardized information on the health benefit plan including information on:
 - (1) Prices;
 - (2) Benefits;
 - (3) Enrollee costs;
 - (4) Quality;
 - (5) Patient satisfaction;
 - (6) Enrollment; and
 - (7) Grievance procedures and rights and responsibilities;
 - (l) Transmit enrollment and eligibility information to participating carriers on a timely basis;
 - (m) Specify in contracts with participating carriers how all premiums shall be transmitted and the frequency of that transmission and how penalties and grace periods on late payments of premiums shall be calculated;
 - (n) The alliance shall have a fiduciary duty with respect to all moneys received or owed to it to its usual payments of its obligations and a full accounting to its members and the commissioner; and
 - (o) Submit to the commissioner, quarterly financial statements, annual reports, and proposed material changes in the policy and/or operations of the business plan.
- II. A purchasing alliance may:
 - (a) Receive, review, and act on grievances against participating carriers by member employers or enrollees;
 - (b) Require participating carriers to maintain health care data;
 - (c) Maintain a trust account or accounts for deposit of all moneys received and collected for the operation of the alliance;
 - (d) Establish procedures and mechanisms for billing and collection of premiums from member employers, including collection of any share of the premium paid by employee enrollees;
 - (e) Review information and recommendations from consumers, employers, participating carriers or health care providers and other sources, and issue periodic reports or recommendations to the commissioner to improve the delivery of health services and the purchasing of health coverage;
 - (f) Develop model contracts that describe for potential contractors the requirements of the alliance and provide a copy of the contract to interested carriers;
 - (g) Place into its contracts between the alliance and member employers the following:
 - (1) A provision stating that, for administrative purposes, the alliance shall be the policyholder or contract holder of the health benefit plan on behalf of member employers, their eligible employees and eligible dependents; and
 - (2) A provision stating that the participating carrier shall issue a certificate of coverage, or equivalent document, specifying the essential features of the health benefit plan's coverage to each enrolled eligible employee;
 - (h) Undertake any activity necessary to administer the alliance, including marketing and publicizing the alliance, and assuring that participating carriers, contractors, participating employers, and enrollees are in compliance with alliance requirements;
 - (i) Establish contracts with participating carriers to provide health coverage to alliance members;
 - (j) Establish contracts with employer members;
 - (k) Contract with qualified, independent third parties for services necessary to carry out the powers and duties of the alliance;
 - (l) Appoint advisory committees, as necessary, to provide technical assistance in the operation of the program and in carrying out the purposes of this chapter;
 - (m) Assess member employers a fee for costs incurred or anticipated in connection with the operation of the alliance;
 - (n) Require as a condition of membership that employers include a minimum percentage of employees in coverage purchased through the alliance;
 - (o) Reject or alter a carrier to reject an employer or reject a member employer or drop or alter a carrier to drop a member employer if the member fails to pay premiums or engages in fraud or material misrepresentation in connection with a health benefit plan purchased through the alliance;
 - (p) Contract with licensed insurance agents or brokers to market and service coverage made available through the alliance to its members. Compensation for agents and brokers shall not vary based on the actual or expected health status or medical utilization of the group to which coverage is sold;
 - (q) Define a set of standardized requirements that the alliance shall use to purchase insurance from a carrier;
 - (r) Require that member employers and their eligible employees continue to pay administrative fees that are part of the contract with the alliance if a member employer or enrollee cancels prior to completion of a contract period or membership period established by the alliance;
 - (s) Request such information from participating carriers as is necessary to carry out the powers and duties of this chapter;
 - (t) Sue or be sued, including taking legal remedies on behalf of the alliance, member employers, member employees, or enrollees;
 - (v) Apply for loans or loan guarantees from the New Hampshire business finance authority for the purpose of funding startup costs;
 - (w) Receive and accept loans, grants, funds, or anything of value from a public or private entity including:
 - (1) Employer premiums;
 - (2) Employer participation fees;
 - (3) Employer late fees;
 - (4) Employer reinstatement fees;
 - (5) Agent and broker fees paid by the employer;
 - (6) Interest earned on accounts;
 - (7) Funds paid by the participating carriers for a pooled marketing effort;
 - (8) Public sector and private sector grants, gifts, loans, or donations; or
 - (9) Other lawful sources;
 - (x) Receive and accept contributions of property, labor, or any other thing of value;
 - (y) Expend funds to pay:
 - (1) Participating carriers under their contracts;
 - (2) Third parties for services provided under contract;
 - (3) Employer billing adjustments;
 - (4) Agent and broker fees;
 - (5) The alliance's administrative expenses; and
 - (6) All other expenditures duly authorized by the board;
 - (z) Exercise all powers reasonably necessary to carry out the powers granted and duties imposed under this chapter; and
 - (aa) Enter into all other contracts as are necessary to carry out the powers and duties of the alliance.
- III. A purchasing alliance shall not:
 - (a) Purchase health care services directly, assume risk for the cost or provision of health care services, or otherwise contract with health care providers for the provision of health care services to enrollees.
 - (b) Exclude from membership in the alliance an employer, eligible employee, or eligible dependent of an eligible employee who meets the alliance's membership criteria and who agrees to pay fees for membership and the premium for health coverage through the alliance and who abides by the bylaws and rules of the alliance.
 - (c) As a condition of membership, require an employer, eligible employee, or eligible dependent to subscribe to limited health coverage or non-health coverage related products or services.
 - (d) Engage in any act or practice that results in the selection of member employers and enrollees based on industry type, experience, gender, family status, education, health status, income, employer size, or other factors related to the risk profile of the group.
 - (e) Require or take any action inconsistent or in conflict with state laws or regulations.

420-L:8 Contracts with Participating Carriers.

- I. The contracts entered into by the alliance shall:
 - (a) Establish performance standards for specific contractual elements;
 - (b) Set liquidated damages for breach of the contract;

- (e) Require the insurer to notify the member employers of cancellation of the policy;
- (f) Require the member employers in the event of cancellation to arrange for continuation coverage for their employees to the extent provided under federal and state law; and
- (g) Contain a provision stating that if after timely receipt of the premium payment from the employer, the alliance fails to make the premium payment to the insurer, with the result that coverage is terminated, that the alliance shall be liable for benefits to the same extent as the insurer or carrier would have been liable if coverage had not been terminated.
- 420-L-9 Requirements for Participating Carriers.
- I. To qualify as a participating carrier, a carrier shall demonstrate the following characteristics:
- (a) That it is licensed and in good standing with the insurance department;
- (b) That it has the ability to administer health coverage, to provide adequate service, and to comply with all contractual requirements of the alliance;
- (c) That it has the ability to provide enrollees with access to covered services;
- (d) That it has the ability to provide coverage for enrollees in any service area in which the carrier plans to participate through the alliance;
- (e) That it has the ability to arrange and pay for quality health care services;
- (f) That it has the ability to provide standard data required by the alliance, in a manner prescribed by the alliance, including information on:
- (1) Plan performance;
- (2) Enrollee satisfaction;
- (3) Provider payment and incentive structures; and
- (4) Such other data requirements prescribed by the alliance;
- (g) That it has the ability to meet quality of care standards established by government and industry authorities; and
- (h) That it is financially strong and has competent management.
- II. Participating carriers that contract with or employ health care providers shall have the ability to accomplish the following in a manner satisfactory to the alliance:
- (a) Review and report on the cost and quality of care covered;
- (b) Review and report on the appropriateness of care covered; and
- (c) Provide accessible health care services.
- III. Each participating carrier shall:
- (a) Meet the standards established by the alliance pursuant to this chapter;
- (b) Provide data and information as required by the alliance;
- (c) Comply with all laws and rules regarding underwriting, rating, claims handling, sales, solicitation, licensing, fair marketing, unfair trade practices, the provisions of this chapter, and other applicable state statutes;
- (d) Enroll and terminate individuals in the manner specified by the alliance; and
- (e) Comply with other requirements established by the alliance pursuant to this chapter.
- IV. Nothing in this chapter shall prohibit participating carriers from contracting with particular health care providers or types, classes, or categories of health care providers, or setting reimbursement methodology.
- V. In the event that the participating carrier elects to terminate its contract with the alliance, the participating carrier shall:
- (a) Provide advance notice of its decision to the alliance; and
- (b) Provide notice of the decision at least 180 days prior to the non-renewal of health coverage to the member employers and employee enrollees.

- 420-L-10 Marketing Health Benefit Plans.
- I. The alliance shall establish marketing standards for use by participating carriers.
- II. Any marketing, advertisement, or educational material for health coverage sold through the alliance shall be approved by the alliance prior to its use.
- III. The alliance shall make approved marketing materials available to member employers in an efficient and standardized manner. These materials shall include, but not be limited to, an accurate summary of benefit plans, rates, cost, and accreditation information relating to the offerings of the participating carrier.
- IV. This section shall not be construed to prohibit or to compel the alliance or a participating carrier from using the services of an agent or broker.
- 420-L-11 Conflict of Interest.
- I. Any individual who is a member of the board of directors of, or be affiliated with, or otherwise be a representative of a carrier or other insurer. This section shall not preclude an officer or board member or director or contract administrator of a purchasing alliance from purchasing health coverage through the alliance.
- 420-L-12 Purchasing Alliance Distinguished From Multiple Employer Welfare Arrangement. Purchasing alliances shall not be risk bearing entities, and shall not enter into a self-insured arrangement.
- 420-L-13 Qualified Purchasing Alliance.
- I. A purchasing alliance that has a minimum of 3,000 enrollees may elect to obtain certification from the commissioner as a qualified purchasing alliance. To obtain certification, a purchasing alliance shall demonstrate:
- (a) Either that it is open to all employers without discrimination or, if participation is based on membership in or an affiliation with an association, trade group or other entity, that the entity has been in existence for at least 10 years and was established and maintained for purposes other than the provision of health coverage; and
- (b) That the health benefit plan or plans offered to its members and the provider payment policies associated with those plans will promote more cost effective use of health care services by providing a better alignment of financial incentives with:
- (1) Health care quality improvement and efficiency; and
- (2) Health promotion and disease prevention.
2. Insurance: Qualified Association Trust. Amend RSA 420-G:10 to read as follows:
- 420-G:10 Qualified Association Trust and Qualified Purchasing Alliance.
- I. A qualified association trust or other entity, as defined in RSA 420-G:2, XV, and a qualified purchasing alliance, as defined in RSA 420-L-2, X, shall:
- (a) Comply with the rating restrictions outlined in RSA 420-G:4 for all small employer members with 50 or fewer employees based upon the association's or alliance's group experience, except that for a qualified association trust, no rating factor shall be utilized without the express written consent of the association.
- (b) Offer all eligible members, as defined under the applicable trust or other documents, coverage and rates on a guaranteed issue and renewable basis.
- (c) Comply with the regulations concerning medical underwriting in RSA 420-G:5.
- (d) Comply with the preexisting conditions provision of RSA 420-G:7.
- II. Nothing in this chapter shall be interpreted to limit the size of employers who may participate in coverage with a qualified association trust or a qualified purchasing alliance.
3. Repeat. The following are repealed:
1. RSA 420-G:2, XIV-a, relative to definition of purchasing alliance.
- II. RSA 420-G:10-a, III and IV, relative to purchasing alliances.
4. Effective Date. This act shall take effect 60 days after its passage.

This bill establishes a law governing purchasing alliances which may be formed for the purposes of purchasing health insurance.

2006-0106b

Amendment to HB 529
Proposed by the Committee on Children and Family Law - C

- Amend the title of the bill by replacing it with the following:
- AN ACT relative to the determination of parental rights and responsibilities.
- Amend the bill by replacing all after the enacting clause with the following:
- I. Statement of Purpose: Comparable Parenting. RSA 461-A:2, II is repealed and reenacted to read as follows:
- II. This chapter shall be construed so as to promote comparable parental rights and responsibilities.
2. Determination of Parental Rights and Responsibilities: Comparable Parenting. Amend RSA 461-A:3, IV, VII to read as follows:
- IV. *If the court finds upon consideration of the evidence that comparable parenting or the parents proposed allocation of parental rights and responsibilities is not in the child's best interest, the court shall set forth in detail the reasons for its decision in a written order.*
- V. If the court finds that a parent has been convicted of sexual abuse or sexual assault against such parent's minor child or any minor stepchild, the court may prohibit contact between such parent and the victim of the abuse and any sibling or step-sibling of the victim. The court shall make orders that best protect the victim of the abuse and the siblings and step-siblings of such victim. In this paragraph, "sexual abuse" shall mean sexual abuse as defined in RSA 169-C:3, XXVII-a, and "sexual assault" shall mean sexual assault as provided in RSA 632-A:2, RSA 632-A:3, and RSA 632-A:4.
- [REPEAL] VI. If the court determines that it is in the best interest of the children, it shall in its decree grant reasonable visitation privileges to a party who is a stepparent of the children or to the grandparents of the children pursuant to RSA 461-A:13. Nothing in this paragraph shall be construed to prohibit or require an award of parental rights and responsibilities to a stepparent or grandparent if the court determines that such an award is in the best interest of the child.
- [NEW] VII. The court may appoint a guardian ad litem to represent the interests of the child according to RSA 461-A:16.
- [NEW] VIII. *At the request of an approved parent, VII. The court shall set forth in detail the reasons for its decision in a written order.*
3. Effective Date. This act shall take effect 60 days after its passage.

This bill requires the court to consider comparable parenting as part of the determination of parental rights and responsibilities.

2006-0107b

Amendment to HB 528
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 deconstruction of structures.
- Amend the bill by replacing all after the enacting clause with the following:
- I. Waste Reduction Goal. Amend RSA 149-M:2, I to read as follows:
1. The general court declares its concern that there are environmental and economic issues pertaining to the disposal of solid waste in landfills and incinerators. It is important to reserve landfill and incinerator capacity for solid wastes which cannot be reduced, reused, recycled, or composted. The general court declares that the goal of the state, by the year [REPEAL] 2008, is to achieve a 40 percent minimum weight diversion of solid waste landfilled or incinerated on a per capita basis. Diversion shall be measured with respect to changes in waste generated and subsequently landfilled or incinerated in New Hampshire. The goal of weight diversion may be achieved through source reduction, recycling, reuse, and composting, or any combination of such methods. The general court discourages the disposal of recyclable materials in landfills or processing of recyclable materials in incinerators and encourages the use of deconstruction techniques wherever possible.
2. Solid Waste Hierarchy. Amend RSA 149-M:3, II to read as follows:
- II. Recycling and reuse, including deconstruction.
3. New Paragraph: Definitions: Deconstruction. Amend RSA 149-M:4 by inserting after paragraph IV the following new paragraph:
- IV-a. "Deconstruction" means the process of taking apart a structure with the primary goal of preserving the value of all useful building materials, so that the may be recycled or reused.
4. Effective Date. This act shall take effect upon its passage.

This bill modifies the solid waste goals and hierarchy.

2006-0227b

Amendment to HB 544
Proposed by the Committee on Environment and Agriculture - C

- Amend the bill by replacing section 2 with the following:
2. Community Heritage Investment Program: Public Access. Amend RSA 227-M:15, I to read as follows:
1. There is hereby conveyed pedestrian access to, on, and across the property for hunting, fishing, and transitory passive recreational purposes, but not camping, by members of the public. A grantor may reserve the right to post against vehicles, motorized or otherwise and against [REPEAL] access to active livestock fields, against access to agricultural cropland during planting and growing season, and against access to forest land during harvesting or establishment of plantations. Such term easements as described in RSA 227-M:2, IV will be granted where participation in such program fosters farm viability entered into by the authority or the department of agriculture, markets, and food.
- This bill provides that easements acquired by the land and community heritage investment authority or the department of agriculture, markets, and food shall foster farm viability.

2006-0109b

Amendment to HB 578
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 the current use advisory board and relative to construction or development constituting a change in use for purposes of assessing the land use change tax.
- Amend the bill by replacing all after the enacting clause with the following:
- I. Current Use Advisory Board: Vice Chair. Amend RSA 79-A:3, IV to read as follows:
- IV. The board shall annually elect ~~one of its members as chairman~~ [from its members a chair and a vice-chair who shall serve in the chair's absence with all associated responsibilities, including rulemaking.
2. New Section: Current Use: Contiguous Parcels. Amend RSA 79-A by inserting after section 4 the following new section:
- 79-A-6a. Contiguous Parcels.
1. Parcels of land that are contiguous and under the same ownership, as defined by the board, shall be considered one tract of land for purposes of determining whether any area within such tract meets the criteria for open space land established by the board. This standard shall be applied when determining:
- (a) Eligibility for current use assessment under RSA 79-A:5; and
- (b) The existence and extent of a change in use under RSA 79-A:7.
- II. Paragraph I shall apply to contiguous parcels whether or not they are part of a subdivision or other similar type of development.
3. Current Use: Land Use Change Tax. Amend RSA 79-A:7 to read as follows:
- 79-A:7. Land Use Change Tax.
1. Land which has been classified as open space land and assessed at current use values on or after April 1, 1974, pursuant to this chapter shall be subject to a land use change tax when it is changed to a use which does not qualify for current use assessment. Except as otherwise provided for in this section, a change in use has occurred in any portion of land under current use assessment if it no longer meets the criteria for open space land established by the board due either to actual physical changes made to such land or minimum acreage requirements not being met. Unless the change in use is due to not meeting minimum acreage requirements, only the land area on which the actual physical changes took place shall be considered changed in use. The amount of land which has changed in use under this section shall be determined according to rules adopted pursuant to RSA 541-A by the chair of the board, based upon the recommendation of the board. A change in use shall occur only as provided for in this section and land changed in use shall remain under current use assessment.
- ~~1a. Notwithstanding the provisions of this section, the tax shall be at the rate of 10 percent of the full and true value determined without regard to the current use value of the land which is subject to a non-qualifying use or any equalized value factor used by the municipality or the county in the case of unincorporated towns or unorganized places in which the land is located. Notwithstanding the provisions of RSA 76:2, such assessed value shall be determined as of the [REPEAL] date [at the change in land use] prescribed in paragraph 1-b if such date is not April 1. This tax shall be in addition to the annual real estate tax imposed upon the property and shall be due and payable upon the change in land use.~~
- ~~[Use-Land which is classified as open space land and assessed at current use values shall be assessed at current use values until a change in land use occurs pursuant to RSA 79-A:7, IV-A or IV-B.]~~
- ~~1b. The full and true value of the land shall be based on its highest and best use as of the date the actual physical change began or the minimum acreage requirements were not met. The date upon which actual physical change began on a specific parcel of land shall be when road construction, utility installation, site excavation or grading, or any other act on such parcel integral to a construction or building project commenced, provided that all required local, state, or federal approvals were received prior to the commencement of activities. In the event that these activities commenced prior to receipt of all required approvals, the assessing officials may delay the assessment of the land use change tax until all required approvals have been secured, or illegal actions remedied. In addition, the assessing officials may determine the full and true value of such land based on the highest and best use of the land as of this later time.~~
- ~~1c. The provisions of this section shall be applied in the same manner whether a construction or building project takes place on a solitary parcel or on one that is part of a subdivision or other similar type of development.~~
- II. The land use change tax shall be due and payable by the owner at the time of the change in use to the town or city in which the property is located. If the property is located in an unincorporated town or unorganized place, the tax shall be due and payable by the owner at the time of the change in use to the county in which the property is located. Moneys paid to a county from the land use change tax shall be used, in addition to any other funds, to pay for the cost of the services provided in RSA 287-a and RSA 287-b. The land use change tax shall be due and payable according to the following procedure:
- (a) The commissioner shall prescribe and issue forms to the local assessing officials for the land use change tax bill which shall be given to the collector of taxes for collection of the land use change tax along with a special tax warrant authorizing the collector to collect the land use change tax assessed under the warrant; the quadruplicate copy of the form shall be retained by the local assessing officials for their records.
- (b) The prescribed form shall be prepared in quadruplicate: the original, duplicate, and triplicate copy of the form shall be mailed, at the latest, within 12 months of the date the local assessing officials receive written notice of the change of use from the landowner or his agent, or within 12 months of the date the local assessing officials actually discover that the land use change tax is due and payable. Upon receipt of payment, the collector shall forward the original tax bill to the register of deeds of the county in which the land is located for the purpose of releasing recorded contingent liens required under RSA 79-A:5, VI. The tax bill shall state clearly whether all, or only a portion, of the land affected by the notice of contingent lien is subject to release. The recording fee charged by the register of deeds shall be paid by the owner of the land in accordance with the fees in which the register of deeds is entitled under RSA 478:17, 478:17-1 or 478:17-1a as applicable.
- (c) Payment of the land use change tax, together with the recording fee due the register of deeds, shall be due not later than 30 days after mailing of the tax bills for such tax, and interest at the rate of 18 percent per annum shall be due thereafter on any taxes not paid within the 30-day period.
- (d) All land use change tax assessments levied under this section shall, on the date of the change in use, create a lien upon the lands on account of which they are made and against the owner of record of such land. Furthermore, such liens shall continue for a period of 18 months following the date upon which the local assessing officials receive written notice of the change of use from the landowner or his agent, or the date the local assessing officials actually discover that the land use

change tax is due and payable, and each assessment shall be subject to statutory collection proceedings against real estate as prescribed by RSA 80.

(f) Thereafter, the land which has changed to a use which does not qualify for current use assessment shall be taxed at its full RSA 75:1 value. The land shall again become eligible for current use assessment if it meets the open space criteria established by the board under RSA 79-A:4, 1.

III. Whenever land of nonfarmers value shall be subject to the land use change tax under this section, or whenever the full value assessment for the land subject to the tax shall not be readily available then the local assessing officials shall assess the RSA 75:1 full value of such land and the land use change tax shall be paid upon such assessed value.

IV. ~~For purposes of this section land use shall be considered changed and the land use change tax shall become payable when~~

~~(a) Actual construction begins on the site causing physical changes in the earth such as building a road to serve existing or planned residential, commercial, industrial, or institutional buildings or installation of sewer, water, electrical or other utilities or services to serve existing or planned residential, commercial, industrial, institutional or commercial buildings or excavating or grading the site for present or future construction of buildings; or any other act consistent with the construction of buildings on the site except that roads for agricultural, recreational, watershed or forestry purposes are exempt.~~

~~(b) By reason of size, the site no longer conforms to criteria established by the board under RSA 79-A:4, 1.~~

~~(c) In addition to the provisions of paragraph I, land use shall be considered changed when haymow, gravel, or minerals are excavated or dug from a site; except:~~

~~(1) Removal of topsoil in the process of harvesting a soil farm crop in amounts which will not deplete the topsoil; and~~

~~(2) Removal of gravel and other materials for construction and maintenance of roads and lands for agricultural and forestry purposes within the qualifying property of the owner, or, with the approval of local authorities, to other qualifying property of the owner.~~

~~(d) Sale of excavated materials shall constitute a land use change of the property from which the material was excavated. The site shall be reclaimed when the construction or maintenance project is completed to mitigate environmental and aesthetic effects of the excavation. Both project completion time and acceptability of reclamation shall be determined by local authorities. The owner shall keep local officials informed in writing of plans to remove and use of soil material from qualifying lands for purposes of this subchapter and to assure conformance with any local ordinances, as well as plans for reclamation of the site. Fully reclaimed land shall be eligible for current use assessment if it meets open space criteria established by the board under RSA 79-A:4, 1, whether or not such land was under current use assessment prior to the excavation.~~

~~V. The amount of land which has changed to a use which does not qualify for current use assessment and on which the land use change tax shall be assessed in the circumstances delineated in RSA 79-A:7, IV shall be according to rules adopted pursuant to RSA 541-A by the chairman of the board, based upon the recommendation of the board. Except in the case of land which has changed to a use which does not qualify for current use assessment due to size, only the number of acres on which actual physical changes have occurred shall be subject to the land use change tax, and land not physically changed shall remain under current use assessment, except as follows:~~

~~(a) When a road is constructed or other utilities installed pursuant to a development plan which has received all necessary local, state or federal approvals, all lots or building sites, including roads and utilities, shown on the plan and served by such road or utilities shall be considered changed in use, with the exception of any lot or site, or combination of adjacent lots or sites under the same ownership, large enough to remain qualified for current use assessment under the completed development plan; provided, however, that if any physical changes are made to the land prior to the issuance of any required local, state or federal permit or approval, or if such changes otherwise violate any local, state or federal law, ordinance or rule, the local assessing officials may delay the assessment of the land use change tax until any and all required permits or approvals have been secured, or illegal actions remedied, and may base the land use change tax assessed under RSA 79-A:7 upon the entire full and revised development plan.~~

~~(b) When land, though not physically changed, is used in the satisfaction of density, setback, or other local, state or federal requirements as part of a contiguous development site, such land shall be considered changed in use at the time the development site is changed in use.~~

~~VI. For purposes of this section) Land use shall not be considered changed (and the land use change tax shall not be assessed) when:~~

~~(a) Land under current use is taken by eminent domain or any other type of governmental taking which would cause the use change penalty to be invoked because, by reason of an actual physical change or by reason of size, the site no longer conforms to criteria established by the board under RSA 79-A:4, 1.~~

~~(b) Land abutting a site taken by eminent domain or any other governmental taking upon which construction is in progress is used to stockpile earth taken from the construction site. Stockpiled earth may be removed at a later date after written notification to the appropriate local official.~~

~~(c) Land accorded current use assessment in one category is changed in use to any other qualifying category.~~

~~(d) Land under current use assessment is eligible for conservation restriction assessment pursuant to RSA 79-B. Such land shall then be allowed to change from current use assessment to conservation restriction assessment with no land use change tax being applied.~~

~~(e) Roads are constructed for agricultural, recreational, watershed, or forestry purposes.~~

VII. When land which is accorded current use assessment in one category is changed in use to any other qualifying category as provided in subparagraph VI(c), the owner of the land shall notify the local assessing officials in writing of the change in use at the time that the change in use is made. If a land owner fails to provide the notice required under this paragraph, he may be fined not more than \$50 at the discretion of the town or city.

