

State of New Hampshire HOUSE RECORD

Second Year of the 159th General Court Calendar and Journal of the 2006 Session

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Concord N.H.

Friday, March 17, 2006

No. 22

Contains: Reports and Amendments for March 21 and 22, Hearings, Meetings, List of House Bills Amended by the Senate and Notices

HOUSE CALENDAR

MEMBERS OF THE HOUSE:

The House will meet on **Tuesday, March 21** at **10:00 a.m.** and **Wednesday, March 22** at **10:00 a.m.**

Please plan to stay late on Tuesday and Wednesday to finish the business of the House.

Chairmen and Vice Chairmen will meet on **Tuesday, March 21** at **9:00 a.m.** in Room 203, LOB.

W. Douglas Scamman, Speaker

NOTICE

There will be a Republican Caucus on Wednesday, **March 22** at **9:15 a.m.** in Representatives Hall.

Rep. Michael O'Neil, Majority Leader

NOTICE

There will be a Democratic Caucus on Tuesday, **March 21** and Wednesday, **March 22** at **9:00 a.m.** in Rooms 305-307 of the Legislative Office Building.

Rep. James W. Craig, Democratic Leader

NOTICE

To maintain better key management in the House chamber, the Sergeant-at-Arms will remove the keys of those with excused absences before the start of the session. Anyone in this category will be able to pick up their key in the chamber anteroom should they come in later. All legislators are reminded that House Rule 9 requires members to turn off their voting stations whenever leaving their seats, even though they plan to return. Members are reminded that they should not interfere with another's voting station. Legislators are also reminded that if they have to leave early for the remainder of the day, they should sign out in the Speaker's Office. By signing out, they will be excused for any subsequent roll calls and their attendance will be registered for mileage payment.

W. Douglas Scamman, Speaker

NOTICE OF RECONSIDERATION

This day, Friday, the 10th day of March, 2006, at 9:30 a.m., Representative William L. O'Brien, having voted with the prevailing side, did serve notice that today or some other day, as limited by House Rules, he would ask the House to reconsider its action whereby **HB 1707-FN-A-L**, establishing a school choice certificate program, was Indefinitely Postponed on a roll call

vote of 174-154.

Karen O. Wadsworth
Clerk of the House

NOTICE

STATEHOUSE CAFETERIA TO BE A “WI-FI HOTSPOT!”

In the very near future, the Statehouse Cafeteria dining room will be set up as a “Wi-Fi HotSpot.” Anyone using an 802.11 wireless compatible device (laptop or PDA) will be able to access the Internet for free during the hours that the cafeteria dining room is open. Unlike other areas of the Statehouse complex, where an Encryption Key must be used, the Cafeteria will offer open access. This new HotSpot will be set up on a separate network so that the legislative network will remain secure. This was made possible through joint efforts of House and Senate leadership, under the guidance of Stan Kelly, Manager of the Statehouse Information Systems.

W. Douglas Scamman, Speaker

SHUTTLE SERVICE

For the convenience of members during the winter months once again a shuttle service is available from the Storrs Street parking garage to the State House complex.

The shuttle operates **Tuesdays, Wednesdays and Thursdays from 8:00 a.m. to 10:00 a.m. and again from 2:00 p.m. until 4:00 p.m.** or until session is over. The van will drop-off and pickup on North State Street between the State House and LOB. If you have any questions or need any assistance please feel free to call my office or Protective Services at 271-3321.

W. Douglas Scamman, Speaker

NOTICE

Please note that normally the Calendar closes at 3:00 p.m. on Wednesdays for scheduling and notices. It closes at 1:00 p.m. on Thursdays for Committee Reports. Members and staff who need to schedule meetings should make arrangements with the Clerk’s Office for room availability/assignment and publication of meeting notices.

Karen O. Wadsworth, Clerk of the House

HOUSE DEADLINES FOR 2006 SESSION

January 4 th , Wednesday	Last day to introduce 2006 House Bills
February 9 th , Thursday	Last day to REPORT HBs going to 2 nd committee (noon)
February 15 th , Wednesday	Last day to ACT on HBs going to 2 nd committee
February 23, Thursday	Last day to REPORT all other HBs (noon)
March 16 th , Thursday	Last day to REPORT HBs from 2 nd committee (noon)
March 22 nd , Wednesday	CROSSOVER Last day to ACT on HBs
April 6 th , Thursday	Last day to REPORT SBs going to 2 nd committee (noon)
April 12 th , Wednesday	Last day to ACT on SBs going to 2 nd committee
April 20 th , Thursday	Last day to REPORT all other SBs (noon)
April 27 th , Thursday	Last day to REPORT SBs from 2 nd committee (noon)
May 3 rd , Wednesday	Last day to ACT on SBs
May 11 th , Thursday	Last day to FORM Committees of Conference
May 18 th , Thursday	Last day to SIGN Comm. of Conference Reports (3:00 pm)
May 24 th , Wednesday	Last day to ACT on Comm. of Conference Reports

TUESDAY, MARCH 21

CONSENT CALENDAR

FINANCE

HB 1331, relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Neal Kurk for Finance: This bill is the first step in revising the state's welfare program (Transitional Assistance to Needy Families, or TANF) to comply with the changes to the program mandated by Congress last month. These changes include increasing TANF recipients' participation in the work force to 50%, or face significant financial penalties, starting in October of this year. Federal rules implementing the program have yet to be written. The bill, as introduced, was a study committee. Just before reporting deadlines, the Department of Health and Human Services (HHS) proposed an amendment to the Health, Human Services and Elderly Affairs Committee which, under time pressure, adopted it without referral to a subcommittee or any in-depth examination. The bill passed the House and was referred to Finance. Finance determined that the amendment contained significant policy decisions that had not received a public hearing or policy committee consideration. It also determined that many other policy decisions were to be made through the rules process and not through the legislative process. Furthermore, it was unable to determine the fiscal impact of the amendment. As a result, Finance amended the bill to take out the policy and rules issues, retaining only those changes in state statute that were mandated by Congress. The bill is thus "policy neutral." The committee understands that HHS will be proposing a significantly different amendment in the Senate. Commissioner Stephen stated that he will also present the amendment to the policy and Finance committees so that the amendment can be studied and policy decisions and financial consequences determined. This will put the House in the best possible position, in the inevitable committee of conference, to revise the TANF program in ways that reflect its position. **Vote 19-0.**

HB 1593-FN-L, relative to the construction of high school athletic fields in the town of Bedford. **OUGHT TO PASS**

Rep. Kenneth Weyler for Finance: School construction aid can include not only the buildings but also the athletic fields and the cost of that property. This bill introduces a new concept and likely future savings to the state's construction aid account. Although the original bill was specific to the town of Bedford, it was amended before it came to the Finance Committee. The bill now allows school building aid to be used to improve municipally owned buildings or lands to be used for athletic fields or any other school district purpose if the costs are lower than they would be if they involved new acquisition. **Vote 19-0.**

HB 1601-FN-L, relative to the funding of catastrophic special education aid and making an appropriation to the department of education to support the Laurent Clerc Academy **REFER FOR INTERIM STUDY**

Rep. Linda T. Foster for Finance: This bill came to the committee very late in the session and involves very complex fiscal issues and policy. For example, the committee learned that some districts net out funds from other state sources when calculating catastrophic aid, and some don't. The committee will explore and research this and other related issues and construct legislation to be considered in the next session. **Vote 19-0.**

HB 1611-FN, relative to reimbursement for personal care services. **OUGHT TO PASS**

Rep. Mary Jane Wallner for Finance: The Finance Committee found that this bill will not increase state expenditures. The bill will allow Health and Human Services to, in certain cases, reimburse a parent for providing personal care to a child with special health care needs. **Vote 19-0.**

HB 1645-FN, relative to fireworks display permits, the position of permissible fireworks inspector, and the sale of permissible fireworks **REFER FOR INTERIM STUDY**

Rep. Peter Franklin for Finance: The hearings held on this bill led the Finance Committee to the conclusion that the bill needs much work. The committee recommendation is for Interim Study, with representation of Finance, Ways and Means and Criminal Justice. If a full time classified position of Fireworks Inspector is to be established, it should be carefully defined and funding should be established. This and all other matters of disagreement should be resolved. **Vote 18-0.**

WAYS AND MEANS

HB 1227-FN, relative to late fees and reinstatement fees paid by business entities. **OUGHT TO PASS**

Rep. Christine C. Hamm for Ways and Means: This bill, introduced as corrective legislation at the request of the Secretary of State's office, came to Ways and Means after passing the Commerce Committee 14-0, and the full House on the Consent Calendar. It requires the repayment of erroneously imposed fees, and changes certain late fees from \$25 per month to \$50 per year. **Vote 17-1.**

HB 1470, relative to overweight vehicle permit fees. **OUGHT TO PASS**

Rep. Philip G. Osgood for Ways and Means: This bill allows an increase in fees for special permits to allow trucks to operate on the state highway system at a weight greater than its registered gross weight. This is a point A to point B permit and is required every time a trucker is going to exceed the registered weight of the truck. These fees have not been increased in over 10 years. The committee voted unanimously in favor of this increase. **Vote 15-0.**

TUESDAY, MARCH 21

SPECIAL ORDERS

COMMERCE

HB 1177, prohibiting smoking in restaurants and cocktail lounges. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Sheila T. Francoeur for the **Majority** of Commerce: This bill will prohibit smoking in restaurants and cocktail lounges in New Hampshire. Current law allows smoking in restaurants with seating for fewer than 50 and in segregated areas having a physical barrier of 56 inches in height and a four foot wide separation. This bill will change that. Over the years much information has been provided proving that second hand smoke is dangerous and, in fact, that second hand smoke kills. Smoking in restaurants and cocktail lounges is a health issue for the employees in these establishments and for the patrons. There has been concern in the past that prohibiting smoking in these establishments would cause an economic hardship on our restaurant industry as their business would go across the border. That threat is no longer viable as all of our border states have gone smoke free. It should also be noted that the New Hampshire Lodging and Restaurant Association has not opposed this bill as they have done in the past. Additionally, studies have proven that in states that have enacted smoking bans, business has not declined but actually increased and increased the revenue derived from the rooms and meals tax. The amendment clarifies the language in the original bill and in the Indoor Smoking Act. The majority of the committee believes that this bill is pro-health and pro-business and strongly recommends its passage. **Vote 14-3.**

Rep. Jane S. Langley for the **Minority** of Commerce: The minority believe that business owners know best how to satisfy their customers, and they, rather than the government, should be allowed to decide whether to allow, restrict or ban smoking in their establishments. Many, or most, have already decided to go smoke-free. Any action on our part will only make matters worse. The owners know their customers and should be the ones to accommodate their desires. New Hampshire is surrounded by states with smoking bans. Many residents of these states now patronize restaurants and bars in New Hampshire border communities. The economic benefit this provides will be lost if this ban is passed. This could make a difference in our rooms and meals tax, tobacco tax, liquor tax, business tax, not to mention the lottery sales. With a 3.3% unemployment rate in New Hampshire, it is unlikely a waitperson could not find employment elsewhere if they do not care to work in a smoking establishment. A smoking ban has been considered many times in the past and this House has rejected it. A large number of restaurants have gone smoke-free depending upon local circumstances. Again, let the market decide.

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 1354, relative to physical force in defense of a person. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill purposely removes the duty to retreat in the face of an attack. RSA 627:A as currently written already sufficiently covers this concern. The duty to retreat does not occur if you are within your dwelling or its curtilage or, if any other place, where you can do so with complete safety.

This bill would also create a presumption that an attacker intended to cause serious bodily injury. This raises many concerns and could result in unintended consequences. **Vote 13-3.**

HB 1649-FN, including "unborn child" in the definition of "another" for the purpose of first and second degree murder, manslaughter, and negligent homicide. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Lori A. Movsesian for the **Majority** of Criminal Justice and Public Safety: This bill would create the unintended consequence of creating personhood for a fetus. New Hampshire law already imposes an additional penalty for assailants who commit a violent act toward a pregnant woman resulting in miscarriage or stillbirth. In 1991, New Hampshire passed laws that punish an assailant who "purposely or knowingly causes injury to another resulting in miscarriage or stillbirth" (RSA 631:2e). Such heinous crimes are already well defined within our penal code. The committee has had this legislation numerous times. It has been to interim study during 2004 and no legislation was recommended. The committee recognizes the tremendous loss a pregnant woman suffers when she loses her fetus through violent action. However, neither those in support of the bill's intent, or those opposed could craft an amendment that would recognize the loss without bestowing other legal rights to the fetus. **Vote 8-5.**

Rep. Maurice Villeneuve for the **Minority** of Criminal Justice and Public Safety: This bill does not create personhood under numerous United States Supreme Court decisions. All this bill does is acknowledge that the unborn child carried by a pregnant woman has value to the pregnant woman. The bill, as written following study, merely charges an individual with a crime when that individual kills a pregnant woman's child. All this bill does is recognize that there is an enhanced penalty for the taking of the life of a pregnant woman and/or her child. This is a pro-woman bill that differs extensively from current law and merely recognizes the tremendous loss a pregnant woman sustains with the loss of her child.

EDUCATION

HB 1314, relative to an adult roles and responsibilities curriculum. **MAJORITY: INEXPEDIENT TO LEGISLATE.**

MINORITY: OUGHT TO PASS WITH AMENDMENT.

Rep. Paul C. Ingbretson for the **Majority** of Education: This bill requires the Department of Education to suggest guidelines for the teaching of values related to parenting, marriage, and other family issues in public schools. For many, these are issues of faith that may conflict with values promoted at home. Secondly, the U.S. is last in basic education areas among the industrialized nations and highly illiterate, yet this bill encourages taking more teaching time away from basics. Finally, this law is unnecessary: school districts now teach in these areas without Department of Education involvement. **Vote 8-7.**

Rep. Debra A. Naro for the **Minority** of Education: The minority of the committee supported a unanimous subcommittee report of ought to pass, with amendment. The ultimate aim of this legislation is to help the students achieve their full potential to have strong families, strong communities and strong workplaces. Existing research indicates that, when fundamental life skills and effective communication skills are present in a student's life, the more positive the outcomes. These students are more likely to succeed in school, have good relationships with their peers and families, be less likely to abuse alcohol and other drugs and be less likely to be school drop-outs. This bill respects and retains local control by requiring the State Board of Education to establish a practice guideline for dissemination and review by local school districts. Policy decisions regarding adoption remain with the local school boards.

ELECTION LAW

HB 1236-FN-L, relative to disclosure of public expenditures related to lobbying and electioneering. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William L. O'Brien for the **Majority** of Election Law: As has so often been observed with regard to governmental affairs, "Sunshine is the best disinfectant." This quaint phrase reminds us that openness in government leads to accountability. HB 1236 will bring such openness to the use of public funds for electioneering and lobbying by a governmental entity. The majority of the committee recognizes that some may support, others may oppose and still others may simply be surprised over the use of public funds for electioneering and lobbying, but no one should oppose allowing the public to know of the existence and the amount of such expenditures. For those who were concerned that compiling such information would be too time consuming or costly, there exists a greater concern that such information is not being compiled and tracked by public entities who are electioneering the public or lobbying governmental officials. If that is so, then the openness mandated by HB 1236 will most certainly bring accountability where it is lacking today. Those in government who say it is not needed are saying in essence the public can not be trusted to know what we can know: how much of their money we are spending to influence them and their elected officials. **Vote 9-6.**

Rep. James R. Splaine for the **Minority** of Election Law: This bill is absolutely not needed and there is no problem to remedy. Public expenditures are already public information. It is unnecessary to place further cost and paperwork requirements onto city and town public officials. The additional reporting requirements could also bring up legal and constitutional questions as well as create unworkable reporting guidelines which make no sense.

HB 1304-FN, relative to the scope of registration of lobbyists and statements of lobbying activities. **REFER FOR INTERIM STUDY**

Rep. Michael D. Whalley for Election Law: This bill would require that lobbying include activities influencing the executive branch and administrative agencies and that lobbyists statements include certain information and disclosures. The committee felt that lobbying activities as amended in SB 206 should satisfy the concerns of the sponsors. Activities influencing the executive branch are now included in the definition of lobbying. SB 206 also includes financial reporting requirements for lobbyists. However, the committee did feel that there may be some questions that may arise that deserve further review. **Vote 15-1.**

HB 1490, relative to procedures on ethics violations by legislators. **INEXPEDIENT TO LEGISLATE**

Rep. Richard B. Drisko for Election Law: This bill, although well intended, is only repeating what is in statute or practice. The available disciplinary actions are clear in current ethics guidelines and additional penalties have been established by practice. Appropriate actions may already be taken with regard to a legislators leadership position by leadership or a more severe action by the full house or senate. **Vote 9-6.**

HB 1567, relative to removing names from the checklist. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William L. O'Brien for the **Majority** of Election Law: The benefits of a statewide voter database that can be used for comparisons with the voter rolls of other states and to discover duplicative registrations within the state would evaporate unless there is the authority and a procedure to refresh local voter checklists. All information in the statewide voter database will be based entirely on the voter checklists of our towns and cities. If those checklists become dated, so too will the statewide voter database. Recognizing this, the secretary of state requested that HB 1567 be filed. The bill, as amended, would allow anyone to submit a request for correction of the checklist. These requests will be considered at the next session of the checklist supervisors. At that next session and only if the supervisors have "a reasonable basis" to challenge a voter's registration, they then will follow a procedure of notice to the voter and opportunity of the voter to confirm his registration. The amendment to the bill that was adopted by the committee arose out of testimony by the representative of the secretary of state that the current

practice of many checklist supervisors is to accept credible information from anyone to determine if a voter's presence on the checklist should be confirmed. The committee was told by the secretary of state's representatives that he would support confirming this practice in HB 1567. This bill does not mandate "investigation" of voters. Indeed, the word, "investigate" is not used in the bill; rather it gives the checklist supervisors authority to contact voters to see if they still are residents. In this regard, the only act that the bill states supervisors "shall" do is give notice to voters before they remove the voter's name from the checklist. Further this enabling legislation does not present any Article 28A issue. It simply gives the supervisors of the checklist additional tools and a procedure to carry out the task already assigned to them, maintaining accurate voter rolls.

Vote 11-6.