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

This bill clarifies the criteria for the determination by assessing officials of when current use land being developed is subject to the land use change tax.

The bill also permits the vice-chair of the current use board to act in the chair's absence.

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(d) Circulation of draft documents which, when finalized, are intended only to formalize decisions formerly made in a meeting.

~~(b) Public persons shall be open to the public and all persons shall be permitted to attend any meetings of those bodies or agencies. Subject to the provisions of RSA 91-A:2, all meetings shall be open to the public. Except for town meetings, school district meetings and elections, no vote while in open session may be taken by secret ballot. Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras and videotape equipment, at such meetings. Minutes of all such meetings, including names of members, persons appearing before the public bodies, persons appearing before the public bodies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection within 144 hours of the [public] meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any public body [person], or any subordinate body thereof, without exception. Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including a nongovernmental session, shall be posted in 2 appropriate places, one of which may be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to the meeting. An emergency shall mean a situation where immediate undelayed action is deemed to be imperative by the chairman or presiding officer of the public body [person] who shall post a notice of the time and place of such meeting, as soon as practicable, and shall employ whatever further means are reasonably available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly spell out the need for the emergency meeting. When a meeting of a legislative committee is held, publication made pursuant to the rules of the house of representatives or the senate, whichever rules are appropriate, shall be sufficient notice. If the charter of any city or guidelines or rules of order of any public body [person] require a broader public access to official meetings and records than herein described, such charter provisions or guidelines or rules of order shall take precedence over the requirements of this chapter.~~

Amend the bill by replacing sections 7 and 8 with the following:

7. New Section; Communications Outside Meetings. Amend RSA 91-A by inserting after section 2 the following new section:

- 91-A:2a. Communications Outside Meetings.
- Any communications outside a meeting, in whatever form, among a quorum of the membership of a public body which bear upon matters over which the body has supervision, control, jurisdiction, or advisory power shall be disclosed at the next meeting of the body before any decision may be made, including a decision not to act. If such communications are in writing, copies or printouts shall be made a part of the public record. Communications among less than a quorum of members need not be disclosed. Communications described in RSA 91-A:2, (a)-(d) are not subject to the disclosure requirements of this paragraph.
 - Communications outside a meeting shall not be used to circumvent the spirit of this chapter.
8. Effective Date. This act shall take effect July 1, 2006.

This bill clarifies the manner in which the right-to-know law applies to both governmental records kept in electronic form and electronic communication used to transact governmental business.

2006-0204h

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

AN ACT relative to including persons 17 years old in the juvenile justice system.

Amend the bill by replacing section 19 with the following:

19. Effective Date. This act shall take effect January 1, 2007.

This bill includes persons 17 years of age in the juvenile justice system.

2006-0228h

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

AN ACT relative to solid waste reduction, establishing a solid waste disposal fee, and renaming the recycling market development steering committee.

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

- 1 Findings. The general court finds and declares that the state did not attain the 40 percent solid waste diversion goal established by the state for the year 2000 under RSA 149-M:2. Additional resources are needed to assist municipalities and businesses in diverting greater amounts of the waste stream from disposal in landfills and incinerators, thereby preserving disposal capacity in New Hampshire. Programs must also be developed to appropriately dispose of household hazardous waste.
- 2 Solid Waste Management; Definition; Source Reduction. Amend RSA 149-M:4, XXIV to read as follows:
- XXIV. "Source reduction" means changing industrial processes, technologies, and product components with the specific objective of reducing the amount or toxicity of waste at the source. *Source reduction shall also include any actions taken outside of the manufacturing setting that reduce the amount of waste produced.*
- 3 New Subdivision; Funding For Waste and Toxicity Reduction. Amend RSA 149-M by inserting after section 87 the following new subdivision:
- Funding For Waste and Toxicity Reduction
- 149-M:38 Solid Waste Disposal Fee.
- A solid waste disposal fee of \$1 per ton shall be assessed on any solid waste that is landfilled or incinerated at a solid waste facility. The operator of the facility shall be liable for payment of this fee according to paragraph II. If an accurate weight scale is not available at a receiving landfill or incinerator, the disposal fee shall be imposed at a rate of \$0.25 per cubic yard, as can most accurately be determined.
 - Fees shall accrue and be remitted to the department by those responsible for payment on a semiannual basis upon forms provided by the department. The respective 6-month accrual periods shall end on June 30 and December 31, with remittances due on the following July 31 and January 31, respectively.
 - If payment required by this section is not furnished, or is incorrect or insufficient, the department shall make a finding as such, and determine the amount due from information available.
 - Accurate and complete solid waste weight or volume records relating to the disposal fee imposed by this section shall be kept by those responsible for paying the fees to the department and shall be available for inspection or examination at any time by the commissioner, or the commissioner's duly authorized agents or employees, and shall be preserved for a period of 5 years.
 - The commissioner shall adopt rules, under RSA 511-A, relative to the payment of the fee under this section, including any necessary forms and records.
- 149-M:39 Exemptions. The following shall not be subject to the disposal fee imposed by RSA 149-M:38:
- Any material that is delivered to a solid waste facility and is not landfilled or incinerated at that facility.
 - Brush, logs, stumps, leaves, and roots deposited into a stump dump.
 - Roadside wastes delivered to a landfill or incinerator when the facility operator certifies that he or she has accepted those wastes without any disposal charge.
 - Cover material that is placed over solid waste at a landfill as defined by rules adopted under RSA 149-M:7.
 - Solid waste disposed of at a landfill or incinerator that is owned by a municipality, provided such facility accepts waste generated only within the municipality, with such exemption to be at the option of the qualifying municipality.
 - For a municipality that opts to be exempt under this paragraph, funds collected under this subdivision shall not be used to provide money or services to the municipality or to residents, businesses, schools or any other entities within the municipality.
 - This prohibition shall not apply to any entity that has not disposed of its solid waste at the municipal landfill or incinerator within the past 6 months.
 - This prohibition shall expire if the municipality decides to no longer opt for such exemption and makes at least 2 consecutive, semi-annual payments under RSA 149-M:38, II.
 - Incinerator ash that is landfilled, provided the ash was generated at an in-state incinerator and such incinerator is not owned by a qualifying municipality that opts to be exempt under paragraph V.
- 149-M:40 Use of Funds.
- At least 50 percent of the revenues collected from the solid waste disposal fee shall be available to organizations registered with the secretary of state as nonprofit organizations provided the following conditions are met by each organization:
 - The organization shall maintain its non-profit status;
 - The organization's primary mission is to assist municipalities, schools, or businesses in increasing levels of source reduction, recycling, reuse or composting; and
 - The organization shall only spend proceeds received under this subdivision to provide:
 - Technical assistance to municipalities and businesses on source reduction, recycling, reuse, and composting issues;
 - Recycling and composting equipment grants to municipalities;
 - Support for school source reduction, recycling, reuse, and composting programs; or
 - Support for educational programs on source reduction, recycling, reuse, composting, the purchase of products with recycled material content, and pay-as-you-throw programs.
 - An emphasis shall be given to minimizing administrative costs, while effectively delivering such services or grants.
- II. The department may expend up to 50 percent of the revenues collected from the solid waste disposal fee, pursuant to appropriations of said sums in the department's operating budget, for the purpose of:
- Training solid waste facility operators in recycling and composting practices;
 - Maintaining accurate information on recycling and composting rates in the state, including the overall diversion rate;
 - Providing programs for the efficient receipt, transportation, and disposal of household hazardous waste and electronic waste; and
 - Collecting the solid waste disposal fee, administering the fund in RSA 149-M:41, and staffing the recycling steering committee established under RSA 149-O.
- 149-M:41 Fund Established; Administration and Expenditure.
- There is hereby established the solid waste reduction fund into which all moneys collected under this subdivision shall be deposited. This nonlapsing, special fund is continually appropriated to the department of environmental services to be expended only as provided by contract issued under paragraph II and as provided under RSA 149-M:40, II. The state treasurer shall invest the moneys deposited in the fund as provided by law. Any return on investments made shall also be credited to the fund.
 - The recycling steering committee, established under RSA 149-O, shall determine the types and amounts of grants and services, as identified under RSA 149-M:40, I(c), that are best able to produce long-term, increased rates of solid waste diversion from landfills and incinerators. Based on such determination, the commission shall from time to time, as needed, issue requests for proposals from eligible nonprofit organizations and shall select the organization or organizations to whom a contract shall be awarded. The department shall contract with such organizations, on behalf of the commission, under such terms as specified by the commission and in conformance with applicable state law. Such contracts shall not exceed 3 years in duration and shall include a payment schedule and reporting requirements sufficient to assure that the contract is being fulfilled.
- 4 Recycling Steering Committee. Amend RSA 149-O to read as follows:

CHAPTER 149-O
RECYCLING [RECYCLING AND SOLID WASTE REDUCTION] STEERING
COMMITTEE [COMMISSION]

149-O:1 [Committee] Commission Established; Duties. There is established a recycling [market development] steering [committee] commission to promote the establishment and expansion of recycling-related [industries and companies] activities in New Hampshire.

149-O:2 Duties. The [steering-committee] commission shall have the following duties:

- Advocating and securing funding for recycling market development.
 - Facilitating close communication and interaction among the state's recycling and economic development agencies and other involved organizations.
 - Providing continuity to the state's recycling market development efforts by reviewing and revising market development priorities, evaluating the impact of market development initiatives, and recommending new directions for market development efforts.
- IV. *Developing a strategy to increase the amount of solid waste diverted from landfills and incinerators through source reduction, recycling, composting, reuse, the purchase of products with recycled material content, and pay-as-you-throw programs, and to fund such activities in accordance with RSA 149-M:41, II.*

149-O:3 Membership.

The [steering-committee] commission shall consist of the following members:[representing the major segments of the state's recycling and economic development community]:

- One member of the house of representatives, appointed by the speaker.
- One member of the senate, appointed by the senate president.
- The director of the office of energy and planning, or designee. [steering-recycling program]
- The recycling coordinator. [The commissioner of the department of environmental services, or designee. [another appropriate representative of the department, appointed by the commissioner of the department of environmental services].
- The commissioner of the department of resources and economic development, or designee.
- The executive director of the Northeast Resource Recovery Association.
- The director of the division of plant and property management, department of administrative services.
- A representative of beverage, soft drink, or retail grocery interests, appointed by the governor.
- A representative of school recycling interests, appointed by the governor.
- A representative of the New Hampshire Business and Industry Association, appointed by the association.
- A representative from the New Hampshire Business Development Corporation, business finance authority, or another statewide economic development organization, appointed by the governor.
- A representative of New Hampshire's environmental community, appointed by the governor.
- A representative of the New Hampshire Municipal Association, appointed by the association.
- The commissioner of the department of transportation or designee.

149-O:4 Meetings and Staffing. The [committee] commission shall meet quarterly and at such other times as the chairperson may call. The commission shall be provided staffing services by the department of environmental services.

149-O:5 Report. The [committee] commission shall prepare an annual report detailing the [committee] commission's actions and progress during the prior fiscal year and any recommendations for legislation. The [committee] commission shall submit the report by [February] October 1 each year to the [chairperson of the house environment and agriculture committee, the chairperson of the senate environment committee] respective house of representatives and senate

standing committees having responsibility for the subject matter; the speaker of the house, the senate president, the house clerk, the senate clerk, the state library, and the governor.

149-O:6 Mileage. Members shall serve without compensation except that legislative members shall receive legislative mileage while conducting [committee] commission business.

5 New Subparagraph: Treasury; Application of Receipts. Amend RSA 612, I(b) by inserting after subparagraph (242) the following new subparagraph:

(243) Moneys deposited in the solid waste reduction fund under RSA 149-M:41.

6 Repeal. RSA 149-M:6, XI, relative to assessing an out-of-state solid waste surcharge, is repealed.

7 Prospective Repeal. The following are repealed.

- RSA 149-M:41, relative to funding for waste and toxicity reduction.
- RSA 612, I(b)(243), relative to the solid waste reduction fund. Any balance remaining in the solid waste reduction fund after all contractual payment obligations are fulfilled shall be deposited in the general fund.

8 Effective Date.

- Section 7 of this act shall take effect July 1, 2012.
- The remainder of the act shall take effect July 1, 2006.

This bill establishes a program administered by the department of environmental services for funding for solid waste reduction, and authorizes fees to be paid to and expended by the department.

The bill also renames the recycling market development steering committee as the recycling steering commission and revises the duties of the commission.

2006-0250h

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

AN ACT relative to county and state financing of nursing home services.

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

- 1 Certificate of Need; Nursing Home Beds; Moratorium Extended. Amend RSA 151-C:4, III(a) to read as follows:
- III(a) No certificate of need shall be issued for any nursing home, 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 [December 31, 2006] June 30, 2009, except that a certificate of need 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 of state survey and certification process pursuant to titles XVIII and XIX of the Social Security Act.
- 2 Rehabilitation Beds. Amend 2004, 2002-27 to read as follows:
- 2002-27 Health Services Planning and Review Board; Release of Funds and Services. Through the period ending [December 31, 2006] June 30, 2009 unless sooner authorized by the general court, the health services planning and review board shall not authorize changes regarding the licensure or certification of any rehabilitation beds in any type of facility, shall not authorize the addition of any rehabilitation beds in any type of facility, and shall not grant any certificate of need related to the board's administrative standards for comprehensive physical rehabilitation services. This section shall not prohibit the voluntary transfer of rehabilitation beds between 2 licensed health care facilities; provided, that any such transaction does not result in an increase in the number of any type of rehabilitation beds in the state.
- 3 New Paragraph: County Reimbursement of Funds; Limitations on Payments. Amend RSA 167:18-b by inserting after paragraph VI the following new paragraph:
- VII(a) Any shortfall between the state audited Medicaid allowances incurred by the state's county operated ICF nursing homes and amounts otherwise reimbursed by federal 50 percent Medicaid matching funds or other income, shall be certified as a public expenditure and be eligible for additional federal funding match.
- (b) The department of health and human services shall seek federal Medicaid assistance match for any state audited county nursing home Medicaid expense which is not fully reimbursed through rates. Any revenue realized through such a match shall be paid to the nursing homes which incurred the unreimbursed expense, provided, however, that no state general funds are expended directly or indirectly for this purpose.
- 4 County Nursing Homes; Local Medical Assistance Contribution. Amend RSA 167:18-f to read as follows:
- 167:18-f Local Medical Assistance Contribution. In addition to any other reimbursement required by law, each county shall, within 60 days from notice thereof, reimburse the public assistance fund at the rate of [66¢] \$67 per month for each recipient of old age assistance and [66¢] \$23 per month for each recipient of aid to the permanently and totally disabled for whom the county would be liable under the provisions of RSA 166, except that no reimbursement shall be required for any recipient for whom the county has an obligation under RSA 167:18-b.
- 5 Appropriation; Health and Human Services. The sum of \$5,400,000 for the biennium ending June 30, 2007 is hereby appropriated to the department of health and human services, for the purpose of funding the change to the local medical assistance contribution made in section 4 of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.
- 6 County Credit for Contributions. Any county reimbursement under RSA 167:18-f made from July 1, 2005 until June 30, 2006 which exceeds the rate for reimbursement provided in section 4 of this act shall be credited to the counties for the year ending June 30, 2006 for fulfilling the local medical assistance contribution.
- 7 Effective Date.
- Section 4 of this act shall take effect July 1, 2005, at 12:01 a.m.
 - Sections 5 and 6 of this act shall take effect June 30, 2006.

III. The remainder of this act shall take effect July 1, 2006.

The bill removes the increase in county payments for old age assistance and aid to the permanently and totally disabled. This bill also extends the moratoriums on nursing home and rehabilitation beds.

AMENDED ANALYSIS

Amendment to HB 639-FN
Proposed by the Majority of the Committee on Election Law - R

2006-0209h

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

AN ACT relative to voters presenting citizenship or domicile affidavits to register on election day.

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

1. General Voter Registration; Determining Qualifications of Applicant. Amend RSA 654:12 to read as follows:

654:12 Determining Qualifications of Applicant.

1. When determining the qualifications of an applicant, the supervisors of the checklist, or the town or city clerk, shall require the applicant to present proof of citizenship, age, and domicile, as provided in the following categories:

(a) CITIZENSHIP. The supervisors of the checklist, or the town or city clerk, shall accept from the applicant any one of the following as proof of citizenship: the applicant's birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, a citizenship affidavit, or any other reasonable documentation which indicates the applicant is a United States citizen. The citizenship affidavit shall be in the following form:

Date: _____
CITIZENSHIP AFFIDAVIT

Name: _____

Name at birth if different: _____

Place of birth: _____

Date of birth: _____

Date and Place of Naturalization: _____

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am a United States citizen and that to the best of my knowledge and belief the information above is true and correct. ***I hereby acknowledge that, if I present this affidavit on election day, my ballot will be marked and subject to challenge during a recount, which may occur several weeks after election day. I also am aware that my ballot will not be associated with my affidavit unless the affidavit is determined to be invalid.***

(Signature of applicant)

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

On the date shown above, before me, _____ (print name of notary public, justice of the peace, election officer), appeared _____ (print name of person whose signature is being notarized), (known to me or satisfactorily proven (circle one)) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

Notary Public/Justice of the Peace/Official Authorized by RSA 659:30

(b) AGE. Any reasonable documentation indicating the applicant is 18 years of age or older.

(c) DOMICILE. Any reasonable documentation which indicates that the applicant has a domicile and intends to maintain a domicile, as defined in this chapter, in the town, city, or ward in which he or she desires to vote, or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, an affidavit in the following form:

DOMICILE AFFIDAVIT

Date: _____

Name: _____

Current Domicile Address: _____

Street Ward Number _____

Town or City Zip Code _____

Date when current domicile was established: Month: _____ Year: _____

Place and date of birth: _____

Address of last previous domicile: _____

Street Ward Number _____

Town or City Zip Code _____

I hereby swear and affirm, under the penalties for voting fraud set forth below, that my established domicile is at the current domicile address I have entered above and that to the best of my knowledge and belief the information above is true and correct. ***I hereby acknowledge that, if I present this affidavit on election day, my ballot will be marked and subject to challenge during a recount, which may occur several weeks after election day. I am also aware that my ballot will not be associated with my affidavit unless the affidavit is determined to be invalid.***

(Signature of applicant)

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

On the date shown above, before me, _____ (print name of notary public, justice of the peace, election officer), appeared _____ (print name of person whose signature is being notarized), (known to me or satisfactorily proven (circle one)) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

Notary Public/Justice of the Peace/Official Authorized by RSA 659:30

II. The supervisors may refuse to add the name of an applicant to the checklist if he or she fails to present the evidence or an affidavit as required by this section. Without limiting the acceptance of other forms of proof of domicile or identity deemed reasonable by the supervisors:

(a) Any one of the following documents is presumptive evidence that the individual seeking to vote meets the domicile requirement, provided the document is currently valid, was issued to or in the name of the applicant, and shows the address the applicant claims as a domicile:

(1) New Hampshire driver's license.

(2) New Hampshire vehicle registration.

(3) Armed services identification, or other photo identification issued by the United States government.

(b) Any one of the following is presumptive evidence of the identity of an applicant sufficient to satisfy the identity requirement for an official authorized by RSA 659:30 to take the oath of an applicant swearing to a citizenship, domicile, or election day affidavit:

(1) Photo driver's license issued by any state or the federal government.

(2) United States passport, armed services identification, or other photo identification issued by the United States government.

(3) Photo identification issued by local or state government.

(f) The presumptions established in this paragraph may be defeated by evidence establishing that it is more likely than not that the applicant is not qualified as a voter.

III. All information provided in a citizenship affidavit or a domicile affidavit presented under this section which establishes the affidavit's qualifications as a voter must be accurate for the resulting vote to be valid.

IV. Any person presenting a citizenship or domicile affidavit in order to register on election day shall be provided with an affidavit form marked in a manner establishing by the secretary of state so as to promote voter privacy but allow a ballot to be matched to an invalid affidavit. The secretary of state shall further establish the procedure for the submission of the affidavits and tracking of ballots supported by affidavits.

202 New Section; General Provisions for Recounts; Affidavit Challenges. Amend RSA 660 by inserting after section 10 the following new section:

660:16-A. Affidavit Challenges. Any person may challenge a ballot being recounted by stating reasons satisfactory to the secretary of state why the voter's citizenship or domicile affidavit is inaccurate. The secretary of state shall notify the voter whose ballot is challenged, and the voter or any candidate on the ballot shall be permitted to present evidence to refute the challenge. The process to be followed for this procedure shall be as established by the secretary of state and set forth in the manual on the New Hampshire election laws and procedures for conducting elections.

3. Board of Recount; Affidavit Challenges. Amend RSA 669:32 to read as follows:

669:32. Board of Recount.

A. At the time and place so appointed and notified, the clerk shall publicly break the seal of and open the package in which the ballots of said election are kept; and, thereupon, said ballots shall be recounted by the clerk, the moderator, and the selection of said town who shall constitute the board of recount. Any member of the board of recount who is one of the candidates for the office being recounted shall disqualify himself or herself from the board of recount for all official duties of said board. The moderator shall appoint an assistant who shall take the same oath as, serve in the same capacity as, and have all the powers of the recount official whom he or she has replaced.

B. Any person may challenge a ballot being recounted by stating reasons satisfactory to the board of recount why the voter's citizenship or domicile affidavit is inaccurate. The board of recount shall notify the voter whose ballot is challenged, and the voter or any candidate on the ballot shall be permitted to present evidence to refute the challenge. The process to be followed for this procedure shall be as established by the secretary of state and set forth in the manual on the New Hampshire election laws and procedures for conducting elections.

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

AMENDED ANALYSIS

This bill establishes a procedure for marking the ballots of voters who register on election day using citizenship or domicile affidavits. This bill also establishes a procedure for challenging the ballot of a person who presented an inaccurate citizenship or domicile affidavit.

2006-0141h

Amendment to HB 642-FN-LOCAL
Proposed by the Committee on Municipal and County Government - C

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

1. New Chapter; Home Inspectors. Amend RSA by inserting after chapter 329-A the following new chapter:

CHAPTER 329-B

HOME INSPECTORS

329-B:1 Purpose. The purpose of this chapter is to protect the people of the state of New Hampshire by requiring the licensing of home inspectors to assure that consumers of home inspection services can rely on the competence of a home inspector.

329-B:2 Definitions. In this chapter:

I. "Apprentice" means any person who is engaged in learning and assisting in home inspection under an apprenticeship program acceptable to the board.

II. "Board" means the board of home inspectors, established by RSA 329-B:3.

III. "Home inspection" means a visual analysis for the purposes of providing a professional opinion of the condition of a residential building and its related structures, any reasonably accessible installed components and the operation of the building systems, including the controls normally operated by the owner, for the following components of a residential building of 4 units or less: heating system, electrical system, cooling system, plumbing system, structural components, foundation, roof covering, exterior and interior components and site aspects as they affect the building. Home inspection shall not require identifying concealed conditions or latent defects.

IV. "Home inspector" means any person who is licensed by the board as a home inspector and who engages in the business of performing home inspections and writing home inspection reports.

V. "Home inspection" report means a written report prepared by a home inspector for compensation and issued after a home inspection. The inspector shall report:

(a) On those systems and components inspected which, in the professional opinion of the inspector, are significantly deficient or are near the end of their service lives.

(b) A reason why, if not self-evident, the system or component is significantly deficient or near the end of its service life.

(c) The inspector's recommendations to correct or monitor the reported deficiency.

(d) Any systems and components designated for inspection which were present at the time they were not inspected, and a reason they were not inspected.

VI. "Residential building" means a structure consisting of from one to 4 family dwelling units, and including a single-family home, a multifamily dwelling, manufactured housing as defined in RSA 384:16-4, II, and any single family condominium unit, wholly or partly used or occupied, or intended to be used or occupied, as the home or residence of one or more persons.

329-B:3 Board.

I. There shall be a board of home inspectors, consisting of 5 members, including 2 home inspectors, one real estate broker licensed under RSA 331-A, one attorney licensed to practice in this state, and one public member, each to be appointed by the governor, with the approval of the council, to a term of 4 years. No member of the board shall be appointed to more than 2 terms.

II. The public member of the board of home inspectors shall be a person who is not, and never has been, a home inspector or the spouse of a home inspector, and who does not have, and never has had, a material financial interest in either the provision of home inspection services or an activity directly related to the home inspection profession at any time during the 5 years preceding appointment.

329-B:4 Compensation and Expenses. Members of the board shall each be allowed a sum of \$30 per day and their necessary traveling expenses incurred in carrying out their official duties.

329-B:5 Organization and Meetings. The board shall hold at least 4 regular meetings each year, and special meetings may be held at such times as the business of the board may require. Notice of all meetings shall be given in such manner as the rules of the board may provide. The board shall annually elect a chairperson and a vice-chairperson from among its members. A quorum of the board shall consist of not less than 3 members, at least one of whom shall be a public member.

329-B:6 Fees. The board shall establish fees for examination of applicants, for the issuance and for renewal of licenses to practice for home inspectors, for the transcribing and transferring records and other services. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year.

329-B:7 Receipts and Disbursements. The board shall receive and account at least monthly for all moneys derived under the provisions of this chapter, and shall pay the same to the state treasurer. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures from this fund for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under this chapter. Under no circumstances shall the total amount of payments made hereunder exceed the amount of the fees collected hereunder. Any balance in the account shall lapse at the end of each fiscal year.

329-B:8 Examinations. The board shall have authority to examine and license home inspectors. When issued, such license shall be valid throughout the state, and the licensee shall be entitled to perform the work of a home inspector anywhere within the state without any payment or additional fee. Each applicant for a license shall present to the board on a blank furnished by the board a written application for license, containing such information as the board may require, accompanied by the required fee. Such examinations shall be held at such times and places as the board shall determine. The scope of such examinations and the methods of procedure shall be prescribed by the board.