Rep. James R. Splaine for the **Minority** of Election Law: The amendment on this bill substantially changes the original bill making it into legislation that would allow anyone to challenge any voter who appears on the checklist. The supervisors of the checklist then "...shall..." investigate those voters so challenged. The minority believes this bill would further intimidate voters. We also believe that it creates a costly internal process for cities and towns, raising questions relating to Article 28A mandates, which the state should not obligate municipalities to pay for. This bill is simply not needed to ensure that voter checklists are clean and accurate because town and city clerks and supervisors for the checklists have all the authority they need to double-check compliance with state and local laws.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1258-FN-A, establishing a sunset review process for executive agency and judicial programs and making an appropriation therefor. **REFER FOR INTERIM STUDY**

Rep. Charlotte Houde-Quimby for Executive Departments and Administration: This committee appreciates the benefits of periodic review for agencies and legislative oversight procedures. This bill, in conjunction with HB 1616-FN, establishing a performance measurement system for state agencies, requires more extensive review. Therefore, the committee voted for interim study. **Vote 14-0.**

HB 1616-FN, establishing a performance measurement system for state agencies. **INEXPEDIENT TO LEGISLATE**

Rep. James B. Coburn for Executive Departments and Administration: This bill would establish a performance measurement system that requires state agencies to identify program objectives and to measure program outcomes. There was an amendment submitted to establish a commission on the development of a performance measurement system for state government. The committee agrees that setting performance objectives for agency programs and measuring results or outcomes is important because it could help identify and remove failing programs. The committee felt that a successful program would require participation of performance management experts and ongoing action by the House. This activity will require long term cultural change with supporting administrative/IT resources. It requires state agency sponsorship. **Vote 13-0.**

HB 1670-FN, relative to membership on certain professional regulatory boards. **INEXPEDIENT TO LEGISLATE**

Rep. Alida I. Millham for Executive Departments and Administration: The intent of this bill is to add a second public member to every professional board currently having only one. This would be done for the purpose of enhancing the transparent functioning of the board and allowing more public accountability. So doing required, in most cases, adding more regular members to protect the working balance of the board. In one case, it required disrupting a delicate balance between two branches of one profession. The cost of this move would be covered by an increase in the professional license fee. This kind of fee increase is not a problem in groups with many licensed members, but much more of a burden in small licensed groups. While considered to be a reasonable idea, a slim majority of the committee felt it was not workable across all the licensing boards. **Vote 7-6.**

HB 1744-FN-A, authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value. **OUGHT TO PASS WITH AMENDMENT**

Rep. James M. Fitzgerald for Executive Departments and Administration: This bill, as amended, is the result of many hours of collaborative effort among the sponsor, the Pari-Mutuel Commission, the Attorney General's office and the committee. This bill is about regulating what is already going on; it is not about expanding gambling. The bill gives the Pari-Mutuel Commission authority to administer and enforce "games of chance," with the assistance of the Attorney General's office and the local police chief. It will allow them to adopt rules similar to what is currently being done with Bingo and to better regulate the licensing process, game operations and operators, financial reporting, inspections, and criminal background checks. The bill places a \$300 a day limit on games of chance where chips have no monetary value such as "Texas hold-em tournaments" and "casino nights." The bill also establishes a "games of chance study commission" that will evaluate current regulations, look at establishing minimum amounts to be paid to charities, possible revenue streams and limits on wagering and prizes. The commission will complete its study and make recommendations for improvements within a year. **Vote 17-1.**

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

HJR 20, supporting stem cell research. **MAJORITY: OUGHT TO PASS. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Hilda W. Sokol for the **Majority** of Health, Human Services and Elderly Affairs: This resolution strongly endorses and supports stem cell research which has the potential of leading to medical therapies for the prevention and treatment of numerous different debilitating diseases and conditions, bringing new hope to many people. If passed by the NH Senate and House of Representatives, a copy will be sent to the President and Vice-President of the United States, the Speaker of the U. S. House of Representatives and the NH Congressional delegation to encourage our federal government to provide funding for this promising research. **Vote 11-3.**

Rep. April H. Mason for the **Minority** of Health, Human Services and Elderly Affairs: The minority of the committee supported an amendment that encouraged research in adult stem cells including umbilical cords, umbilical cord blood and placentas. Adult stem cells have proven benefits in human patients with new uses consistently being found. The minority of the committee felt we could be united, as a matter of public policy, and support the use of adult stem cell research. The amendment failed on a 7-7 vote. The minority of the committee does not support the use of embryonic stem cell research. To date, proven results have come from adult stem cell research while there continues to be much debate on the benefits of embryonic stem cell research. Many states have passed legislation limiting stem cell research to adults, recognizing the controversy and potential unintended consequences of supporting embryonic stem cell research. The overwhelming public testimony heard in committee did not support embryonic stem cell research, but did support adult stem cell research including umbilical cords, umbilical cord blood and placentas. In conclusion, the minority of the committee felt that supporting this resolution in its original form included embryonic stem cell research, and therefore, could not support it.

JUDICIARY

CACR 34, relating to the definition of marriage. Providing that marriage between one man and one woman shall be the only legal union that shall be valid or recognized in this state. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. John B. Hunt for the **Majority of** Judiciary: Currently, New Hampshire laws require that a marriage is between one man and one woman and if any other state does something different it would not be recognized in New Hampshire. The sponsors of this constitutional amendment feel that it is critical that New Hampshire pass a preventative amendment before the New Hampshire Supreme Court may do the same as other courts have in other states in requiring same sex marriage. However, the majority of the committee felt that this amendment would also preclude the legislature from creating any other forms of “union.” The committee did discuss a potential change in the constitutional amendment that would make it clear that only the legislature could determine the nature of marriage. But lacking the support from the sponsors for any changes and the difficulty of creating a clear and concise language, no other language for the constitutional amendment was voted on by the committee. The majority voted against this CACR for several reasons. Traditionally the State Constitution has been perceived as a protector for minority rights and the idea that an amendment would take away a minority right would seem to be an anathema. CACR 34 is clearly discriminatory to a particular class of people. The majority of the committee feels that this “House of the People” should not enshrine discrimination of any kind in our NH Constitution. All our citizens deserve the freedoms, protections and rights guaranteed in our constitution.

The majority feels that the constitution should not be used to reflect current social policy trends of the day so that future generations would be unable to change to reflect different trends. Amending the constitution should not be taken lightly and there is no guarantee that attempting to preempt future court action would be successful. A Franklin Pierce Law Center professor astutely observed that the quickest, surest way to involve the New Hampshire Supreme Court in this matter is to pass a constitutional amendment on the subject.

When the proponents argue that the issue of same sex marriage should be put to a vote of the people, they are ignoring that this is a citizen legislature of four hundred and twenty-four from all different backgrounds. We are “the people” elected to address social policy in legislation, and, on the subject of this CACR, the people have spoken. The defeat of this amendment should not be interpreted as the legislatures’ lack of support for marriage between one man and one woman but rather a clear message to the court that the legislature does reflect the will of the people and the protection of their rights. There is no need for this CACR nor for the courts to change New Hampshire law. **Vote 14-7.**

Rep. Nancy J. Elliot for the **Minority** of Judiciary: Regardless of your personal feelings on this issue, either you will allow the people to decide our state’s definition of marriage or you will allow the courts to decide. This amendment defines marriage as the union between one man and one woman. It would prevent a court challenge in NH similar to the ones currently occurring in over a dozen states regarding separate but equal definitions of marriage and civil unions/domestic partnerships. The amendment prevents a court decision similar to the one in California, which ruled that having two separate institutions, marriage and civil unions having the exact same benefits, was discriminatory. As stated in the media, same sex couples married in MA, are poised to move to NH and use the courts to get their “marriages” legally recognized in NH. Unlike what happened in MA, the NH legislature has the perfect opportunity this year to put this vital decision in the hands of the people whom we serve and represent. If you withhold from the people the permission to vote on this important issue, the courts will force same sex marriage upon our constitution, just like MA. Let’s not be like MA; let the people vote!

HB 1336, relative to administrators of estates. **INEXPEDIENT TO LEGISLATE**

Rep. John B. Hunt for Judiciary: The sponsor's concern was when administrator of trusts use family or fellow employees for providing billable services in the settlement of an estate. Although the committee appreciates the sponsor's intent, the legislation had several problems (such as defending family and "business associates"). Currently some probate judges have disallowed some associations by administrators and any one can address their concerns to the court. **Vote 14-7.**

HB 1548, relative to termination of tenancy. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. David E. Cote for the **Majority** of Judiciary: This bill would unnecessarily disturb 20 years of settled legislative policy in landlord—tenant law, and would upset the delicate balance struck by this legislature in crafting current law which requires good cause to remove a tenant. The committee believes that current law has adequately and appropriately struck this balance, and sees no reason to alter it. The public policy goal of maintaining a stable housing market far outweighs the sponsor's concerns. **Vote 13-7.**

Rep. Gregory M. Sorg for the **Minority** of Judiciary: This minority believes that there can hardly be better cause for ending a tenancy than the fact that the lease has expired and the tenant therefore no longer has a right to occupy the premises. Although mindful of the public policy consideration of promoting stability in housing, we believe that a landlord's economic self-interest serves that objective without the need for governmental intervention to force a tenant on him unwillingly. Landlords, too, like predictability in the occupancy of land belonging to another, something unique in contract law and harmful in its public policy implication.

HB 1682, relative to parental notification of a parent or legal guardian of a child who has been provided with emergency contraception by a pharmacist. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Janet G. Wall for the **Majority** of Judiciary: This bill would have a pharmacist notify a parent or legal guardian if a person, who is less than 16 years of age, has been provided with emergency contraception. Within 48 hours of dispensing the medication, the pharmacist would have to do the notification by means of certified mail and include the child's name, the name of the notification, dosage, potential side effects, date of dispensing and information on the pharmacy and pharmacist. While the bill is well-intended, it is flawed. It does not include a refusal clause. There is no enforcement provision in this bill. In the case of divorced or separated parents, who will be notified? What if the minor gives false information as to parentage or legal guardianship? Who will verify identities or addresses? Furthermore, while we all want to believe we are good parents, not all families provide the kind of support system this bill would presuppose. We want our children to come to us, but cannot legislate good parenting. Statistics show that 60% of children would tell their parents and 20% would not seek parental involvement even if it was required. There are documented cases of incest even in New Hampshire. Is it appropriate to notify the father who may have had incestual contact with his daughter? Emergency contraception is exactly what the term implies. There is a short period of time (72 hours) during which this medication would be effective. Emergency contraception is not an abortion medication, but rather, one that prevents pregnancy from occurring. Sending a letter by certified mail would cause unnecessary delay. Yes, there are possible side effects to this medication. There are possible side effects to all medications—even ones purchased over the counter. It is the belief of the majority that, without a thorough consideration of the above mentioned, this bill must be voted ITL. **Vote 13-7.**

Rep. Nancy J. Elliot for the **Minority** of Judiciary: This common sense bill provides notification to parents of a child under the age of 16, who has been provided with emergency contraception by a pharmacist. These high dose hormone pills have side effects that include nausea, vomiting, infertility, breast tenderness, life threatening ectopic pregnancy and blood clot formation. It is essential a parent is aware what drug their minor child received in order to get the proper medical treatment in the case of adverse side effects. We go to extreme measures to keep the kids of this state safe, from seat belts to bicycle helmets. We need to give our parents the tool they need in this crucial area of their child's healthcare. Dispensing drugs with less care than we do cigarettes is irresponsible.

HB 1719-FN, defining human life as beginning at the moment of fertilization. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Bette R. Lasky for the **Majority** of Judiciary: This bill was an attempt to define human life as beginning at the moment of fertilization. This determination is one that scientists and ethicists and medical specialists are unable to exactly define. The beginning of human life is determined by some by their religious beliefs, while others look to science and empirical data to answer the question. Still scientists and theologians can differ in these definitions even among themselves. The 14-6 vote of the committee to find HB 1719 Inexpedient to legislate reflects this uncertainty. **Vote 14-6.**

Rep. Bea Francoeur for the **Minority** of Judiciary: This bill was intended to establish life at fertilization for purposes of supporting maternal needs for women in the state of New Hampshire. Unfortunately the real meaning of life and when it starts was lost by the majority of this committee.

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

HB 1138, relative to required pay for employees called into work. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Randolph N. S. Holden for the **Majority** of Labor, Industrial and Rehabilitative Services: Under current law, when an

employee reports to work at an employer's request he or she shall be paid not less than two hours pay at his or her regular rate of pay. This bill changes the number of hours an employee must be paid to three. With the increased costs of travel to and from work the majority of the committee felt it was reasonable that the employee be paid a minimum of three hours when called in to work. **Vote 8-7.**

Rep. William J. Infantine for the **Minority** of Labor, Industrial and Rehabilitative Services: The minority of the committee believes that the current law requiring two hours pay is sufficient. The minority also believes the state should not continue mandating agreements between employers and employees. The minority further believes the employer will pass this increase on to their clients and customers.

HB 1496, establishing a right to work act which provides for freedom of choice on whether to join a labor union. **INEXPEDIENT TO LEGISLATE**

Rep. Benjamin C. Baroody for Labor, Industrial and Rehabilitative Services: The committee heard over five hours of testimony with over 70 speakers against the bill with only five for the bill. This is the same bill we hear every term. The bill was opposed by the Commissioner of Labor who stated he was the sixth consecutive Commissioner to oppose this same bill. The bill was also opposed by the Diocese of Manchester, the Governor of New Hampshire, the New Hampshire Council of Churches, Verizon, which may be the largest employer in the private sector covered under collective bargaining agreements, the Director of the New Hampshire Coalition for Occupational Safety and Health, city mayor, all labor groups and unions. The committee felt that this was just a union busting bill and it is a matter of fairness. Under federal law the union must represent all employees whether they are union members or not. If an employee opts not to be a member of the union that person must pay an agency fee. That fee is only the amount of money it cost to negotiate and maintain the collective bargaining agreement. The committee felt this was fair if all wages, benefits, and representation are given to everyone, each should pay his or her fair share. We felt that this is just bad legislation and is not right for the New Hampshire economy or for its employers and employee's. The committee knows this bill very well. **Vote 14-1.**

LEGISLATIVE ADMINISTRATION

HB 1687, extending certain studies. **OUGHT TO PASS WITH AMENDMENT**

Rep. John B. Hunt for Legislative Administration: This is a housekeeping measure to extend the dates of several study committees and task forces. The amendment added another study committee that was the subject in HB 1762 relative to pharmacy reimbursements. The other committees that being extended are: the Commission to Develop a Comprehensive State Mental Health Plan, the Task Force on Deafness and Hearing Loss, the Committee to Study Gaming Options for New Hampshire, the Committee to Study the Special Account in the New Hampshire Retirement System, and the Committee to Study the Classifications of Employees as Independent Contractors. **Vote 11-0.**

MUNICIPAL AND COUNTY GOVERNMENT

HB 1195, relative to salary and compensation increases included in a default budget. **INEXPEDIENT TO LEGISLATE**

Rep. Gilman C. Shattuck for Municipal and County Government: This bill excludes salary and compensation increases from a default budget unless the increases are required by a collective bargaining agreement that was in effect during the preceding fiscal year. There are many concepts and interpretations of what should or should not be included in a default budget in an official ballot voting (SB2) town. Since the time that official ballot voting has been implemented, there have been bills introduced every year to tweak a system which has created a "one size fits all" solution. The local governing body needs to show its constituents what is contained in a default budget and explain the differences between the operating budget and a default budget. The legislature needs to stop trying to tweak this form of government and encourage the governing bodies to have truth in budgeting. **Vote 11-1.**

HB 1293, establishing a procedure for towns to change county affiliation. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Lawrence D. Brown for the Majority of Municipal and County Government: The bill as presented attempts to deal with questions of inequities of taxation which might be resolved by a change of county. A new county affiliation will not necessarily create equity or eliminate disparity and could very well send old problems to a new host to fester again. Affiliation does not address the concerns and interests of any receiving county, its implementation costs or any refusal rights it should have. There is also no consideration here of the impact on legislative representation when district and county boundaries change or what process should be used as well as a host of other issues. The committee feels that if a municipality has issues within the county in which it is located, it should resolve those differences with that county and not seek out another county to align with. **Vote 11-3.**

Rep. Harry L. Gale for the **Minority** of Municipal and County Government: If nothing else this bill would lower the frustration and the temperature and have a cathartic result in some of the many communities in our state who suffer from our inability to create fairness and equitable property values and county taxing formulas within county form of government. In the end many of our citizens can no longer afford to live in our communities. This House and Senate suggested that we need a process to change county affiliation much like the educational community has a process under RSA 194:2. In fact this bill mirrors RSA 194:2.

Why, therefore, should not the same process be available to cities and towns in our state? For these and other reasons the minority respectfully requests that this bill be passed into law. This action is long overdue and the citizens of New Hampshire will be forever grateful.

HB 1366, relative to a planning board's authority to require public access to open space as a condition of subdivision approval. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. David L. Buhlman for the **Majority** of Municipal and County Government: This bill prohibits a planning board from requiring public access to the open space of a cluster development, planned unit development, village plan alternative subdivision, or other innovative land use control, as a condition of subdivision approval. The committee heard testimony that some planning boards have been mandating that developers allow public access to private open space areas within their developments. This action could be perceived as a land taking and the intent of this bill is to prevent this situation from happening in the future. Allowing public access to this private open space within a development has possible implications for traffic, safety and liability issues. **Vote 9-7.**

Rep. Gilman C. Shattuck for the **Minority** of Municipal and County Government: The bill implicitly or explicitly would discourage a planning board from negotiating an open space agreement with a developer. A planning board should have flexibility in such negotiation when appropriate or presently allowed under existing legislations.

HB 1558, relative to regulation of smoking by cities and towns. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Eric G. Stohl for the **Majority** of Municipal and County Government: This bill clarifies the purpose of the indoor smoking act relating to regulations of smoking by cities and towns. RSA 155:66 prohibits smoking in many public places in general. RSA 155:67 provides some exceptions to RSA 155:66. An example of these two statutes is in RSA 155:66 where smoking is prohibited in all enclosed places of public access but restaurants with seating for fewer than 50 people are exempt. The committee is fully aware of HB 1177, prohibiting smoking in restaurants and cocktail lounges statewide, which we feel also has merit. But this committee strongly believes in local control. This bill provides the ability of all towns and cities in the State of New Hampshire to have local control with relation to the regulating of smoking within its' public places. This bill is not mandatory, it is enabling. **Vote 12-3.**

Rep. Paul R. Hopfgarten for the **Minority** of Municipal and County Government: Given that there are rules that are working well regarding the control of smoking in bars and restaurants, there is no need for this bill. The market, made up of business owners and patrons, has come up with the solution, and it's working fine. There are facilities that have a smoking section, and others that prohibit smoking completely. There is no need for the government at any level to interfere with private enterprises to address a problem that's already been solved. There is also concern that this intrusion will eventually be extended to prohibit smoking in private homes.

HB 1760, allowing municipalities to adopt a property tax exemption for property using, manufacturing, or supplying bio-heat systems. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT**

Rep. Robert W. Brundige for the **Majority** of Municipal and County Government: This bill seeks to do two things. It allows municipalities to adopt a property tax exemption for all property using, manufacturing or supplying bio-heat systems. Each town or city adopting a bio-heat system property tax exemption shall determine the qualifications for and dollar amounts of the exemption from assessed value, for local property purposes, applicable to residential or commercial property owners or persons manufacturing or supplying bio-heart systems. The committee feels that, even though this is enabling, it will be extremely difficult to confirm who is and who is not using a bio-heat system. Additionally the committee has concerns about how local municipalities will be able to determine that the renewable fuel substitute meets the requirements of the American Society for Testing and Materials (ASTM) specifications D6751. With these two concerns in mind the committee feels that enabling municipalities to adopt this exemption along with the requirement of the selectmen or assessors to grant or deny this exemption could result in needing technical experience regarding bio-heat technology without parameters listed in the bill. The committee believes that encouraging the use of bio-heat systems is an excellent idea. However, this is another bill that would shift the property tax burden from this exemption to other taxpayers within the municipality. **Vote 11-3.**

Rep. Stephen G. Prichard for the **Minority** of Municipal and County Government: As oil and natural gas prices rise dramatically, our nation's leaders have asked us to search for and promote alternative fuels to heat our homes and propel our vehicles. This bill, with the amendment, does just that by providing a limited property tax exemption not to exceed \$5,000 for the use of bio-fuels. The amendment also prevents anyone from abusing the exemption by requiring that at least 20% of the fuel used be bio-diesel. Because this is enabling legislation and not required, and because the town or city shall determine the qualifications and dollar amounts for the exemption it protects any community from unfair burden the exemption might impose. The development and growing acceptance of hybrid automobiles has been very much facilitated by tax rebates. Hybrid prices are now coming down and their sale moves our country toward energy independence. This small tax exemption for bio-fuels could do the same thing for cleaner home heating fuel while cutting the amount of imported oil.

RESOURCES, RECREATION AND DEVELOPMENT

HB 1443, relative to priorities for development of all terrain (ATV) and trail bike trails. **MAJORITY: INEXPEDIENT TO**

LEGISLATE. MINORITY: OUGHT TO PASS.

Rep. Christopher R. Irish for the **Majority** of Resources, Recreation and Development: The use of ATVs as a recreation activity is increasing rapidly on both public and private lands. The need for trail development on state lands is both necessary and required by statute. The committee concluded that the requested language in this bill already exists in current statute. Currently, the priorities for developing ATV trails are: 1: Private lands; 2: public lands. The proposed statute does not change that priority, nor does it strengthen the process. In fact, as with previous bills it would hinder the department's ability to create new ATV trails as it would limit the selection process to public land purchases specifically for ATV use. Current language allows for use of public lands "that are compatible with existing uses and management goals and plans." Concern was also raised that this is targeted legislation, as other motorized vehicles were not considered, such as snowmobiles. Finally, placing a priority on the purchase of new land is established through the land acquisition account, which is funded through registration fees. **Vote 12-7.**

Rep. Judith T. Spang for the **Minority** of Resources, Recreation and Development: This bill would clarify the priorities for development of ATV trails in New Hampshire. Current law requires that private lands be considered first, then public lands when trails can be accommodated with other existing uses. This bill would provide that the public lands to be considered, after private, would be those acquired specifically for the purpose of accommodating ATVs. Several bills in the recent past have illustrated the resistance to imposing summertime motorized uses into parks that have historically been used by passive recreationists. In some instances, park land was donated to the state by landowners who wanted them protected in their natural state. Forcing ATVs into such a park only creates conflict between riders, other park users, surrounding communities and DRED. This bill does not preclude development of other state lands. It merely states that when state land exists that was acquired specifically for ATVs, such as Berlin, that land should be developed first. It makes sense.