329-B:9 Rulemaking. The board shall adopt rules, pursuant to RSA 541-A, relative to:

I. The design and content of all forms and applications required under this chapter.

II. The application procedure for a license to practice under this chapter.

III. The qualifications of applicants in addition to those requirements set under this chapter.

IV. How an applicant shall be examined, including the time, place, type and form of the examination.

V. The disposition of examinations, including provision of test results to examinees.

VI. How a license to practice under this chapter shall be renewed, including the requirements for continuing education.

VII. The establishment of all fees required under this chapter.

VIII. Ethical and professional standards required to be met by each holder of a license to practice under this chapter and how disciplinary actions by the board shall be implemented for violations of these standards.

IX. The training and experience requirements of home inspectors, and of apprentices.

X. Procedures for the conduct of hearings consistent with the requirements of due process.

329-B:10 License Criteria.

I. No person shall provide, nor present, call or represent himself or herself as employed by a home inspection company for compensation unless licensed in accordance with the provisions of this chapter. No business entity may provide home inspection services unless each of the home inspectors employed by the business entity is licensed in accordance with the provisions of this chapter. No business entity may use, in connection with the name or signature of the business entity, the title "home inspectors" to describe the business entity's services, unless each of the home inspectors employed by the business entity is licensed in accordance with the provisions of this chapter.

II. To be eligible for a license as a home inspector, an applicant shall fulfill the following requirements:

(a) Be of good moral character.

(b) Have successfully completed high school or its equivalent.

(c) Have completed a course of study of no less than 80 hours that covers all of the following components of a residential building of 4 units or less: heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof covering, exterior and interior components and site aspects as they affect the building.

(d) Have acquired the required training and experience requirements as established by the board.

329-B:11 Expiration and Renewal. Notwithstanding any outstanding license to the contrary, all licenses issued by the board shall expire on the last day of the month of the licensee's birth, but may be renewed during the following month, retroactive to the first day of the month. The fee for renewal of all licenses issued under this chapter shall be established by the board. Upon failure to pay the renewal fee within the required period, a licensee may renew his or her license by submitting the required fee plus \$10 before the last day of the second month following the month of his or her birth. Any application received thereafter shall be rejected, unless accompanied by proof of successful completion of the examination required under RSA 329-B:8. A licensed home inspector shall complete at least 20 hours of board approved continuing education during each calendar year in order to maintain his or her license.

329-B:12 Exclusions. A licensed home inspector shall not be required to perform any action or make any determination unless specifically required by lawful authority. Inspectors are not required to determine:

I. The condition of systems or components which are not readily accessible.

II. The remaining life of any system or component.

III. The strength, adequacy, effectiveness or efficiency of any system or component.

IV. The causes of any condition or deficiency.

V. The methods, materials, or costs of corrections.

VI. Future conditions including, but not limited to, failure of systems and components.

VII. The suitability of the property for any specialized use.

VIII. Compliance with regulatory requirements (codes, regulations, laws, ordinances, etc.).

- IX. The market value of the property or its marketability.
- X. The advisability of the purchase of the property.
- XI. The presence of potentially hazardous plants or animals including, but not limited to, wood destroying organisms or diseases harmful to humans.
- XII. The presence of any environmental hazards including, but not limited to, toxins, carcinogens, noise, and contaminants in soil, water and air.
- XIII. The effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances.
- XIV. The operating costs of systems or components.
- XV. The acoustical properties of any system or component.
- 329-R-13 Reciprocity. Upon payment to the board of a fee and the submission of a written application form provided by the board, the board shall issue a home inspector license to any person who holds a valid license, certificate, or registration issued by another state or possession of the United States or the District of Columbia that has standards substantially equivalent to, or exceeding, those of this state, as determined by the board.
- 329-R-14 Persons Not Required to be Licensed. Nothing in this chapter prevents:
- I. A person who is employed by a governmental entity from inspecting residential buildings if the inspection is within official duties and responsibilities.
- II. A person from performing a home inspection if the inspection will be used solely by a bank, savings and loan association or credit union to monitor progress on the construction of a residential structure.
- III. A person who is employed as a property manager for a residential structure and whose official duties and responsibilities include inspecting the residential structure from performing an inspection on the structure if the person does not receive separate compensation for the inspection work.
- IV. A person who is regulated in another profession from acting within the scope of that person's license, registration or certification.
- 329-R-15 Disciplinary Action.
- I. The board may undertake disciplinary proceedings:
- (a) Upon its own initiative; or
- (b) Upon written complaint of any person which charges that a person licensed by the board has committed misconduct under paragraph II and which specifies the grounds therefor.
- II. Misconduct sufficient to support disciplinary proceedings under this section shall include:
- (a) The practice of fraud or deceit in procuring or attempting to procure a license to practice under this chapter;
- (b) Conviction of a felony or any offense involving moral turpitude;
- (c) Any unprofessional conduct, or dishonorable conduct unworthy of, and affecting the practice of, the profession;
- (d) Unfitness or incompetency by reason of negligent habits or other causes; or negligent or willful acts performed in a manner inconsistent with the health or safety of persons under the care of the licensee;
- (e) Addition to the use of alcohol or other habit-forming drugs to a degree which renders him or her unfit to practice under this chapter;
- (f) Mental or physical incompetency to practice under this chapter;
- (g) Willful or repeated violation of the provisions of this chapter; or
- (h) Suspension or revocation of a license, similar to one issued under this chapter, in another jurisdiction and not reinstated.
- III. The board may take disciplinary action in any one or more of the following ways:
- (a) By reprimand;
- (b) By suspension, limitation or restriction of license or certification for a period of up to 5 years;
- (c) By revocation of license or certification;
- (d) By requiring the person to participate in a program of continuing education in the area or areas in which he or she has been found deficient;
- (e) By requiring the home inspector to obtain insurance against loss, expense and liability resulting from errors and omissions or neglect in the performance of services as a home inspector; or
- (f) By requiring the home inspector to file with the board a bond that is furnished by a company authorized to do business in this state and is in the amount approved by the board.
- 329-R-16 Prohibited Acts. A licensed home inspector shall be prohibited from the following:
- I. Performing or offering to perform, for an additional fee, any repairs to a structure on which the inspector, or the inspector's company, has prepared a home inspection report in the past 12 months, except that a home protection company that is affiliated with or that retains a home inspector does not violate this section if it performs repairs pursuant to a claim made under a home protection contract.
- II. Inspecting for a fee any property in which the inspector, or the inspector's company, has any financial interest or any interest in the transfer of the property.
- III. Offering or delivering any compensation, inducement or reward to the owner of the inspected property, the broker or agent, for the referral of any business to the inspector or the inspection company.
- IV. Accepting an engagement to make an inspection or to prepare a report in which the inspection itself, or the fee payable for the inspection, is contingent upon either the conclusions in the report, prestablished findings, or the close of escrow.
- 329-R-17 Liability of Home Inspectors.
- I. An action to recover damages for any act or omission of a home inspector relating to a home inspection that he or she conducts may only be commenced within 1 year after the date that a home inspection is completed.
- II. Only a client and no other party shall have an action to recover damages arising from a home inspection or a home inspection report.
- 329-R-18 Appeals. Any person affected by a final decision of the board may appeal such final decision pursuant to RSA 541.
- 2 Effective Date. This act shall take effect January 1, 2007.

This bill establishes the licensure of persons providing home inspection services and the regulation of such persons by a board of home inspectors.

AMENDED ANALYSIS

Amendment to HB 645-FN
Proposed by the Committee on Ways and Means - R

CHAPTER 339-F
SALE OF FIRE-SAFER CIGARETTES

- 339-F-1 Definitions. In this chapter:
- I. "Cigarette" means any roll for smoking made wholly or in part of tobacco, and wrapped in any material except tobacco.
- II. "Commissioner" means the commissioner of safety.
- III. "Manufacturer" means any person engaged in the business of importing, exporting, producing, or manufacturing tobacco products who sells his or her product only to licensed wholesalers.
- IV. "Retailer" means any person who sells tobacco products to consumers, and any vending machine in which tobacco products are sold.
- V. "Sale" or "sell" means any transfer, whether by bargain, gift, exchange, barter, or otherwise.
- VI. "Vending machine operator" means any person operating one or more tobacco product vending machines on property or premises other than his or her own.
- VII. "Wholesaler" means any person doing business in this state who shall purchase all of his or her unstamped tobacco products directly from a licensed manufacturer, and who shall sell all of his or her products to licensed wholesalers, sub-jobbers, vending machine operators, retailers, and those persons exempt from the tobacco tax under RSA 78:7-b.
- 339-F-2 Rulemaking. Cigarette Fire-Safety Standards. Pursuant to RSA 541-A:3-b, the commissioner, in consultation with the state fire marshal, shall incorporate by reference the New York fire safety standards for cigarettes effective June 28, 2004 as amended, as the fire safety standards for cigarettes sold or offered for sale in this state.
- 339-F-3 Prohibited Sales.
- I. On and after July 1, 2007, no cigarettes shall be sold or offered for sale in this state unless the manufacturer has certified in writing to the department of safety and the department of justice that such cigarettes meet the performance standards established under RSA 339-F:2. Copies of such written certifications shall be provided by the certifying manufacturer to all wholesale dealers and all agents.
- II. The commissioner also shall adopt, by rule, procedures by which retail dealers are notified of which cigarettes have been certified by manufacturers as meeting the performance standards prescribed by the department of safety.
- III. Nothing in this section shall be construed to prohibit any person or entity from selling cigarettes that have not been certified by the manufacturer in accordance with RSA 339-F:2 if such cigarettes are or shall be stamped for sale in another state or are packaged for sale outside the United States.
- IV. No person shall sell tobacco products through a vending machine unless access to the machine is readily available or it is constructed so as to permit the commissioner, or his or her agent, to readily determine whether the packages of tobacco products being sold comply with the requirements of this chapter.
- 339-F-4 Penalties; Enforcement.
- I. A person who violates this section shall be guilty of a violation for a first offense and a misdemeanor for each subsequent offense.
- II. Any cigarettes sold, offered for sale, or possessed for sale in this state, in violation of RSA 339-F:3 shall be deemed contraband under RSA 78:16 and such cigarettes shall be subject to seizure and forfeiture, and all such cigarettes so seized and forfeited shall be destroyed and not resold.
- 339-F-5 Enforcement by Department of Justice. The department of justice may bring an action to enforce the criminal penalties in RSA 339-F:4 and to enjoin further acts in violation of this chapter. In any action brought pursuant to this section, the department shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney's fees.
- 4 Access to Vending Machines. Amend RSA 78:2, III to read as follows:
- III. No person shall sell tobacco products through a vending machine unless access to said machine is readily available or it is constructed so as to permit the commissioner, or his or her agent, to readily determine whether the packages of tobacco products being sold have proper stamps affixed to them which show payment of the tobacco tax imposed under RSA 78:7 and whether they comply with RSA 339-F.
- 5 Effective Date. This act shall take effect 60 days after its passage.

Amendment to HB 646-FN-LOCAL
Proposed by the Majority of the Committee on Education - R

- Amend the title of the bill by replacing it with the following:
- AN ACT relative to teachers who are not deemed highly qualified pursuant to the No Child Left Behind Act.
- Amend the bill by replacing all after the enacting clause with the following:
- I. New Section; Highly Qualified Teachers. Amend RSA 189 by inserting after section 14-g the following new section:
- 189:14-b. Highly Qualified Teachers.
- I. Teachers and paraprofessionals who meet the highly qualified criteria required under the No Child Left Behind Act shall be deemed highly qualified in all New Hampshire school districts.
- II. No teacher or paraprofessional shall be dismissed or nonrenewed solely for failure to meet the highly qualified criteria under the No Child Left Behind Act, provided such teacher or paraprofessional possesses a valid license or certification issued by the department of education.
- III.(a) There is hereby established a highly qualified teacher oversight commission to monitor the progression for opportunities to attain the highly qualified teacher designation. The commission shall consist of the following members:
- (1) Four members from the house education committee, appointed by the speaker of the house of representatives.
- (2) Two members from the senate education committee, appointed by the president of the senate.
- (3) The commissioner of the department of education, or designee.
- (4) A representative from the New Hampshire School Boards Association, appointed by such association.
- (5) A representative from the New Hampshire School Administrators Association, appointed by such association.
- (6) A representative from the National Education Association-New Hampshire, appointed by such association.
- (b) The commission shall monitor the progression for opportunities to attain the highly qualified teacher designation.
- (c) The chairperson shall elect its members. The first meeting of the commission shall be called by the first-named house member, and shall be held no later than 45 days from the effective date of this section. Six members of the commission shall constitute a quorum.
- (d) Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.
- (e) The commission shall meet at least 3 times a year. Progress reports from such meetings shall be made to the chairpersons of the house and senate education committees for distribution to the committee members. The commission shall submit a final report detailing its findings and any recommendations for legislative changes to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, and the state library no later than September 1.
- 2007.
- 2 Repeal; 2007. RSA 189:14-b, II-III, relative to dismissal or nonrenewal of certain teachers and relative to the highly qualified teacher oversight commission, are repealed.
- 3 Effective Date.
- I. Section 2 of this act shall take effect September 1, 2007.
- II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

Amendment to HB 649-FN-A-LOCAL
Proposed by the Committee on Finance - C

- Amend the title of the bill by replacing it with the following:
- AN ACT establishing a commission to study the costs and funding of medicolegal investigations and autopsies.
- Amend the bill by replacing all after the enacting clause with the following:
- I. Commission Established. There is established a commission to study the costs and funding of medicolegal investigations and autopsies.
- 2 Membership and Compensation.
- I. The members of the commission shall be as follows:
- (a) Five members of the house of representatives, 3 from the finance committee, one from the ways and means committee, and one from the municipal and county government committee, appointed by the speaker of the house of representatives.
- (b) Three members of the senate, appointed by the president of the senate.
- (c) The attorney general, or designee.
- (d) The chairperson of the board of registration of funeral directors and embalmers, or designee.
- (e) The director of vital records administration, or designee.
- (f) An assistant deputy medical examiner, appointed by the governor.
- (g) A representative of county government, appointed by the New Hampshire Association of Counties.
- (h) A representative of city and town clerks, appointed by the New Hampshire City and Town Clerks' Association.
- (i) A representative of the cremation industry, appointed by the governor.
- II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.
- 3 Duties. The commission shall study and recommend changes to current statutes and procedures relative to the costs of autopsies, transportation, and medicolegal investigations and the financial responsibility for those costs by the state and the counties.
- 4 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section.
- 5 Report. The commission shall report its findings and any recommendations for proposed legislation to the 2007 legislative session 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, 2006.
- 6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

Amendment to HB 653-FN-LOCAL
Proposed by the Majority of the Committee on Municipal and County Government - R

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

1. Bonds for Broadband Infrastructure Added to Permissible Bonds for Counties and Municipalities. Amend RSA 33:3 to read as follows:

33:3 Purpose of Issue of Bonds or Notes. A municipality or county may issue its bonds or notes for the acquisition of land, for planning relative to public facilities, for the construction, reconstruction, alteration, and enlargement or purchase of public buildings, for other public works or improvements of a permanent nature *including broadband infrastructure as defined in RSA 38:38, if so, to be purchased or constructed in areas not served by an existing broadband carrier or provider*, for the purchase of departmental equipment of a lasting character, for the payment of judgments, and for purposes of economic development which shall include public-private partnerships involving capital improvements, loans, and guarantees. The public benefit in any public-private partnership must outweigh any benefit accruing to a private party. Bonds or notes for the purposes of economic development may be issued only after the governing body of the municipality or county has held hearings and presented the public benefit findings to the public and after such issuance has been approved by the legislative body. A municipality or county shall not issue bonds or notes to provide for the payment of expenses for current maintenance and operation except as otherwise specifically provided by law.

2. Issue of Bonds for Certain Preliminary Expenses. RSA 33:3-e is repealed and reenacted to read as follows:

33:3-e Issue of Bonds for Preliminary Expenses.

1. A municipality or county may issue its bonds or notes for the purpose of defraying the cost of preliminary or final plans and specifications or other preliminary expenses incidental to, or connected with, any proposed public work or improvement of a permanent nature consisting of the construction, reconstruction, alteration, enlargement, or improvement of the following:
 - (a) A public building.
 - (b) A water works.
 - (c) A sewerage system or sewage or waste treatment facility.
 - (d) A solid waste disposal or resource recovery facility.
 - (e) Broadband infrastructure as defined in RSA 38:38 to be purchased or constructed in areas not served by an existing broadband carrier or provider.

II. Bonds or notes shall mature over a period of not more than 5 years from the date of issue unless they are issued at the same time as bonds or notes for the public work or improvement for which such expenses were incurred, in which case said bonds or notes shall mature over a period not exceeding the expected useful life of such public work or improvement. A municipality or county may issue its bonds or notes in accordance with this section for planning and other preliminary expenses relating to solid waste disposal or resource recovery facilities to serve the municipality or county, notwithstanding that the facilities may later be owned by a private entity, but only for such expenses incurred prior to any binding contractual commitment to a proposed private owner, and only if such bonds or notes do not constitute "private activity bonds" as defined in section 1030(a)(9) of the United States Internal Revenue Code of 1954, as amended.

3. New Section: Broadband Infrastructure Bonds Authorized. Amend RSA 35 by inserting after section 34 the following new section:

33:3-g Broadband Infrastructure Bonds.

1. A municipality may issue bonds for the purpose of financing the development, construction, reconstruction, renovation, improvement, and acquisition of broadband infrastructure in areas not served by an existing broadband carrier or provider that would be provided at a fee to broadband carriers that provide broadband services. Without limiting the foregoing, broadband infrastructure may be the subject of public-private partnerships established in accordance with the provisions of RSA 38:38.

II. Bonds issued under this section shall be payable in annual payments so that the amount of annual payment of principal and interest in any year on account of any bond shall be not less than the amount of principal and interest payable in any subsequent year by more than 5 percent of the principal of the entire bond. The total amount of payments shall be sufficient to extinguish the entire bond at such bond's maturity. The first payment of principal on any bond shall be made no later than 5 years and the last payment not later than 30 years after the date issued. Each authorized issue of bonds shall be a separate and distinct loan.

III. A municipality, not for profit, may request the improvement, reconstruction, renovation, and acquisition of broadband infrastructure in areas not served by an existing broadband carrier or provider unless a request for proposals has been issued and no broadband carrier or provider has responded positively within 2 months or deployed broadband service within 14 months of the issuance of the request for proposals.

IV. New Section: Extension From Debt Limit: Broadband Infrastructure. Amend RSA 31:3 by inserting after section 6 the following new section:

33:6-f Exclusion From Debt Limit: Broadband Infrastructure. Municipalities may incur debt for broadband infrastructure as defined in RSA 38:38, (e) by the issue of bonds or notes authorized under this chapter. Any debt incurred for this purpose shall be outside the debt limit prescribed in this chapter. Such debt shall at no time be included in the net indebtedness of any municipality for the purposes of determining its borrowing capacity.

5. Definitions: "Broadband Infrastructure" Added to Definition of "Revenue-Producing Facilities." Amend RSA 33:3-1, VI to read as follows:

VI. "Revenue-producing facilities" means water works, *broadband infrastructure as defined in RSA 38:38, if so, purchased or constructed in areas not served by an existing broadband carrier or provider, sewerage systems, sewage treatment or disposal facilities, solid waste disposal or resource recovery facilities, parking facilities, facilities for the production, generation, transmission, or distribution of electricity or gas and any other real or personal property or interests in a municipality or regional water district owned or controlled by the municipality or regional water district, from the operation of which revenues are or are expected to be derived by the municipality, or regional water district.*

6. New Subdivision: Broadband Access. Amend RSA 38 by inserting after section 7 the following new subdivision:

Broadband Access

38:38 Broadband Access.

1. In this section:

- (a) "Access tariff" means the fee charged on a monthly or annual basis to broadband carriers for access to the broadband infrastructure.
- (b) "Areas not served" means any part of a municipality without a wireless or facilities based broadband service or a wireless or facilities based broadband service provider. Wireless shall not include subscription satellite service.
- (c) "Broadband" means the transmission of information, between or among points specified by the user, with or without change in the form or content of the information as sent and received, at rates of transmission defined by the Federal Communications Commission as "broadband."
- (d) "Broadband carrier" means any provider of broadband services, except aggregators of broadband services, as defined in section 226 of the 1996 Telecommunications Act.
- (e) "Broadband infrastructure" means all equipment and facilities, including all changes, modifications, and expansions to existing facilities, as well as the customer premises equipment used to provide broadband, and any software integral to or related to the operations, support, facilitation, or interconnection of such equipment, including upgrades, and any installation, operations and support, maintenance, and other functions required to support the delivery of broadband.
- (f) "Broadband services" means the offering of broadband for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.
- (g) "Open network" means any broadband infrastructure which is open to any third party users in a nondiscriminatory manner on a fair and equitable basis using publicly available access tariffs for services.
- (h) "Open network interfaces" means the technical and operational means, manners, and methods for any third party access to the broadband infrastructure, which shall be provided on the basis of generally accepted industry standards available at the time of access.

II. A municipality may use its broadband infrastructure for the purpose of providing an open network and assuring that third party access is available in accordance with current state and federal regulations.

38:39 Broadband Access Tariffs. For defraying the cost of acquisition, construction, payment of the interest on any debt incurred, management, maintenance, operation, and repair of broadband infrastructure, or the construction, enlargement, or improvement of such systems, the governing body may establish a scale of rates called access tariffs, may prescribe the manner and the time for the payment of such tariffs, and may change such tariffs when it deems advisable.

38:40 Broadband Fund.

1. The funds received from the collection of access tariffs shall be kept as a separate fund on the broadband fund. Such fund shall be allowed to accumulate from year to year, shall not be commingled with town or city tax revenues, and shall not be deemed part of the municipality's general fund accumulated surplus. Such fund may be expended only for the purposes specified in RSA 38:39, or for the previous expansion or replacement of broadband infrastructure.

II. Except when a cashed refund pursuant to paragraph III, all broadband funds shall be held in the custody of the municipal treasurer. Estimates of anticipated revenues and anticipated expenditures from the broadband fund shall be prepared and submitted to the governing body as a special warrant article as set forth in RSA 32, if applicable, and shall be included as a part of the municipal budget submitted to the local legislative body for approval. Expenditures shall be within amounts appropriated by the local legislative body.

III. At the option of the local governing body, all or part of any surplus in the broadband fund may be placed in one or more capital reserve funds held in the custody of the trustees of trust funds pursuant to RSA 35:10. If such a reserve fund is created, then the governing body, may expend such funds pursuant to RSA 35:15 without prior approval or appropriation by the local legislative body, but all such expenditures shall be reported to the municipality pursuant to RSA 38:41. This paragraph shall not be construed to prohibit the establishment of other capital reserve funds for any lawful purpose relating to broadband access.

38-41 Broadband Fund Report. The governing body shall annually make a report of the broadband fund to the municipality showing the expenses and income of the fund, and all other material facts. This report shall be published in the annual report of the municipality.

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

This bill, in areas not served by an existing broadband carrier or provider:

I. Authorizes a county or municipality to issue bonds for broadband infrastructure.

II. Exempts broadband infrastructure bonds from municipal debt limits.

III. Authorizes municipalities to charge broadband access tariffs, to be kept in broadband funds and expended only for broadband infrastructure.

AMENDED ANALYSIS

Amendment to HB 656-FN Proposed by the Majority of the Committee on Judiciary - R

CHAPTER 137-J MEDICAL DECISION MAKING FOR ADULTS WITHOUT CAPACITY TO MAKE HEALTH CARE DECISIONS

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

1. Medical Decision Making for Adults Without Capacity to Make Health Care Decisions for Themselves. RSA 137-J is repealed and reenacted to read as follows:

137-J:1 Purpose and Policy.

1. The state of New Hampshire recognizes that a person has a right, founded in the autonomy and sanctity of the person, to control the decisions relating to the rendering of his or her own medical care. In order that the rights of persons may be respected even after such persons lack the capacity to make health care decisions for themselves, and to encourage communication between patients and their attending physicians or ARNPs, the general court declares that the laws of this state shall recognize the right of a written declaration:

(a) Delegating to an agent the authority to make health care decisions on the person's behalf, in the event such those decisions for himself or herself, either due to permanent or temporary lack of capacity to make health care decisions;

(b) Instructing his or her attending physician or ARNP to provide, withhold, or withdraw life-sustaining treatment, in the event such person is near death or is permanently unconscious.

II. All persons have a right to make health care decisions, including the right to refuse cardiopulmonary resuscitation. It is the purpose of the "Do Not Resuscitate" provisions of this chapter to ensure that the right of a person to self-determination relating to cardiopulmonary resuscitation is protected, and to give direction to emergency services personnel and other health care providers in regard to the performance of cardiopulmonary resuscitation.

137-2:2 Definitions. In this chapter:

I. "Advance directive" means a document allowing a person to give directions about future medical care or to designate another person to make medical decisions if he or she should lose the capacity to make health care decisions. The term "advance directives" shall include living wills and durable powers of attorney for health care.

II. "Advanced registered nurse practitioner" or "ARNP" means a registered nurse who is licensed in good standing in the state of New Hampshire as having specialized clinical qualifications as provided in RSA 326-B:10.

III. "Agent" means an adult to whom authority to make health care decisions is delegated under an advance directive.

IV. "Attending physician or ARNP" means the physician or advanced registered nurse practitioner, selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient. If more than one physician or advanced registered nurse practitioner shares that responsibility, any one of those physicians or advanced registered nurse practitioners may act as the attending physician or ARNP under the provisions of this chapter.

V. "Capacity to make health care decisions" means the ability to understand and appreciate generally the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care.

VI. "Cardiopulmonary resuscitation" means those measures used to restore or support cardiac or respiratory function in the event of a cardiac or respiratory arrest.

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

VIII. "Do not resuscitate identification" means a standardized identification necklace, bracelet, card, or written medical order that signifies that a "Do Not Resuscitate Order" has been issued for the principal.

IX. "Do not resuscitate orders" or "DNRO" (also known as "Do not attempt intubation orders" or "DNAI orders") means an order that, in the event of an actual or imminent cardiac or respiratory arrest, chest compression and ventricular defibrillation will not be performed, the patient will not be intubated or manually ventilated, and there will be no administration of resuscitation drugs.

X. "Durable power of attorney for health care" means a document delegating to an agent the authority to make health care decisions executed in accordance with the provisions of this chapter. It shall not mean forms routinely required by health and residential care providers for admissions and consent to treatment.

XI. "Emergency services personnel" means paid or volunteer firefighters, law-enforcement officers, emergency medical technicians, paramedics or other emergency services personnel, providers, or entities acting within the usual course of their professions.

XII. "Health care decision" means informed consent to or withdrawal of informed consent to any type of health care, treatment, admission to a health care facility, any service or procedure to maintain, diagnose, or treat an individual's physical or mental condition except as prohibited in this chapter or otherwise by law.

XIII. "Health care provider" means any individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care, for profit or otherwise, in the ordinary course of business or professional practice.

XIV. "Life-sustaining treatment" means any medical procedure or interventions which utilize mechanical or other medically administered means to sustain, restore, or supplant a vital function which, in the written judgment of the attending physician or ARNP, would serve only to artificially postpone the moment of death, and where the person is near death or is permanently unconscious. "Life-sustaining treatment" includes, but is not limited to, the following: mechanical respiration, kidney dialysis or the use of other external mechanical or technological devices. Life-sustaining treatment may include drugs to maintain blood pressure, blood transfusions, and antibiotics. "Life-sustaining treatment" shall not include the administration of medication, natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide comfort or to alleviate pain.

XV. "Living will" means a document which, when duly executed, contains the express direction that the life-sustaining treatment be given when the person executing said document has been diagnosed and certified in writing by the attending physician or ARNP to be near death or permanently unconscious, without hope of recovery from such condition and is unable to actively participate in the decision-making process.

XVI. "Medically administered nutrition and hydration" means invasive procedures such as, but not limited to the following: Nasogastric tubes; gastrostomy tubes; intravenous feeding or hydration; and hyperalimentation. It shall not include the natural ingestion of food or fluids by eating and drinking.

XVII. "Near death" means an imminently fatal disease, or illness which is such that death is imminent and the application of life-sustaining treatment would, to a reasonable degree of medical certainty, as determined by 2 physicians or a physician and an ARNP, only postpone the moment of death.

XVIII. "Permanently unconscious" means a lasting condition, indefinitely without improvement, in which thought, awareness of self and environment, and other indicators of consciousness are absent as determined by an appropriate neurological assessment by a physician in consultation with the attending physician or an appropriate neurological assessment by a physician in consultation with an ARNP.

XIX. "Physician" means a medical doctor licensed in good standing to practice in the state of New Hampshire pursuant to RSA 329.

XX. "Principal" means a person 18 years of age or older who has executed an advance directive pursuant to the provisions of this chapter.

XI. "Reasonable degree of medical certainty" means a medical judgment that is made by a physician or ARNP who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

XXII. "Residential care provider" means a "facility" as defined in RSA 161-F:1, IV, a "nursing home" as defined in RSA 151-A:1, IV, or any individual or facility licensed, certified, or otherwise authorized or permitted by law to operate, for profit or otherwise, a residential care facility for adults, including but not limited to those operating pursuant to RSA 420-D.

XXIII. "Witness" means a person 18 years or older who is present when the principal signs an advance directive.

137-2:3 Freedom From Influence.

1. "No health care provider or residential care provider, and no health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital service plan shall charge a person a different rate because of the existence or non-existence of an advance directive or do not resuscitate order, or require any person to execute an advance directive or require the issuance of a do not resuscitate order as a condition of admission to a hospital, nursing home, or residential care home, or as a condition of being insured for, or receiving, health or residential care services. Health or residential care services shall not be refused because a person is known to have executed an advance directive or have a do not resuscitate order.

II. The execution of an advance directive or issuance of a do not resuscitate order pursuant to this chapter shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired, modified or invalidated in any manner by the withholding or withdrawal of life-sustaining treatment from an insured person notwithstanding any term of the policy or the contract.

137-3:4 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Advance Directives

137-3:5 Scope and Duration of Agent's Authority.

I. Subject to the provisions of this chapter and any express limitations set forth by the principal in an advance directive, the agent shall have the authority to make any and all health care decisions on the principal's behalf that the principal could make.

II. An agent's authority shall be in effect only if the principal lacks capacity to make health care decisions, as certified in writing by the principal's attending physician or ARNP, and filed with the name of the agent in the principal's medical record. When and if the principal regains capacity to make health care decisions, such event shall be certified in writing by the principal's attending physician or ARNP, noted in the principal's medical record, the agent's authority shall terminate, and the authority to make health care decisions shall revert to the principal.

III. If the principal has no attending physician or ARNP for reasons based on the principal's religious or moral beliefs as specified in his or her advance directive, the advance directive may include a provision that a person designated by the principal in the advance directive may certify in writing, acknowledged before a notary or justice of the peace, as to the lack of decisional capacity of the principal. The person so designated by the principal shall not be the agent, or a person ineligible to be the agent.

IV. The principal's attending physician or ARNP shall make reasonable efforts to inform the principal of his or her proposed treatment, or of any proposal to withdraw or withhold treatment. Notwithstanding that an advance directive is in effect and irrespective of the principal's lack of capacity to make health care decisions at the time, treatment may be given to or withheld from the principal over the principal's objection.

V. Nothing in this chapter shall be construed to give an agent authority to:

(a) Consent to voluntary admission to any state institution;

(b) Consent to a voluntary sterilization; or

(c) Consent to withholding life-sustaining treatment from a pregnant principal, unless, to a reasonable degree of medical certainty, as certified on the principal's medical record by the attending physician or ARNP, and an obstetrician who has examined the principal, such treatment or procedures will not maintain the principal in such a way as to permit the continuing development and live birth of the fetus or will be physically harmful to the principal or prolong severe pain which cannot be alleviated by medication.

137-3:6 Requirement to Act in Accordance with Principal's Wishes and Best Interests. After consultation with the attending physician or ARNP and other health care providers, the agent shall make health care decisions in accordance with the agent's knowledge of the principal's wishes and religious or moral beliefs, as stated orally or otherwise communicated by the principal, or, if the principal's wishes are unknown, in accordance with the agent's assessment of the principal's best interests and in accordance with accepted medical practice.

137-3:7 Provider's Responsibilities.

I. A principal's health care provider or residential care provider, and employees thereof, having knowledge of the principal's advance directive shall be bound to follow the directives of the principal's designated agent to the extent they are consistent with this chapter and the advance directive, and to the extent they are within the bounds of responsible medical practice.

(a) An attending physician or ARNP, or other health care provider or residential care provider, who is requested to do so by the principal shall make the principal's advance directive or a copy of such document a part of the principal's medical record.

(b) Any person having in his or her possession a duly executed advance directive or a revocation thereof, if it becomes known to that person that the principal executing the same is in such circumstances that the terms of the advance directive might become applicable, shall forthwith deliver the same to the health care provider or residential care provider with which the principal is a patient.

II. A principal's health care provider or residential care provider who is aware of the principal's execution of an advance directive shall, as appropriate to the principal's medical condition and without delay, take the necessary steps to provide for written verification of the principal's lack of capacity to make health care decisions, and/or near death or permanently unconscious condition, as applicable, so that the principal's agent may be authorized to act pursuant to this chapter.

III. Prior to the agent making a health care decision for the principal, the principal's health care provider or residential care provider shall provide the agent with the following information regarding the agent's responsibilities:

(a) The agent shall, at all times, make health care decisions that are consistent with what the principal would have wanted, if reasonably known, had the principal had the capacity to make health care decisions.

(b) If the principal's wishes cannot reasonably be ascertained, the agent shall, in consultation with the attending physician or ARNP, make health care decisions that are in the best interest of the principal, which may include withholding or withdrawing treatment.

(c) The agent shall be informed by the principal's attending physician or ARNP regarding any health care decision the agent makes for the principal, and the agent shall consider the nature and consequences, including the risks, benefits and reasonable alternatives of that health care decision.

IV. When the direction of an agent requires an act or omission contrary to the moral or ethical principles or other standards of a health care provider or residential care provider of which the principal is a patient or resident, the health care provider shall allow for the transfer of the principal and the appropriate medical records to another health care provider chosen by the principal or by the agent and shall incur no liability for its refusal to carry out the terms of the direction by the agent; provided, that, the health care provider or residential care provider shall inform the agent, if its decision not to participate in such an act or omission.

137-3:8 Restrictions on Who May Act as Agent. A person may not exercise the authority of agent while serving in one of the following capacities:

I. The principal's health care provider or residential care provider.

II. A representative of the principal who is an employee of the principal's health care provider or residential care provider.

137-3:9 Confidentiality and Access to Protected Health Information.

I. Health care providers, residential care providers, and persons acting for such providers or under their control, shall be authorized to:

(a) Communicate to an agent any medical information about the principal, if the principal lacks the capacity to make health care decisions, necessary for the purpose of assisting the agent in making health care decisions on the principal's behalf.

(b) Provide copies of the principal's advance directives as necessary to facilitate treatment of the principal.

II. Subject to any limitations set forth in the advance directives by the principal, an agent whose authority is in effect shall be authorized, for the purpose of making health care decisions, to:

(a) Request, review, and receive any information, oral or written, regarding the principal's physical or mental health, including, but not limited to, medical and hospital records.

(b) Execute any releases or other documents which may be required in order to obtain such information.

(c) Consent to the disclosure of such medical information.

137-3:10 Withholding or Withdrawal of Life-Sustaining Treatment.

I. In the event a health care decision to withhold or withdraw life-sustaining treatment, including medically administered nutrition and hydration, is to be made by an agent, and the principal has not executed the "Living Will" component of the advance directive document, the following additional conditions shall apply:

1. The principal's attending physician or ARNP shall certify in writing that the principal lacks the capacity to make health care decisions.

2. Two physicians or a physician and an ARNP shall certify in writing that the principal is near death or is permanently unconscious.

- (e) Notwithstanding the capacity of an agent to act, the agent shall make a good faith effort to explore all avenues reasonably available to discern the desires of the principal including, but not limited to, the principal's advance directive, the principal's written or spoken expressions of wishes, and the principal's known religious or moral beliefs.
- II. The withholding or withdrawal of life-sustaining treatment pursuant to the provisions of this chapter shall at no time be construed as a suicide or murder for any legal purpose. Nothing in this chapter shall be construed to constitute, condone, authorize, or approve suicide, assisted suicide, mercy killing, or euthanasia, or permit any affirmative or deliberate act or omission to end one's own life or to end the life of another other than to permit the natural process of dying of those near death or in a permanently unconscious condition as provided in this chapter. The withholding or withdrawal of life-sustaining treatment in accordance with the provisions of this chapter, however, shall not relieve any individual of responsibility for any criminal acts that may have caused the principal's condition.
- III. Nothing in this chapter shall be construed to condone, authorize, or approve:
- (a) The withholding of life-sustaining treatment from or to permit any affirmative or deliberate act or omission to end the life of a pregnant woman by an attending physician or ARNP when such attending physician or ARNP has knowledge of the woman's pregnant condition, unless, to a reasonable degree of medical certainty, as certified on the principal's medical record by the attending physician or ARNP and an obstetrician who has examined the principal, such treatment or procedures will not maintain the principal in such a way as to permit the continuing development and live birth of the fetus or will be physically harmful to the principal or prolong severe pain which cannot be alleviated by medication.
- (b) The arbitrary withholding or withdrawing of life-sustaining treatment from mentally incompetent or developmentally disabled persons.
- IV. Nothing in this chapter shall impair or supersede any other legal right or responsibility which any person may have to effect life-sustaining treatment in any lawful manner.
- V. Nothing in this chapter shall be construed to revoke or adversely affect the privileges or immunities of health care providers or residential care providers and others to provide treatment to persons in need thereof in an emergency, as provided for under New Hampshire law.
- VI. Nothing in this chapter shall be construed to create a presumption that in the absence of an advance directive, a person wants life-sustaining treatment to be either taken or withdrawn. This chapter shall also not be construed to supplant any existing rights and responsibilities under the law of this state governing the conduct of physicians or ARNPs in consultation with patients or their families or legal guardians in the absence of an advance directive.
- 137-J-11 Liability for Health Care Costs. Liability for the cost of health care provided pursuant to the agent's decision shall be the same as if the health care were provided pursuant to the principal's decision.
- 137-J-12 Immunity.
- I. No person acting as agent pursuant to an advance directive shall be subjected to criminal or civil liability for making a health care decision on behalf of the principal in good faith pursuant to the provisions of this chapter and the terms of the advance directive if such person exercised such power in a manner consistent with the requirements of this chapter and New Hampshire law.
- II. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, shall be subjected to civil or criminal liability or be deemed to have engaged in unprofessional conduct for:
- (a) Any act or intentional failure to act if the act or intentional failure to act is done pursuant to the dictates of an advance directive, the directives of the principal's agent, and the provisions of this chapter, and said act or intentional failure to act is done in good faith and in keeping with reasonable medical standards pursuant to the advance directive and in accordance with this chapter; or
- (b) Failing to follow the directive of an agent if the health care provider or residential care provider or other such person believes in good faith and in keeping with reasonable medical standards that such person exceeds the scope of or conflicts with the authority of the agent under this chapter or the contents of the principal's advance directive.
- III. Nothing in this section shall be construed to establish immunity for the failure to exercise due care in the provision of services or for actions contrary to the requirements of this chapter or other laws of the state of New Hampshire.
- IV. For purposes of this section, "good faith" means honesty in fact in the conduct of the transaction concerned.
- 137-J-13 Use of Statutory Forms.
- I. Every person wishing to execute an advance directive shall be provided with a disclosure statement substantially in the form set forth in RSA 137-J:18 prior to execution. The principal shall be required to sign a statement acknowledging that he or she has received the disclosure statement and has read and understands its contents.
- II. An advance directive executed on or after the effective date of this chapter shall be substantially in the form set forth in RSA 137-J:18.
- III. Medically administered nutrition and hydration shall not be withheld or withdrawn under an advance directive unless there is a clear expression of such power in the document.
- 137-J-14 Execution and Witnesses.
- I. The advance directive shall be signed by the principal in the presence of either of the following:
- (a) Two or more subscribing witnesses, neither of whom shall, at the time of execution, be the agent, the principal's spouse or heir at law, or a person entitled to any part of the estate of the principal upon death of the principal under a will, trust, or other testamentary instrument or deed in existence or by operation of law, or attending physician or ARNP, or person acting under the direction or control of the attending physician or ARNP. No more than one such witness may be the principal's health or residential care provider or such provider's employee. The witnesses shall affirm that the principal appeared to be of sound mind and free from duress at the time the advance directive was signed and that the principal affirmed that he or she was aware of the nature of the document and signed it freely and voluntarily; or
- (b) A notary public or justice of the peace, who shall acknowledge the principal's signature pursuant to the provisions of RSA 456 or RSA 456-A.
- II. If the principal is physically unable to sign, the advance directive may be signed by the principal's presence and by the principal's express direction.
- 137-J-15 Revocation.
- I. An advance directive consistent with the provisions of this chapter shall be revoked:
- (a) By written revocation delivered to the agent or to a health care provider or residential care provider expressing the principal's intent to revoke, signed, and dated by the principal; by oral revocation in the presence of 2 or more witnesses, none of whom shall be the principal's spouse or heir at law; or by any other act evidencing a specific intent to revoke the power, such as by burning, tearing, or obliterating the same or causing the same to be done by some other person at the principal's direction and in the principal's presence;
- (b) By execution by the principal of a subsequent advance directive;
- (c) By the filing of legal separation, annulment or protective order, where both the agent and the principal are parties to such action, except when there is an alternate agent designated, in which case the designation of the primary agent shall be revoked and the alternate designation shall become effective. Re-execution or written re-affirmation of the advance directive following a filing of an action for divorce, legal separation, annulment or protective order shall make effective the original designation of the primary agent under the advance directive; or
- (d) By a determination by a court under RSA 506:7 that the agent's authority has been revoked.
- II. A principal's health or residential care provider who is informed of or provided with a revocation of an advance directive shall immediately record the revocation, and the time and date when he or she received the revocation, in the principal's medical record and notify the agent, the attending physician or ARNP, and staff responsible for the principal's care of the revocation. An agent who becomes aware of such revocation shall inform the principal's health or residential care provider of such revocation. Revocation shall become effective upon communication to the attending physician or ARNP.
- 137-J-16 Documents from Other States; Documents Executed Prior to Enactment. Nothing in this chapter limits the enforceability of a durable power of attorney for health care or living will or similar instrument validly executed under prior New Hampshire law or in another state or jurisdiction in compliance with the law of that state or jurisdiction. However, any exercise of power under such a previously valid or foreign advance directive or similar instrument shall be restricted by and in compliance with the requirements of this chapter and the laws of the state of New Hampshire.
- 137-J-17 Naming of Multiple Agents. If the principal lists more than one person as the agent in a durable power of attorney for health care document, the agents shall have authority in priority of the order in which their names are listed on the document, unless the method of joint agency is expressly included.
- 137-J-18 Durable Power of Attorney; Disclosure Statement. The disclosure statement which must accompany a durable power of attorney for health care shall be in substantially the following form:

INFORMATION CONCERNING THE DURABLE POWER OF
ATTORNEY FOR HEALTH CARE THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING IT, YOU SHOULD
KNOW THESE IMPORTANT FACTS:

Except if you say otherwise in the document, this document gives the person you name as your health care agent the power to make any and all health care decisions for you when you lack the capacity to make health care decisions for yourself in other words, you no longer have the ability to understand and appreciate generally the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care.

"Health care" means any treatment, service or procedure to maintain, diagnose, dispense or treat your physical or mental condition. Your health care agent, therefore, will have the power to make a wide range of health care decisions for you. Your health care agent may consent (in other words, give permission), refuse to consent, or withdraw consent to medical treatment, and may make decisions about withdrawing or withholding life-sustaining treatment. Your health care agent cannot consent to or direct any of the following: commitment to a state institution, sterilization, or termination of treatment if you are pregnant and if the withdrawal of that treatment is deemed likely to terminate the pregnancy, unless the treatment will be physically harmful to you or prolong severe pain which cannot be alleviated by medication.

If you explain in this document that treatment you do not want, or any treatment you want to be sure you receive. Your health care agent's power will begin when your doctor certifies that you lack the capacity to make health care decisions (in other words, that you are not able to make health care decisions). If for moral or religious reasons you do not want to be treated by a doctor or to be examined by a doctor to certify that you lack capacity, you must say so in the document and you must name someone who can certify your lack of capacity. That person cannot be your health care agent or alternate health care agent or any person who is not eligible to be your health care agent. You may attach additional pages to the document if you need more space to state your wishes.

If you want to give your health care agent power to withhold or withdraw medically administered nutrition and hydration, you must say so in your document. Otherwise, your health care agent will not be able to direct that. Under no conditions will your health care agent be able to direct the withholding of food and drink that you are able to eat and drink normally.

Your health care agent shall be guided by your written instructions in this document when making decisions for you. Unless you state otherwise in the document, your agent will have the same power to make decisions about your health care as you would have had, if those decisions by your health care agent are made consistent with state law.

It is important that you discuss this document with your doctor or other health care providers before you sign it, to make sure that you understand the nature and range of decisions which could be made for you by your health care agent. If you do not have a health care provider, you should talk with someone else who is knowledgeable about these issues and can answer your questions. Check with your community hospital or hospice for trained staff. You do not need a lawyer's assistance to complete this document, but if there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

The person you choose as your health care agent should be someone you know and trust, and he or she must be at least 18 years old. If you choose your health or residential care provider (such as your doctor, advanced registered nurse practitioner, or an employee of a hospital, nursing home, home health agency, or residential care home, other than a relative), that person will have to choose between acting as your health care agent or as your health or residential care provider, because the law does not allow a person to do both at the same time.

You should consider choosing an alternate health care agent, in case your health care agent is unwilling, unable, unavailable or not eligible to act as your health care agent. Any alternate health care agent you choose will then have the same authority to make health care decisions for you.

You should tell the person you choose that you want him or her to be your health care agent. You should talk about this document with your health care agent and your doctor or advanced registered nurse practitioner and give each one a signed copy. You should write on the document itself the people and institutions who will have signed copies. Your health care agent will not be liable for health care decisions made in good faith on your behalf.

EVEN AFTER YOU HAVE SIGNED THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE HEALTH CARE DECISIONS FOR YOURSELF AS LONG AS YOU ARE ABLE TO DO SO, AND TREATMENT CANNOT BE GIVEN TO YOU OR STOPPED OVER YOUR CLEAR OBJECTION. You have the right to revoke the power given to your health care agent by telling him or her, or by telling your health care provider, orally or in writing, that you no longer want that person to be your health care agent.

This document cannot be changed or modified. If you want to make changes, you must make an entirely new document.

THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR TWO (2) OR MORE QUALIFIED WITNESSES, WHO MUST BOTH BE PRESENT WHEN YOU SIGN AND WHO WILL ACKNOWLEDGE YOUR SIGNATURE ON THE DOCUMENT. THE FOLLOWING PERSONS MAY NOT ACT AS WITNESSES:

___The person you have designated as your health care agent;

___Your spouse or heir at law;

___Your attending physician or ARNP, or person acting under the direction or control of the attending physician or ARNP;

ONLY ONE OF THE TWO WITNESSES MAY BE YOUR HEALTH OR RESIDENTIAL CARE PROVIDER OR ONE OF YOUR PROVIDER'S EMPLOYEES.

137-J-19 Advance Directive; Durable Power of Attorney and Living Will; Form. An advance directive in its individual "Durable Power of Attorney for Healthcare" and "Living Will" components shall be in substantially the following form:

NEW HAMPSHIRE ADVANCE DIRECTIVE

NOTE. This form has two sections.

You may complete both sections, or only one section.

I. DURABLE POWER OF ATTORNEY FOR HEALTH CARE

I, _____, of _____ (Please choose only one person. If you choose more than one agent, they will have authority in priority of the order their names are listed,) as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document or as prohibited by law. This durable power of attorney for health care shall take effect in the event I lack the capacity to make my own health care decisions.

In the event the person I appoint above is unable, unwilling or unavailable, or ineligible to act as my health care agent, I hereby appoint _____ of _____ as alternate agent. (Please choose only one person. If you choose more than one alternate agent, they will have authority in priority of the order their names are listed.)

STATEMENT OF DESIRES; SPECIAL PROVISIONS.

AND LIMITATIONS REGARDING HEALTH CARE DECISIONS.

For your convenience in expressing your wishes, some general statements concerning the withholding or removal of life-sustaining treatment are set forth below. (Life-sustaining treatment is defined as procedures without which a person would die, such as but not limited to the following: mechanical respiration, kidney dialysis or the use of other external mechanical and technological devices, drugs to maintain blood pressure, blood transfusions, and antibiotics.) There is also a section which allows you to set forth specific directions for these or other matters. If you wish, you may indicate your agreement or disagreement with any of the following statements and give your agent power to act in those specific circumstances.

A. LIFE-SUSTAINING TREATMENT.

1. If I am near death and permanently lack the capacity to make health care decisions, I authorize my agent to direct that:

(Initial beside your choice of (a) or (b).)

___(a) life-sustaining treatment not be started, or if started, be discontinued.

___(b) life-sustaining treatment continue to be given to me.

2. Whether near death or not, if I become permanently unconscious I authorize my agent to direct that:

(Initial beside your choice of (a) or (b).)

___(a) life-sustaining treatment not be started, or if started, be discontinued.

___(b) life-sustaining treatment continue to be given to me.

B. MEDICALLY ADMINISTERED NUTRITION AND HYDRATION.

1. I realize that situations could arise in which the only way to allow me to die would be to not start or to discontinue medically administered nutrition and hydration. In carrying out any instructions I have given in this document, I authorize my agent to direct that:

(Initial beside your choice of (a) or (b).)

___(a) medically administered nutrition and hydration not be started or, if started, be discontinued.

___(b) even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me.

(If you fail to complete item B, your agent will not have the power to direct the withholding or withdrawal of medically administered nutrition and hydration.)

C. ADDITIONAL INSTRUCTIONS.

Here you may include any specific desires or limitations you deem appropriate, such as when or what life-sustaining treatment you would want used or withheld, or instructions about refusing any specific types of treatment that are inconsistent with your religious beliefs or are unacceptable to you for any other reason. You may leave this question blank if you desire.

(attach additional pages as necessary)

I hereby acknowledge that I have been provided with a disclosure statement explaining the effect of this document. I have read and understand the information contained in the disclosure statement.

The original of this document will be kept at _____ and the following persons and institutions will have signed copies:

Signed this _____ day of _____, 20____.

Principal's Signature:

(If you are physically unable to sign, this document may be signed by someone else writing your name, in your presence and at your express direction.)

THIS POWER OF ATTORNEY DOCUMENT MUST BE SIGNED BY

TWO WITNESSES OR A NOTARY PUBLIC.

We declare that the principal appears to be of sound mind and free from duress at the time the durable power of attorney for health care is signed and that the principal affirms that he or she is aware of the nature of the document and is signing it freely and voluntarily.

Witness: _____ Address: _____

Witness: _____ Address: _____

STATE OF NEW HAMPSHIRE

COUNTY OF _____

The foregoing durable power of attorney for health care was acknowledged before me this _____ day of _____, 20____, by _____ (the Principal).

Notary Public / Justice of the Peace

My commission expires: _____

II. LIVING WILL.

Declaration made this _____ day of _____, 20____.

I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease, or illness and I am certified to be near death or in a permanently unconscious condition by my attending physician or ARNP, and my attending physician or ARNP has determined that my death will occur whether or not life-sustaining treatment is utilized or that I will remain in a permanently unconscious condition and where the application of life-sustaining treatment would serve only to artificially prolong the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, the natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide me with comfort care. I realize that situations could arise in which the only way to allow me to die would be to discontinue medically administered nutrition and hydration.