HB 1523, relative to certain rulemaking authority of the commissioner of environmental services. **MAJORITY: OUGHT TO PASS. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. D. L. Chris Christensen for the **Majority** of Resources, Recreation and Development: This bill is the result of an LBA audit of the Department of Environmental Services. Subsequently, the department determined that certain rulemaking authority was not needed. This included federal assistance and private funds with regard to underground storage tanks. It clarifies a conflict in complying with competitive bidding laws (RSA 21-1:22 – RSA 21-a:22d). Rulemaking permission was added under RSA 486:10 regarding water pollution control assistance to municipalities. **Vote 10-7.**

Rep. Sandra B. Keans for the **Minority** of Resources, Recreation and Development: This body enacted legislation in 1996 updating the water pollution statutes, in which The Department of Environmental Services (DES) was to develop certification criteria for operators of pre-treatment facilities. DES would like to keep that authority on hold. The minority believes there is no less a need now than ten years ago. Municipalities are better protected by having certified operators at those locations where substantial accidents can occur that can then impact the municipality's ability to treat wastewater. The minority offer an amendment that leaves the status-quo for certification. We also support the remainder of the bill.

SCIENCE, TECHNOLOGY AND ENERGY

HB 1673-FN, relative to the reduction of mercury emissions. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Roy D. Maxfield for the **Majority** of Science, Technology and Energy: This bill provides for at least an 80% reduction of mercury emissions from coal-fired power plants by requiring the installation of a scrubber technology no later than July 1, 2013 and provides economic incentives for earlier installation timeframes and greater reduction in emissions. The committee amendment provides for annual progress reports from Public Service of New Hampshire (PSNH) and also cost recovery language. This legislation is a result of months of collaborative work by PSNH, the Department of Environmental Services, the Governor's office, multiple environmental groups, members of the committee and other stakeholders. The scrubber technology not only will reduce mercury by at least 80%, it will dramatically reduce SO2 emissions. Our committee held multiple work sessions and all had an opportunity to present their views. A comprehensive review of the timeframe was conducted by two members of the committee who concluded that the 2013 date is appropriate. It is in the best interests of PSNH to achieve early reductions for mercury and they are proceeding with a US Department of Energy (DOE) grant to accomplish this objective. This bill has consensus support from the Governor and stakeholders, and has wide bipartisan support in the General Court. The bill achieves the primary objectives of reasonable reductions, in a reasonable timeframe, at a reasonable cost to electricity users.

Vote 13-2.

Rep. Gene F. Andersen for the **Minority** of Science, Technology and Energy: The bill provides for significant mercury reductions from facilities operated by Public Service of New Hampshire (PSNH) by 2013. Some testimony indicated that an optimal permit and construction schedule could provide a 2011 completion for mercury removal equipment; thereby providing the necessary and desired reductions of mercury and other pollutants during that two year period. The minority felt the 2011 date should be utilized for implementation of the mercury reduction requirement and provide for extensions beyond that date if and only if PSNH was unable to complete by 2011 due to circumstance beyond its control.

TRANSPORTATION

HB 1738-FN, prohibiting the use of surveillance devices to identify motor vehicles. **INEXPEDIENT TO LEGISLATE**
Rep. Brenda L. Ferland for Transportation: This bill would have prohibited the use of surveillance devices including cameras, transponders, cellular phones, global positioning satellites, and radio frequency to identify motor vehicles. There was much opposition from the New Hampshire Bankers Association, Department of Transportation, Department of Safety and Attorney Generals Office since they were among the list of people who would be prohibited. The prime sponsor attempted to amend the bill but that only added to the confusion about what would be accepted usage. Every instance that was talked about in committee seemed not to apply. Thus, the committee concluded that this is a solution looking for a problem. **Vote 12-1.**

TUESDAY, MARCH 21 REGULAR CALENDAR

FINANCE

HB 627-FN, relative to including persons 17 years old in the juvenile justice system. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert Wheeler for Finance: The committee felt that it was important to keep the policy in place. However, the effective date was amended to allow this subject to compete with others for resources in the next budget process. This would also allow time to get a better grip on exactly what dollars will actually be needed both at the state and county levels. **Vote 15-4.**

HB 1189, relative to audits by the legislative budget assistant. **OUGHT TO PASS WITH AMENDMENT**

Rep. Kenneth Weyler for Finance: The Performance Audit and Oversight Committee is a joint House/Senate committee that directs the performance audit section of the legislative budget assistant (LBA) in their assignments and scoping. These tasks are further reviewed and approved by the Fiscal Committee, another joint House/Senate committee. Performance audits have been a useful tool for the legislature to use when performing its financial oversight role. These audits go beyond mere balance sheets; they are closer to a management analysis. This has led to many changes in our laws and better control of state dollars. Members of the Performance Audit and Oversight Committee felt stymied when the auditors informed them that they were not allowed to follow an audit trail that led past a state agency. This bill enables the performance auditors to follow state funds to other entities, within the limits laid down by the aforementioned joint committees. The amendment limits such forward audits to no more than 5 in 5 years. It also makes the effective date the start of the next biennium. **Vote 14-6.**

HB 1241-FN-L, extending the kindergarten construction aid program. **OUGHT TO PASS**

Rep. Linda T. Foster for Finance: There are twelve school districts in New Hampshire that currently do not offer public kindergarten. This bill extends the current state incentive program for 2 more years. Next year, the Finance Committee may offer a bill to gradually sunset the expanded and enhanced kindergarten construction aid program. **Vote 15-4.**

HB 1474-FN, relative to unemployment compensation contribution rates and benefits. **OUGHT TO PASS**

Rep. Peter Franklin for Finance: This bill was requested by the Department of Employment Security (DES) in order to keep the unemployment trust fund stable. The bill has 4 purposes. First, the weekly benefit amount is increased to keep it in line with current average wages in New Hampshire. Second, it raises the taxable wage base from \$8,000 to \$9,000 in order to keep the trust fund balance above \$250 million so that employers will keep the discounted rates they now receive. Third, it allows the DES to access additional administrative funds to make up for federal cuts. All local offices and personnel will be maintained. And, fourth, it brings a steady stream of funding for the business training fund to help workers upgrade their skills. This bill is supported by DES and both union and employer organizations. **Vote 17-2.**

HB 1697-FN, relative to certain state salaries. **OUGHT TO PASS WITH AMENDMENT**

Rep. Peter Franklin for Finance: This bill, as amended, makes amends for a mistake made in HB 2 last year whereby the three 2% raises granted to certain state employees were not made effective on the first day of the month as had been agreed to, but rather on the first day of the first pay period following the first day of the month. Since the first two pay raises have already become effective, this bill makes up the difference in the third pay raise by moving the effective date from July 7, 2006, to June 16, 2006. The Department of Administrative Services states the appropriation contained in this bill is necessary to cover the increased costs resulting from the date change. **Vote 17-0.**

HB 1735-FN, relative to awarding the state employees' health insurance plan. **OUGHT TO PASS**

Rep. Robert Wheeler for Finance: This bill was developed by a study committee that reviewed the awarding of health insurance bids for state employees. It repeals the law requiring a self-insured health plan for state employees and allows all the options available to the state to be used by Commissioner Hill and Department of Administrative Services to deal with insurance issues. The bill requires compliance with collective bargaining agreements and creates legislative oversight through an advisory committee to Commissioner Hill. It also allows participation by the university system. **Vote 19-0.**

SB 110-FN-A, establishing the New Hampshire Rx plus program for prescription drugs. **REFER FOR INTERIM STUDY**

Rep. Neal Kurk for Finance: This bill would establish a voluntary program to provide discounts on prescription drugs to people who lack prescription drug insurance and whose incomes are below 300% of the federal poverty level. The fiscal note estimated

the cost to the state to start the program to be \$2.2 million in FY07. There was no assurance that sufficient pharmacies or pharmaceutical manufacturers would participate to provide the discounts that would make the program viable. A similar program exists in Maine and Hawaii, but in each of those states it is a supplement to a state-funded pharmacy assistance program. New Hampshire has no such program. In view of all this, the committee determined that the bill requires further study. **Vote 17-2.**

WEDNESDAY, MARCH 22

SPECIAL ORDER

JUDICIARY

CACR 30, relating to limits on the taking of private property. Providing that eminent domain shall not be used to transfer ownership of real property for private use or economic development. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Maureen C. Mooney for the **Majority** of Judiciary: In well-publicized case of Kelo et al. v. City of New London and New London Development Corp., 125 S.Ct. 2655 (2005), the U.S. Supreme Court held that private property may be taken by eminent domain and transferred to private developers solely to promote economic development. CACR 30 is a direct response to the Kelo decision. New Hampshire citizens were justifiably concerned that the Supreme Court had defined "public purpose" so broadly as to render meaningless the existing property protections found in our State Constitution and the jurisprudence of our New Hampshire Supreme Court. In prior cases, the New Hampshire Supreme Court has interpreted the constitution as allowing an uncertain and amorphous "balancing test" for "economic development" takings. Kelo has simply rendered that "balancing test" meaningless. It has set the bar so low as to ensure that property owners will never be able to stop, protest or obtain meaningful judicial review of a governmental entity's decision to take that citizen's property and immediately transfer it to enrich a wealthier or more politically influential private developer. CACR 30 is a legislative answer to these real concerns. Part I, Article 2 of the New Hampshire Constitution lists "natural rights" which are "natural, essential and inherent" to citizens. Among those rights is "acquiring, possessing and protecting property." New Hampshire citizens want and deserve a chance to vote on whether to restore the fundamental property protections the U.S. Supreme Court stripped away in Kelo. CACR 30 will restore the original and common understanding that private property cannot be taken by eminent domain for anything other than use by a political subdivision, state-regulated public utility or common carrier, or when the taking is necessary for the ownership or the use of the property by the public at large (i.e., not for the private profit of private developers). The language of the amended CACR also mirrors SB 287, which comprehensively defines "public use" in the statutes. SB 287 recently passed in the Senate 24-0. Additionally, if approved by the voters, this amendment will be in its own new Article 12-a, so as to preserve the original 1784 language of Article 12, which addresses taxation, as well as property rights. We believe that we have an obligation to allow the citizens of New Hampshire to vote to affirm that Kelo-like takings were not, are not, and will never be, the New Hampshire way. As legislators, we took a solemn oath to support and defend the Constitutions of the State of New Hampshire and the United States of America. When an event such as Kelo so threatens and undermines our long-standing, common understanding of what the government can and can not do to the citizens through the use of the eminent domain power, support for CACR 30 is the only appropriate response. **Vote 11-9.**

Rep. Bette R. Lasky for the **Minority** of Judiciary: The bipartisan minority of the Judiciary Committee feels very strongly in protecting our citizens' ownership of property. The NH Constitution says in Part I, Article 12 that "... no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people." NH statutes and judicial decision have been consistent in the protection of private property rights as well. Also, the Senate has just addressed SB 287-FN with a resounding vote of 24-0 which further clarifies the term "public use" and makes the possibility of a "Kelo vs. New London" decision here even more remote. The minority feels a change on the Constitution is premature. Additionally there is legislation pending to form a study committee to review our existing eminent domain laws. The minority believes this should be place before we make any change in our Constitution.

WEDNESDAY, MARCH 22

REGULAR CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 1692-FN, establishing the New Hampshire sexual predators act. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Patricia A. Dowling for the **Majority** of Criminal Justice and Public Safety: The bill revises the statutes relative to sexual predators, sexual offenders under the age of 18 and also of persons committing an act or acts constituting first degree assault against a person under 13 years of age where the injury has resulted in brain damage or physical disability to the child and it is

likely to be permanent. Under current law, a person convicted of aggravated felonious sexual assault against a victim who is less than 13 years of age faces a penalty of 10 to 20 years for a first offense. A second offense can require a penalty of 20 to 40 years. Under this proposed legislation, the court may sentence the first time offender to 25 years to life under the extended term of imprisonment if the prosecuting attorney has notified the defendant of this possible application. For a second offense under this proposed statute, the penalty is life imprisonment without parole. The bill also addresses registration of sexual and other criminal offenders and their duty to report personally every 6 months their name, age, race, sex, date of birth, height, weight, hair and eye color, address of any permanent residence and address of any current temporary residence, within the state or out of state, mailing address, date and place of employment, or schooling, vehicle make, model, color and license tag number. A post office box shall not be provided in lieu of a physical residential address. Registration is required for a minimum of 10 years from release and may be for life for some. Sentences have increased for those who fail to register, or who provide false information. Juveniles found true of committing a sexual offense, if so ordered by the judge, will also be required to register until they reach the age of 17, or while the court retains jurisdiction over them. This particular list will only be made available to law enforcement and they shall not disclose it to the public. In the discretion of the local law enforcement agency, such agency may affirmatively notify the public that an offender who is included on the public list is in the community. HB 1692 also addresses involuntary civil commitment of sexually violent predators who are incompetent, insane or mentally retarded and makes provisions for confinement, appointment for counsel and commitment for treatment. Procedures for probable release are also covered. A committee shall hereby be established to identify and evaluate classification and risk assessment procedures for convicted sex offenders. This classification system is urgently needed. Currently there is no such system. The Department of Corrections shall implement a study to evaluate the feasibility and efficacy of instituting life – time monitoring by means of global positioning satellite technology and/or other monitoring or tracking systems of sexual offenders and offenders against children, with a report due on or before November 1, 2006 and implement a system by July 1, 2008. **Vote 17-2.**

Rep. Stanley E. Stevens for the **Minority** of Criminal Justice and Public Safety: The minority members do not oppose the passage of this bill as amended. We believe it falls short in one major area and that is in the sentencing provision contained in section 20 which says in paragraph IV that a person “may” be sentenced to an extended term of imprisonment as follows: (a) A minimum to be fixed by the court of not “more” than 25 years and a maximum of life imprisonment; and the minority amendment proposes changes from “may” to “shall” and “not more than” to “not less than”. This addresses the most dangerous offenders in New Hampshire: those who sexually assault children, the most vulnerable segment of our society. These offenders pose an ongoing threat. A 2004 study found the likelihood of recidivism increases the longer an offender is back in the community after an incarceration. The provision contained in this amendment provides prosecutors with a tool to ensure a mandatory 25 year sentence upon conviction in the most serious cases.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 642-FN-L, relative to the regulation of home inspectors. **INEXPEDIENT TO LEGISLATE**

Rep. Ken Hawkins for Executive Departments and Administration: This bill would have formed a board under the joint board to license building inspectors. After many hours of subcommittee work, the committee came to the conclusion that there were issues that could not be resolved and that the licensing would confuse consumers on what was being inspected and what was not (i.e. appliances, wiring, plumbing, etc.). Interim study was voted down and inexpedient to legislate was recommended so the sponsors could work on bringing a bill forward next term that would satisfy all parties involved. **Vote 11-3.**

FINANCE

HB 1167-FN-A, making an appropriation to the land and community heritage investment program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Christopher Pappas for Finance: During the budget process, the Finance Committee was unable to provide adequate funding to LCHIP. Given the projected budget surplus and the House’s priorities, the committee felt it appropriate to expend an additional \$2.5 million in fiscal years 2006 and 2007 on LCHIP. The program is an important investment New Hampshire makes in preserving and protecting open space, historic landmarks, and our state’s quality of life. LCHIP’s general fund appropriation has been precipitously declining since its inception and along with it the number of projects being supported in communities as well as the amount of local and federal dollars being leveraged for conservation and preservation. The committee heard lengthy and powerful testimony in support of the bill and the majority of the committee was confident the bill as amended is affordable and a wise use of state resources. **Vote 13-8.**

HB 1384, relative to standardizing the format for special education budgets. **REFER FOR INTERIM STUDY**

Rep. Linda T. Foster for Finance: The committee agrees with the sponsors of HB 1384 that consistent, thorough, and accurate reporting of special education costs is of utmost importance. During the discussion of this bill and its amendments, the committee discovered inconsistencies in how and to whom districts are required to report their expenses and revenues. Interim Study will investigate existing policy and the need to establish any new guidelines and/or promulgate any new accounting forms. These policies and procedures affect district and state budgets and may affect the level of federal reimbursement to our

state. They deserve uniform, accurate, and consistent accounting and reporting practices throughout every district in our state.

Vote 15-5.

HB 1626-FN-A, making an appropriation to the office of energy and planning for the fuel assistance program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert Wheeler for Finance: The committee amended this bill to reduce the amount appropriated for fuel assistance from \$10,000,000 to \$5,700,000 and apply the \$4,300,000 against the unanticipated energy costs incurred in operations of state buildings. In addition, this bill has reduced, by \$500,000, the back of the budget cut in 2007; funded personnel to assist the effort to cover the increase case load costs of administration; \$1,500,000 to cover implementation of the Enterprise Resource Planning System a new accounting system for the state's new accounting system; and \$300,000 to cover the costs of supplying Medicare and Medicaid necessary information to recover qualified retiree prescription drug claims. The committee felt all of these items were either emergency or unanticipated expenditures. **Vote 19-2.**

HB 1249-FN-A-L, relative to state reimbursement for school breakfasts and making an appropriation therefor. **OUGHT TO PASS**

Rep. Daniel M. Hughes for Finance: This bill contributes \$.03 per breakfast to schools that participate in the National School Breakfast Program to reimburse schools which serve qualifying meals to pupils. It also appropriates \$10,000 to the Department of Education to establish the technology necessary to implement the technological interface with the Bureau of Nutrition Programs and Services system. This bill demonstrates the state's support for wellness in our schools and requires a minimal investment to provide the long term savings of healthy children who are prepared to learn when the school day begins. **Vote 17-4.**

HB 1459-FN-A, relative to the department of regional community-technical colleges and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. Kenneth Weyler for Finance: New developments since the passage of the budget have revealed a problem with the Community Technical College (CTC) budget. Under urging from the legislative Higher Education Study Committee, the CTC has been working on a successful transformation to a new accreditation at the same level as the university system. Also they have been increasing enrollment at their 7 campuses at the annual rate of 8 to 10% for most of the last six years. It was this extraordinary growth that triggered this problem. The CTC has added new courses, new faculty, and new programs for these new students as well as new buildings. Higher operating expenses caused tuition increases in 2005 of 11.2% and 10.8% for 2006. We now have the highest CTC tuition in the country. This high tuition is beginning to show its effects. The enrollment growth has stopped. The 5% that CTC used in computing the 2006-2007 budget has flattened to 1%, with no increase in general fund dollars. This has caused the shortfall this bill intends to cover. If the shortfall is covered with another tuition increase, we fear that revenues will decline even more, and fewer of our students and working adults will be able to afford to attend. While the general fund contribution to the university system saw steady growth to \$5,382 per student in 2005, it declined to \$3,032 per CTC student in the same year. This bill appropriates \$1.2 million for the CTC to forestall a tuition increase in 2007 for the 12,000 students per semester that CTC serves. **Vote 21-0.**

HB 1464-FN-A-L, relative to mosquito control, establishing a mosquito control fund and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. Neal M. Kurk for Finance: This bill establishes a state mosquito control program and a dedicated fund to deal with public health threats posed by cyclical mosquito-borne illnesses, such as West Nile virus and Eastern Equine Encephalitis, largely by spraying for adult mosquitoes when a threat to public health is declared. Affected municipalities that have approved mosquito control plans are eligible for a 25% state cost share. The bill appropriates \$158,625 to pay for this, plus \$60,000 to continue a mosquito surveillance program which was previously federally funded. **Vote 21-0.**