In carrying out any instruction I have given under this section, I authorize that:

(Initial beside your choice of (a) or (b).)

___(a) medically administered nutrition and hydration not be started or, if started, be discontinued,

___(b) even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me.

In the absence of my ability to give directions regarding the use of such life-sustaining treatment, it is my intention that this declaration shall be honored by my family and health care providers as the final expression of my right to refuse medical or surgical treatment and accept the consequences of such refusal.

I understand the full import of the declaration, and I am emotionally and mentally competent to make this declaration.

Signed this _____ day of _____, 20____.

Principal's Signature:

(If you are physically unable to sign, this document may be signed by someone else writing your name, in your presence and at your express direction.)

THIS LIVING WILL DOCUMENT MUST BE SIGNED BY
TWO WITNESSES OR A NOTARY PUBLIC.

We declare that the principal appears to be of sound mind and free from duress at the time the living will is signed and that the principal affirms that he or she is aware of the nature of the document and is signing it freely and voluntarily.

Witness: _____ Address: _____

Witness: _____ Address: _____

STATE OF NEW HAMPSHIRE

COUNTY OF _____

The foregoing living will was acknowledged before me this _____ day of _____, 20____, by _____ (the Principal).

Notary Public / Justice of the Peace
My commission expires: _____
137-2-20 Effect of Appointment of Guardian; Incompetency.
I. On motion filed in connection with a petition for appointment of a guardian or a petition of a guardian if one has been appointed, the probate court shall consider whether the authority of an agent designated pursuant to an advance directive should be suspended or revoked. In making its determination, the probate court shall take into consideration the preferences of the principal as expressed in the advance directive. No such consideration shall change the procedures or burden of proof involved in the guardianship process as otherwise provided by law or procedures. In such consideration, the advance directive and agent appointed shall be presumed to be in the best interest of the principal and valid, absent clear and convincing evidence to the contrary.
II. To the extent that a durable power of attorney for health care, or such component of an advance directive as set forth in RSA 137-J:15, conflict with a terminal care document or living will, or such component of an advance directive as set forth in RSA 137-J:19, the durable power of attorney for health care shall control.
137-2-21 Civil Action.
I. The principal or any person who is a near relative of the principal, or who is a responsible adult who is directly interested in the principal by personal knowledge and acquaintance, including, but not limited to a guardian, social worker, physician, or clergyman, may file an action in the probate court of the county where the principal is located at the time:
(a) Requesting that the authority granted to an agent by an advance directive be revoked on the grounds that the principal was not of sound mind or was under duress, fraud, or undue influence when the advance directive was executed, and shall have all the rights and remedies provided by RSA 606:7 which shall apply to documents executed under this chapter and persons acting pursuant to this chapter.
(b) Challenging the right of any agent who is acting or who proposes to act as such pursuant to this chapter and naming another person, who agrees to so act, to be appointed guardian over the person of the principal for the sole purpose of making health care decisions, as provided for in RSA 464-A.
II. A copy of any such action shall be given in hand to the principal's attending physician or ARNP and, as applicable, to the principal's health care provider or residential care facility. To the extent they are not irreversibly implemented, health care decisions made by a challenged agent shall not thereafter be implemented without an order of the probate court or a withdrawal or dismissal of the court action.
III. The probate court in which such a petition is filed shall hold a hearing as expeditiously as possible.
137-2-22 Penalty. A person who knowingly and falsely makes, alters, forges, or counterfeits, or knowingly or recklessly and falsely causes to be made, altered, forged, or counterfeited, or procures, aids or counsels the making, altering, forging, or counterfeiting, of an advance directive or revocation of same with the intent to injure or defraud a person shall be guilty of a class B felony, notwithstanding any provisions in title LXIII.
Do Not Resuscitate
137-2-23 Applicability. The provisions of this subdivision apply to all persons regardless of whether or not they have completed an advance directive.
137-2-24 Presumed Consent to Cardiopulmonary Resuscitation; Health Care Providers and Residential Care Providers Not Required to Expand to Provide Cardiopulmonary Resuscitation.
I. Every person shall be presumed to consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest, unless one or more of the following conditions, of which the health care provider or residential care provider has actual knowledge, apply:
(a) A do not resuscitate order in accordance with the provisions of this chapter has been issued for that person;
(b) A completed advance directive for that person is in effect, pursuant to the provisions of this chapter, in which the person indicated that he or she does not wish to receive cardiopulmonary resuscitation, or his or her agent has determined that the person would not wish to receive cardiopulmonary resuscitation; or
(c) A person is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof.
II. Nothing in this section shall be construed to revoke any statute, regulation, or law otherwise requiring or exempting a health care provider or residential care provider from instituting or maintaining the ability to provide cardiopulmonary resuscitation or expanding its existing equipment, facilities, or personnel to provide cardiopulmonary resuscitation.
137-2-25 Issuance of a Do Not Resuscitate Order; Order to be Written by the Attending Physician or ARNP.
I. An attending physician or ARNP may issue a do not resuscitate order for a person if the person, or the person's agent, has consented to the order. A do not resuscitate order shall be issued in writing in the form as described in this section for a person not present or residing in a health care facility. For persons present in health care facilities, a do not resuscitate order shall be issued in accordance with the policies and procedures of the health care facility or in accordance with the provisions of this chapter.
II. A person may request that his or her attending physician or ARNP issue a do not resuscitate order for the person.
III. An agent may consent to a do not resuscitate order for a person who lacks the capacity to make health care decisions. A do not resuscitate order written by the attending physician or ARNP for such a person with the consent of the agent is valid and shall be respected by health care providers and residential care providers.
IV. For persons not present or residing in a health care facility, the do not resuscitate order shall be noted on a medical orders form or in substantially the following form on a card suitable for carrying on the person:
Do Not Resuscitate Order
As attending physician or ARNP of _____, and as a licensed physician or advanced registered nurse practitioner, I order that this person SHALL NOT BE RESUSCITATED in the event of cardiac or respiratory arrest.
This order has been discussed with _____ (or, if applicable, with his/her agent) _____, who has given consent as evidenced by his/her signature below.

Attending physician or ARNP Name _____
Attending physician or ARNP Signature _____
Address _____
Person Signature _____
Address _____
Agent Signature (if applicable) _____
Address _____
V. For persons residing in a health care facility, the do not resuscitate order shall be reflected in at least one of the following forms:
(a) Forms required by the policies and procedures of the health care facility;
(b) The do not resuscitate card as set forth in paragraph V; or
(c) The medical orders form.
137-2-26 Compliance with a Do Not Resuscitate Order.
I. Health care providers and residential care providers shall comply with the do not resuscitate order when presented with one of the following:
(a) A do not resuscitate order completed by the attending physician or ARNP on a form as specified in RSA 137-J:25;
(b) A do not resuscitate order for a person present or residing in a health care facility issued in accordance with the health care facility's policies and procedures; or
(c) A medical orders form on which the attending physician or ARNP has documented a do not resuscitate order.
II. Pursuant to this chapter, health care providers shall respect do not resuscitate orders for persons in health care facilities, ambulances, homes, and communities within this state.
137-2-27 Protection of Persons Carrying Out in Good Faith a Do Not Resuscitate Order; Notification of Agent by Attending Physician or ARNP Refusing to Comply with Do Not Resuscitate Order.
I. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, shall be subject to criminal or civil liability, or be deemed to have engaged in unprofessional conduct, for carrying out in good faith a do not resuscitate order authorized by this chapter on behalf of a person as instructed by the person, or the person's agent, or for those actions taken in compliance with the standards and procedures set forth in this chapter.
II. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, shall be subject to criminal or civil liability for providing cardiopulmonary resuscitation to a person for whom a do not resuscitate order has been issued; provided, that such provider or individual:
(a) Reasonably and in good faith is unaware of the issuance of a do not resuscitate order; or
(b) Reasonably and in good faith believed that consent to the do not resuscitate order has been revoked or cancelled.
III. Any attending physician or ARNP who refuses to issue a do not resuscitate order at a person's request or to comply with a do not resuscitate order issued pursuant to this chapter shall take reasonable steps to advise promptly the person or agent of the person that such attending physician or ARNP is unwilling to effectuate the order. The attending physician or ARNP shall thereafter at the election of the person or agent permit the person or agent to obtain another attending physician or ARNP.
137-2-28 Revocation of Do Not Resuscitate Order.
I. At any time a person in a health care facility may revoke his or her previous request for or consent to a do not resuscitate order by making either a written, oral, or other act of communication to the attending physician or ARNP or other professional staff of the health care facility.
II. At any time a person residing at home may revoke his or her do not resuscitate order by destroying such order and removing do not resuscitate identification on his or her person. The person is responsible for notifying his or her attending physician or ARNP of the revocation.
III. At any time an agent may revoke his or her consent to a do not resuscitate order for a person who lacks capacity to make health care decisions who is admitted to a health care facility by notifying the attending physician or ARNP or other professional staff of the health care facility of the revocation of consent in writing, or by orally notifying the attending physician or ARNP in the presence of a witness 18 years of age or older.
IV. At any time an agent may revoke his or her consent for a person who lacks capacity to make health care decisions who is residing at home by destroying such order and removing do not resuscitate identification from the person. The agent is responsible for notifying the person's attending physician or ARNP of the revocation.
V. The attending physician or ARNP who is informed of or provided with a revocation of consent pursuant to this section shall immediately cancel the do not resuscitate order if the person is in a health care facility and notify the professional staff of the health care facility responsible for the person's care of the revocation and cancellation. Any professional staff of the health care facility who is informed of or provided with a revocation of consent pursuant to this section shall immediately notify the attending physician or ARNP of such revocation.
VI. Only a physician or advanced registered nurse practitioner may cancel the issuance of a do not resuscitate order.
137-2-29 No Suicide or Murder. The withholding of cardiopulmonary resuscitation from a person in accordance with the provisions of this chapter shall not, for any purpose, constitute suicide or murder. The withholding of cardiopulmonary resuscitation from a person in accordance with the provisions of this chapter, however, shall not relieve any individual of responsibility for any criminal acts that may have caused the person's condition. Nothing in this chapter shall be construed to legalize, condone, authorize, or approve mercy killing or assisted suicide.
137-2-30 International Transfer. If a person with a do not resuscitate order is transferred from one health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of a do not resuscitate order to the receiving facility prior to the transfer. The written do not resuscitate order, the do not resuscitate card as described in RSA 137-J:25, or the medical orders form shall accompany the person to the health care facility receiving the person and shall remain effective until a physician at the receiving facility issues admission orders. The do not resuscitate order or the medical orders form shall be kept as the first page in the person's transfer record.
137-3:1 Preservation of Existing Rights.
I. Nothing in this chapter shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding of cardiopulmonary resuscitation in any lawful manner. In such respect, the provisions of this chapter are cumulative.
II. Nothing in this chapter shall be construed to preclude a court of competent jurisdiction from approving the issuance of a do not resuscitate order under circumstances other than those under which such an order may be issued pursuant to the provisions of this chapter.
137-3:2 Do Not Resuscitate Identification. Do not resuscitate identification as set forth in this chapter may consist of either a medical condition bracelet or necklace with the inscription of the person's name, date of birth in numerical form and "NH Do Not Resuscitate" or "NH DNR" on it. Such identification shall be issued only upon presentation of a properly executed do not resuscitate order form as set forth in RSA 137-J:25, a medical orders form in which a physician or advanced registered nurse practitioner has documented a do not resuscitate order, or a do not resuscitate order properly executed in accordance with a health care facility's written policy and procedure.
2 Emergency Care; Reference Change. Amend RSA 153-A:9, II to read as follows:
I. Protocols recommended by the emergency medical services medical control board for provision of emergency medical care, which shall provide for the provision of local options under medical control. The protocols shall address living wills established under RSA 1309-H:1 137-J, durable powers of attorney for health care established under RSA 137-J, and patient-requested, physician generated orders relative to resuscitation.
3 Guardianship Reference Change. Amend RSA 464-A:25, I(b) to read as follows:
(b) If a ward has previously executed a valid living will, under RSA 1309-H:1 137-J, a guardian shall be bound by the terms of such document, provided that the court may hold a hearing to interpret any ambiguity in such document. If a ward has previously executed a valid durable power of attorney for health care, RSA 137-J shall apply.
4 Jurisdiction; Reference Change. Amend RSA 547:3, (j) to read as follows:
(j) The interpretation and effect of living wills under RSA 1309-H:1 137-J.
5 Regard. RSA 137-II, relative to living wills, is hereby repealed.
6 Effective Date. This act shall take effect January 1, 2007.

2006-0039B

Amendment to HB 657-FN-LOCAL
Proposed by the Committee on Municipal and County Government - C

CHAPTER 79-E
COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE

79-E:1 Declaration of Public Benefit.
I. It is declared to be a public benefit to enhance downtowns and town centers with respect to economic activity, cultural and historic character, sense of community, and in-town residential uses that contribute to economic and social vitality.
II. It is further declared to be a public benefit to encourage the rehabilitation of the many underutilized structures in urban and town centers as a means of encouraging growth of economic, residential and municipal uses in a more compact pattern, in accordance with RSA 9-B.
III. Short-term property assessment tax relief and a related covenant to protect public benefit are considered under this chapter as incentives which they encourage substantial rehabilitation and use of qualifying structures as defined in this chapter.
79-E:2 Definitions. In this chapter:
I. "Qualifying structure" means a building located in a district officially designated in a municipality's master plan, or by zoning ordinance, as a downtown, town center, central business district, or village center, or, where no such designation has been made, in a geographic area which, as a result of its compact development patterns and uses, is identified by the governing body as the downtown, town center, or village center for purposes of this chapter.
II. "Substantial rehabilitation" means rehabilitation of a qualifying structure which costs at least 15 percent of the pre-rehabilitation assessed valuation or at least \$75,000, whichever is less.
III. "Tax relief" means that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a qualifying structure shall not increase as a result of the substantial rehabilitation thereof.
IV. "Tax relief period" means the finite period of time during which the tax relief will be effective, as determined by a local governing body pursuant to RSA 79-E:5.
79-E:3 Adoption of Community Revitalization Tax Relief Incentive Program
I. Any city or town may adopt the provisions of this chapter by voting whether to accept or consider requests for community revitalization tax relief incentives. Any city or town may do so by following the procedures in this section.
II. In a town, other than a town that has adopted a question pursuant to RSA 49-D, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition under RSA 393:3.
III. In a city or town that has adopted a charter under RSA 40-C or RSA 49-D, the city or town shall consider and act upon the question in accordance with the normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such municipality may vote to place the question on the official ballot for any regular municipal election.
IV. If a majority of those voting on the question vote "yes," applications for community revitalization tax relief incentives may be accepted and considered by the local governing body at any time thereafter, subject to the provisions of paragraph VI of this section.
V. If the question is not approved, the question may later be voted on according to the provisions of paragraph II or III of this section, whichever applies.
VI. The local governing body of any town or city that has adopted this program may consider rescinding its action in the manner described in paragraph II or III of this section, whichever applies. A vote terminating the acceptance and consideration of such applications shall have no effect on incentives previously granted by the city or town, nor shall it terminate consideration of applications submitted prior to the date of such vote.
79-E:4 Community Revitalization Tax Relief Incentive.
I. An owner of a qualifying structure who intends to substantially rehabilitate such structure may apply to the governing body of the municipality in which the property is located for tax relief. The applicant shall include the address of the property, a description of the intended rehabilitation, any changes in use of the property resulting from the rehabilitation, and an application fee.
II. Upon receipt of an application, the governing body shall hold a duly noticed public hearing to take place no later than 60 days from receipt of the application, to determine whether the structure at issue is a qualifying structure, whether the proposed rehabilitation qualifies as substantial rehabilitation; and whether there is a public benefit to granting the requested tax relief and, if so, for what duration.
III. No later than 45 days after the public hearing, the governing body shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.
IV(a) The governing body may grant the tax relief, provided:
(1) The governing body finds a public benefit under RSA 79-E:7; and
(2) The specific public benefit is preserved through a covenant under RSA 79-E:8; and
(b) If the governing body finds that the proposed use is consistent with the municipality's master plan or development regulations.
(c) The governing body grants the tax relief, the governing body shall identify the specific public benefit achieved under RSA 79-E:7, and shall determine the precise terms and duration of the covenant to preserve the public benefit under RSA 79-E:8.
V. If the governing body grants the application for tax relief, such denial shall be accompanied by a written explanation. The governing body's decision may be appealed either to the board of tax and land appeals or the superior court in the same manner as provided for appeals of current use classification pursuant to RSA 79-A:9 or 79-A:11 provided, however, that such denial shall be deemed discretionary and shall not be set aside by the board of tax and land appeals or the superior court for bad faith or discrimination.
79-E:5 Duration of Tax Relief Period.
I. The governing body may grant such tax assessment relief for a period of up to 5 years, beginning with the completion of the substantial rehabilitation.
II. The governing body may in its discretion add up to an additional 2 years of tax relief for a project that results in new residential units and up to 4 years for a project that includes affordable housing.
III. The governing body may in its discretion add up to an additional 4 years of tax relief for the substantial rehabilitation of a qualifying structure that is listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or is located within and important to locally designated historic district, provided that the substantial rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation.
79-E:6 Resumption of Full Tax Liability. Upon expiration of the tax relief period, the property shall be taxed at its market value in accordance with RSA 78:1.
79-E:7 Public Benefit. The proposed substantial rehabilitation must provide at least one of the following public benefits in order to qualify for tax relief under this chapter:
I. It enhances the economic vitality of the downtown.
II. It enhances and improves a structure that is culturally or historically important on a local, regional, state, or national level, either independently or within the context an historic district, town center, or village center in which the building is located;
III. It promotes development of municipal centers, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B; or
IV. It increases residential housing in urban or town centers.
79-E:8 Covenant to Protect Public Benefit.
I. Tax relief for the substantial rehabilitation of a qualifying structure shall be effective only after a property owner grants to the municipality a covenant ensuring that the structure shall be maintained and used in a manner that furthers the public benefits for which the tax relief was granted.
II. The covenant shall be coextensive with the tax relief period. The covenant may, if required by the governing body, be effective for a period of time up to twice the duration of the tax relief period.
III. The covenant shall include provisions requiring the property owner to obtain casualty insurance, and flood insurance if appropriate. The covenant may include, at the governing body's sole discretion, a lien against proceeds from casualty and flood insurance claims for the purpose of ensuring proper restoration or demolition or damaged structures and property. If the property owner has not begun the process of restoration, rebuilding, or demolition of such structure within one year following damage or destruction, the property owner shall be subject to the termination of provisions set forth in RSA 79-E:8, I.
IV. The local governing body shall provide for the recording of the covenant to protect public benefit with the registry of deeds. It shall be a burden upon the property and shall bind all transferees and assignees of such property.
V. The applicant shall pay any reasonable expenses incurred by the municipality in the drafting, review and/or execution of the covenant. The applicant also shall be responsible for the cost of recording the covenant.
79-E:9 Termination of Covenant; Reduction of Tax Relief; Penalty.
I. If the owner fails to maintain or utilize the building according to the terms of the covenant, or fails to restore, rebuild, or demolish the structure following damage or destruction as provided in RSA 79-E:8, III, the governing body shall, after a duly noticed public hearing, determine whether and to what extent the public benefit of the rehabilitation has been diminished and shall determine whether to terminate or reduce the tax relief period in accordance with such determination. If the covenant is terminated, the governing body shall assess all taxes to the owner as though no tax relief was granted, with interest in accordance with paragraph II.

275-F1 Definition. In this chapter "governmental entity" means the state or any political subdivision of the state, a government branch, unit, or agency, including any authority, board, court, department, division, commission, institution, bureau, or similar entity of the state or of any political subdivision of the state, or any contractor to any of the foregoing. "Governmental entity" does not include county registries of deeds to the extent they are regulated under RSA 478:4-b.

275-F2 Disclosure of Social Security Numbers.

I. It shall be unlawful for any governmental entity to obtain an individual's social security number from a source other than the individual to whom it is assigned, or to disclose an individual's social security number, unless the governmental entity is required by federal law or state statute to do so.

II. It shall be unlawful for any governmental entity to request an individual to disclose his or her social security number on a voluntary basis unless request is explicitly authorized by state statute.

III. It shall be unlawful for any governmental entity to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security number, except for:

a) Any disclosure which is required by federal law or by state statute as authorized by federal statute or

b) Any disclosure of a social security number to a governmental entity maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under federal or state statute or regulation enacted or adopted prior to January 1, 1975, to verify the identity of an individual.

IV. Any governmental entity which requests or requires an individual to disclose his or her social security number shall inform that individual in writing whether such disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

275-F3 Civil Penalties. In any suit brought to enforce the provisions of RSA 275-F:2 in which the court determines that the governmental entity or an employee of the governmental entity acted in a manner which was intentional or willful, the aggrieved individual may bring against the governmental entity an action to enjoin such violation and, if successful, recover court costs and reasonable attorney's fees.

275-F4 Criminal Penalties.

I. Any officer or employee of a governmental entity who, by virtue of his or her employment or official position, has possession of, or access to, records of the governmental entity which contain social security numbers the disclosure of which is prohibited by this chapter, and who, knowing that disclosure of the social security number is prohibited, willfully discloses the social security number in any manner to any person or governmental entity not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$1,000.

II. Any person who knowingly and willfully requests or obtains any social security number from a governmental entity under false pretenses shall be guilty of a misdemeanor and fined not more than \$1,000.

2 New Sections: Registers of Deeds: Social Security Numbers and Financial Information. Amend RSA 478 by inserting after section 4-a the following new sections:

478-4-b Records: Social Security Numbers and Financial Information.

I. The preparer of a document shall not include an individual's social security number, credit card number, or deposit account numbers in a document that is prepared and presented for recording in the office of the register of deeds. This paragraph shall not apply to state or federal tax liens, certified copies of death certificates, and other documents required by law to contain such information that are filed or recorded in the office of the register of deeds. For the purpose of this section, "preparer" shall mean the person who drafts the documents that are recorded with the register of deeds. Preparer shall not include any person who hires, requires, refers, pays, or requests that the documents be drafted or recorded.

II. If a deed or other instrument that includes an individual's social security number, credit card number, or deposit account numbers, was filed with the register of deeds and is available on the Internet, the individual may request that the register of deeds redact such information from the Internet record. The register of deeds shall establish a procedure by which individuals may request that such information be redacted from its files which are available on the Internet. Upon request, the information shall be redacted.

III. The register of deeds shall comply with an individual's request to redact his or her social security number, credit card number, or deposit account numbers within 5 business days of the receipt of the request, or sooner, if ordered to do so by a court, for good cause shown.

478-4-c Violation: Enforcement. An individual aggrieved by a violation of RSA 478-4-b, I may bring against the preparer:

I. An action to enjoin such violation.

II. An action to recover actual monetary loss from such a violation, or to receive up to \$1,000 in damages for each such violation, whichever is greater.

III. Both such actions.

3 New Chapter: Action for Unauthorized Use of Social Security Number. Amend RSA by inserting after chapter 507-G the following new chapter:

CHAPTER 507-H
ACTION FOR UNAUTHORIZED USE OF SOCIAL SECURITY NUMBER

507-H:1 Prohibition. No person may do any of the following:

I. Intentionally communicate or otherwise make available to the general public an individual's social security number or any part thereof.

II. Require an individual to use his or her social security number to access an Internet site unless it is encrypted or otherwise comparably secure.

III. Give, sell, lease, loan, trade, rent, or otherwise disclose an individual's social security number to a third party for any purpose without written consent by the individual to the disclosure.

IV. Treat an individual differently or refuse to do business with an individual because the individual will not provide, or consent to the receipt by such person, of the social security number of such individual.

507-H:2 Exceptions. This chapter shall not prevent:

I. The collection, use, or release of a social security number as required by state or federal law or by state or federal officials in order to carry out their official functions.

II. The use of a social security number by a person, or a contractor or affiliate of that person, to verify the identity of an individual or for administrative purposes, as long as the number was acquired for an allowable purpose.

III. The collection, use, release, or sharing of a social security number to obtain a credit report from or furnish data to a consumer reporting agency pursuant to the New Hampshire Fair Credit Reporting Act, RSA 359-B, or the Fair Credit Reporting Act, 15 U.S.C. section 1681, et seq.

IV. The collection, use, release, or sharing of a social security number in connection with providing a credit report or file, a consumer report, or consumer disclosure as permitted or required by the New Hampshire Fair Credit Reporting Act, RSA 359-B:1, or to undertake a permissible purpose enumerated in Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. sections 6801 through 6809.

507-H:3 Violation; Actions.

I. An individual aggrieved by a violation of this chapter may bring:

a) An action to enjoin such violation.

b) An action to recover actual monetary loss from such a violation, or to receive up to \$1000 in damages for each such violation, whichever is greater.

c) Both such actions.

II. In any successful action under paragraph 1, the aggrieved party shall be awarded the costs of the action together with reasonable attorney's fees as determined by the court. Upon a finding by the court that an unsuccessful pleading, motion, or paper filed in connection with an action under paragraph 1 was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.

III. It shall be an affirmative defense in any action brought under paragraph 1 that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent violations of this chapter.

IV. If the court finds that the defendant willfully or knowingly or with gross negligence violated this chapter, the court may, in its discretion, increase damages to an amount equal to not more than 3 times the amount available under paragraph I.

4 Effective Date.

I. RSA 478-4-b, III as inserted by section 2 of this act of this act shall take effect March 1, 2007.

II. The remainder of this act shall take effect January 1, 2007.

AMENDED ANALYSIS

This bill:

I. Establishes a process for the request and disclosure of social security numbers by governmental entities.

II. Prohibits, with certain limited exceptions, a person from filing with the registry of deeds a document that includes an individual's social security number.

III. Authorizes private actions for unauthorized use of a social security number.

2006-0045b

Amendment to HB 716-FN
Proposed by the Committee on Commerce - C

Amend the bill by deleting sections 1-3 and renumbering the original sections 1-34 to read as 1-31, respectively.