HB 1608-FN-A, making an appropriation to reimburse certain health and human services providers for the increased cost of utilities, heating, and mileage. **OUGHT TO PASS WITH AMENDMENT**

Rep. Mary Jane Wallner for Finance: This bill appropriates \$2,563,575 in general funds for health and human services providers to cover the increased cost of utilities, heating, and mileage. These are the providers who deliver meals and home health services to our homebound elderly, provide services to our mentally ill and developmentally disabled citizens, provide child care services for the children of low income working families, and provide shelter and residential services to our homeless citizens and children in the care of the state. These non-profit service providers run on very tight budgets and recent increases in fuel, utilities, and heating costs were not anticipated when the state put its budget together and the rates appropriated in the budget for these service providers are inadequate to cover the additional energy costs. This bill will assist these providers in covering the increased costs. **Vote 21-0.**

HB 1710-FN-A, relative to appropriations to the department of health and human services for health care providers. **OUGHT TO PASS WITH AMENDMENT**

Rep. Elizabeth Hager for Finance: This \$3,377,697 bill contains changes needed in the Department of Health and Human Services budget. It appropriates money for a rate increase for home health care, for a problem mental health centers are experiencing and for an hourly pay increase for direct care providers. It also clarifies legislative intent in two important areas of the budget: it directs DHHS to contract with the National Alliance of Mental Illness using money for family support services

already in the budget and it directs the department to comply with rate setting laws and rules. **Vote 21-0.**

HB 1726-FN, requiring the state to pay legal fees for certain supreme court justices. **OUGHT TO PASS WITH AMENDMENT**

Rep. Frederick W. King for Finance: RSA 99-D:2 indemnifies state officers and employees from any costs arising from claims and suits. This legislation will pay such costs to the supreme court justices resulting from the claims that they were subjected to, and prevailed as to, involved in impeachment proceedings initiated by the legislature. **Vote 15-4.**

HB 1591-FN-A, requiring tobacco tax revenue attributable to tobacco sales to minors and tobacco consumption by minors to be deposited in the tobacco use prevention fund for youth tobacco use prevention programs and purposes. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Elizabeth Hager for the **Majority** of Finance: The committee received very compelling testimony from Dover Youth to Youth who brought in this idea to lower youth tobacco use. The majority of the committee does not believe, however, that this type of diversion of our tobacco tax revenue should be done at this time. The bill would have diverted \$1.7 million. **Vote 13-8.**

Rep. Terie Norelli for the **Minority** of Finance: As introduced, this bill would have appropriated \$1.7 million to youth tobacco prevention programs based on a formula that estimated the state revenue received from cigarette taxes on sales to youth under age 18. Most smokers begin smoking before age 18 and tobacco prevention and control programs are effective in decreasing smoking and in keeping youth from starting to smoke in the first place. Investing in these programs is good public health policy and also makes good economic sense. Yet New Hampshire does not spend one cent of state revenue on tobacco prevention, despite receiving nearly \$130 million from the tobacco settlement and cigarette taxes. The minority of the committee agreed that the funding mechanism in the original bill is unworkable and offers an amendment that appropriates \$1 million directly from general funds.

HB 1767-FN-A, authorizing the state acquisition of real estate destroyed in the October 2005 floods, establishing a commission to determine the appropriate use of the property, and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert Wheeler for Finance: This bill authorizes the acquisition of real estate destroyed in the October 2005 floods; appropriated funds to accomplish the purchase, set a guideline to accomplish the task and established a commission to determine the appropriate use of the property. The amendment clarified the process and made the effective date upon passage to get assistance to the victims as rapidly as possible. **Vote 20-0.**

RESOURCES, RECREATION AND DEVELOPMENT

HB 1495, relative to setback requirements for landfills located near rivers. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Frank A. Tupper for the **Majority** of Resources, Recreation and Development: Through the Rivers Management and Protection Program, rivers are nominated and studied for designation as state protected rivers. Only those with outstanding resources, whose designation is supported by their communities, receive designation. Rivers characterized as “natural” rivers enjoy the protection of a setback for new solid waste landfills which is defined in RSA 483 as “River corridor,” the river and the land area located within a distance of 1,320 feet of the normal high water mark or to the landward extent of the 100 year floodplain as designated by the Federal Emergency Management Agency, whichever distance is larger. The bi-partisan majority believe that if this is the setback deemed necessary for natural rivers, the same setback should be in effect for “rural” rivers in the program. **Vote 11-8.**

Rep. Harry C. Merrow for the **Minority** of Resources, Recreation and Development: Under current legislation no landfill is permitted within 100 feet of the 500 year floodplain of a river. This legislation would prevent landfills from being established within the corridor of a designated rural river or segment. The designated corridor is 1320 ft. from either side of the river after the normal high water mark. None of us are particularly enthralled with a landfill being installed anywhere. However since they are allowed, each case should be looked at separately and sound science applied. This is flawed legislation which has no scientific facts to back it up. The numbers were arbitrarily picked, no consideration was given elevation differences and no consideration was given to the permeability of the ground and whether or not an aquifer was located beneath it, all factors which can be handled by the Department of Environmental Services (DES) under existing law and rules. There are no known problems with the existing law.

WAYS AND MEANS

HB 317-FN, relative to mooring fees. **OUGHT TO PASS WITH AMENDMENT**

Rep. Michael D. Whalley for Ways and Means: This bill as originally adopted by the House would have increased fees on moorings on the six regulated lakes by over 100 percent annually. A cost analysis of the mooring program, provided by the Department of Safety, indicated that the program had annual expenses of \$149,000. That analysis also indicated that moorings that were part of a congregate mooring field have a greater cost to the program than moorings permitted to individuals. The bill, as amended, will maintain the annual fee to renew an individual mooring, not part of a congregate mooring field, at \$25 per mooring, per year. The fee to renew a mooring that is part of a congregate field would increase from \$25 to \$50 per mooring, per

year, as recommended by the Resources Recreation and Development Committee. The initial application fee would also increase from \$25 to \$125 as originally recommended. The new fee schedule will raise approximately \$190,000 which is more than adequate to cover the cost of the mooring program. **Vote 14-3.**

HB 634-FN-A, relative to solid waste reduction, establishing a solid waste disposal fee, and renaming the recycling market development steering committee **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: OUGHT TO PASS.**

Rep. Shawn N. Jasper for the **Majority** of Ways and Means: This bill deals with a very important and complicated matter; reducing the amount of solid waste which the state landfills and incinerates. As a state we failed to attain our goal of 40 percent diversion by the year 2000. We are rapidly running out of landfill space and with the exception of one expansion there are no new facilities currently being cited. It is a problem to which we must find a solution. It does not appear that the funding within this bill will have a significant impact on solid waste reduction. Fifty percent of the monies raised by the fee will be available to non-profit organizations which meet certain criteria. While some of that money will filter back to communities, there is no guarantee that it will be a significant amount nor is it likely that all communities would benefit equally. Of the state's fifty percent, nearly all of the money will go to salaries and Household Hazardous Waste. Not only that, the manner in which the money is raised gives rise to Constitutional issues, under Article 28A. While municipalities are not required to have landfills, they must provide for the disposal of municipal waste. It is clear that at a minimum they would be responsible for paying the fees associated with trash generated by the municipal operations. If that were the only question we had, we could have asked for an opinion of the courts; however, other concerns still remain. At the last minute the Department of Environmental Services came forward with a proposal which seems to solve many, if not all, of the above concerns. We appreciate the frustration of the policy committee in not having had the opportunity to review the plan at their public hearing; however, we believe that it is the best interest of the state to fully explore their proposal. If the bill is sent to study the committee will be composed of members of four committees; Environment and Agriculture, Municipal and County Government, Science and Technology and Ways and Means. This composition should insure that all of the major concerns can be addressed by representatives from the appropriate policy committee. **Vote 14-4.**

Rep. John M. Pratt for the **Minority** of Ways and Means: The one thing this bill does not need is further study. This bill was the subject of ten – count them – ten subcommittee hearings over a couple of years in Environment and Agriculture. It passed Environment and Agriculture on a bi-partisan 15-0 vote. It was then subject to extensive debate on the floor of the House before it passed the House on a 176-168 vote. It was sent on to Ways and Means for the sole purpose of examining the adequacy of the funding mechanism in the bill. It is not – and ought not – be the prerogative of a second committee to subvert the will of the House by side tracking a bill because a majority of that committee or House leadership itself doesn't agree with its substance.

HB 678-FN, relative to the insurance premium tax. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Benjamin E. Parker for the **Majority** of Ways and Means: This bill was introduced in the Commerce Committee, who then recommended it to the House. The House passed the bill and referred it to the Ways and Means Committee. The bill as introduced to the Ways and Means Committee reduced the premium tax for property and casualty and life insurance from 2 percent to 1 percent upon sixty days after passage. The committee amendment changes the premium tax to 1.75 percent effective July 1, 2007, then 1.5 percent effective January 1, 2009, then 1.25 percent effective January 1, 2010 and finally 1 percent effective January 1, 2011. As amended, the static fiscal impact for FY08 would be a 2.4 million revenue reduction; FY09, \$4.2 million reduction; FY10, \$9.1 million reduction; FY11, \$11.1 million reduction and FY12, \$13.4 million reduction. No consideration is given to an increase in the business profits tax resulting from reduced premium tax credits. With the policy set by the Commerce Committee and approved by the House, the committee analyzed the dynamics of the change in the premium tax and worked to mitigate the revenue impact of the change. The committee noted anecdotal evidence of insurance companies re-domesticating to low premium tax states, but found empirical evidence that total insurance related employment on average increased in low premium tax states relative to higher premium tax states. Representatives from specific insurance companies provided assurances that the rate reduction as proposed in this bill as amended would, in one instance, result in retention of a large New Hampshire company currently planning to re-domesticate in another state and, in other instances, result in expansion of existing operations. Though re-domestication to or from another state does not mean an immediate shift in jobs, evidence showed that jobs do migrate over time to the new home state. No consideration is given in the above revenue impact to re-domestication of insurance companies to New Hampshire. The committee found that insurance company corporate offices support a wide range of employment opportunities including a large number of relatively well-paying jobs that required a high level of education. Further, these jobs are the type New Hampshire both seeks to retain and is well suited to attract. Testimony showed that additional insurance industry jobs would have a positive effect on both local and state revenues. The amendment to this bill phases in the premium tax reduction beginning with the next biennium budget. This ensures that estimates for the current budget are not affected, it sends the appropriate signal to the insurance industry and allows lead-time for response, and if industry response is not appropriate over the next few years, allows reconsideration of the reduction before the rate is reduced to 1 percent. While the committee believes state revenues will be adversely affected at today's values whether the premium tax rate is changed or not, on balance, the majority of the committee believes that this bill as amended results in a greater net benefit to future state revenues and State's economic outlook. **Vote 15-2.**

Rep. Susan W. Almy for Ways and Means: The minority agrees with the majority on the positive aspects of this bill, but cannot tolerate the negative ones. This is the same as a direct appropriation to the insurance companies of \$6.4 million in the next biennium FY08/FY09, \$20.2 million in the next FY10/FY11, and \$26.8 million in the ones that follow using conservative estimates. These are the sums that we would have collected under the existing premium tax, but will not collect if this passes. These are the sums that would have gone to paying for the increased costs of the services we now provide the citizenry, increased by inflation in staff wages and health, fuel, and other costs. What do you want to do instead? Raise another tax, or further cut the services we have been eroding every two years?

HB 1311-FN-A, relative to the electronic filing of reports and applications with the secretary of state and relative to certain fees paid to the secretary of state. **OUGHT TO PASS WITH AMENDMENT**

Rep. Shawn N. Jasper for Ways and Means: This bill as originally approved would require electronic filing of reports and applications with the Secretary of State and increase fees. Testimony from the Secretary of State's Office refuted the need to increase fees. The amendment maintains the policy as it came to us but eliminated the fee increase. **Vote 12-4.**

HB 1701-FN-A, relative to boat fee agents of the department of safety, increasing the boat registration fee, and relative to the prevention of exotic aquatic weeds. **INEXPEDIENT TO LEGISLATE**

Rep. Priscilla P. Lockwood for Ways and Means: This bill would increase the boat registration fee with the money from agent collectors to go to the state for the Lakes Restoration and Preservation Fund. While this is a good purpose, the money at the present time goes to the towns in which the boats are registered. This bill would take monies from the towns which in some cases is a substantial amount. **Vote 9-7.**

LAI D ON TABLE

HB 646-FN-LOCAL, proposing a definition of an adequate education. (Pending question adoption of committee report of Ought to Pass with Amendment.)

HB 1229-FN, prohibiting the use of false documentation for employment, government services, or permits. (Pending question is Ought to Pass.)

HB 1703-FN, requiring certain employers to report on the percentage of payroll which is being spent on health insurance premiums for employees. (Pending question is Ought to Pass.)

HR 13, condemning the genocide in the Darfur region of the Sudan and urging Congress, with the support of the President, to pass the Darfur Accountability Act (S. 495) and the Darfur Genocide Accountability Act (H.R. 1424). (Pending question adoption of the committee report of Inexpedient to Legislate.)

HOUSE BILLS AMENDED BY THE SENATE

HB 153-FN, relative to the collection of debts owed to the state. (SJ 2/2/06)

HB 334, relative to the type of notice provided in court proceedings. (SJ 2/2/06)

HB 413, relative to the appointment of the chief justice of the superior court and the number of superior court associate justices. (SJ 2/2/06)

HB 460-FN, relative to the reimbursement to certain providers by the bureau of emergency communications. (SJ 1/18/06)

HB 544, relative to the land and community heritage program. (SJ 2/23/06)

HB 582, relative to the policy for records management. (SJ 2/2/06)

HB 599-FN, requiring disclosure to consumers of the presence of event data recording devices in new motor vehicles. (SJ 2/16/06)

HB 649-FN-A-L, establishing a commission to study the costs and funding of medicolegal investigations and autopsies. (SJ 3/9/06)

HB 1402, establishing the standard of care for certain individuals or nonprofit entities in constructing, maintaining, or improving trails for public recreational use, and establishing a committee to study the standard of care applicable to landowners, lessees, and occupants for the use of public recreational land. (House Concurred 2/2/06)

HB 1657, establishing a wildlife legacy initiative for gifts and donations for fish and wildlife conservation programs. (SJ 3/9/06)

COMMITTEE MEETINGS

MONDAY, MARCH 20

EQUALIZATION STANDARDS BOARD (RSA 21-J:14-c), New Hampshire Department of Revenue Administration, 57 Regional Drive, Concord

1:00 p.m. Regular meeting.

NH-CANADIAN TRADE COUNCIL (RSA 12-A:2-g), Senate Conference Room

10:00 a.m. Regular meeting.

TUESDAY, MARCH 21

WAYS AND MEANS, Room 202, LOB

8:00 a.m. Revenue estimates.

THURSDAY, MARCH 23

CHILDREN AND FAMILY LAW, Room 206, LOB

10:00 a.m. **SB 253**, relative to enforcement of support orders for college and postsecondary educational expenses.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

COMMERCE, Room 302, LOB

10:00 a.m. Subcommittee work session on **SB 334**, authorizing the use of a credit freeze as a means of deterring identity theft.
11:00 a.m. Subcommittee work session on **SB 330**, relative to outdoor advertising.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:00 a.m. **SB 379-FN**, relative to harm or threats to certain government officials.
10:30 a.m. **SB 256**, relative to the definition of "harm" for purposes of the crime of improper influence.
11:00 a.m. **SB 251**, relative to the enforcement authority of the division of safety services.
1:15 p.m. **SB 348**, prohibiting the taking of arms and ammunition in a declared state of emergency.
1:45 p.m. **SB 207-FN**, relative to enhanced penalties for certain crimes against the elderly and persons with a physical or mental disability.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

10:00 a.m. **SB 351-FN**, declaring drowning as cruelty to animals.
11:00 a.m. **SB 388**, relative to farm composting and pesticides.
1:00 p.m. **SB 255**, establishing a committee to study the funding necessary to operate the hazardous materials program in New Hampshire.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Room 205, LOB

9:00 a.m. Subcommittee work session on **SB 289**, relative to the brain and spinal cord advisory council.
10:00 a.m. Executive session on pending legislation.
11:00 a.m. Ad hoc on stroke caucus.

JUDICIARY, Room 208, LOB

10:00 a.m. **SB 245**, repealing laws relative to the municipal courts and the administrative committee of the district and municipal courts.
10:45 a.m. **SB 274**, adding court security to the duties of the New Hampshire court accreditation commission.
1:00 p.m. **SB 286-FN**, relative to notice to defendants in small claims actions.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. **SB 269**, ratifying certain actions at the 1996 Seabrook annual town meeting.
10:30 a.m. **SB 319**, establishing a task force to study county government.
11:00 a.m. **SB 190-L**, establishing a committee to study including workforce housing in zoning ordinances.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.
1:30 p.m. Department of Revenue Administration - Re-evaluation Process.
Briefing by Department of Revenue Administration – Administration Appraisal Process.

SCIENCE, TECHNOLOGY AND ENERGY, Room 304, LOB

10:00 a.m. Briefing on LICAP.

- 11:00 a.m. Update on RGGI.
- 1:00 p.m. Orientation on RPS.
- 2:00 p.m. **SB 389**, establishing a committee to study energy efficiency programs funded by the system benefits charge. Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

TRANSPORTATION, Room 203, LOB

- 10:00 a.m. **SB 221**, relative to obtaining a driver’s license and creating a violation for failure to pay a highway toll.
- 10:45 a.m. **SB 233**, relative to motorcycle rider education.
- 11:15 a.m. **SB 357-FN**, relative to eligibility for motorcycle licenses.
- 1:00 p.m. **SB 288-FN**, relative to street rods.
- 2:00 p.m. **SB 400-FN**, relative to highway welcome signs.
- 2:45 p.m. **SB 282-FN-L**, relative to removal of abandoned vehicles. Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FRIDAY, MARCH 24

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306, LOB

- 9:00 a.m. Regular meeting.

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), Department of Revenue Administration, Training Room, 45 Chenell Drive, Concord

- 9:30 a.m. Regular meeting.

FISCAL COMMITTEE (RSA 14:30-a), Rooms 210-211, LOB

- 9:00 a.m. Regular business.
- 9:30 a.m. Audit: Department of Transportation, Turnpike System, comprehensive annual financial report for the year ended June 30, 2005.

JOINT COMMITTEE ON ADDRESS, Room 208, LOB

- 2:00 p.m. Organizational meeting on *HA 1*, for the removal of Kenneth R. McHugh, superior court justice, from office.

WELLNESS AND PRIMARY PREVENTION COUNCIL (RSA 126-M:3), Room 205, LOB

- 10:00 a.m. Regular meeting.

MONDAY, MARCH 27

ENERGY PLANNING ADVISORY BOARD (SB 443, Chapter 164:2, Laws of 2004), Room 304, LOB

- 1:00 p.m. Regular meeting.

ETHICS COMMITTEE (RSA 14-B:2), Room 100, State House

- 11:00 a.m. Regular meeting.

OIL FUND DISBURSEMENT (RSA 146-D:4), Room 305, LOB

- 9:00 a.m. Regular meeting.

PERMISSIBLE FIREWORKS REVIEW COMMITTEE (RSA 160-C:13), Room 204, LOB

- 10:00 a.m. Regular meeting.

TUESDAY, MARCH 28

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

- 10:00 a.m. **SB 246**, relative to provisions for permissible contact between the agent of the defendant subject to a protective order and a plaintiff. Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 306, LOB

- 10:00 a.m. **SB 234**, including the International Residential Code 2000 in the definition of the state building code.
- 11:00 a.m. **SB 260**, relative to certification of a registered nurse responsible for emergency medical transportation.
- 1:00 p.m. **SB 358-FN**, relative to an advanced registered nurse practitioner's duty to warn of violent acts of patients.

2:00 p.m. **SB 359-FN**, relative to the regulation of plumbers and water treatment technicians by the plumbers' board.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

JOINT LEGISLATIVE FACILITIES (RSA 17-E:2), Room 100, State House

3:00 p.m. Regular meeting.

JUDICIARY, Room 208, LOB

10:00 a.m. **SB 336**, relative to security deposits in landlord tenant matters.
11:00 a.m. **SB 332**, making technical corrections to the uniform trust code and related statutes.
1:00 p.m. **SB 287-FN**, making certain changes to the eminent domain statute.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

10:00 a.m. **HB 2006**, relative to the state 10-year transportation improvement plan.
Department of Transportation overview followed by public comment on projects in communities listed N-W pages 151-257 of the "Blue Book" entitled NH Department of Transportation Improvement Plan 2007-2016.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 303, LOB

10:00 a.m. **SB 344**, establishing a committee to study state benefit programs for national guard members.
11:00 a.m. **SJR 4**, urging Congress to require the Department of Defense to reinstate the terminology of "POW" or "Prisoner of War" into the classification of military personnel.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WAYS AND MEANS, Room 202, LOB

10:00 a.m. **SB 300-FN-A-L**, exempting certain transfers of real estate between charitable organizations from the real estate transfer tax.
10:30 a.m. **SB 371-FN**, relative to the continuation of certain wetlands fees.
11:00 a.m. **SB 376-FN-A**, relative to revenues dedicated to the education trust fund.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

WEDNESDAY, MARCH 29

PUBLIC WORKS AND HIGHWAYS, Room 201, LOB

9:30 a.m. **HB 2006**, relative to the state 10-year transportation improvement plan, if necessary.
10:30 a.m. **SB 178**, designating a certain highway the Gold Star Mothers Highway.
11:00 a.m. **SB 239**, renaming the bridge located on Main Street in Enfield, New Hampshire and crossing the Mascoma River as the Women in Service to Enfield (WISE) Bridge and naming the bridge located on Main Street in Newmarket, New Hampshire and crossing the Lamprey River as the Newmarket Veterans Bridge.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

THURSDAY, MARCH 30

JUDICIARY, Room 208, LOB

10:00 a.m. **SB 24**, relative to disposition upon death of patient accounts in nursing homes.
10:45 a.m. **SB 242**, prohibiting a person charged with unlawfully killing a decedent from taking from the decedent's estate.
1:00 p.m. **SB 271**, relative to the availability of voter checklist information.
Executive session on pending legislation may be held throughout the day, time permitting, from the time the committee is initially convened.

FRIDAY, MARCH 31

RIGHT-TO-KNOW OVERSIGHT COMMISSION (RSA 91-A:11), Room 202, LOB

10:00 a.m. Regular meeting.

TUESDAY, APRIL 4

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS, Room 303, LOB

11:30 a.m. Executive session on pending legislation.

STATE VETERANS' ADVISORY COMMITTEE (RSA 115-A:2), American Legion Post 79, 35 West Brook Street, Manchester

5:00 p.m. Regular meeting.

WEDNESDAY, APRIL 5

EDUCATION OF CHILDREN WITH DISABILITIES ADVISORY (RSA 186-C:3-b), Department of Education, Room 15, 101, Pleasant Street, Concord

4:00 p.m. Regular meeting.

THURSDAY, APRIL 6

PROCUREMENT METHODS FOR PUBLIC WATER PROJECTS BY STATE AND LOCAL GOVERNMENT AGENCIES (HB 157, Chapter 132:1, Laws of 2005), Room 307, LOB

10:00 a.m. Regular meeting.

FRIDAY, APRIL 7

ADMINISTRATIVE RULES (RSA 541-A:2), Room 100, State House (Please note room change.)

9:00 a.m. Continued regular meeting.

MONDAY, APRIL 10

GUARDIANS AD LITEM BOARD (RSA 490-C:1), Room 102, LOB

1:00 p.m. Regular meeting.

ISSUES RELATIVE TO THE COMPREHENSIVE SHORELAND PROTECTION ACT (SB 83, Chapter 209:1, Laws of 2005), Room 305, LOB

10:00 a.m. Regular meeting.

FRIDAY, APRIL 14

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), DRA, Training Room, 57 Regional Drive, Concord

9:30 a.m. Regular meeting.

GOVERNOR'S COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION, INTERVENTION, AND TREATMENT (RSA 12-J), Rooms 201-203, LOB

9:30 a.m. Regular meeting.

FRIDAY, APRIL 21

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306, LOB

9:00 a.m. Regular meeting.

FRIDAY, APRIL 28

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), DRA, Training Room, 57 Regional Drive, Concord

9:30 a.m. Regular meeting.

NEW HAMPSHIRE LAND AND COMMUNITY HERITAGE AUTHORITY BOARD OF DIRECTORS (RSA 227-M:4), CDFA Board Room 14 Dixon Avenue, Concord

9:00 a.m. Regular meeting.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICES

Hillsborough County Executive Committee will meet on Friday, **March 24** at 9:00 a.m. at the County Complex, Bouchard Building, Goffstown. Please call Marcia at 627-5631 if you cannot attend.

Rep. Nelson S. Allan, Chairman
Hillsborough County Executive Committee

COUNTY DELEGATION NOTICES

Merrimack County Delegation will meet on Monday, **March 20** from 5:00 p.m. to 6:15 p.m. The Merrimack County Farm Bureau will serve a light dinner for the Merrimack County Delegation members at the Merrimack County Offices, 4 Court Street, Lower Level Conference Room. This will be followed by a Delegation meeting. The public hearing will begin at 6:30 p.m. with the Delegation meeting beginning at 7:00 p.m. The purpose of this meeting is to review and approve the 2006 proposed County Budget.

Rep. Candace C.W. Bouchard, Chairman
Merrimack County Delegation

COUNTY DELEGATION NOTICES

Sullivan County Delegation will meet on Friday, **March 24** at 9:00 a.m. in the Jury Assembly Room of Newport's Woodhull Complex to take up important business.

Rep. John R. Cloutier, Chairman
Sullivan County Delegation

NOTICE

Reservations for the use of the Upham Walker House are now being made with Doug Dolcino, Director of Operations for the General Court, at 271-3324.

W. Douglas Scamman, Speaker

REVISED FISCAL NOTES

The following HBs have revised fiscal notes: HBs 76, 100, 234, 345, 347, 349, 380, 489, 515, 634, 638, 649, 653, 669, 688, 690, 716, 718, 1128, 1222, 1227, 1231, 1468, 1474, 1489, 1514, 1515, 1657, 1661, 1670, 1671, 1676, 1677, 1679, 1691, 1692, 1693, 1694, 1695, 1697, 1698, 1699, 1701, 1702, 1704, 1708, 1709, 1711, 1713, 1714, 1715, 1716, 1717, 1718, 1719, 1720, 1722, 1723, 1724, 1726, 1725, 1727, 1728, 1730, 1731, 1732, 1734, 1735, 1741, 1742, 1745, 1746. SBs 22, 110, 175, 249, 310, 358, 371.

Karen O. Wadsworth, Clerk of the House

When the House Clerk's Office is aware of House Members who are hospitalized or homebound by serious illness, we will publish a list of names and addresses as requested.

Bruce F. Hunter, 23 Channel Lane, Goffstown, NH 03045-5265
Ed M. Putnam, II, 12 Wakefield Drive. Hampstead, NH 03841-2611
Clair A. Snyder, 46 Colonial Village, Somersworth, NH 03878-1558

Colleagues who so desire may send cards and greetings to the address listed above.

Karen O. Wadsworth, Clerk of the House

MEMBERS' NOTICES

The following notices are published in the House record as a courtesy to the member(s) requesting publication. These are not official public notices and will be limited to legislative policy or legislative social activities and political meetings or events. Publication should not be construed as support for either the events listed or the views espoused by the individual or organization sponsoring the event.

Upon presentation of proper credentials at the ticket window, NH Senators and Representatives may receive a lift ticket for their personal use and one for a guest. The elected official must be present to personally present the credentials, unless prior arrangement is made with Commissioner O'Kane. (Lift tickets are to be picked up at Guest Services at the Peabody Base Lodge or the Tramway Window at Cannon).

W. Douglas Scamman, Speaker

The House Republican Alliance will meet every Tuesday at 8:30 a.m. at the Upham Walker House, Park Street, Concord.
Rep. Michael A. Balboni

The Main Street Republican Caucus will meet every Tuesday at noon at the Upham Walker House. All Republicans are welcome.

Rep. Kenneth H. Gould

Ski NH's 14th Annual Legislative Charitable Event will be held at Waterville Valley on Monday, **March 20**. Though the calendar indicates the first day of spring, this event, entitled Celebrate Winter in NH, showcases and celebrates the best of winter sports and activities available in New Hampshire. The ski season continues, and there is still plenty to do! Free downhill skiing, cross country skiing, skating, snowshoeing, and other planned mountain and non-mountain activities will be available. In addition, free rentals and group lessons will be available to all participants.

In addition, for those wishing to stay over on March 19 or 20, Town Square Condos can offer you a rate of \$100 (including tax) for a one-bedroom condo. Each condo has one queen-size bed and one sleeper-sofa. Please make your room reservations directly with Town Square Condos by calling them at 888-GO-2WVTS (888-462-9887). To receive the special rate, be sure to identify yourself as being with Ski NH's "Celebrate Winter in NH" event. Ski New Hampshire has partnered with the New Hampshire Automobile Dealers Association to sponsor this event, and they look forward to hosting legislators again and to raising funds for NHADA's, KEEP KIDS S.A.F.E. Program.

W. Douglas Scamman, Speaker

The New Hampshire Boxing and Wrestling Commission will hold a public meeting on **March 20** at 4:00 p.m. at the Department of Resources and Economic Development, 172 Pembroke Road, Concord.

Rep. John Thomas

The Strafford County Republicans 2006 Lincoln Day Dinner will be held on Monday evening, **March 20** at the "Oaks" in Somersworth. Featured speakers are US Senator John E. Sununu and Radio and Television celebrity Dan Pierce. There will be dining, dancing and great food. Tickets \$50 per person includes a chance for a \$500 US Saving Bond. For tickets contact Reps. Cliff Newton and Sam Cataldo.

Reps. Clifford A. Newton and Sam A. Cataldo

Members of ALEC (American Legislative Exchange Council), we have details to work out about the upcoming meetings, Coeur d'Alene, Idaho in April and San Francisco in July, as well as task force assignments. Please meet at the **March 21st** lunch break in Room 212, LOB. Bring your own lunch.

Rep. Kenneth L. Weyler

US Senator Chuck Hagel will be the special guest at the Lincoln Day Dinner hosted by the Merrimack County Republican Committee on **Tuesday, March 21** at the Grappone Center/Courtyard Marriott in Concord. A reception will begin at 5:45 p.m. and dinner will begin at 6:30 p.m. Tickets are \$50. To purchase tickets and to obtain information contact Anne Copp at 768-5530 (home) or anne_copp@raytheon.com.

Rep. Eric Anderson

The New Hampshire Snowmobile Association would like to invite all House members and staff to a crossover reception to be held in the State House cafeteria on Wednesday, **March 22** from 7:30 to 9:30 a.m. Please come by and have a cup of coffee and a quick snack prior to session.

Rep. Pamela G. Price

In celebration of the YMCA Youth in Government Program and Legislative Awareness Day, all legislators are cordially invited to join the New Hampshire State Alliance of YMCAs in the State House Cafeteria on Wednesday, **March 22** during the lunch break for an informal luncheon reception. Sandwiches, hot and cold drinks, and dessert will be provided.

Rep. Larry Emerton

President Don Wharton would like to invite all members of the General Court and staff to a Legislative Reception hosted by Plymouth State University on Wednesday, **March 22**. The event will be held at the New Hampshire Historical Society, Tuck Library, 30 Park Street, Concord at 4:00 p.m. or whenever session ends, whichever is latest.

Reps. Debra A. Naro and Mary R. Cooney

The next in the Grand Round Series 2005-2006 will be held on Tuesday, **March 28** from 4:30 to 5:30 p.m. at UNH Manchester Auditorium, 400 Commercial Street, Manchester. This event is sponsored by the University of New Hampshire Master of Public Health and the New Hampshire Public Health Association. Speaker will be Joan Ascheim, MSN, Chief, Bureau of Policy and Performance Management, NH Division of Public Health Services. Her topic will be improving the public's health in New Hampshire: Moving from Assessment to Planning and Improvement. To register for this free lecture: E-mail or call Chris Hamann before March 24 (chris.hamann@unh.edu or 862-2733).

Rep. James P. Pilliod

All members are invited to the County Conversations II with UNH President Ann Weaver Hart on Monday, **April 3** in the Rockingham County Nursing Home Atrium from 3:00 to 6:00 pm. This year's topic focuses on Creating Economic Opportunity on the Coast through Science and Outreach with the panel showcasing marine programs that bring together both the Land and Sea Grant dimensions of UNH through Cooperative Extension and other local partnerships. As refreshments will be served, please RSVP to UNH Rockingham County Cooperative Extension at 679-5616 or email to Deb.Stevens@unh.edu by March 29. Hope to see you there.

Rep. Sheila T. Francoeur

The Milford Republican Committee is sponsoring an evening event with Newt Gingrich on **April 12**, from 6:30 to 9:30 p.m. at the Souhegan Valley Boys and Girls Club in Milford. Tickets are \$25 each and can be purchased from Reps. Hansen, Mead, O'Brien, Rowe or Slocum. Wine and hors d'oeuvres are included. After speaking on current events, the former Speaker will take questions from those assembled.

Rep. Lee G. Slocum

The Department of Transportation will hold the following meeting:

Mar 20 - NHDOT, 7 Hazen Drive, Conference Room 112/113, Concord, 2:00 p.m. Advisory Committee Meeting, Transportation Enhancement (TE).

Mar 22 - Portsmouth Public Works, 680 Peverly Hill Road, Portsmouth, 10:00 a.m. Advisory Committee Meeting, Portsmouth, US Route 1 Bypass Study.

Mar 29 - NHDOT, 7 Hazen Drive, Conference Room 112/113, Concord, 2:00 p.m. Advisory Committee Meeting, Congestion Mitigation and Air Quality (CMAQ).

Rep. Gene G. Chandler, Chairman
Public Works and Highways Committee

STATE HOUSE VISITATION SCHEDULE
2005 & 2006 SCHOOL YEAR

Virginia Drew, Public Information Administrator		Kenneth Leidner, Director	
March 20	9:00	Bow Elementary	4/24
March 20	10:00/11:30	Thornton Ferry School – Merrimack	4/75
	SH/HM		
March 21	9:00	Bow Elementary	4/24
March 21	11:00	East Kingston Elementary	4/30
March 21	12:30	Gilmanton Elementary School	4/48
March 22	9:00	Bow Elementary	4/24
March 22	10:00/11:30	Fuller School – Keene	4/55
	SH/HM		
March 23	9:00	Bow Elementary	4/24
March 23	9:30/11:00	Smyth Rd. School – Manchester	4/75
	SH/HM		
March 24	9:00	Bow Elementary	4/24
March 24	10:30/12:30	Hampstead Central School	4/48
	SH/SC		
March 27	9:00	Sacred Heart School – Hampton	4/40
March 27	10:30/12:30	Hampstead Central School	4/48
	SH/SC		
March 27	10:30	Acworth Elementary School	4/7
March 28	9:00/10:15	Maple Street School – Contoocook	4/88
	SH/HM		
March 29	9:30/11:00	Hillsboro-Deering School	4/80
	SH/HM		
March 30	9:30	Hillsboro-Deering School	4/20
March 30	9:30	St Benedict’s Academy – Manchester	4/21
March 30	10:45/12:00	Lincoln Akerman School –	4/56
	SH/HM	Hampton Falls	
March 31	9:30/10:30	DAR Good Citizens	100
	SH/HM		
March 31	11:00	Plymouth Elementary School	4/45

TUESDAY, MARCH 21
WEDNESDAY, MARCH 22
AMENDMENTS
(LISTED IN NUMERICAL ORDER)

2006-0982h

Amendment to CACR 30
Proposed by the Majority of the Committee on Judiciary - R

Amend the title of the bill by replacing it with the following:
RELATING TO: limits on the taking of private property.
PROVIDING THAT: eminent domain shall not be used to transfer real property from one owner to another on the grounds that private use of the land will benefit the public. Property may be taken by the state only when necessary for the enjoyment of the land by the public at large.
Amend paragraph I of the resolution by replacing it with the following:
I. That the first part of the constitution be amended by inserting after article 12 the following new article:
[Art.] 12-a [Power to Take Property Limited.] The power of eminent domain shall not include taking property from one owner and transferring it to another on the grounds that the public will benefit from development or other private use of the property. Private property may be taken by the state, a political subdivision, or a state regulated public utility or common carrier, only when necessary for the ownership or use of the property by the public at large.
Amend paragraph IV of the resolution by replacing it with the following:
IV. That the wording of the question put to the qualified voters shall be:

“Are you in favor of amending the first part of the constitution by inserting a new article 12-a to provide that private property can only be taken as follows:

[Art.] 12-a [Power to Take Property Limited.] The power of eminent domain shall not include taking property from one owner and transferring it to another on the grounds that the public will benefit from development or other private use of the property. Private property may be taken by the state, a political subdivision, or a state regulated public utility or common carrier, only when necessary for the ownership or use of the property by the public at large.”

AMENDED ANALYSIS

This constitutional amendment concurrent resolution prohibits the use of eminent domain on the grounds that private development will benefit the public. Eminent domain may be used by the state only when necessary for the ownership or use of the property by the public at large.

2006-1381h

Floor Amendment to CACR 30

Proposed by Rep. DiFruscia

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

RELATING TO: limits on the taking of private property.

PROVIDING THAT: eminent domain shall not be used to transfer real property from one owner to another on the grounds that private use of the land will benefit the public. Property may be taken by the state only when necessary for the enjoyment of the land by the public at large, provided that the general court approves the expenditure.

Amend paragraph I of the resolution by replacing it with the following:

I. That the first part of the constitution be amended by inserting after article 12 the following new article:

[Art.] 12-a [Power to Take Property Limited.] The power of eminent domain shall not include taking property from one owner and transferring it to another on the grounds that the public will benefit from development or other private use of the property. Private property may be taken by the state, a political subdivision, or a state regulated public utility or common carrier, only when necessary for the ownership or use of the property by the public at large; provided, however, that any state expenditure shall require the approval of the general court.

Amend paragraph IV of the resolution by replacing it with the following:

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

“Are you in favor of amending the first part of the constitution by inserting a new article 12-a to provide that private property can only be taken as follows:

[Art.] 12-a [Power to Take Property Limited.] The power of eminent domain shall not include taking property from one owner and transferring it to another on the grounds that the public will benefit from development or other private use of the property. Private property may be taken by the state, a political subdivision, or a state regulated public utility or common carrier, only when necessary for the ownership or use of the property by the public at large; provided, however, that any state expenditure shall require the approval of the general court.”

AMENDED ANALYSIS

This constitutional amendment concurrent resolution prohibits the use of eminent domain on the grounds that private development will benefit the public. Eminent domain may be used by the state only when necessary for the ownership or use of the property by the public at large and any state expenditure must be approved by the general court.

2006-1411h

Floor Amendment to CACR 30

Proposed by Reps. Giuda, Mooney, Splaine and Dokmo

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

RELATING TO: limits on the taking of private property.

PROVIDING THAT: a person's property shall not be taken by eminent domain if the taking is for private use.

Amend paragraph I of the resolution by replacing it with the following:

I. That the first part of the constitution be amended by inserting after article 12 the following new article:

[Art.] 12-a [Power to Take Property Limited.] No part of a person's property shall be taken by eminent domain and transferred, directly or indirectly, to another person if the taking is for the purpose of private development or other private use of the property.

Amend paragraph IV of the resolution by replacing it with the following:

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

“Are you in favor of amending the first part of the constitution by inserting a new article 12-a to provide that private property can only be taken as follows:

[Art.] 12-a [Power to Take Property Limited.] No part of a person's property shall be taken by eminent domain and transferred, directly or indirectly, to another person if the taking is for the purpose of private development or other private use of the property.”