Amend RSA 421-B:5, II as inserted by section 2 of the bill by replacing it with the following:

II. For purposes of this section, a fraudulent or deceptive device or contrivance shall include, but shall not be limited to:

(a) Representing in the offer or sale of securities, in writing or orally, that there is a guarantee against risk or loss.

(b) Inducing excessive trading in a customer's account, or inducing trading beyond that customer's known financial resources.

(c) Effecting transactions in the account of a customer without his or her knowledge or maintaining discretionary accounts without written authorization.

(d) Engaging or aiding in any act, practice, or course of business that encourages a prospective purchaser to make a quick decision to invest, irrespective of his or her investment needs and objectives.

Amend RSA 421-B:5, V(b) as inserted by section 7 of the bill by replacing it with the following:

b) It is prohibited for any branch office or agent of a broker-dealer or investment adviser to conduct a securities or investment advisory business in this state under any name other than that of the broker-dealer or investment adviser with which the branch office is associated or agent is licensed. If more than one business enterprise is conducted from a branch office location, disclosures shall clearly ~~and equitably~~ set forth what business activity is conducted by each organization and each licensed agent's relationship to each organization~~ly~~ provided, however, that this requirement shall not apply to television, radio, or billboard advertising that pertains exclusively to a non-securities product.

Amend RSA 421-B:7, VII(a) as inserted by section 10 of the bill by replacing it with the following:

VII. Except for applicants subject to issuer-dealer licensing under RSA 421-B:6, I-a and I-b:

(a) Applications for an issuer-dealer's license in New Hampshire may be obtained from and shall be filed at the office of the secretary of state.

Amend RSA 421-B:7, X(a) as inserted by section 10 of the bill by replacing it with the following:

X. Except for applicants subject to issuer-dealer licensing under RSA 421-B:6, I-a and I-b:

(a) Application for renewal of an issuer-dealer license shall be made by December 31 of each year to the secretary of state and shall include the fee prescribed by RSA 421-B:31.

Amend RSA 421-B:17, II(a)(1) as inserted by section 15 of the bill by replacing it with the following:

(a)(1) Any non-issuer transactions, whether or not effected by or through a broker-dealer resulting in the completion of 5 or fewer sales within any period of 12 consecutive months. The secretary of state, on a case-by-case basis, may by rule or order, retroactively or prospectively, increase the number of persons to whom sales may be made under this exemption.

Amend RSA 421-B:17-a as inserted by section 18 of the bill by replacing it with the following:

421-B:17-a Registered Securities Offerings and Filings for Exemption from Registration; General Standards for Conduct and Disclosure. The following standards shall apply to all registered offerings of securities and to any exempt offerings which require a filing with the secretary of state.

I. Additional disclosures shall be made in offering documents or registration statements, or an application for registration or a filing for exemption from the registration requirement shall be denied, or further conditions for an exemption or registration shall be imposed, if any of the persons, other than persons licensed in this state, issuing or offering securities in this state:

a) Has filed a registration statement which is the subject of a currently effective registration stop order entered pursuant to any state's securities law within 5 years prior to the instant securities offering in this state.

b) Has been convicted within 5 years prior to making the instant offer of a security in this state of:

(1) Any felony or misdemeanor in connection with the offer, purchase, or sale of any security.

(2) Any felony involving fraud or deceit, including but not limited to:

(A) Forgery.

(B) Embezzlement.

(C) Obtaining money under false pretenses.

(D) Larceny.

(E) Conspiracy to defraud.

c) Is currently subject to a material administrative enforcement order or judgment entered by a state's securities administrator within 5 years prior to offering securities in this state or is subject to any state's administrative enforcement order or judgment in which fraud or deceit, including, but not limited to, making untrue statements of material facts and omitting to state material facts, was found and the order or judgment was entered within 5 years prior to offering securities in this state.

d) Is subject to a material administrative enforcement order or judgment which prohibits, denies, or revokes the use of any exemption from registration in connection with the offer, purchase, or sale of securities.

e) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily, preliminarily, or permanently restraining or enjoining such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with the state entered within 5 years prior to offering securities in this state.

II. Offering documents filed with the secretary of state shall be delivered to prospective investors at least 48 hours before investors commit to the investment, provided that the secretary of state, for good cause shown, shall suspend this requirement by order.

III. In addition to the disclosures required pursuant to RSA 421-B, additional disclosures shall be included in any offering document for a registered offering of securities pursuant to the policies and guidelines promulgated by the North American Securities Administrators Association (NASAA) for the benefit of investors to provide full and fair disclosure of a particular investment opportunity to investors. In addition, such offerings shall be subject to any further standards, including suitability standards, promulgated by NASAA for such offerings.

Amend RSA 421-B:21, I-a(b) as inserted by section 20 of the bill by replacing it with the following:

(b)(1) To license the following:

(A) Broker-dealers.

(B) Investment advisers.

(C) Issuer-dealers.

(D) Agents.

(2) Investment adviser representatives.

(2) The exclusive authority and jurisdiction to issue licenses pursuant to RSA 421-B:21, I-a(b) shall not be read to limit the authority of the department of insurance to license sellers of products where licensure is required both by RSA 421-B and Title XXXVII.

Amend the bill by deleting section 21 and renumbering the original sections 22-28 to read as 21-30, respectively.

Amend RSA 421-B:31, I(b)(1) as inserted by section 22 of the bill by replacing it with the following:

(1) Agent's initial license fee: \$100

Amend the bill by inserting after section 22 the following and renumbering the original sections 23-30 to read as 24-31, respectively:

23 Penalty for Late Notice Filing. Amend RSA 421-B:31, IV to read as follows:

IV (a) Any person who files a notice with the New Hampshire secretary of state under RSA 421-B:12, 13, or 14, where less than the maximum filing fee has been paid in this state, (2) RSA 421-B:17, II(c) or (b), (3) a notice filing under section 18(b)(4)(D) of the Securities Act of 1933, or (4) a notice filing under section 18(b) of the Securities Act of 1933 where less than the maximum filing fee has been paid in this state shall file a sales report with the secretary of state. Such reports shall be filed one year from (1) the effective date of the registration or exemption or (2) the date the notice filing under section 18(b) of the Securities Act of 1933 was made with the secretary of state, and a final sales report shall be filed within 90 days of the termination of the offering. The sales report shall indicate the termination date, the total number and amount of sales in all jurisdictions. Any person who (1) fails to file a sales report or (2) fails to submit annual audited financial statements to the secretary of state pursuant to RSA 421-B:15, II-a shall pay a penalty of \$25 for each day of delinquency; provided, however, that the secretary of state may, for good cause shown, abate all or a portion of said delinquency penalty. The provisions of this paragraph shall not apply to federal covered securities pursuant to section 18(b)(2) of the Securities Act of 1933.

421-B:25, and RSA 421-B:28 for such failure.

I-a(c) shall pay a penalty of \$500 if the notice filing is delinquent by no more than 90 days or a penalty of \$1,000 if the notice filing is delinquent by more than 90 days; provided, however, that if the filing is delinquent by more than one year, the person failing to timely file the required notice may be subject to the provisions of RSA 421-B:23, RSA 421-B:24, RSA 421-B:25, and RSA 421-B:28 for such failure.

Amend the bill by replacing section 31 with the following:

31 Effective Date. This act shall take effect January 1, 2007.

AMENDED ANALYSIS

This bill:

I. Expands the definition of "issuer-dealer."

II. Defines fraudulent or deceptive devices in sales or purchases of securities.

III. Expands unlawful activities to include manipulative, deceptive, or other devices.

IV. Makes changes to the requirements for securities licensing.

V. Establishes additional licensing requirements for issuer-dealers.

VI. Requires investment adviser licensees to keep files of complaints and litigation for the secretary of state to inspect.

VII. Requires examination of an issuer-dealer's accounts within 4 years of licensing.

VIII. Clarifies the exemption for isolated sales of securities from regulation.

IX. Establishes general standards of conduct in securities offerings.

X. Permits the secretary of state to appoint deputy directors.

XI. Clarifies the authority and jurisdiction of the secretary of state over securities regulation.

XII. Clarifies when an offer to buy or sell is made.

XIII. Changes fees for securities licenses and filings.

XIV. Adds a penalty for late notice filings.

XV. Makes the secretary of state a member of the deferred compensation commission, replacing the director of the office of securities regulation.

This bill is a request of the secretary of state.

2006-0017b

Amendment to HB 718-FN-A
Proposed by the Committee on Finance - C

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

AN ACT relative to a state active duty death benefit for activated members of the New Hampshire national guard and making an appropriation therefor.

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

21 Findings. The general court finds that:

- I. Members of the New Hampshire army national guard and the New Hampshire air national guard should have the same life insurance protection when called to state active duty as they are provided when called to federal active duty.
- II. Reimbursement for voluntary Servicemans's Group Life Insurance (SGLI) has proven difficult to administrate, and costs could reach millions of dollars per month.
- III. Only members of the New Hampshire army national guard and New Hampshire air national guard take an oath to the governor of New Hampshire, and are on call for state protection and disaster assistance to the people of our state.
- IV. The state shall establish and fund a \$100,000 death benefit for members of the New Hampshire army national guard and New Hampshire air national guard when called to state active duty, which is equal to the death benefit when called to federal active duty.

2 Subdivision Heading. Amend the subdivision heading preceding RSA 110-B:37 to read as follows:
Pay and Allowances: State Active Duty Death Benefit

3 New Section; State Active Duty Death Benefit. Amend RSA 110-B by inserting after section 37 the following new section:

- 110-B:37-a. State Active Duty Death Benefit; Fund.
 1. The state shall fund a death benefit in the amount of \$100,000 for each activated New Hampshire army national guard or New Hampshire air national guard member who dies while on state active duty or as the result of injuries incurred on state active duty.
 - II. There is established in the department of the adjutant general a New Hampshire national guard state active duty death benefit fund. The adjutant general is authorized to make payments from such fund for purposes of the death benefit created under paragraph I. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated. The adjutant general shall, through the operating budget, request \$100,000 for fiscal year 2008 and \$50,000 for each fiscal year thereafter for deposit into such fund. The fund shall be replenished and continually appropriated to the adjutant general, except that any amount in the fund exceeding \$1,000,000 shall lapse to the general fund at the end of each biennium.
- 4 New Subparagraph; Special Fund; New Hampshire National Guard State Active Duty Death Benefit Fund. Amend RSA 6:12, 1(b) by inserting after subparagraph (242) the following new subparagraph:
 - (243) Money deposited in the New Hampshire national guard state active duty death benefit fund established in RSA 110-B:37-a.
- 5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires the state to fund a \$100,000 active duty death benefit for each New Hampshire citizen serving in the New Hampshire national guard and activated.

2006-01285

Amend RSA 382-A:1-301 as inserted by section 1 of the bill by replacing it with the following:
382-A:1-301 Territorial Application of Chapter; Parties' Power to Choose Applicable Law.

- (a) Except as provided in paragraph (b), if a transaction bears a reasonable relation to this state and also to another state or nation, the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. In the absence of such an agreement, this chapter applies to transactions bearing a reasonable relation to this state.
- (b) Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law, including the conflict of laws rules, as specified:
 - (1) Rights of creditors against sold goods, Section 2-402.
 - (2) Applicability of the Article on Leases, Sections 2A-105 and 2A-106.
 - (3) Applicability of the Article on Bank Deposits and Collections, Section 4-102.
 - (4) Governing law in the Article on Funds Transfer, Section 4A-507.
 - (5) Letters of Credit, Section 5-116.
 - (6) Applicability of the Article on Investment Securities, Section 8-110.
 - (7) Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens, Sections 9-301 through 9-307.

Amend the bill by replacing section 48 with the following:

48 Effective Date. This act shall take effect January 1, 2007.

2006-01985

Amendment to HJR 1
Proposed by the Committee on State-Federal Relations and Veterans Affairs - C

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

A RESOLUTION recognizing that Seavey Island and the Piscataqua River are within the boundaries of the state of New Hampshire.

Amend the resolution by replacing all after the title with the following:
Whereas, Seavey Island is in the Piscataqua River and, like Portsmouth, the island provides ready access to the Atlantic Ocean; and
Whereas, historical records support the proposition that the sixth and seventeenth Congresses of the United States annexed Seavey Island to Portsmouth, New Hampshire; and
Whereas, recognizing that Seavey Island and the Piscataqua River are in New Hampshire will serve to protect the public from terrorism and similar threats to public safety and homeland security because this definition of the New Hampshire boundary will clarify responsibility for the security of the entire Piscataqua River and the Portsmouth Harbor; now, therefore, be it
Resolved by the Senate and House of Representatives in General Court convened:
That the general court hereby recognizes that Seavey Island and the Piscataqua River are within the boundaries of the state of New Hampshire.

This resolution recognizes that Seavey Island and the Piscataqua River are within the boundaries of the state of New Hampshire.

AMENDED ANALYSIS

2006-00755

Amendment to HR 14
Proposed by the Committee on State-Federal Relations and Veterans Affairs - C

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

A RESOLUTION supporting Taiwan's participation in the World Health Organization.

Amend the resolution by replacing all after the title with the following:
Whereas, good health is essential to every citizen of the world and access to the highest standards of health information and services is necessary to improve public health; and
Whereas, the World Health Organization (WHO) set forth in the first chapter of its charter the objective of attaining the highest possible level of health for all people; and
Whereas, the achievements of Taiwan, the Republic of China, in the field of health are substantial, including one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, the eradication of such infectious diseases as cholera, smallpox, and the plague, and the first to eradicate polio and provide children with Hepatitis B vaccinations; and
Whereas, the United States House of Representatives and the Senate and the Taiwanese counterpart have enjoyed close collaboration on a wide range of public health issues; and
Whereas, in recent years Taiwan has expressed a willingness to assist financially and technically in international health activities supported by the WHO; and
Whereas, direct, unobstructed participation in international health forums and programs is critical to limit the spread of various infectious diseases and achieve world health; and
Whereas, the United States House of Representatives and the Senate authorized the Secretary of State to endorse observer status for Taiwan at the World Health Assembly; and
Whereas, President Bush and senior members of his administration have vocalized support for Taiwan's participation in the WHO; now, therefore, be it
Resolved by the House of Representatives:
That the New Hampshire house of representatives hereby supports Taiwan's participation in the World Health Organization.

This house resolution supports Taiwan's participation in the World Health Organization.

AMENDED ANALYSIS

2006-00945

Amendment to SB 72
Proposed by the Committee on Executive Departments and Administration - C

Amend RSA 402-D:2 as inserted by section 1 of the bill by replacing it with the following:

402-D:2 Definitions. In this chapter:

- I. "Home state" means the District of Columbia and any state or territory of the United States in which a licensee maintains his or her principal place of residence or principal place of business and is licensed to act as a public adjuster.
- II. "Person" means a natural person.
- III. "Public adjuster" means any person who, on behalf of an insured:
 - (a) Directly or indirectly solicits from the insured or his or her representative the authority to act for the insured to settle or negotiate settlement or appraisal of a loss under a fire insurance or homeowner's insurance policy and who so acts for a fee or compensation from a person other than an insurer;
 - (b) Acts or aids, solely in relation to first party claims arising under a fire insurance or homeowner's insurance policy, on behalf of an insured person or business entity in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;
 - (c) Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first party insurance claims for losses or damages arising out of fire insurance or homeowner's insurance policies; or
 - (d) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first party claims for losses or damages arising out of policies of fire or homeowner's insurance for another person engaged in the business of adjusting losses or damages covered by an insurance policy.
- IV. "Uniform individual application" means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Individual Application for resident and nonresident persons.

Amend RSA 402-D:6 as inserted by section 1 of the bill by replacing it with the following:

402-D:6 Examination.

- I. A person applying for a public adjuster license, pursuant to RSA 402-D:4, shall pass a written examination unless exempt pursuant to RSA 402-D:7. The examination shall test the knowledge of the person concerning the duties and responsibilities of an adjuster and the insurance laws and rules of this state.
- II. The commissioner may make arrangements, including contracting with an administering examination agency, for the examination.
- III. An person who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

Amend RSA 402-D:7, I as inserted by section 1 of the bill by replacing it with the following:

- I. A person who applies for a public adjuster license in this state who was previously licensed as a public adjuster in another state based on a public adjuster examination shall not be required to complete any preclicensing examination. This exemption is only available if the person is currently licensed in that state or if the application is received within 12 months of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in the state or the state's producer database records, maintained by the NAIC, its affiliates, or subsidiaries, indicates that the public adjuster is or was licensed in good standing.

Amend RSA 402-D:7, III as inserted by section 1 of the bill by replacing it with the following:

- III. A person who applies for a public adjuster license in this state who was previously licensed as a public adjuster in this state shall not be required to complete any preclicensing examination. This exemption is only available if the application is received within 12 months of the cancellation of the applicant's previous license in this state and if, at the time of cancellation, the applicant was in good standing in this state.

Amend RSA 402-D:10, 10 as inserted by section 1 of the bill by replacing it with the following:

- (d) Knowingly accepting insurance business from a person who is not licensed but who is required to be licensed by the commissioner.

Amend RSA 402-D:11 as inserted by section 1 of the bill by replacing it with the following:

402-D:11 Bond or Letter Of Credit.

- I. Prior to issuance of a license as a public adjuster, the applicant shall maintain in force evidence of financial responsibility through one of the following:
 - (a) A surety bond executed and issued by an insurer authorized to issue surety bonds in this state, which bond:
 - (1) Shall be in the amount of at least \$20,000;
 - (2) Shall be in favor of this state and shall specifically authorize recovery by the commissioner or behalf of any person in this state who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices in his or her capacity as a public adjuster; and
 - (3) Shall not be terminated unless at least 30 days prior written notice has been filed with the commissioner and given to the licensee.
 - (b) An irrevocable letter of credit issued by a qualified financial institution, which letter of credit:
 - (1) Shall be in the sum of at least \$20,000; and
 - (2) Shall be to an account to the commissioner and subject to lawful levy of execution by any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, fraudulent acts, or unfair practices in his or her capacity as a public adjuster.
- II. The issuer of such evidence of financial responsibility shall notify the commissioner upon termination of such policy, bond or letter of credit, unless the public adjuster replaces this evidence of financial responsibility and has presented the evidence of such replacement to the existing issue or such instrument.
- III. The commissioner may ask for the evidence of such financial responsibility at any time the commissioner deems relevant.
- IV. The authority to act as a public adjuster shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired.

Amend RSA 402-D:12, 1 as inserted by section 1 of the bill by replacing it with the following:

Amend I. A person, who holds a public adjuster license and who is not exempt under paragraph III, shall satisfactorily complete a minimum of 15 hours of continuing education courses, including a minimum of 3 hours of ethics, specifically designed to increase the knowledge of public adjusting duties and responsibilities during each continuing education biennium.

Amend RSA 402-D:17 as inserted by section 1 of the bill by replacing it with the following:

402-D:17 Standards of Conduct of Public Adjuster.

- I. A public adjuster shall be honest and fair in all communications with the insured, the insurer, and the public.
- II. A public adjuster shall not solicit, or attempt to solicit, an insured during the progress of a loss-producing occurrence, as defined in the insured's insurance contract.
- III. A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to advertise, engage insureds, furnish reports, or present bills to insureds, or in any manner whatsoever to conduct business for which a license is required under this chapter.
- IV. A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission, or other consideration established in the written contract with the insured.
- V. A public adjuster shall not require any interest in salvage or property subject to the contract with the insured unless the public adjuster obtains written permission from the insured after settlement of the claim with the insurer.
- VI. The public adjuster shall abstain from referring or directing the insured to get needed repairs or services in connection with a loss from any person:
 - (a) With whom the public adjuster has a financial interest; or
 - (b) From whom the public adjuster may receive direct or indirect compensation for the referral.
- VII. A public adjuster shall not enter into a contract with an insured where the public adjuster knows or should know that the insured will obtain full recovery without the services of an adjuster.
- VIII. No public adjuster shall have any interest in any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm which performs any work in conjunction with damages caused by an insured loss. The word "firm" shall include any corporation, partnership, association, joint stock company or person.
- IX. Any compensation or expense of value received by a public adjuster shall be disclosed by such adjuster to the insured in writing including the source and amount of such.
- X. No public adjuster may employ, be employed by, or be in partnership with or receive or pay any remuneration whatsoever to or from any licensed insurance producer, insurer or employee of an insurer arising out of the activities as a public adjuster.

Amend RSA 402-D:19 as inserted by section 1 of the bill by replacing it with the following:

402-D:19 Additional Penalties for Violation of the Standards of Conduct of Public Adjuster. Any person who shall act within this state as a public adjuster without being licensed as provided in this chapter shall be guilty of a Class A misdemeanor. Any licensee who in the course of his or her work as a public adjuster shall misrepresent his or her identity or the identity of his or her principal or employer, or who shall wrongfully divulge information obtained by him or her in his or her capacity as a public adjuster may be subject to an administrative fine not to exceed \$2,500. Additionally, the commissioner may order a refund of any moneys gained or obtained, or restitution of any valuable consideration received.

Amend RSA 402-D:20 as inserted by section 1 of the bill by replacing it with the following:

402-D:20 Ratemaking Authority. The commissioner may adopt rules, pursuant to RSA 541-A, as are necessary or proper to carry out the purposes of this chapter.

Amend the bill by replacing section 2 with the following:

2 New Paragraph: Insurance: Forms. Amend RSA 412:5 by inserting after paragraph III the following new paragraph:

- IV. Every insurer and advisory organization shall provide reasonable means whereby any person aggrieved by the application of an insurer's rating system, claims practices, sales practices or underwriting procedures may be heard, in person or by an authorized representative, upon the person's written request to review the manner in which such procedures were applied in connection with insurance afforded or tendered to the person.

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

2006-01758

Amendment to SB 104-FN
Proposed by the Majority of the Committee on Municipal and County Government - R

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

1 Exemption: Water and Air Pollution Control Facilities. Amend RSA 72:12-a to read as follows:

72:12-a Water and Air Pollution Control Facilities.

I. Any person, firm, or corporation which builds, constructs, installs, or places in use in this state any treatment facility, device, appliance, or installation wholly or partly for the purpose of reducing, controlling, or eliminating any source of air or water pollution shall be entitled to have the value of said facility and any real estate necessary therefor, or a percentage thereof determined in accordance with this section, exempted from the taxes levied under this chapter for the period of years in which the facility, device, appliance, or installation is used in accordance with the provisions of this section ***until reimbursement for the investment costs are recovered by accumulation of value through this property tax exemption.***

II. The party seeking the exemption shall file an application with the department of environmental services if the exemption sought is for a water pollution control facility or an air pollution control facility, with a copy to the taxing authorities in the municipality where the facility is situated. Said application shall describe the facilities and their function or functions and shall state the applicant's total investment therein and the portion allocable to each function, ***to be verified by the department of revenue administration. Any such exemption requested shall not exceed 25 percent of the applicant's total assessed value of the facility at the time of the exemption.***

III. The department of environmental services shall investigate and determine whether the purpose of the facility is solely or only partially pollution control. If the department finds that the purpose of the facility is only partially pollution control it shall determine by an allocation of the applicant's investment in the facility what percentage of the facility is used to control pollution. In making its investigation, the department may inspect the facility and request such other information from the applicant as is reasonably necessary to assist it in making its determination.

IV. Upon making its determination, the department of environmental services shall notify the applicant, the department of revenue administration, and the taxing authorities of the municipality where the facility is situated whether the purpose of the facility is solely pollution control, or, if not, what percentage of the applicant's investment in the facility should be allocated to pollution control.

V. The ~~(taxing authorities)~~ department of revenue administration shall each year separately appraise and describe the facility and related real estate ~~(and assess such appraisal and description)~~ using the determination approved by the department of environmental services. Such appraisal shall be reported to the local taxing authorities to appear in their inventory. In accordance with the provisions of this section, the taxing authority shall exempt from the taxes levied under this chapter the appraised value of the facility and any real estate necessary therefor, or the exempt percentage thereof, determined by the department of environmental services. The exemption period shall begin as of the April 1 next following the receipt of the ~~(department's)~~ department of environmental services' determination. ***The department of revenue administration shall keep a record of the total of exemptions granted and shall provide the information to the owner of the facility, the municipality, and the general court annually.***

VI. Either the municipality ~~(or)~~, the owner of the facility, or the department of revenue administration may request a rehearing or appeal from such determination in accordance with the provisions of RSA 541.

2 Effective Date. This act shall take effect April 1, 2006.

This bill limits the property tax exemption for water and pollution control facilities to the reimbursement of the amount of investment costs.

AMENDED ANALYSIS

2006-0011b

Amendment to SB 110-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 establishing the New Hampshire Rx plus program for prescription drugs and continually appropriating a special fund.

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

1 Statement of Purpose. The general court finds that affordability is critical in providing access to prescription drugs for New Hampshire residents. The general court hereby creates the New Hampshire Rx Plus Program to enable the state to make prescription drugs more affordable for qualified New Hampshire residents, thereby increasing the overall health of New Hampshire residents, promoting healthy communities, and protecting the public health and welfare. It is not the intent of this act to discourage employers from offering to pay or paying for prescription drug benefits for their employees or to supplant employer-sponsored prescription drug benefit plans.

2 New Chapter. New Hampshire Rx Plus Program for Prescription Drugs. Amend RSA by inserting after chapter 161-K the following new chapter:

CHAPTER 161-L
NEW HAMPSHIRE RX PLUS PROGRAM

161-L:1 Definitions. In this chapter:

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

II. "Committee" means the pharmacy and therapeutics advisory committee established in 2003, 319:176 that advises the department on the Medicaid preferred drug list.

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

IV. "Initial discounted price" as it pertains to a drug means the average wholesale price less 10 percent.

V. "Participating pharmacy" or "retail pharmacy" means a retail pharmacy located in this state that elects to participate in the program.

VI. "Preferred drug" includes but is not limited to:

- (a) A drug listed on the state's Medicaid preferred drug list;
- (b) An antipsychotic drug;
- (c) An antidepressant drug;
- (d) A chemotherapy drug;
- (e) An antiretroviral drug;
- (f) An immunosuppressive drug; and
- (g) Any other drug approved pursuant to this chapter.

VII. "Program" means the New Hampshire Rx plus program.

VIII. "Qualified resident" means a resident of the state who has a family income equal to or less than 300 percent of the federal poverty level, who does not have prescription drug coverage or has exceeded the extent of their benefits, and who is enrolled in the program.

IX. "Secondary discounted price" as it pertains to a drug means the initial discounted price less any further discounts paid out of the Rx plus fund.

161-L:2 Rx Plus Preferred Drug List; Duties of Committee.

I. The department shall establish a Rx plus preferred drug list that includes but is not limited to:

- (a) Drugs listed on the state's Medicaid preferred drug list;
- (b) Antipsychotic drugs;
- (c) Antidepressant drugs;
- (d) Chemotherapy drugs;
- (e) Antiretroviral drugs;
- (f) Immunosuppressive drugs; and
- (g) Any other drugs approved pursuant to this chapter.

II. The committee shall review and recommend drugs for placement on the Rx plus preferred drug list, striving to identify the safest and most efficacious drugs that are available at the lowest cost. The committee's recommendations may take into consideration any of the following factors:

- (a) Therapeutic value for the disease or condition under treatment;
- (b) Clinical efficacy;
- (c) Safety;
- (d) Cost; and
- (e) Other relevant factors as determined by the committee.

III. When considering categories of drugs designed to treat specialized chronic medical conditions and diseases, the committee shall consult with physicians and other health care professionals with specialized clinical knowledge and expertise in this area, either in their capacity as consultants serving on the committee, or as physicians or pharmacists with a practice or specialty in chronic diseases.

IV. The determination of safety and efficacy shall be consistent with the standards set forth in the peer-reviewed literature and other available sources including, but not limited to the American Hospital Formulary Service Drug Information, the United States Pharmacopoeia Drug Information, the DRUGDEX Information System, and the American Pharmaceutical Association Drug Evaluation Service.

V. The determination of a drug's net cost shall consider the pharmacy reimbursement amount, authorized under RSA 161-L:8, as adjusted by manufacturer's rebates to be paid to the department. The committee shall not consider a drug's net cost unless it determines that the drug has no significant clinical or safety advantages over one or more alternative drugs, when used for a given purpose.

161-L:3 New Hampshire Rx Plus Program.

I. There is established a new department, the New Hampshire Rx plus program. The program shall combine the purchasing power of all qualified residents to enable the state to reduce prescription drug costs and to improve the quality of health care for qualified New Hampshire residents in the program, thereby increasing the overall health of New Hampshire residents, promoting healthy communities, and protecting the public health and welfare, and to integrate the program as part of any statewide program for the uninsured.

II. The program shall utilize manufacturer rebates and pharmacy discounts to reduce prescription drug prices.

III. The department may administer the program or contract with a third party or third parties to administer any single component, or combination of components of the program including outreach, eligibility, claims, administration, rebate negotiations and recovery and redistribution in order to achieve the maximum possible discount for New Hampshire residents. Any contract to administer any program component shall prohibit the contractor from receiving any compensation or other benefits from any manufacturer participating in the program.

IV. The department shall conduct ongoing quality assurance activities similar to those used in the Medicaid program.

161-L:4 Program Eligibility.

I. All qualified residents of the state shall be eligible to participate in the Rx plus program.

II. The department:

- (a) Shall establish procedures to determine eligibility and shall issue program enrollment cards to eligible qualified residents;
- (b) Shall undertake outreach efforts to build public awareness of the program and maximize the enrollment of eligible qualified residents; and
- (c) May adjust the requirements and terms of the program by rule, pursuant to RSA 541-A, to accommodate any federally-funded or authorized prescription drug program.

161-L:5 Rebate Agreement.

I. A drug manufacturer or labeler that sells prescription drugs in the state may enter into a rebate agreement with the department for this purpose. The rebate agreement shall require the manufacturer to make rebate payments to the state each calendar quarter or according to a schedule established by the department.

II. The commissioner shall negotiate the amount of the rebate required from a manufacturer in accordance with this section.

III. The commissioner shall take into consideration the rebate calculated under the Medicaid rebate program pursuant to title 42 U.S.C. section 1396r-8, the average wholesale price of prescription drugs, and any other information on prescription drug prices and price discounts.

IV. The commissioner shall use his or her best efforts to obtain an initial rebate amount that is no greater than the rebate calculated under the Medicaid program pursuant to 42 U.S.C. section 1396r-8.

V. With respect to rebates effective July 1, 2008, the commissioner shall use his or her best efforts to obtain a rebate amount equal to or greater than the amount of any discount, rebate, or price reduction for prescription drugs provided to the federal government.

161-L:6 Participating and Nonparticipating Manufacturers.

I. The names of manufacturers that enter and do not enter into rebate agreements pursuant to this chapter shall be deemed public information. The department shall release this information to health care providers and the public annually.

II. The department may also provide to health care providers information about the relative cost of drugs produced by manufacturers that enter into rebate agreements compared to the cost of drugs produced by those that do not enter into rebate agreements. The department shall adopt rules, under RSA 541-A, establishing procedures for the implementation of this section.

161-L:7 Discounted Retail Prices for Program Participants.

I. Each retail pharmacy participating in the program shall sell drugs to qualified residents at the lowered initial discounted price, in addition to the secondary discounted price as such discounted prices are determined by the department pursuant to this chapter.

II. The department shall establish discounts for drugs covered by a rebate agreement and shall promote the use of safe, efficacious, and cost-effective drugs, taking into consideration:

- (a) Reduced prices for state and federally-capped drug programs;
- (b) Differential dispensing fees;
- (c) Administrative costs of the department; and
- (d) The recommendation of the committee.

III. Beginning July 1, 2007, a participating pharmacy shall offer the initial discounted price.

IV. No later than July 1, 2008, a participating pharmacy shall offer the secondary discounted price, if available.

161-L:8 Pharmacy Reimbursement.

I. A pharmacy shall submit claims to the department to verify the amount charged to program participants. On a schedule to be determined by the department, the department shall reimburse each pharmacy for the discounts of prescription drugs provided to program participants less any administrative costs incurred by the department.

II. The department shall collect pharmacy sales data necessary to calculate the amount of the manufacturer rebate under RSA 161-L:5. The department shall protect the confidentiality of information received as required under state or federal law, rule, or regulation.

III. The department shall not impose transaction charges on participating pharmacies that submit claims or receive payments under the program.

161-L:9 Rx Plus Fund Established.

I. There is hereby established in the office of the state treasurer a fund to be known as the Rx plus fund into which shall be deposited:

- (a) All moneys received from manufacturers who pay rebates as provided in RSA 161-L:5;
- (b) Appropriations made by the general court to the fund; and
- (c) Any other revenue designated for the fund.

II. Moneys in the fund shall be used for the following purposes:

- (a) Reimbursement payments to participating pharmacies for discounts provided to program participants;
- (b) The cost of administering the Rx plus program, including salary and benefits of employees, computer costs, and contracted services as provided in RSA 161-L:3; and
- (c) Any other purpose deemed necessary by the department for the purpose of operating and administering the Rx plus program.

III. All interest on Rx plus fund balances shall accrue to the Rx plus fund. Moneys in this fund shall be nonlapsing and continually appropriated to the department.

161-L:10 Annual Report. The department shall make a report relative to the enrollment and financial status of the Rx plus program to the speaker of the house of representatives, the president of the senate, and the governor no later than 20 days prior to the convening of each regular legislative session, beginning with the 2007 regular legislative session.

161-L:11 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

- I. The application process.
- II. Rebate agreements under RSA 161-L:5.
- III. The administration of the Rx plus fund established in RSA 161-L:9.
- IV. The contracting process, including confidentiality procedures, under RSA 161-L:3.
- V. Any adjustments to accommodate any federally-funded or authorized prescription drug program pursuant to RSA 161-L:4, (I)(c).
- VI. The content and form of information to be provided under RSA 161-L:6.
- VII. The schedule for reimbursement to pharmacies under RSA 161-L:8.

3 New Subparagraph. Rx Plus Fund. Amend RSA 6:12, (b) by inserting after subparagraph (242) the following new subparagraph:

(243) Moneys deposited in the Rx plus fund pursuant to RSA 161-L.

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

AMENDED ANALYSIS

This bill establishes the New Hampshire Rx plus program for prescription drugs. Under this bill, participating pharmacies shall sell prescription drugs to qualified residents at a discounted price. The bill grants rulemaking authority to the commissioner of the department of health and human services for the purposes of the bill.

2006-0075b

Amendment to SB 140
Proposed by the Committee on Resources, Recreation and Development - C

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

1 New Subdivision: Aquatic Resource Compensatory Mitigation. Amend RSA 482-A by inserting after section 27 the following new subdivision:

Aquatic Resource Compensatory Mitigation

482-A:28 Aquatic Resource Compensatory Mitigation. In lieu of requiring other forms of compensatory mitigation, the department may accept payment for an unavoidable loss of aquatic resource functions and values from a proposed activity which at a minimum:

- I. Impacts less than one acre of wetlands and meets the criteria for a United States Army Corps of Engineers state programmatic general permit.
- II. Involves more than 200 linear feet, measured along the shoreline, of a lake or pond or its bank.
- III. Alters the course of or disturbs 200 or more linear feet of an intermittent or perennial stream or river channel or its banks. For intermittent streams, this distance shall be measured along the thread of the channel. For perennial streams or rivers, the total disturbance shall be calculated by summing the lengths of disturbances to the channel and the banks.
- IV. Exceeds one acre of impact for a public roadway or a public utility project and meets the criteria for a United States Army Corps of Engineers state programmatic general permit.

482-A:29 Fund Established.

There is hereby established the aquatic resource compensatory mitigation fund into which payments made under this subdivision shall be deposited. The fund shall be a separate, non-lapsing fund continually appropriated to the department to be used only as specified in this subdivision for costs related to wetlands creation or restoration, stream restoration, preservation of upland areas adjacent to wetlands, and the subsequent monitoring and maintenance of such areas.

II. The fund may not be used to pay state personnel costs except, upon approval of the fiscal committee, to support up to one full-time position for administration of the fund and related projects. Only money from the 5 percent administrative assessment collected under RSA 482-A:30, III, and RSA 482-A:32, II shall be used for this purpose.

III. The state treasurer shall invest the fund as provided by law. Interest received on such investment shall be credited to the fund.

IV. The content and form of information to be provided under RSA 161-L:6.

482-A:30 Payment for Freshwater and Tidal Wetlands Losses. For freshwater and tidal wetlands losses, the in lieu payment shall be the sum of:

1. Any person who knowingly or willfully violates RSA 21-G:21-27 or makes unauthorized disclosure of confidential matters or materials contrary to RSA 21-G:31, or interferes with or obstructs lawful activities of the committee, shall be guilty of a misdemeanor and may be subject to disciplinary action as provided in RSA 21-G:31, III(d) and other applicable law.
- II. In the case of any person convicted under this section, the court may order restitution.
- 21-G:35 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.
- 4 Executive Order Superseded. The provisions of this act and RSA 21-G:21-27 supersede and replace the provisions of Executive Order Number 981, dated May 19, 1998.
- 5 Legislative Ethics Committee; Membership Criteria. Amend RSA 14-B:2, II and III to read as follows:
- II. No person registered with the secretary of state as a lobbyist under RSA 15 shall serve as a member of the legislative ethics committee or for 6 months following the expiration of such registration.
- III. Appointments to the committee shall be made by December 31 prior to the first legislative session of the biennium. A committee meeting shall be called no later than February 1 in the first legislative session of the biennium. The members shall elect a chairperson and vice-chairperson from among the legislative members of the committee at this meeting. The members shall serve for the biennium and shall not be removed from the committee for any reason except for good cause by unanimous vote of the remaining committee members. Members shall receive no compensation, except that legislative members shall receive mileage at the legislative rate and public members shall receive mileage at the state employee rate. The committee shall provide the executive branch ethics committee with copies of all publicly issued guidelines, procedures, decisions, and opinions.
- 6 Legislative Ethics Committee; Reference Changed. Amend the introductory paragraph of RSA 14-B:4, I to read as follows:
1. Each complaint shall be submitted in writing and signed under oath by the complainant. The sworn complaint shall be filed confidentially with the committee and shall contain the name and address of the complainant. The legislator, officer, or employee of the legislature complained against shall be furnished with a copy of the complaint and a copy shall be sent to each member of the committee for review. The committee shall initiate a complaint on its own motion against any individual the committee determines has not complied with the provisions of RSA ~~14-B:7~~ 15-A and RSA 15-B. The committee shall promptly examine each sworn complaint and:
- 7 Lobbyists. RSA 15 is repealed and reenacted to read as follows:

CHAPTER 15
LOBBYISTS

- 15:1 Registration.
- I. Any person who is employed for a consideration by any other person, except the state of New Hampshire, in a representative capacity for the purposes specified in paragraph II of this section shall first register as a lobbyist with the secretary of state. Each registration shall report the existence of a relationship between a single client and either a single lobbyist or a partnership, firm, or corporation with one or more partners, members, or employees of a firm acting as lobbyist.
- II. Registration is required where the person, partnership, firm, or corporation is employed.
- (a) To promote or oppose, directly or indirectly, any legislation pending or proposed before the general court; or
- (b) To promote or oppose, directly or indirectly, any action by the governor, governor and council, or any state agency, as defined in RSA 15-A:2, subject to the exclusions in paragraph III.
- III. Such registration is not required where the person:
- (a) Is employed to represent another only in an adjudicative proceeding or nonadjudicative process as defined or described in RSA 541-A, other than a rulingmaking proceeding or any process related to the purchasing of goods or services by the state, and who files an appearance with the authority conducting the matter; or
- (b) Is an owner or employee, of a business seeking to do business with the state or communicating with an executive branch official or employee, a state agency, or an administrative official of the general court regarding goods or services that are being or may be purchased by the state.
- IV. All registrations required under this section shall expire on December 1.
- 15:2 Name Tag.
- I. Any person who is required to register as a lobbyist under RSA 15:1 shall wear on his or her outer garment a clearly visible name tag when lobbying in the state house or the legislative office building, or before the governor, governor and council, or a state agency. Such name tag shall have white lettering on a bunter orange background and shall be at least 1 1/2 inches high and 2 1/2 inches long. This name tag shall consist of lobbyist's first and last name and the word "lobbyist" or the name of the organization represented in letters at least 1/8 inch high.
- II. A person whose lobbying activity is appearing to testify before a legislative committee in an open hearing session is exempt from the requirements of paragraph I.
- 15:3 Registration Form.
- I. The lobbyist registration shall be on a form prescribed by the secretary of state that shall at a minimum include:
- (a) The full name of the person registering, if that person is affiliated with a partnership, firm, or corporation, the name of that partnership, firm, or corporation, the name of the client who has employed the person registering, his or her respective business addresses, or if none, his or her residence address.
- (b) The usual occupation or primary field of business of each.
- (c) The date and character of the employment or agreement therefor.
- (d) The duration of the employment if it can be determined.
- (e) The special subjects of legislation or executive branch action, if any, to which the employment relates.
- (f) If the person registering is a member of or affiliated with a partnership, firm, or corporation that has more members or employees who are also registered as a lobbyist, a list of the full name of each such person. Being listed in this subparagraph does not relieve anyone who will be lobbying for this client from being listed individually under subparagraph (a).
- (g) The following statement followed by a line for each person filing the form to sign and date the form: "I have read RSA 15-B and hereby swear or affirm that the foregoing information is true and complete to the best of my knowledge and belief."
- II. If the employment varies from time to time, a current registration shall be maintained for each employment.
- 15:4 Registration Fee. The fee for registration as a lobbyist under RSA 15:1 for any one year shall be \$50 for each person lobbying for each reported client or employer. A fee shall be paid for each individual who acts as a lobbyist for each client or employer regardless of his or her affiliation with any other registered lobbyist.
- 15:5 Prohibited Activities.
- I. Except as provided in paragraph II, no recipient of a grant or appropriation of state funds may use the state funds to lobby or attempt to influence legislation, participate in political activity, or contribute funds to any entity engaged in these activities.
- II. Any recipient of a grant or appropriation of state funds that wishes to engage in any of the activities prohibited in paragraph I, or contribute funds to any entity engaged in these activities, shall segregate the state funds in such a manner that such funds are physically and financially separate from any non-state funds that may be used for any of these purposes. Mere bookkeeping separation of the state funds from other moneys shall not be sufficient.
- 15:6 Statements.
- I. Each lobbyist shall file with the secretary of state itemized statements under oath of:
- (a) All fees received from any lobbying client for all purposes.
- (b) What portion of the total fees received are related, directly or indirectly, to lobbying services.
- (c) All expenditures made from lobbying fees, including by whom paid or to whom charged.
- (d) Any honorarium or expense reimbursement, as defined in RSA 15-B, or political contribution, as defined in RSA 664, made by the lobbyist in his or her professional or personal capacity, on behalf of the lobbyist, the partnership, firm, or corporation or by the lobbyist on behalf of the client or employer or by a family member of the lobbyist. The statements shall be open to public inspection. For the purposes of this chapter, "family member" shall mean any person related to and living in the same domicile as the lobbyist, who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parents.
- II. Lobbyists shall file statements no later than the second Friday of each month covering all fees received and expenditures, contributions, honorariums, or expense reimbursements made during the previous month, from fees received at any time from a lobbying client or employer or from funds otherwise provided by the lobbyist, partnership, firm, or corporation, or from the client or employer.
- III. In this chapter "value" means the amount at which property or services would change hands between a willing buyer and a willing seller when neither is under any compulsion to buy or sell and both have reasonable knowledge of the relevant facts.
- IV. A lobbyist, in his or her professional or personal capacity, or a family member of a lobbyist making a contribution, honorarium, or expense reimbursement, in a form other than cash, check or negotiable instrument, to a person with a duty to report that contribution, honorarium, or expense reimbursement pursuant to RSA 15-B or RSA 664 shall provide the recipient with a written statement of the value of the contribution, honorarium, or expense reimbursement if the value is different than any price or value printed on the contribution, honorarium, or expense reimbursement or if the contribution, honorarium, or expense reimbursement does not have a price affixed to it.
- V. The lobbyist statement shall be in the form prescribed by the secretary of state, may be in paper or electronic form, and shall include at a minimum:
- (a) The full name of each lobbyist covered by the report.
- (b) The name of the lobbyist partnership, firm, or corporation, if any.
- (c) The business address and telephone number for the lobbyist, partnership, firm, or corporation.
- (d) For each client, the full name and business address of the client, the scope of the representation or lobbyist services being paid for, the gross amount of all fees received from that client, not reduced by any expenses, for all purposes, a statement of what portion of the gross fees received are related, directly or indirectly, to lobbying services, a statement of the aggregate total of fees received that are related, directly or indirectly, to lobbying services during the calendar year, and a statement of any fee payment due, but not yet paid.
- (e) For each honorarium or expense reimbursement made, that is reportable pursuant to RSA 15-B:
- (i) The name of the client on whose behalf the expense reimbursement or honorarium was made, if any.
- (ii) The name of the person receiving the honorarium or expense reimbursement.
- (iii) A brief description of the event to which the honorarium or expense reimbursement relates.
- (iv) The value of the honorarium or expense reimbursement.
- (f) For each political contribution made that is reportable pursuant to RSA 664:
- (i) The name of the candidate.
- (ii) The office the candidate is seeking.
- (iii) The value of the contribution.
- (iv) If the contribution is an in-kind contribution, a brief description of the contribution.
- (g) For all expenditures for salaries, benefits, support staff, and office expenses, related directly or indirectly to lobbying, a statement of the total aggregate expenses for salaries, support staff, and office expenses related directly or indirectly to lobbying shall satisfy the requirement that an itemized statement of these expenses be filed.
- (h) The following statement followed by a line for each person filing the form to sign and date the form: "I have read RSA 15, RSA 15-B, and RSA 664 and hereby swear or affirm that the foregoing information is true and complete to the best of my knowledge and belief." This statement shall be made under oath before a notary public or justice of the peace.
- V. The secretary of state shall maintain the statements required by this section for 6 years from the date of filing, after which time the statements may be destroyed. The public information on the forms shall be available to the public in the form of a photocopy or an electronic record. The secretary of state shall, as soon as is practical, implement an electronic record keeping system that makes lobbyist registration forms and fee and expense reports available to the public through the internet.
- 15:7 Blanks. The secretary of state shall provide suitable forms in paper or electronic form to carry out the requirements of this chapter.
- 15:8 Penalty. Whoever violates any provision of this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. Whoever shall make and file any statement under this chapter which is to his or her knowledge false shall be deemed guilty of perjury and punished accordingly.
- 15:9 Examination of Statements of Fees and Expenditures. It shall be the duty of the attorney general to examine the statements of fees and expenditures which are made under this chapter to the secretary of state and to compel each returns be made to comply with the law.
- 15:10 Testimonial Privilege. No person shall be excused from testifying in a proceeding instituted against another person under the foregoing sections for the reason that he might thereby incriminate himself; but no testimony so given by him shall be used directly or indirectly as evidence against him in any prosecution, nor shall he be prosecuted for any offenses so disclosed by him.
- 15:11 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

CHAPTER 15-A
FINANCIAL DISCLOSURE

- 15-A:1 Purpose. The purpose of this chapter is to ensure that the performance of official duties does not give rise to a conflict of interest, by requiring the following persons to file a statement of financial interests with the secretary of state. This chapter shall be liberally construed to effect this purpose.
- 15-A:2 Definitions. In this chapter:
- "Agency" means the executive branch and any department, division, board, commission, or equivalent entity of the executive branch.
- "Agency head" means the commissioner or any equivalent leader of any department, and the highest ranking member of any commission, board, institution, bureau, or office, which is not a subordinate component of a department or equivalent agency, by whatever name called, other than the legislative and judicial branches of state government.
- III. "Family member" shall mean any person related to and living in the same domicile as the elected official, public official, public employee, constitutional official, or legislative employee who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parents.
- IV. "Income" means any money or thing of value received.
- V. "Primary occupation" means any business, business association, public sector employment, nonprofit employment, or self-employment which provides the largest source of income for the candidate.
- 15-A:3 Persons Required to File. The following persons shall file a statement of financial interests as required by this chapter:
- I. All candidates who file for state or county office.
- II. All persons filing an acceptance of nomination form for state or county office.
- III. Every person appointed by the governor, governor and council, president of the senate, or the speaker of the house of representatives to any board, commission, committee, board of directors, authority, or equivalent state entity whether regulatory, advisory, or administrative in nature.
- IV. All agency heads.
- V. Any public official designated, due to the responsibilities of the position, by the agency head.
- VI. The secretary of state and the treasurer, and any of their subordinates designated, due to the responsibilities of the position, by the secretary of state or treasurer.
- VII. All persons elected to state or county office, and all persons appointed to such elective office to fill a vacancy; and
- VIII. Any person, not employed by or working under contract for the state, who is acting on behalf of the governor or an agency while engaged in state business.
- 15-A:4 Designated Public Official. The governor shall file with the secretary of state an organizational chart identifying the names and titles of all persons who are acting on behalf of the governor and who are required to file a statement of financial interests. Each agency head shall file with the secretary of state an organizational chart identifying the names, titles, and position numbers of persons in his or her department that are required to file a statement of financial interests.
- 15-A:5 Form of Disclosure. The secretary of state shall establish a uniform statement of financial interests, which may be in paper or electronic form.
- I. The statement of financial interest shall include:
- (a) The full text of RSA 15-A.
- (b) The full name, work address, work phone number, primary occupation, and, if different, the office, appointment, or employment with government held by person filing the statement of financial interest.
- (c) The name, address, and telephone number of any professional business or family member who was an officer, director, associate, partner, proprietor, or employee, or served in any other professional or advisory capacity, and from which any income in excess of \$10,000 was derived during the preceding calendar year. Sources of retirement benefits other than federal retirement and/or disability benefits shall be included. If the person filing the financial interest statement has no qualifying income he or she shall report this by writing his or her initials following the statement "My income does not qualify _____."
- (d) A statement of whether the person reporting or a family member has a special interest in any of the following businesses, professions, occupations, groups, or matters. A person has a reportable special interest in an item on this list if a change in law, a change in administrative rule, a decision whether or not to award a contract, grant a license or permit, discipline a licensee or permittee, or other action by government affecting the listed business, profession, occupation, group, or matter would potentially have a greater financial effect on the person reporting the financial interest or a family member than it would on the general public:
- (1) Any profession, occupation, or business licensed or certified by the state of New Hampshire, listing each such profession, occupation, or category of businesses.
- (2) Health care.
- (3) Insurance.
- (4) Real estate, including brokers, agents, developers, and landlords.
- (5) Banking or financial services.
- (6) State of New Hampshire, county, or municipal employment.
- (7) The New Hampshire retirement system.
- (8) The current use land assessment program.
- (9) Restaurants and lodging.
- (10) The sale and distribution of alcoholic beverages.
- (11) The practice of law.
- (12) Any business regulated by the public utilities commission.
- (13) Horse or dog racing, or other legal forms of gambling.
- (14) Education.
- (15) Water resources.
- (16) Agriculture.
- (17) New Hampshire taxes, specifying if business profits tax, business enterprise tax, or interest and dividends tax.
- (18) The reporting official may, but is not required by this chapter to specify any other area for which he or she has a special interest.
- (e) The following statement followed by a line for the person filing the form to sign and date the form: "I have read RSA 15-A and hereby swear or affirm that the foregoing information is true and complete to the best of my knowledge and belief."
- II. The secretary of state may also require information such as home phone numbers, home addresses, and other information pertinent to the administration and enforcement of laws relating to financial disclosure. This information shall be non-public and need not be subject to the provisions of RSA 91-A.
- III. The statement of financial interests, if filed on paper, shall be completed by typewriting or legible hand printing, and shall be verified, dated, and signed by the reporting individual personally.
- IV. The secretary of state shall maintain the statements of financial interests for 6 years, after which time the statements may be destroyed. The public information on the forms shall be available to the public in the form of a photocopy or an electronic record. The secretary of state shall, as soon as is practical, implement an electronic record keeping system that makes the public information on statements of financial interest available to the public through the internet.
- 15-A:6 Deadlines for Filing. All persons subject to this chapter shall file a statement of financial interests annually no later than the third Friday in January. All persons subject to this chapter, except those who are elected, shall file a statement of financial interests within 14 days of assuming the office, position, or appointment that makes the person subject to this chapter, unless the person has previously filed a statement during the calendar year.
- 15-A:7 Penalty. Any person who knowingly fails to comply with the provisions of this chapter or knowingly files a false statement shall be guilty of a misdemeanor.
- 15-A:8 Examination of Disclosures. It shall be the duty of the attorney general to examine the statements of financial interests which are made under this chapter to the secretary of state and to compel such disclosures to be made to comply with the law.
- 15-A:9 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.
- 9 Gifts, Honorariums, and Expense Reimbursements. RSA 15-B is repealed and reenacted to read as follows:

CHAPTER 15-B
GIFTS, HONORARIUMS, AND EXPENSE REIMBURSEMENTS

- 15-B:1 Purpose. The purpose of this chapter is to ensure that the performance of official duties does not give rise to a conflict of interest, by prohibiting certain gifts and by requiring certain persons to file with the secretary of state a report of any honorariums or expense reimbursements received. This chapter shall be liberally construed to effect this purpose.
- 15-B:2 Definitions. For the purposes of this chapter:
- I. "Agency" means the executive branch and any department, division, board, commission, or equivalent entity of the executive branch.
- II. "Constitutional official" means the secretary of state, the state treasurer, their deputies, assistants, and all employees of their departments.
- III. "Elected official" means the governor, members of the executive court, members of the general court, county commissioners, county sheriffs, county treasurers, county attorneys, registers of deeds, and registers of probate.