AMENDED ANALYSIS

This constitutional amendment concurrent resolution prohibits the use of eminent domain for private use.
2006-1037h

Floor Amendment to CACR 34
Proposed by Rep. Sorg

Amend the title of the resolution by replacing it with the following:
RELATING TO: the nature of marriage.
PROVIDING THAT: the legislature shall have exclusive power to determine the nature and legal status of marriage.
Amend the bill by replacing all after the title with the following:

- I. That part II of the constitution be amended by inserting after article 5-B the following new article:
[Art.] 5-C. [Marriage.] The legislature shall have exclusive power to determine the nature of marriage and to create or recognize any legal status identical or similar to, or having any of the attributes of marriage.
- II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2006.
- III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2006 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2006 session of the general court shall be approved.
- IV. That the wording of the question put to the qualified voters shall be:
“Are you in favor of amending the second part of the Constitution by inserting a new article to provide that the nature of marriage be determined as follows:
[Art.] 5-C. [Marriage.] The legislature shall have the exclusive power to determine the nature of marriage and to create or recognize any legal status identical or similar to, or having any of the attributes of marriage.”
- V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote “Yes” or “No.” If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words “Questions Relating to Constitutional Amendments proposed by the 2006 General Court” shall be printed in bold type at the top of the ballot.
- VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that the legislature shall have the exclusive power to determine the nature and legal status of marriage.
2006-1272h

Amendment to HB 317-FN
Proposed by the Committee on Ways and Means - R

Amend the bill by replacing section 1 with the following:
☐ Mooring of Boats on Public Waters; Annual Mooring Fee; Permit Expiration. Amend RSA 270:62, V-VII 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 \$50 for each mooring in a congregate mooring field and \$25 for each mooring not in a congregate mooring field shall be charged for each decal [issued] renewed pursuant to this subdivision which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.***
- VI. ~~[Each permit granted under this subdivision shall expire on December 31 of the fifth year from the date of issuance.~~
~~VII.]~~ A hearing shall not be required for the renewal of a permit for a congregate mooring field, unless there are changes in the permit or a hearing is requested after notice has been issued.

AMENDED ANALYSIS

This bill increases the fee for an initial mooring decal and the annual mooring fee for moorings in congregate mooring fields. This bill also eliminates the expiration of mooring permits after 5 years.
2006-1039h

Amendment to HB 627-FN
Proposed by the Committee on Finance - R

Amend the bill by deleting section 5 and renumbering the original section 6-19 to read as 5-18.
Amend the bill by replacing section 18 with the following:
18 Effective Date. This act shall take effect July 1, 2007.

2006-1263h

Amendment to HB 678-FN
Proposed by the Majority of the Committee on Ways and Means - R

Amend the bill by replacing section 3 with the following:

- 3 Insurance; Premium Tax Decreased. Amend RSA 400-A:32, I to read as follows:
- I. *(a)* Every insurer shall pay to the insurance commissioner a tax ~~[of 2 percent]~~ upon such net premiums, *for lines of business written*, as set forth in the report filed pursuant to RSA 400-A:31, I, less estimated payments made in accordance with RSA 400-A:32, II[3], *as follows:*
- (1) Effective July 1, 2007, a tax of 1.75 percent for all lines of business written pursuant to RSA 401:1, I-III and V-VIII, and RSA 401:1-a, I and II;*
- (2) Effective January 1, 2009, a tax of 1.50 percent for all lines of business written pursuant to RSA 401:1, I-III and V-VIII, and RSA 401:1-a, I and II;*
- (3) Effective January 1, 2010, a tax of 1.25 percent for all lines of business written pursuant to RSA 401:1, I-III and V-VIII, and RSA 401:1-a, I and II; and*
- (4) Effective January 1, 2011, a tax of one percent for all lines of business written pursuant to RSA 401:1, I-III and V-VIII, and RSA 401:1-a, I and II.*
- (5) A tax of 2 percent for all lines of business written pursuant to RSA 401:1, IV, including, but not limited to, insurers licensed pursuant to RSA 420-A, RSA 420-B, and RSA 420-F.*
- (b)* Provided, however, that every authorized insurer shall pay to the insurance commissioner a minimum annual premium tax of no less than \$200.

AMENDED ANALYSIS

This bill reduces the insurance premium tax in an effort to retain companies that are presently domesticated in New Hampshire and attract other companies to domesticate in New Hampshire.

2006-1219h

Amendment to HB 1138

Proposed by the Majority of the Committee on Labor, Industrial and Rehabilitative Services - R

- Amend the bill by replacing section 1 with the following:
- 1 Required Pay; Increased to 3 Hours. Amend RSA 275:43-a to read as follows:
- 275:43-a Required Pay. On any day an employee reports to work at an employer's request, he *or she* shall be paid not less than **3** hours' pay at his *or her* regular rate of pay; provided, however, that this section shall not apply to employers of counties or municipalities, and provided further that no employer who makes a good faith effort to notify an employee not to report to work shall be liable to pay wages under this section. However, if the employee reports to work after the employer's attempt to notify him *or her* has been unsuccessful or if the employer is prevented from making notification for any reason, the employee shall perform whatever duties are assigned by the employer at the time the employee reports to work.

AMENDED ANALYSIS

This bill requires an employer to pay 3 hours' wages to an employee called in to work. An employer who makes a good faith effort to notify an employee not to report to work shall not be liable to pay wages.

2006-1244h

Floor Amendment to HB 1138
Proposed by Reps. Carson and Goley

- Amend the bill by replacing section 1 with the following:
- 1 Required Pay; Increased to 3 Hours. Amend RSA 275:43-a to read as follows:
- 275:43-a Required Pay.
- I. On any day an employee reports to work at an employer's request, he *or she* shall be paid not less than ~~[2]~~ **3** hours' pay at his *or her* regular rate of pay; provided, however, that this section shall not apply to employers of counties or municipalities, and provided further that no employer who makes a good faith effort to notify an employee not to report to work shall be liable to pay wages under this section. However, if the employee reports to work after the employer's attempt to notify him *or her* has been unsuccessful or if the employer is prevented from making notification for any reason, the employee shall perform whatever duties are assigned by the employer at the time the employee reports to work.
- II. This section shall not apply to hours added before or after an employee's regular shift.*
- III. Employees who are "on-call" are not subject to this section if they receive an on-call stipend.*
- IV. Health care employees of community based outreach services providers who voluntarily make schedule changes to meet the needs of the physically or mentally infirm clients they serve and who sign a statement upon hire stating that they understand this job requirement are exempt from this section.*
- V. The commissioner may adopt rules, pursuant to RSA 541-A, relative to the administration of and exceptions to this section.*

AMENDED ANALYSIS

This bill requires an employer to pay 3 hours' wages to an employee called in to work. An employer who makes a good faith effort to notify an employee not to report to work shall not be liable to pay wages. Certain health care employees are exempt from this bill.

This bill also permits the commissioner to adopt rules relative to the bill.
2006-1207h

Amendment to HB 1167-FN-A
Proposed by the Committee on Finance - R

Amend the bill by replacing section 2 with the following:

2 Appropriation; Land and Community Heritage Investment Program; Fiscal Year Ending June 30, 2007. The sum of \$2,500,000 is hereby appropriated to the land and community heritage investment program for the fiscal year ending June 30, 2007. This appropriation is in addition to any other funds appropriated to the land and community heritage investment program. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

2006-1172h

Amendment to HB 1177
Proposed by the Majority of the Committee on Commerce - R

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

AN ACT prohibiting smoking in restaurants, cocktail lounges, and certain enclosed public places.

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

1 Indoor Smoking Act; Definition of "Effectively Segregated." Amend RSA 155:65, V to read as follows:

V. "Effectively segregated" means all the following conditions have been met:

(a) Procedures for accurately and fairly determining preference have been followed;

(b) The size and location of no-smoking and smoking-permitted areas are designed, designated, or juxtaposed so that smoke does not cause harm or unreasonably intrude into the area occupied by persons who are not smoking;

~~[(c) A contiguous portion of the enclosed public place, including any seating arrangements, measures a minimum of 200 square feet, and at least one of the following 2 contingencies exist:~~

~~(1) There is a continuous, physical barrier such as a wall, partition or furnishing at least 56 inches in height to separate the no-smoking area from a smoking-permitted area. The barrier may contain doors or portals for exit and entry; or~~

~~(2) There is a space of at least 4 feet in width to separate the smoking-permitted and no-smoking areas. This space may be either an unoccupied area or a section of seating area representing a buffer zone in which smoking is not permitted, but which itself is not part of the no-smoking designated area;]~~ and

~~[(d)]~~ (c) In buildings where existing ventilation systems are in place, areas designated as smoking areas are located, where reasonably possible, proximate to exhaust vents.

2 Indoor Smoking Act; Definition of "Restaurant." Amend RSA 155:65, XIV to read as follows:

XIV. "Restaurant" means any room or enclosed place used and kept open on a regular basis and in a bona fide manner for the serving of meals to guests for compensation. ***"Restaurant" shall include any restaurants in resorts, hotels, and motels.***

3 Indoor Smoking Act; Smoking Prohibited. RSA 155:66 is repealed and reenacted to read as follows:

155:66 Smoking Prohibited.

I. Except as provided in RSA 155:67 and notwithstanding any law to the contrary, smoking is prohibited in:

(a) Public educational facilities at any time, and in child care agencies licensed under RSA 170-E during the hours of operation, except foster family homes and foster family group homes.

(b) Hospitals and other acute care facilities.

(c) Grocery stores by customers.

(d) Elevators, tramways, gondolas, and other such public conveyances.

(e) Public conveyances.

(f) Restaurants.

(g) Cocktail lounges.

(h) Enclosed places owned and operated by social, fraternal, or religious organizations when open to the general public. Purposes for which such places may be open to the general public may include, but not be limited to, public meetings, voting, suppers, bingo games, theatrical events, fairs, and bazaars.

II. Smoking may be permitted in enclosed places of public access and publicly-owned buildings and offices, including workplaces, other than those listed in paragraph I, in effectively segregated smoking-permitted areas designated by the person in charge. Smoking shall be totally prohibited in any such enclosed place, if smoking cannot be effectively segregated. The person in charge may declare any facility non-smoking in its entirety.

4 Repeal. The following are repealed:

I. RSA 155:67, VIII, relative to an exemption for certain restaurants.

II. RSA 155:67, IX, relative to an exemption for cocktail lounges.

5 Effective Date. This act shall take effect 90 days after its passage.

AMENDED ANALYSIS

This bill prohibits smoking in restaurants, cocktail lounges, and certain enclosed public places in New Hampshire.
This bill clarifies the smoking prohibited section of the indoor smoking act.
This bill also clarifies certain definitions under the indoor smoking act.

2006-1242h

Floor Amendment to HB 1177
Proposed by Rep. Vaillancourt

Amend RSA 155:66, I(h) as inserted by section 3 of the bill by replacing it with the following:
(h) Enclosed places owned and operated by social, fraternal, or religious organizations.
Amend the bill by replacing section 4 with the following:

- 4 Repeal. The following are repealed:
- I. RSA155:67, II, relative to an exemption for certain enclosed places when used for private purposes.
 - II. RSA 155:67, VIII, relative to an exemption for certain restaurants.
 - III. RSA 155:67, IX, relative to an exemption for cocktail lounges.

AMENDED ANALYSIS

This bill prohibits smoking in restaurants, cocktail lounges, and enclosed places owned and operated by social, fraternal, or religious organizations in New Hampshire.
This bill clarifies the smoking prohibited section of the indoor smoking act.
This bill also clarifies certain definitions under the indoor smoking act.

2006-1287h

Floor Amendment to HB 1177
Proposed by Rep. Hunt

Amend the title of the bill by replacing it with the following:
AN ACT relative to smoking in restaurants and cocktail lounges.
Amend the bill by replacing all after the enacting clause with the following:

- 1 Indoor Smoking Act; Definition of “Effectively Segregated.” Amend RSA 155:65, V to read as follows:
- V. “Effectively segregated” means all the following conditions have been met:
- (a) Procedures for accurately and fairly determining preference have been followed;
 - (b) The size and location of no-smoking and smoking-permitted areas are designed, designated, or juxtaposed so that smoke does not cause harm or unreasonably intrude into the area occupied by persons who are not smoking;
 - (c) A contiguous portion of the enclosed public place, including any seating arrangements, measures a minimum of 200 square feet, and ~~[at least one of the following 2 contingencies exist:~~
 - ~~(1) there is a continuous, physical barrier such as a wall[;] or partition [or furnishing at least 56 inches in height] to separate the no-smoking area from a smoking-permitted area. The barrier [may] shall contain doors or portals for exit and entry; [or~~
 - ~~(2) There is a space of at least 4 feet in width to separate the smoking-permitted and no-smoking areas. This space may be either an unoccupied area or a section of seating area representing a buffer zone in which smoking is not permitted, but which itself is not part of the no-smoking designated area;] and~~
 - (d) In buildings where existing ventilation systems are in place, areas designated as smoking areas are located, where reasonably possible, proximate to exhaust vents.

- 2 Indoor Smoking Act; Definition of “Public Access.” Amend RSA 155:65, X to read as follows:
- X. “ Public access” means any enclosed place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which the general public has access or which the general public uses, including, but not limited to, buildings, offices, means of transportation, common carrier waiting rooms, arcades, restaurants, retail stores, grocery stores, libraries, theaters, concert halls, auditoriums, arenas, barber shops, hair salons, laundromats, shopping malls, museums, art galleries, sports and fitness facilities, planetariums, historical sites, **cocktail lounges**, and common areas of resorts, hotels, and motels, including the lobbies, hallways, elevators, restaurants, restrooms, and cafeterias.

- 3 New Section; Employees Working in Smoking Permitted Areas. Amend RSA 155 by inserting after section 72 the following new section:
- 155:72-a Employees Working in Smoking Permitted Areas. No employee shall be required, in the performance of ordinary work responsibilities, to enter any area in which smoking is permitted.
- 4 Repeal. The following are repealed:
- I. RSA 155:67, VIII, relative to an exemption for certain restaurants.
 - II. RSA 155:67, IX, relative to an exemption for cocktail lounges.
- 5 Effective Date. This act shall take effect January 1, 2007.

AMENDED ANALYSIS

This bill requires effectively segregated smoking areas in restaurants with seating for fewer than 50 people and in cocktail

lounges. This bill clarifies the definition of “effectively segregated” for the purposes of the indoor smoking act. This bill also provides that no employee shall be required to enter any area in which smoking is permitted.

2006-1061h

Amendment to HB 1189

Proposed by the Committee on Finance - R

Amend RSA 14:31, III as inserted by section 1 of the bill by replacing it with the following:

III. Both the audit division and the budget division shall conduct such investigations, analyses, or research into the financial activities and condition or the financial management procedures, or any specific area thereof, of any department, board, institution, commission, ~~or~~ agency, **political subdivision, or entity authorized to expend state funds** for the information of the legislature, as the fiscal committee shall specifically direct. **The authority of the legislative budget assistant to investigate, analyze, or research non-state agencies shall be limited to 5 entities in a 5-year period.** In making any such investigation, analysis, or research, the legislative budget assistant shall have the power to examine whatever accounts or records of, or property or things of value held by, said department, board, institution, commission, ~~or~~ agency, **political subdivision, or entity authorized to expend state funds** the fiscal committee shall deem useful to said investigation, analysis, or research.

Amend RSA 14:31-a, I(a) as inserted by section 2 of the bill by replacing it with the following:

(a) Conduct post-audits of the accounts and records of any state department, board, institution, commission, ~~or~~ agency, **or political subdivision, or other entity authorized to expend state funds. The authority of the legislative budget assistant to conduct post-audits on non-state agencies shall be limited to 5 entities in a 5-year period.** The legislative budget assistant may cooperate with federal officials and agencies in conducting said post-audits.

Amend RSA 124:19 as inserted by section 3 of the bill by replacing it with the following:

124:19 Legislative Budget Assistant to Audit. The legislative budget assistant may enter into agreements or contracts with the federal government or its agencies for the purpose of conducting financial and compliance audits of programs funded in whole or in part by the federal government and carried out by agencies of the state **or entities expending state or federal funds. The authority of the legislative budget assistant to conduct or contract for audits on non-state agencies shall be limited to 5 entities in a 5-year period.** The legislative budget assistant may conduct said audits ~~himself~~ or may contract with another auditor who shall conduct said audit under the direction and authority of the legislative budget assistant. All costs of such audits, direct or indirect, shall be a charge against the separate account maintained by the commissioner of administrative services of the funds set aside for the purpose, and the same are hereby continually appropriated.

Amend section 4 of the bill by replacing it with the following:

4 Effective Date. This act shall take effect July 1, 2007.

2006-1254h

Amendment to HB 1311-FN-A

Proposed by the Committee on Ways and Means - R

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

AN ACT relative to the electronic filing of reports and applications with the secretary of state.

Amend the bill by deleting sections 2-5 and renumbering the original section 6 to read as 2.

AMENDED ANALYSIS

This bill authorizes the secretary of state to implement an electronic filing system for certain reports and applications that are filed with the office of the secretary of state.

2006-0904h

Amendment to HB 1314

Proposed by the Minority of the Committee on Education - R

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

AN ACT relative to an adult roles and responsibilities guidelines.

Amend RSA 189:10-a as inserted by section 1 of the bill by replacing it with the following:

189:10-a Adult Roles and Responsibilities.

I. Within 6 months of the effective date of this act, the state board of education shall establish model adult roles and responsibilities guidelines for grades 6-12 and shall distribute such model guidelines to each school district in the state. The model guidelines shall include, for grades 6-8, material on interpersonal relationships, human growth and development, personal financial literacy, career exploration, and foods and nutrition, and for grades 9-12, material on interpersonal relationships, communication and conflict resolution, parenting, marriage, family issues, and consumer and resource management.

II. The school board of every school district shall, within 6 months of receiving the model guidelines from the state board of education, review and consider the model guidelines. A school board may adopt the model guidelines, and any changes that the school board determines are necessary to meet local needs, and shall forward a copy of any adopted adult roles and responsibilities guidelines to the state board of education.

AMENDED ANALYSIS

This bill requires the state board to establish a model adult roles and responsibilities guidelines to be distributed to school districts. The bill also requires that school districts review the guidelines, allows school districts to determine whether to adopt such guidelines.

2006-1336h

Amendment to HB 1331

Proposed by the Committee on Finance - C

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

□ New Hampshire Employment Program and Family Assistance Program; Statement of Purpose. Amend RSA 167:77 to read as follows:

167:77 Statement of Purpose.

I. The purpose of this subdivision is to reform welfare through the vehicle made available by the federal government~~[- whether through block grants or by a federal waiver. If a waiver is necessary, it is the intent of the general court that the commissioner of the department of health and human services request such a waiver so that this subdivision may be implemented].~~ To the extent permitted by federal law, it is the intent of the general court to ~~[replace the aid to families with dependent children program with]~~ **operate the Temporary Assistance to Needy Families (TANF) program through 2 subprograms:**

(a) The New Hampshire employment program which shall provide financial assistance for families with dependent children when the children are cared for by a parent or relative who is receiving assistance and is considered to be able-bodied for employment.

(b) The family assistance program which shall provide financial assistance for families with dependent children when the parent or other relative is considered unable to work due to a physical or mental disability or the children are cared for by a relative other than a parent who is not receiving assistance.

II. ~~[Such replacement establishes]~~ The New Hampshire employment program and the family assistance program ~~[as the]~~ **are** cash assistance programs upon which Medicaid and Food Stamps are automatically granted in the same relationship ~~[as under the AFDC program].~~

III. ~~[A waiver or a block grant may be phased in, at the discretion of the commissioner. If there is a phasing in then the existing AFDC/JOBS program may be maintained in all or part of the state at the discretion of the commissioner. To the extent that some portions of the state are covered by the AFDC/JOBS program, the statutes and rules governing that program shall apply and be in effect.]~~ Notwithstanding any other laws to the contrary, the New Hampshire employment program and family assistance program shall be covered by this subdivision and the rules adopted under the authority of this section. All statutory provisions within RSA 161 and 167 which are not inconsistent with the provisions of this subdivision shall remain in full force and effect and shall apply to the New Hampshire employment program and the family assistance program.

IV. The New Hampshire employment program shall promote economic independence and help maintain and strengthen family life by enabling able-bodied persons with dependent children to assume responsibility for their families through the dignity of work. Work shall be promoted by:

(a) Offering employment services, support services, and transitional financial assistance with the expectation that participants move quickly towards employment.

(b) Developing long-term employment skills that lead to self-sufficiency.

(c) Recognizing the equal responsibility of both parents to provide economic support for their children.

V. The goals of the New Hampshire employment program shall be to:

(a) Eliminate or reduce the harmful effects of poverty on families and children by fostering employment and opportunity as a means to economic independence.

(b) Assist participants to gain employment as rapidly as possible, given due consideration to individual circumstances, labor market conditions, the needs of the dependent children for continuing care and protection, and the ultimate goal of long-term economic independence.

(c) Eliminate the stigma of welfare by promoting a philosophy and perception that the purpose of welfare is to eliminate or reduce the harmful effects of poverty on families and children by promoting work opportunities for all New Hampshire residents.

(d) Support and coordinate with activities that promote self-sufficiency and strengthen family life.

(e) Provide a comprehensive support service package that includes: medical assistance, food stamps, child care, transportation, child support, and other support services necessary to promote economic independence.

(f) Promote successful transition from public assistance through the provision of job readiness activities, training, and education activities concurrently with employment or seeking employment, family support skills, and follow-up services for problem resolution and job advancement.

(g) Develop partnerships with employers to create job opportunities and meet the needs of both employers and participants.

(h) Provide a program where it is more advantageous to work than not to work by rewarding self-sufficiency.

(i) Implement a program that is clear, focused, and simple to administer.

VI. The goals of the family assistance program shall be to:

(a) Eliminate or reduce the harmful effects of poverty on families and children by providing financial assistance and medical assistance only to families with children in a manner compatible with decency and health.

(b) Promote employment opportunities ~~[on a voluntary basis]~~.

2] Definition of Employment-Related Activities. RSA 167:78, IX is repealed and reenacted to read as follows:

IX. "Employment-related activities" mean activities that meet the federally defined work activities in The Personal Responsibility and Work Opportunity Reconciliation Act, Public Law 104-193, Section 407(d) of the Social Security Act, as amended by the Deficit Reduction Act of 2005, and further defined in rules adopted pursuant to RSA 541-A.

3] Employment Program; Eligibility. Amend RSA 167:79, II to read as follows:

II. The following persons shall be included in the assistance group, unless such person receives state supplemental assistance or supplemental security benefits under Title XVI of the Social Security Act, foster care or adoption assistance, if living in the same household or temporarily absent from the household: any dependent child and all minor blood-related, step, or adoptive brothers and sisters, and all natural, step, or adoptive parents of such children, **including cohabitating adults who share a minor child**. In the case of a minor parent, the assistance unit may also include all natural, step, or adoptive parents of the minor parent and all minor blood-related, step or adoptive brothers and sisters. If the parents are not residing together a child shall be considered residing with the parent who has physical custody of the child the majority of the time.

4] Employment Program; Requirement to Prevent Reduction in Benefits. Amend RSA 167:79, VI (c) to read as follows:

(c) A parent/caretaker relative and case members shall cooperate with ~~[all employment-related activities of]~~ **required appointments for entry into** the employment program.

5] Employment Program Characteristics. Amend RSA 167:82 to read as follows:

167:82 Employment Program Characteristics.

I. The program shall provide financial assistance to assistance groups who meet and comply with all the eligibility **and employment program participation** requirements under RSA 167:79, 167:80, and 167:81.

II. The following persons shall be temporarily deferred from the participation ~~[requirements in RSA 167:85, 167:90, and 167:91]~~ **in employment-related activities:**

(a) Dependent children under the age of 16.

(b) Dependent children age 16 or older who are full-time students in an elementary, secondary, vocational/technical school, or the equivalent.

(c) ~~[One]~~ A parent or caretaker relative ~~[per assistance group]~~ who is personally providing care for a child under the deferral age established by the department by rules adopted pursuant to RSA 541-A.

(d) A parent or caretaker relative who is 60 years of age or older.

(e) A pregnant woman as defined by the department by rules adopted pursuant to RSA 541-A.

(f) A person who is employed full-time as defined by the department by rules adopted pursuant to RSA 541-A.

(g) A person who is temporarily unable to participate in program requirements due to illness or incapacity as certified by a licensed physician or board certified psychologist. The physician or psychologist shall certify, on a form provided by the department, the duration and limitations of the disability.

(h) A parent or caretaker relative required to be in the home to care for another relative or assistance group member who resides in the same household due to that member's illness, or incapacity or disability; and there are no other household members to provide the care; and required care is considered necessary by a licensed physician or board certified psychologist. The physician or psychologist shall certify, on a form provided by the department, the duration that care is required.

(i) A person with significant employment-related barriers, as determined by the department by rules adopted pursuant to RSA 541-A, that prevent the person from accepting immediate employment.

(j) Any other person as determined by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

III. Financial assistance for an assistance group shall be reduced if a parent or caretaker relative of the assistance group:

(a) Fails to assign child support rights to the department.

(b) Fails to cooperate with child support requirements without good cause. A parent or caretaker relative shall have good cause for noncooperation with child support requirements when efforts to establish paternity or secure support are against the best interests of the child or parent or caretaker relative or when efforts to establish paternity or secure support can reasonably be anticipated to result in physical or emotional harm to the child or parent or caretaker relative. A parent or caretaker relative shall also have good cause for noncooperation with child support requirements when at least one of the following conditions exists:

(1) The child for whom support is sought was conceived as a result of incest or forcible rape;

(2) Proceedings for adoption of the child are pending in a court; or

(3) A social service agency is helping the parent or caretaker relative decide whether to relinquish the child for adoption, and the discussions have not occurred for more than 3 months.

(c) Voluntarily quits a job consisting of at least 20 hours of work per week without good cause 60 days or less prior to the date of application for financial assistance, and such parent or caretaker relative has not become reemployed at a level consisting of at least 20 hours of work per week. Good cause for leaving employment shall include any of the following:

(1) Discrimination by an employer based on age, race, sex, color, physical or mental disability, religious belief, national origin, or political beliefs;

(2) Work demands or conditions that render continued employment unreasonable, including but not limited to, employment in which the degree of risk to health or safety is unreasonable or employment yielding weekly earnings of less than the state or federal hourly minimum wage;

(3) Resignation by a person under the age of 60 which is recognized by the employer as retirement;

(4) Employment which becomes or is revealed to be unsuitable following acceptance of such employment, including, but not limited to, employment which the parent or caretaker relative is physically or mentally unfit to perform, or employment in which the distance from the parent or caretaker relative's home to the place of employment is unreasonable considering the wage and the time and cost of commuting;

(5) Acceptance by the parent or caretaker relative of **new** employment~~[-or enrollment of at least half-time in any recognized school, training program or institution of higher education,]~~ that requires the parent or caretaker relative to leave **current** employment;

(6) Leaving a job in order to accept a bona-fide job offer which job offer, because of subsequent circumstances beyond the control of the applicant, is withdrawn or results in employment of fewer than 20 hours per week or weekly earnings of less than the state or federal hourly minimum wage;

(7) Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another, such as migrant farm labor or construction work, even though employment at the new site has not actually begun;

(8) Leaving a job because of circumstances beyond the control of the parent or caretaker relative which render continued employment impracticable, including but not limited to, lack of transportation or child care, or illness, incapacity or disability of the parent or caretaker relative, or illness, incapacity or disability of another household member serious enough to require the presence in the home of the parent or caretaker relative, net loss of cash income, required court appearance, or mandated appointments; or

(9) Other good cause.

(d) Voluntarily quits or refuses a job without good cause as defined in RSA 167:82, III(c) while receiving financial assistance. A parent or caretaker relative shall be considered to have voluntarily quit a job while receiving financial assistance if such person fails to report for work without good cause as defined in RSA 167:82, III(c), resulting in the termination of the parent or caretaker relative's employment while receiving assistance. A parent or caretaker relative who is fired or resigns from a job at the request of the employer due to such person's inability to maintain the employer's normal work productivity standard shall not be considered to have voluntarily quit the job.

(e) Fails to comply without good cause with ongoing participation requirements in RSA 167:85, 167:88, 167:90, or 167:91. Good cause shall exist when circumstances are beyond the participant's control, including, but not limited to, lack of transportation or child care, or illness, incapacity or disability of the participant, or illness, incapacity or disability of another household member serious enough to require the presence in the home of the participant, net loss of cash income, required court appearance, mandated appointments, or unreasonable risk to the health or safety of any household member.

(f) Fails to comply with other eligibility requirements as determined by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

IV. Financial assistance for an assistance group shall be reduced if a non-deferred dependent child of the assistance group:

(a) Fails to comply without good cause with ongoing participation requirements as required by RSA 167:85, 167:88, 167:90, or 167:91. Good cause shall exist when circumstances are beyond the participant's control, including, but not limited to, lack of transportation or child care, or illness, incapacity or disability of the participant, or illness, incapacity or disability of another household member serious enough to require the presence in the home of the participant, net loss of cash income, required court appearance, mandated appointments, or unreasonable risk to the health or safety of any household member.

(b) Failure to comply with other eligibility requirements as determined by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

V. The department shall establish reduction rates, and the duration of the reduction for reductions under RSA 167:79, VI, 167:82, III, and 167:82, IV by rules adopted pursuant to RSA 541-A. The initial reduction rate imposed on any household shall be determined by disregarding the needs of the participant who is out of compliance, but not the needs of the dependent children. If the participant remains out of compliance at the end of the initial reduction period, then a greater reduction may be imposed which partially disregards the needs of the dependent children. No reduction shall be imposed on a household unless

the participant who is out of compliance has received prior written notice of the reason for the reduction of assistance and the specific actions which must be taken in order to reinstate full assistance. No reduction shall be imposed which disregards the needs of the children when the parent or caretaker relative who is out of compliance lacks the means necessary to immediately come into compliance.

VI. Participants shall be eligible for medical assistance as categorically needy provided they receive financial assistance under this subdivision, or are otherwise eligible to receive such assistance but do not. An assistance group that becomes ineligible due to new or increased earnings shall remain eligible for medical assistance for 12 months from when the assistance group became ineligible *pursuant to rules adopted under RSA 541-A*.

VII.(a) Financial assistance payments shall be based on the characteristics of the assistance group under this section and the standard of need and payment standard as authorized in RSA 167:7, II. The financial assistance grant is the difference between the assistance group's net income and the payment standard. The financial assistance payments may be contingent on the performance of program activities and may be made after the performance of such program activities. The following disregards and deductions shall be allowed in determining net income:

- (1) An applicant earned income disregard.
- (2) A participant earned income disregard.
- (3) A deduction for all amounts actually paid by the assistance group for court-ordered payments.
- (4) A deduction for amounts actually paid for child care expenses not to exceed the applicable rate as determined

by the department by rules adopted pursuant to RSA 541-A.

(5) [Repealed.]

(6) Any other disregard or deduction established by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

(b) The department may establish the amount of the earned income disregard or any other disregard or deduction by rules adopted pursuant to RSA 541-A.

VIII. When the department has made a final determination that a parent or caretaker relative, without good cause, has failed to comply with employment program work requirements under RSA 167:85, and assistance to the household has been reduced *or closed* pursuant to RSA 167:82, III(c)-(e) or IV(a), the amount of reduction shall be a qualified state assistance reduction. The reduction *or closure* shall remain a qualified state assistance reduction for so long as the parent or caretaker relative is a New Hampshire employment program recipient and maintains the present ability to cure the reduction by complying with employment program work requirements. The department shall provide advance notice to the parent or caretaker relative of the amount and effective date of the qualified state assistance reduction *or closure* and that a city or town may consider the amount as deemed income for purposes of calculating eligibility for and the amount of general assistance. Upon request, the department, in a timely manner, shall make available to the welfare administrator of any city or town information as to the existence and amount of any qualified state assistance reduction *or closure amount* that has been imposed on any person applying for assistance from that municipality.

6 Infringement on Rights of Other Employees Prohibited. Amend RSA 167:82-a, I to read as follows:

I. The employment program shall not ~~[use participants]~~ *permit individuals to participate in the employment program* in any way contrary to federal law under section 407(f) of the Social Security Act.

7 Rulemaking; Notice Requirements. Amend RSA 167:83, II(b) to read as follows:

(b) Notification of case decisions which affect the *type or* amount of benefits, ~~[or]~~ *the* level of eligibility ~~[to participants]~~, or changes in participation requirements.

8 Rulemaking. Amend RSA 167:83, II(o) to read as follows:

(o) *Operation of the employment program and employment-related activities as required by The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, and the Deficit Reduction Act of 2005.*

(p) Any other matters necessary to implement the program in a manner that promotes the purpose and goals of this subdivision.

9 Right to Notice of Type and Amount of Benefits. Amend RSA 167:83, III(c) to read as follows:

(c) To be notified of the decision relative to eligibility, and *benefit amounts and* of any changes which affect the benefit amount, the level of eligibility, or changes in participation requirements.

10 Family Assistance Program. Amend RSA 167:84, I and II to read as follows:

I. The family assistance program shall provide financial assistance for dependent children who:

~~[(a) Are deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity, or the unemployment or underemployment of a parent; and~~

~~[(b) Reside with either their nonable-bodied specified relative or a caretaker relative who is not included in the assistance group. Financial assistance shall be provided to the parents of the dependent child. Financial assistance may be provided to the nonable-bodied caretaker relative.]~~

(a) Are cared for by a caretaker relative who is not included in the assistance group.

(b) Are cared for by a specified relative and does not meet the definition of RSA 167:78, I.

(c) Are cared for by caretaker relative who is included in the case and does not meet the definition of RSA 167:78, I.

II. An applicant shall meet all eligibility requirements under RSA 167:79, II, III, IV, V, VI(a), 167:80 and 167:81 to be eligible for financial assistance under this section, and shall be subject to applicable sanctions **or case closures** under RSA 167:82, III(a), III(b), and III(f).

¶ Specialized Employment-Related Activities. Amend the section heading and introductory paragraph of RSA 167:91 and RSA 167:91, I-VI to read as follows:

167:91 Specialized [~~Services~~] **Employment-Related Activities**. The following describes [~~the employment program specialized services~~] **certain specialized employment-related activities** and associated participant requirements:

I. Each participant less than [~~24~~] **20** years of age, who is not enrolled in school and who does not have a general education diploma (GED) or a high school diploma (HSD) shall:

(a) Actively pursue an education designed to prepare such person to qualify for a high school equivalency diploma; or

(b) Enroll in school to pursue a high school diploma.

II. Each participant required to pursue an education under paragraph I and who is unable to obtain a GED or HSD in a specified period of time may be offered services to enhance basic literacy and work skills.

III. A participant shall be permitted to volunteer to participate under paragraphs I and II as funding and resources permit.

IV. The commissioner may offer English as a Second Language services.

V. A participant shall be exempt from the requirements of paragraphs I and II if:

(a) The participant is unable to successfully complete educational activities and is willing and able to participate in job search activities; or

(b) The participant's involvement in educational activities is inappropriate, based on assessment and the employment goals established in the employment contract, and such goals do not require a high school diploma or equivalent.

VI. The commissioner may provide on-the-job training. A participant shall make satisfactory progress in the employment placement to continue to qualify as an employment-related activity under the employment program **and be an approved activity under The Personal Responsibility and Work Opportunity Reconciliation Act, as amended by the Deficit Reduction Act of 2005.**

12 Repeal. The following are repealed:

I. RSA 167:78, XXVI, relative to benefits program.

II. RSA 167:85, II(a), (b), and (c), relative to job search requirements in the calculation of certain employment-related activity.

13 Legislative Oversight. The oversight committee established by RSA 126-A:13 shall monitor changes to the state TANF program made pursuant to this act and shall provide informational meetings on such changes to the general court.

14 Effective Date. This act shall take effect June 30, 2007.

2006-1310h

Floor Amendment to HB 1354

Proposed by Reps. Tholl, Welch and Bicknell

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

AN ACT relative to immunity from criminal prosecution and civil action for justified use of force in defense of a person.

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

¶ New Paragraph; Physical Force in Defense of a Person; Immunity. Amend RSA 627:4 by inserting after paragraph III the following new paragraph:

IV.(a) A person who is justified in the use of force as described in this section shall be immune from criminal prosecution and civil action for the use of such force, unless the person against whom force was used is a law enforcement officer who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer. As used in this paragraph, the term "criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant.

(b) A law enforcement agency shall use standard procedures for investigating the use of force but the agency shall not arrest the person for using force unless it determines that there is probable cause that the force used was unlawful.

(c) The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution.

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

AMENDED ANALYSIS

This bill provides that a person justified in the use of force in defense of a person shall not be subject to criminal prosecution

or civil action.
2006-0639h

**Amendment to HB 1459-FN-A
Proposed by the Committee on Finance - R**

Amend the bill by replacing section 1 with the following:

□ Department of Regional Community-Technical Colleges; Appropriation. The sum of \$1,200,000 for the fiscal year ending June 30, 2007 is hereby appropriated to the department of regional community-technical colleges to enable the regional community-technical college board of trustees to maintain tuition at its present level for the 2006-2007 academic year. Funds may come from any regional community-technical college savings or surplus or the governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

2006-1194h

**Amendment to HB 1464-FN-A-LOCAL
Proposed by the Committee on Finance - R**

Amend RSA 141-C:24 as inserted by section 1 of the bill by replacing it with the following:

141-C:24 Mosquito Control Fund.

I. There is hereby established a nonlapsing and continually appropriated mosquito control fund to assist cities and towns by providing funding for the purpose of offsetting the cost of mosquito control activities including, but not limited to, the purchase and application of chemical pesticides. The purpose of the fund is to provide financial assistance, when needed, to cities and towns engaging in mosquito control and abatement activities in response to a declared threat to the public health. Any balance remaining in the mosquito control fund at the close of the fiscal year ending June 30, 2009 shall lapse to the general fund.

II. In order to be eligible to receive funding, a city or town shall have in place a comprehensive mosquito control plan approved by the commissioner. This plan shall include at a minimum:

(a) A list of the pesticides (active ingredient) and methods by which these pesticides will be applied to ensure that the application is done in a safe and proper manner.

(b) Safeguards that will be taken to protect the health of the public, wildlife, and resources within the state including provisions for the measuring and monitoring of residual pesticides in the water and soil.

(c) A comprehensive public awareness campaign geared toward prevention and designed to educate the public about the health risks associated with mosquitoes.

(d) Appropriate abatement measures.

III.(a) The commissioner, in consultation with the Centers for Disease Control and Prevention, and with the concurrence of the governor, may determine that a threat to the public health exists that warrants expedited mosquito control and abatement activities within a city or town. Such determination shall be based on local factors which may include:

(1) Historical and current climatic conditions.

(2) Historical and current mosquito population indices.

(3) Historical and current mosquito, veterinary, and human arboviral disease surveillance.

(b) An expedited approval process shall be established for the implementation of mosquito control and abatement activities, including the application of pesticides. The commissioner of the department of agriculture, markets, and food may authorize expedited mosquito control and abatement activities pursuant to this paragraph.

IV. A city or town shall be eligible to receive funds if the commissioner determines that:

(a) The city or town has a comprehensive mosquito control plan approved by the commissioner in accordance with paragraph II;

(b) The city or town has engaged or plans to engage in mosquito control and abatement activities pursuant to paragraph III;

(c) The commissioner, after consultation with the Centers for Disease Control and Prevention, has determined that mosquito control and abatement activities are appropriate to mitigate the public health threat; and

(d) A threat to public health has been determined in accordance with paragraph III.

V. A city or town's receipt of funds, as well as the amount of funding, shall be at the discretion of the commissioner. In exercising his or her discretion, the commissioner shall consider the following criteria:

(a) The nature and degree of the declared threat to the public health.

(b) The nature and degree of the city or town's mosquito control and abatement activities in response to the declared threat to the public health.

(c) The city or town shall show cause why funding assistance from the mosquito control fund is necessary.

(d) Funding from the mosquito control fund shall not exceed 25 percent of the cost of mosquito adulticide activities pursuant to the declared threat to the public health.