IV. "Expense reimbursement" shall mean payment in any form as prepayment, underwriting, or reimbursement of the reasonable expenses of attendance, registration, travel, meals, or lodging related to a bona fide informational or educational conference, seminar, or meeting, when the source of such reimbursement is other than the state, a county, or the United States of America.

V. "Gift" means:

- Money in any amount, whether in the form of cash, check or any other negotiable or non-negotiable instrumentality for the transfer of money.
- Any other tangible thing, intangible thing, service, or the use thereof having more than insignificant economic value. Any such item with a value of less than \$10 is presumed to be of insignificant economic value.
- Notwithstanding subparagraphs (a) and (b), "gift" shall not include:
 - A political contribution as defined in RSA 664.
 - A commercially reasonable loan, made in the ordinary course of business.
 - Repayment to an elected official, public official, public employee, constitutional official, or legislative employee of a bona fide loan made by such a person.
 - A ceremonial object or award, the value of which is primarily personal to the recipient and which has inconsequential economic value. A ceremonial object or award with a value of \$50 or less is presumed to be of inconsequential economic value.
 - Objects which primarily serve an informational purpose provided in the ordinary course of business, such as reports, books, maps, or charts.
 - Money in any form, an object, or an intangible thing of economic value, where the donor's act of giving is purely private and personal in nature and the money, object, or intangible thing of economic value would have been given and received even if the person were not an elected official, public official, public employee, constitutional official, or legislative employee.
 - Wages, salary, benefits, mileage or payment for expenses received by the person in his or her regular course of employment or business which is unrelated to the government position held.
 - Wages, salary, benefits, mileage, or payment for expenses paid to the person by the state, a county, or the United States of America related to performance of official duties.
 - Tickets or free admission to a charitable, ceremonial, or political event provided that:
 - The proceeds of the event are subject to the political contributions and expenditure reporting law, RSA 664; or
 - The event is sponsored by a charitable organization that is registered with the division of charitable trusts, department of justice or which is a charitable organization pursuant to section 501(C)(3) of the federal tax code; or
 - The event is published as an event open for attendance by any member of the general court in the calendar of the senate or the house.
 - Meals, beverages, lodging, or transportation associated with attendance at:
 - Any event for which the primary significance is ceremonial or celebratory, provided the event is public or, if by invitation only, is planned to have an attendance greater than 50 people; or
 - Any event where the person is attending in an official capacity representing the state and/or the senate, house, or the agency of which the person is a member.

(11) Expense reimbursement or an honorarium.
(12) Meals and beverages consumed in the course of official business.
VI. "Honorarium" means a payment in any form to an elected official, public official, public employee, constitutional official, or legislative employee for services for which the person is not being compensated by the state, a county, the United States of America, or any other employer or client, where the service provided is related to or associated with office or employment held with government. Honorarium includes, but is not limited to, a payment as described above, for making a speech, preparing a written document, or serving as an advisor or consultant.

VII. "Family member" shall mean any person related to and living in the same domicile as the elected official, public official, public employee, constitutional official, or legislative employee, who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parents.

VIII. "Legislative employee" means any person employed by the legislative branch.

IX. "Public employee" means any person, including but not limited to a classified employee, who is acting on behalf of the governor or an agency while engaged in state business.

X. "Public official" means a commissioned, unclassified, or nonclassified executive branch employee, but shall not include any commissioned, unclassified, or nonclassified employee elected by the legislature.

XI. "Value" means the amount at which property or services would change hands between a willing buyer and a willing seller when neither is under any compulsion to buy or sell and both have reasonable knowledge of the relevant facts.

15-B:3 Prohibition on Gifts.

I. It shall be unlawful to knowingly give any gift as defined in this chapter, directly or indirectly, to any elected official, public official, public employee, constitutional official, or legislative employee.

II. It shall be unlawful to knowingly give any gift as defined in this chapter, directly or indirectly, to any family member, as defined in this chapter, of any elected official, public official, public employee, constitutional official, or legislative employee, with a purpose of influencing or affecting the official conduct of such official or employee.

III. No elected official, public official, public employee, constitutional official, or legislative employee shall knowingly accept, directly or indirectly, any gift, as defined in this chapter.

15-B:4 Limitation on Reimbursement. No public official or public employee shall accept an honorarium from a person who is subject to or likely to become subject to or interested in any matter or action pending before or contemplated by the public official, public employee, or the governmental body with which that person is affiliated.

15-B:5 Expense Reimbursement. An elected official, public official, public employee, constitutional official, or legislative employee may accept expense reimbursement for the reasonable expenses for food, travel, and lodging for a conference, meeting, seminar, or educational program which the person attends and that is related to the office, position, or employment held with the state or county, provided that the person attaches to the disclosure report a copy of the agenda or an equivalent document which discloses the subjects addressed and the time schedule of all activities at the event. This provision shall not be construed to require reporting of a prepayment, underwriting, or reimbursement made by an organization to which the state or county pays dues, when the prepayment, underwriting or reimbursement is provided because of the dues paid.

15-B:6 Duty to Report. An elected official, public official, public employee, or legislative employee who receives an honorarium or expense reimbursement shall file a report with the secretary of state no later than the last day of the month following the month during which the gift, honorarium, or expense reimbursement was received.

15-B:7 Honorarium, or Expense Reimbursement Report. The secretary of state shall establish a uniform report of receipt of an honorarium or expense reimbursement, which may be in paper or electronic form.

I. The report shall include at a minimum the following information, which shall be public:

- The full name, work address, work phone number, the office, appointment, or employment held by person subject to the reporting requirement.
- The full name, post office address, occupation, and principal place of business, if any, of the source of any reportable honorarium or expense reimbursement. When the source is a corporation or other entity, the name and work address of the person representing the corporation or entity in making the honorarium or expense reimbursement must be provided in addition to the name of the corporation or entity.
- The value of the honorarium or expense reimbursement. When the exact value is unknown, the person filing the report shall provide an estimate of the value of the gift or honorarium and identify the value as an estimate.
- A brief description of the service or event that gave rise to the honorarium or expense reimbursement. Reports of expense reimbursement must include a copy of the agenda or an equivalent document.
- The date on which the honorarium or expense reimbursement was received.
- The following statement followed by a line for the person filing the form to sign and date the form: "I have read RSA 15-B and hereby swear or affirm that the foregoing information is true and complete to the best of my knowledge and belief."

II. The secretary of state may also require information such as home phone numbers, home addresses, and other information helpful to the administration and enforcement of laws relating to honorariums or expense reimbursements. This information shall be non-public and shall not be subject to the provisions of RSA 91-A.

15-B:8 Forms. Plans of Filing. The secretary of state shall furnish all forms required under this chapter. All persons filing a report under this chapter shall file with the secretary of state. The reports shall be held in the original form for 6 years from the date of filing, after which time they may be destroyed. The public information on the forms shall be available to the public in the form of a photocopy or an electronic record. The secretary of state shall, as soon as is practical, implement an electronic record keeping system that makes the public information in the reports required by this chapter available to the public through the internet.

15-B:9 Penalty. Any person who knowingly fails to comply with the provisions of this chapter or knowingly files a false report shall be guilty of a misdemeanor.

15-B:10 Examination of Reports. It shall be the duty of the attorney general to examine the reports which are made under this chapter to the secretary of state and to compel such returns be made to comply with the law.

15-B:11 Limitations. This chapter shall not be construed to:

- Prevent receptions, breakfasts, luncheons, dinners, dances, or picnics or like events from being held for the sole purpose of raising political contributions, provided such contributions comply with and are reported as required by RSA 664.
- Prohibit gifts or expense reimbursements made to the state of New Hampshire and accepted in accordance with the law.
- Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

10 Repeat. The following are repealed:

- RSA 14-B:7, relative to the financial disclosure form for legislators.
- II. RSA 21-G:5-A, relative to the financial disclosure form for board and commission members.
- III. RSA 21-G:21, III, relative to the definition of gift.
- IV. RSA 21-G:21, IV, relative to the definition of public employee.
- V. RSA 21-G:21, V, relative to the definition of public official.
- VI. RSA 21-G:28, relative to the financial disclosure form for public officials.

11 Applicability. Notwithstanding the change in reporting requirements otherwise established by this act, the statement of financial interests for testimonials, gifts, and honorariums received between June 2, 2005 and June 1, 2006 shall, as required by RSA 15-B prior to its repeal and reenactment, be filed with the secretary of state no later than June 15, 2006.

12 Effective Date. This act shall take effect June 2, 2006.

This bill establishes an executive branch ethics committee and redefines RSA 15, relative to lobbyists; RSA 15-A, relative to financial disclosure statements for public officials; and RSA 15-B, relative to reporting requirements for gifts, honorariums, and expense reimbursements.

AMENDED ANALYSIS

2006-0232b

Amendment to SB 266-FV

Proposed by the Minority of the Committee on Election Law - R

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

AN ACT relative to the executive branch code of ethics and establishing an executive branch ethics committee.

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

1 New Paragraph: Code of Ethics: Definition of Executive Branch Official Admended RSA 21-G:21 by inserting after paragraph II the following new paragraph:

Iia. "Executive branch official" means a member of the executive branch elected by the public or the general court, or a commissioned, unclassified, nonclassified or classified executive branch employee. The term also includes volunteers serving in an official capacity in the executive branch.

2 Code of Ethics: References Deleted: Also Deleted: Amend RSA 21-G:27 to read as follows:

21-G:27 Conflict of Interest. ~~[Public employees and public]~~ Executive branch officials shall avoid conflicts of interest. ~~[Public employees and public]~~ Executive branch officials shall not participate in any matter in which they, or their spouse or dependents, have a private interest which may directly or indirectly affect or influence the performance of their duties.

21-G:25 Misuse of Position. No ~~[public official and non-public employee]~~ executive branch official shall:

- Disclose or use confidential or privileged information acquired in the performance of his or her duties for the state for personal benefit or for financial gain. ~~[Public officials and public employees shall not]~~

II. ~~Use [their positions] his or her position with the [government] state to secure privileges or advantages for [themselves] himself or herself~~, which are not generally available to government employees, or to secure governmental privileges or advantages for others.

21-G:24 Acceptance of Campaign Contributions. ~~[Any public official or public employee]~~ An executive branch official who is a candidate for an elective office that is not subject to the reporting requirements of RSA 664 and who accepts a ~~[financial contribution or other form of]~~ political contribution from ~~[any]~~ any person or entity which is or is likely to become subject to that ~~[public officials or public employees]~~ executive branch official's duties shall make a disclosure of such contributions to the secretary of state no later than the date of the contribution.

21-G:25 Acceptance ~~[and giving]~~ of Gifts Prohibited. ~~[Any public employee, public official, and any public employee or public official's spouse or dependent who gives, solicits, accepts or agrees]~~ No executive branch official shall solicit, accept, or agree to accept a gift from a person who is subject to or likely to become subject to or interested in any matter or action pending before or contemplated by the ~~[public employee or]~~ executive branch official or by the governmental body with which that ~~[employee or]~~ official is affiliated ~~[shall disclose the gift to the secretary of state and file the statement of financial disclosure filed under RSA 91-A:28]~~. Nothing in this section shall be construed to prohibit gifts made to the state of New Hampshire and accepted in accordance with the law.

21-G:25-A Ethical Standards for Volunteer Service. Volunteer public service in the executive branch is an honorable tradition which should be encouraged. Accordingly, such service is not to be used by volunteers or their business associates to obtain, directly or indirectly, inequitable opportunities for non-public personal communications with executive branch decision makers to influence those executive branch decision makers in the performance of their duties.

21-G:26 Employment Restrictions. For 6 months after leaving office or employment with the state, no ~~[public]~~ executive branch official shall appear as a lobbyist:

- To promote or oppose directly any specific legislation pending or proposed before the general court ~~[separately or]~~

II. To directly promote or oppose action or inaction on any matter, contract, license, permit, or administrative rule pending before the executive branch or with regard to any matter over which that executive branch official had personal and direct responsibility while in state government.

21-G:27 Supplemental State Agency Ethical Codes. In addition to this code, each agency may promulgate a supplemental ethical code to address issues specific to that agency. In the event of a conflict, the provisions of this code shall supersede the agency code with the provisions of this code, a stricter provision of an agency code shall govern. To the extent that this code or an ethics code adopted by an agency shall apply to classified employees, this code, or an agency code, shall be integrated to be consistent with the provisions of the classified employees' collective bargaining agreement and the state personnel rules.

3 New Sections: Executive Branch Ethics Committee Established. RSA 21-G:29 is repealed and reenacted to read as follows:

21-G:29 Executive Branch Ethics Committee Established: Jurisdiction; Membership.

I. There is hereby established an executive branch ethics committee to issue guidelines, interpretive rulings, and advisory opinions relative to standards for ethical conduct in the executive branch and to resolve, through procedures established under RSA 21-G:32, issues, questions, or complaints involving executive branch officials who are not classified employees.

II. The jurisdiction of the committee shall consist of matters arising under the executive branch code of ethics, RSA 21-G:27, RSA 15-A, RSA 15-B, and rules or guidelines adopted thereunder, as applied to executive branch officials who are not classified employees.

III. The committee shall consist of 7 members, nominated in the following manner:

- Two members, one from each political party as defined in RSA 652:11, jointly nominated by the secretary of state and the state treasurer.
- Five members, two from each political party as defined in RSA 652:11, and one who shall have no declared party affiliation, nominated by the governor.

IV. All nominations under paragraph III shall be confirmed by the governor and executive council.

V. Persons appointed to the committee shall be qualified by excellent personal reputation and by education or experience in public service, in resolving ethical issues facing persons in public service, or in the law. At least one committee member shall be an attorney who is a member of the New Hampshire bar. No executive branch official shall serve as a committee member, and no person who has registered as a lobbyist under RSA 15:1 shall serve as a committee member, or for 6 months following the expiration of such registration.

VI. Committee members shall serve terms of 3 years and until their successors are appointed and qualified. However, initially, the secretary of state and treasurer jointly shall nominate one member for a one-year term and one member for a 2-year term; and the governor shall nominate one member for a one-year term, 2 members for two-year terms, and 2 members for 3-year terms. Initial appointments to the committee shall be made no later than 90 days after the effective date of this section. Vacancies shall be filled for the remainder of any unexpired term. Following their appointment, members may not hold or campaign for elective office, serve as an officer of any political party or political committee, permit their names to be used in support of or in opposition to any candidate or proposition, participate in any way in any election campaign, make a contribution as defined in RSA 664:2 to any candidate for office or political committee, or act as or assist a lobbyist required to be registered under RSA 15:1.

VII. The governor shall designate one of the governor's nominees as chair, who shall convene the first meeting, which shall take place no later than 30 days after a majority of the membership has been appointed. The members shall elect by majority vote a vice-chair and secretary from the remaining members.

VIII. Committee members shall receive no compensation, except that committee members shall receive mileage at the state employee rate.

21-G:30 Duties.

I. The committee shall be authorized to:

- Issue guidelines consistent with the executive branch code of ethics, RSA 21-G:21-27, RSA 15-A, and RSA 15-B, relative to proper and appropriate conduct for individuals relating to the performance of their duties as executive branch officials. Such guidelines shall be consistent with statute.
- Issue interpretive rulings explaining and clarifying any law, guideline, rule, or regulation within the jurisdiction of the committee.
- Render an advisory opinion, in writing within a reasonable time, in response to a written request by any person subject to any law, guideline, rule, or regulation concerning the application of any law, guideline, rule, or regulation within the committee's jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion. Any advisory opinion concerning any matter subject to the provisions of this subdivision who acted in reliance thereon, shall be binding upon the committee, and it shall be an absolute defense in any complaint brought under this subdivision that the person complained against acted in reliance upon such advisory opinion. The name of the person seeking an advisory opinion and any information in the opinion that would identify such person shall be non-public. A redacted version of the advisory opinion shall be public.
- Receive sworn complaints, investigate allegations of violations of this subdivision or guidelines adopted thereunder by executive branch officials and make appropriate findings of fact and conclusions with respect to such conduct.
- Investigate any unsubstantiated disclosure of information by any committee member or assistant and report to the appropriate authority any allegation which it finds to be substantiated.
- All actions of the committee shall require an affirmative vote of 4 or more members of the committee before becoming effective, except that a vote to summarily dismiss a complaint shall be unanimous, and a vote to dismiss a complaint after only an internal review and no investigation shall be by an affirmative vote of no less than 5 members of the committee and a vote pursuant to RSA 21-G:31, VII shall require only a majority of the members present and voting. The committee shall request to meet with the legislative ethics committee established under RSA 14-B at least two years to facilitate uniformity in the interpretation of statutory provisions.

II. The committee shall provide the legislative ethics committee with copies of all publicly issued guidelines, procedures, decisions, or opinions.

21-G:31 Complaints: Procedure.

I. Each complaint shall be submitted in writing and signed under oath by the complainant. The sworn complaint shall be filed confidentially with the committee and shall contain the name and address of the complainant. Before any other action is taken by the committee, the executive branch official complained against shall be furnished with a copy of the complaint and a copy shall be sent to each member of the committee for review. The committee may initiate a complaint on its own motion against any individual the committee has reason to believe has violated any law, guideline, rule, or regulation within the committee's jurisdiction. The committee shall promptly examine each sworn complaint and:

- Upon first examination, if by a unanimous vote it determines that a complaint is frivolous, scurrilous, retaliatory in nature, or plainly not within the committee's jurisdiction, the committee may summarily discharge the complaint without further meeting or proceeding. The committee shall notify the respondent and complainant in writing of its action.
- For any complaint not summarily discharged, the committee shall conduct an initial review to ascertain whether the committee has jurisdiction to consider the complaint or whether the complaint is without merit or is unfounded. If the committee concludes by a recorded affirmative vote of no less than 5 members of the committee that the alleged conduct is not within the committee's jurisdiction, has without merit, or is unfounded, the committee shall dismiss the complaint and shall report such conclusion to the complainant and to the executive branch official, with an explanation of the basis of such determination.

II. If the committee, by recorded vote, concludes that the complaint is within its jurisdiction and may have merit, the committee may proceed to conduct a preliminary investigation. Upon completion of its preliminary investigation, the committee shall conclude by recorded vote that:

- No violation occurred and no further action is appropriate.
- The violation is inadvertent, technical, or of a de minimis nature and shall be addressed by informal methods; or
- There are reasonable grounds to believe a violation occurred and formal proceedings shall be instituted to inquire further into the complaint. In that event, the committee shall issue a formal statement of charges and proceed to a hearing on the complaint.

III. Upon completion of the hearing, the committee shall conclude by recorded vote that:

- No violation occurred and no further action is appropriate.
- No action is appropriate because there is not clear and convincing evidence that a violation occurred.
- Based upon clear and convincing evidence, a violation occurred, but such violation did not justify formal disciplinary action and shall be resolved by informal methods; or
- Based upon clear and convincing evidence, a violation occurred, and the violation was of a serious nature so as to warrant formal disciplinary action. In the case of a finding of violation by a executive branch official, the committee may recommend disciplinary action by the appropriate body, including but not limited to a recommendation for disciplinary action by the executive branch official's supervisor, removal from office under RSA 4:1, or, in the case of the governor, executive council members, or other officer of the state, impeachment or other appropriate action pursuant to part II, article 28 of the New Hampshire constitution. In addition to any recommendation for disciplinary action under this subparagraph, the committee may refer the case to the department of justice for criminal prosecution. In the event that conduct may constitute both a criminal act and misconduct subject to the jurisdiction of the committee, the committee may on its own motion or by motion of the attorney general suspend its investigation or a pending hearing for the time period reasonably necessary to avoid compromising a criminal prosecution.

IV. Any person who knowingly or willfully swears falsely to a sworn complaint does so under penalty of perjury, and the committee may refer any such case to the department of justice for prosecution.

V. Except as otherwise provided in this paragraph and notwithstanding any other provision of law, all proceedings, information, communications, materials, papers, files, and transcripts, written or oral, received or developed by the committee in the course of its work, shall be confidential. The committee shall first examine any sworn complaint and shall conduct its initial review and preliminary investigation of complaints in a confidential manner, unless otherwise requested by the executive branch official complained against. The committee shall conduct formal proceedings, other than its deliberations, in public session. The committee's deliberations on complaints shall be conducted in nonpublic session. Upon completion of the preliminary investigation conducted under paragraph II or at the conclusion of formal proceedings under paragraph III, the committee shall make available for public inspection all records, other than its work product and internal memoranda relating to the complaint.

VI. In proceedings under this subdivision, the committee shall have the power to issue subpoenas and administer oaths.

VII. Any member of the committee who is directly or indirectly involved in any complaint before the committee or who otherwise has personal knowledge of facts material to the determination of the complaint shall not participate in any proceedings regarding the complaint. In the event that recusal under this paragraph reduce the number of participating members to fewer than 4, the remaining participating members shall designate an alternate or alternates sufficient to increase the committee to 4 members, to serve on the committee for that case only.

- 21-G-32 Rules; Procedures and Standards. The committee shall adopt, publish, and make available to the public rules governing its procedures, including provisions for disqualification of members for conflict of interest and provisions for the committee to discipline its members for breach of committee procedures, as well as guidelines referred to in RSA 21-G:30, I, consistent with the procedures set forth in RSA 541-A.
- 21-G-33 Committee Administration and Staff. The committee shall be administratively attached to the department of justice, which shall provide appropriate administrative and investigative staff and legal counsel in support of the committee's activities, at the committee's request. Files and records of the committee shall be protected against access other than by members of the committee and other persons specifically authorized by the committee.
- 21-G-34 Penalty.
- I. Any person who knowingly or willfully violates RSA 21-G:21-27 or makes unauthorized disclosure of confidential matters or materials contrary to RSA 21-G:31, or interferes with or obstructs lawful activities of the committee, shall be guilty of a misdemeanor and may be subject to disciplinary action as provided in RSA 21-G:31, III(d) and other applicable law.
- II. In the case of any person convicted under this section, the court may order restitution.
- 21-G-35 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.
- 4 Executive Order Superseded. The provisions of this act and RSA 21-G:21-27 supersede and replace the provisions of Executive Order Number 98-1, dated May 19, 1998.
- 5 Repeal. The following are repealed:
- I. RSA 21-G:21, IV, relative to the definition of public employee.
- II. RSA 21-G:21, V, relative to the definition of public official.
- 6 Effective Date. This act shall take effect June 2, 2006.

This bill establishes an executive branch ethics committee and amends certain provisions of the executive branch ethics code.

AMENDED ANALYSIS

Amendment to SCR 3
Proposed by the Committee on Legislative Administration - C

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

Whereas, the Boy Scouts of America is nearing 100 years since its American inception in 1910; and
Whereas, the Boy Scouts of America have been promoting strong character traits and citizenship attributes; and
Whereas, the Boy Scouts of America have produced some of our strongest national leaders and role models, including, actor and war hero Brigadier General James Stewart, Nolan Ryan, President John F. Kennedy, Walter Cronkite, Bill Gates, Dan Jansen, and Mark Spitz; and
Whereas, Eagle Scouts, including astronaut James Lovell, astronaut Neil Armstrong, President Gerald Ford, Sam Walton, John Tesh, Congressman Richard Gephardt, Congressman Thomas Foley, Senator Lamar Alexander, and Hank Aaron, have gone on to prove that character counts, by living the Scout Law; and
Whereas, scouting now includes the Venturing program for young men and women, promoting physical fitness, leadership skills, and real-world experiences; and
Whereas, scouting's many mottos include the phrases, "Be Prepared," and "Do a good turn daily;" and
Whereas, the Boy Scouts of America has been instrumental in shaping the lives of millions of boys and young men for nearly a century; and
Whereas, scouting began in England in 1907 with less than 100 scouts and now has programs in 216 countries serving over 28 million youth; now, therefore, be it
Resolved by the Senate, the House of Representatives concurring:
That the general court of New Hampshire officially recognizes and supports the mission of the Boy Scouts of America and agrees that character counts; and
That copies of this resolution be sent by the senate clerk to the National Council of the Boy Scouts of America in Irving, Texas and the Daniel Webster Council, Boy Scouts of America in Manchester, New Hampshire.