(e) Funding is available.

Amend the bill by replacing section 3 with the following:

3 Appropriation. There is hereby appropriated the sum of \$218,625 to the department of health and human services for the biennium ending June 30, 2007, for the purposes of this act. Of this amount, \$158,625 shall be used for the purpose of funding the mosquito control fund established by section 1 of this act and \$60,000 shall be used by the department for purposes of funding mosquito surveillance activities. This appropriation shall be reduced by the amount of any federal funds received by the department for these purposes. This appropriation shall be in addition to any other funds appropriated to the department of health and human services for these purposes. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill establishes a mosquito control fund in the department of health and human services to assist cities and towns by providing funding to offset mosquito control activities. The commissioner of the department of health and human services is granted rulemaking authority for the purposes of the bill. The bill also makes an appropriation to the department for the purposes of funding the mosquito control fund and mosquito surveillance.
2006-1127h

Amendment to HB 1495

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

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

1 Rural River Protection; Landfill Setback. Amend RSA 483:9-a, VII to read as follows:

VII. Any new solid waste storage or treatment facility, as defined in RSA 149-M:4, IX shall be set back a minimum of 250 feet from the normal high water mark of a designated rural river or segment and screened with a vegetative or other natural barrier to minimize visual impact, except:
(a) New solid waste landfills shall not be permitted ~~[within the 500 year floodplain of a designated rural river or segment and any new solid waste landfill located within the corridor of a designated rural river or segment shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and screened from the river with a vegetative or other natural barrier to minimize visual impact]~~ ***within the corridor of a designated rural river or segment. The provisions of this subparagraph shall not apply to new solid waste landfills with permit applications filed with the department and deemed complete by July 1, 2006;***

(b) ***Existing, permitted, and secure solid waste landfills shall not be expanded within the 500 year floodplain of a designated rural river or segment and any expansion of such a landfill located within the corridor of a designated rural river or segment shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and screened from the river with a vegetative or other natural barrier to minimize visual impact;***

(c) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXII, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes;

~~[(e)](d)~~ (d) An existing solid waste facility which is located within 250 feet of the normal high water mark of a designated rural river or segment may continue to operate under an existing permit provided it does not cause degradation to an area in excess of that area under permit at the time of designation; and

~~[(d)](e)~~ (e) The department may permit a resource recovery operation at an existing landfill located within 250 feet of the normal high water mark of a designated rural river or segment.

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

AMENDED ANALYSIS

This bill increases the setback requirements for landfills located near rivers.
2006-1397h

Floor Amendment to HB 1495

Proposed by Reps. Dickinson and Spang

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

1 Natural Rivers Protection. Amend RSA 483:9, VI(a) and (b) to read as follows:

(a) New solid waste landfills shall not be permitted within the corridor of a designated natural river or segment, ***or less than 100 feet from the landward extent of the 500 year flood plain, whichever distance is greater, and shall be screened from the river with a vegetative or other natural barrier to minimize visual impact;***

(b) Existing, permitted and secure solid waste landfills shall not be expanded within the 500 year floodplain of a designated natural river or segment and any expansion of such a landfill located within the corridor of a designated natural river or segment shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and screened from the river with a vegetative or other natural barrier to minimize visual impact. ***The provisions of this paragraph shall not apply to landfill expansions associated with landfill closures or other remedial projects;***

2 Rural River Protection; Landfill Setback. Amend RSA 483:9-a, VII to read as follows:

VII. Any new solid waste storage or treatment facility, as defined in RSA 149-M:4, IX shall be set back a minimum of 250 feet from the normal high water mark of a designated rural river or segment and screened with a vegetative or other

natural barrier to minimize visual impact, except:

(a) New solid waste landfills shall not be permitted within ~~[the 500 year floodplain of a designated rural river or segment and any new solid waste landfill located within]~~ the corridor of a designated rural river or segment ~~[shall be set back a minimum of]~~ **or less than** 100 feet from the landward extent of the 500 year floodplain **whichever distance is greater** and screened from the river with a vegetative or other natural barrier to minimize visual impact. **The provisions of this paragraph shall not apply to landfill expansions associated with landfill closures or other remedial projects;**

(b) No solid waste landfill proposed to be located within the corridor of a designated rural river or segment with a permit application that has been filed with the department by July 2, 2006, whether or not the application is deemed complete, shall be permitted within the 500 year floodplain, and if located in the corridor shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and screened from the river with a vegetative or other natural barrier to minimize visual impact.

(c) Existing, permitted, and secure solid waste landfills shall not be expanded within the 500 year flood plain of a designated rural river or segment, and any expansion of such a landfill shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and shall be screened from the river with a vegetative or other natural barrier to minimize visual impact. The provisions of this paragraph shall not apply to landfill expansions associated with landfill closures or other remedial projects;

~~(b)~~(d) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXII, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes;

~~(c)~~(e) An existing solid waste facility which is located within 250 feet of the normal high water mark of a designated rural river or segment may continue to operate under an existing permit provided it does not cause degradation to an area in excess of that area under permit at the time of designation; and

~~(d)~~(f) The department may permit a resource recovery operation at an existing landfill located within 250 feet of the normal high water mark of a designated rural river or segment.

3 Effective Date. This act shall take effect upon passage.

AMENDED ANALYSIS

This bill increases the setback requirements for landfills located near rivers, making the natural rivers protection similar to the rural river protection language.

2006-1424h

Floor Amendment to HB 1495

Proposed by Rep. Tupper

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

1 Natural Rivers Protection. Amend RSA 483:9, VI(a) and (b) to read as follows:

(a) New solid waste landfills shall not be permitted within the corridor of a designated natural river or segment, **or less than 100 feet from the landward extent of the 500 year flood plain, whichever distance is greater, and shall be screened from the river with a vegetative or other natural barrier to minimize visual impact;**

(b) Existing, permitted and secure solid waste landfills shall not be expanded within the 500 year floodplain of a designated natural river or segment and any expansion of such a landfill located within the corridor of a designated natural river or segment shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and screened from the river with a vegetative or other natural barrier to minimize visual impact. **The provisions of this paragraph shall not apply to landfill expansions associated with landfill closures or other remedial projects;**

2 Rural River Protection; Landfill Setback. Amend RSA 483:9-a, VII to read as follows:

VII. Any new solid waste storage or treatment facility, as defined in RSA 149-M:4, IX shall be set back a minimum of 250 feet from the normal high water mark of a designated rural river or segment and screened with a vegetative or other natural barrier to minimize visual impact, except:

(a) New solid waste landfills shall not be permitted within ~~[the 500 year floodplain of a designated rural river or segment and any new solid waste landfill located within]~~ the corridor of a designated rural river or segment ~~[shall be set back a minimum of]~~ **or less than** 100 feet from the landward extent of the 500 year floodplain **whichever distance is greater** and screened from the river with a vegetative or other natural barrier to minimize visual impact. **The provisions of this paragraph shall not apply to landfill expansions associated with landfill closures or other remedial projects;**

(b) Existing, permitted, and secure solid waste landfills shall not be expanded within the 500 year flood plain of a designated rural river or segment, and any expansion of such a landfill shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and shall be screened from the river with a vegetative or other natural barrier to minimize visual impact. The provisions of this paragraph shall not apply to landfill expansions associated with landfill closures or other remedial projects;

~~(b)~~(c) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXII, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the

soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes;

~~[(e)]~~(d) An existing solid waste facility which is located within 250 feet of the normal high water mark of a designated rural river or segment may continue to operate under an existing permit provided it does not cause degradation to an area in excess of that area under permit at the time of designation; and

~~[(d)]~~(e) The department may permit a resource recovery operation at an existing landfill located within 250 feet of the normal high water mark of a designated rural river or segment.

3 Effective Date. This act shall take effect upon passage.

2006-1143h

Amendment to HB 1523

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

Amend the bill by deleting section 5 and renumbering the original sections 6-7 to read as 5-6, respectively.

2006-0768h

Amendment to HB 1558

Proposed by the Majority of the Committee on Municipal and County Government - R

Amend RSA 155:64, II as inserted by section 1 of the bill by replacing it with the following:

II. In addition to paragraph I, the purpose of this subdivision is to create minimum standards for the regulation of smoking. It is not the purpose of this subdivision to preempt cities and towns from exercising local control over the issue of smoking. Cities and towns may adopt regulations setting forth stricter standards than set forth in this subdivision.

2006-1085h

Amendment to HB 1567

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

Amend the bill by replacing section 1 with the following:

1 New Section; Periodic Maintenance and Verification of Checklists; Request to Correct the Checklist. Amend RSA 654 by inserting after section 36 the following new section:

654:36-a Request to Correct the Checklist.

I. A supervisor of the checklist, the town or city clerk, or any other person, may submit a request for correction of the checklist to the supervisors of the checklist or to the town or city clerk based upon a reasonable belief that a person listed on the checklist is not qualified as a voter in the town or ward. The clerk shall forward requests for correction of the checklist to the supervisors of the checklist. At the next session of the supervisors, they shall examine the requests and determine if a reasonable basis exists to doubt the person's qualifications.

II.(a) If a reasonable basis exists to doubt the person's qualifications and the next election will not occur for more than 30 days after the determination by the supervisors, the supervisors shall send a notice to the person and afford the person at least 30 days to provide proof of his or her qualifications. If the person fails to respond to the 30-day notice or responds but fails to provide proof that establishes that it is more likely than not that the person is qualified to vote in the town or ward, the person's name shall be removed from the checklist.

(b) If a reasonable basis exists to doubt the person's qualifications and the next election will occur sooner than 30 days after the determination by the supervisors, the supervisors shall enter a challenge to the person with the moderator, and if the person appears to vote on election day or submits an absentee ballot, the challenge shall be processed in the manner provided by law.

AMENDED ANALYSIS

This bill authorizes any person to request that a person be removed from the checklist based on a reasonable belief that the person is not qualified as a voter in the town or ward.

2006-1239h

Amendment to HB 1591-FN-A

Proposed by the Minority of the Committee on Finance - R

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

AN ACT making an appropriation to the tobacco use prevention fund.

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

1 Appropriation. The sum of \$1,000,000 is appropriated to the tobacco use prevention fund, established in RSA 126-K:15, for the biennium ending June 30, 2007. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

AMENDED ANALYSIS

This bill makes an appropriation to the tobacco use prevention fund.

2006-1214h

Amendment to HB 1608-FN-A

Proposed by the Committee on Finance – R

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

AN ACT making appropriations to reimburse certain health and human services providers for the increased cost of utilities, heating, and mileage.

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

1 Appropriation. The sum of \$2,413,575 is hereby appropriated to the department of health and human services for the biennium ending June 30, 2007, for the purpose of providing a one-time one percent increase in rates paid to certain providers in fiscal year 2006 to offset the increased cost of utilities, heating, and mileage. The commissioner of the department of health and human services shall provide the increase to the providers upon the effective date of this act. The sums appropriated in this section represent the state general fund share of such costs, and the department shall obtain matching funds from federal and other non-state sources where appropriate to ensure that the full cost of the one percent increase is sufficiently funded. The appropriation contained in this section shall be distributed as follows:

Office of Medicaid and Business Policy

<u>PAU</u>	<u>Description</u>	<u>Appropriation</u>
05-01-02-01-04	Medical Transportation	\$6,050

Division of Public Health Services

<u>PAU</u>	<u>Description</u>	<u>Appropriation</u>
05-01-05-01-01	Governor’s Commission	\$23,000
05-01-05-01-01	Smart Moves Program	\$1,000
05-01-05-03-01	Community Programs	\$17,940
05-01-05-03-03	Contracts	\$1,004
05-01-05-03-04	Technical Assistance	\$1,200
05-01-05-03-04	Primary Care	\$1,500
05-01-05-03-06	State STD Clinical Services	\$3,697
05-01-05-03-07	Comprehensive Health	\$21,000
05-01-05-03-07	Domestic Violence	\$921
05-01-05-03-07	Maternal & Child Services	\$11,585
05-01-05-03-18	Grants	\$2,222

Division for Children, Youth, and Families

<u>PAU</u>	<u>Description</u>	<u>Appropriation</u>
05-01-06-07-01	Residential Providers	\$151,118
05-01-06-07-01	Foster Care, Adoption, & Foster Homes	\$92,462
05-01-06-08-02	Child Care	\$257,134

Bureau of Elderly and Adult Services

<u>PAU</u>	<u>Description</u>	<u>Appropriation</u>
05-01-08-03-01	Home Delivered Meals & Transportation	\$21,062
05-01-08-03-02	Social Services Block Grant	\$23,265
05-01-08-03-05	Congregate Housing Contracts	\$6,980
05-01-08-03-06	Adult Residential Day Care	\$2,578
05-01-08-04-01	Nursing Services	\$466,439
05-01-08-04-01	Home Nursing Services	\$73,758
05-01-08-04-01	Other Nursing Homes	\$10,061
05-01-08-04-01	Mid Level Care	\$10,009

Bureau of Behavioral Health

<u>PAU</u>	<u>Description</u>	<u>Appropriation</u>
05-01-09-04-01	Community Mental Health Centers	\$412,078
05-01-09-04-08	Emergency Shelters	\$30,772

Bureau of Developmental Services

<u>PAU</u>	<u>Description</u>	<u>Appropriation</u>
05-01-10-01	Developmental Services	\$764,740

This appropriation is in addition to any other funds appropriated to the department of health and human services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

2 Rate Increase; Federal Funds. The department of health and human services shall provide a one-time one percent increase in rates paid to certain health and human services providers in fiscal year 2006 who do not receive the increase contained in section 1 of this act, but only to the extent the increase can be funded entirely from federal funds.

3 Additional Appropriation. The sum of \$150,000 is hereby appropriated to the department of health and human services for the biennium ending June 30, 2007 for the purpose of providing additional funds to certain health and human services

providers to offset the increased cost of utilities, heating, and mileage. The amounts appropriated in this section shall be distributed at the discretion of the commissioner, and may be distributed to providers who also receive the rate increase provided for in section 1 of this act. The commissioner shall seek to distribute these funds in a manner which will provide the highest level of relief to providers determined by the commissioner to be most affected by the increased cost of utilities, heating, and mileage. In determining the distribution of the funds, the commissioner shall be guided by the provider's percentage of increased energy costs as compared to the provider's total budget. The commissioner shall report to the fiscal committee of the general court within 30 days of the effective date of this act on the distribution of such funds. This appropriation is in addition to any other funds appropriated to the department of health and human services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

AMENDED ANALYSIS

The bill makes appropriations to the department of health and human services for the purposes of reimbursing certain health and human services providers for the increased cost of utilities, heating, and mileage.

2006-1230h

Amendment to HB 1626-FN-A Proposed by the Committee on Finance - R

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

AN ACT relative to appropriations for the expenses of certain departments of the state.

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

1 Appropriation; Office of Energy and Planning; Fuel Assistance Program. Amend 2005, 298:5, I to read as follows:

I. The sum of ~~[\$10,000,000]~~ **\$5,700,000** for the fiscal year ending June 30, 2006 is hereby appropriated to the office of energy and planning for the state's fuel assistance program. This appropriation is in addition to any other funds appropriated to the office of energy and planning. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

2 General Fund Appropriation Reductions; Administrative Services. Amend 2005, 176:10 to read as follows:

176:10 General Fund Appropriation Reductions. The department of administrative services shall reduce state general fund appropriations by \$500,000 for the fiscal year ending June 30, 2006~~[- and by \$500,000 for the fiscal year ending June 30, 2007].~~ The department shall provide a report of reductions made under this section to the fiscal committee of the general court, the house and senate finance committees, and the governor and council.

3 Supplemental Appropriation; Office of Cost Containment.

I. In addition to any other sums appropriated to PAU 01-04-01-04, the sums of \$17,687 for class 50 and \$1,353 for class 60 are hereby appropriated for the fiscal year ending June 30, 2006 to the department of administrative services, office of cost containment. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

II. In addition to any other sums appropriated to PAU 01-04-01-04, the sums of \$27,535 for class 50 and \$2,106 for class 60 are hereby appropriated for the fiscal year ending June 30, 2007 to the department of administrative services, office of cost containment. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

4 Supplemental Appropriation; Sheriff Custody Reimbursement. In addition to any other sums appropriated to PAU 01-04-07, class 93, the sums of \$64,745 for the fiscal year ending June 30, 2005, \$55,000 for the fiscal year ending June 30, 2006, and \$73,000 for the fiscal year ending June 30, 2007 are hereby appropriated to the department of administrative services for sheriff custody reimbursement. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

5 Supplemental Appropriation; Medicare Retiree Prescription Drug Subsidy Program. The sums of \$100,000 for the fiscal year ending June 30, 2006 and \$200,000 for the fiscal year ending June 30, 2007 are hereby appropriated to the department of administrative services for administrative costs related to the Medicare Retiree Prescription Drug Subsidy Program. These appropriations are in addition to any other funds appropriated to the department of administrative services. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

6 Supplemental Appropriation; Enterprise Resource Planning System. The sum of \$1,500,000 for the fiscal year ending June 30, 2006 is hereby appropriated to the department of administrative services for quality assurance evaluation, monitoring, and reporting related to the implementation of the Enterprise Resource Planning System. This appropriation is in addition to any other funds appropriated to the department of administrative services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated. Moneys appropriated by this section shall not lapse until June 30, 2008.

7 Supplemental Appropriation; Energy Expense Shortfalls. The sums of \$4,982,757 for the fiscal year ending June 30, 2006 and \$4,982,757 for the fiscal year ending June 30, 2007 are hereby appropriated to the department of administrative services for anticipated energy expense shortfalls in state-owned buildings during the respective fiscal years. These appropriations are in

addition to any other funds appropriated to the department of administrative services. In each fiscal year, the appropriation shall be a charge against the appropriate funds as follows:

General	Federal	Highway	Turnpike	Other
\$2,402,479	\$190,789	\$1,386,011	\$150,000	\$853,478

The governor is authorized to draw a warrant for said sums out of the appropriate funds.

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

AMENDED ANALYSIS

This bill modifies certain prior appropriations and makes additional appropriations for the expenses of certain departments of the state.

2006-0936h

Amendment to HB 1673-FN

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

Amend RSA 125-O:13 as inserted by section 1 of the bill by inserting after paragraph VIII the following new paragraph:

IX. The owner shall report by June 30, 2007 and annually thereafter, to the legislative oversight committee on electric utility restructuring, established under RSA 374-F:5, and the chairpersons of the house science, technology, and energy committee and the senate energy and economic development committee, on the progress and status of complying with the requirements of paragraphs I and III, relative to achieving early reductions in mercury emissions and also installing and operating the scrubber technology including any updated cost information. The last report required shall be after the department has made a determination, under paragraph V, on the maximum sustainable rate of mercury emissions reductions by the scrubber technology.

Amend RSA 125-O:18 as inserted by section 1 of the bill by replacing it with the following:

125-O:18 Cost Recovery. If the owner is a regulated utility, the owner shall be allowed to recover all prudent costs of complying with the requirements of this subdivision in a manner approved by the public utilities commission. During ownership and operation by the regulated utility, such costs shall be recovered via the utility's default service charge. In the event of divestiture of affected sources by the regulated utility, such divestiture and recovery of costs shall be governed by the provisions of RSA 369-B:3-a.

2006-1093h

Amendment to HB 1673-FN

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

Amend the bill by replacing section 1 with the following:

□ New Subdivision; Mercury Emissions. Amend RSA 125-O by inserting after section 10 the following new subdivision:
Mercury Emissions

125-O:11 Statement of Purpose and Findings.

I. The general court finds it is in the public interest to achieve significant reductions in mercury emissions at the coal-burning electric power plants in the state as soon as possible. The requirements of this subdivision will prevent, at a minimum, 90 percent of the aggregated mercury content of the coal burned at these plants from being emitted to the air by no later than the year 2010. To accomplish this objective, the best known commercially available technologies shall be installed at Merrimack Station in 2 phases as described in this subdivision, no later than July 1, 2010.

II. The department of environmental services has determined that the best known commercially available technologies include:

(a) A wet flue gas desulfurization system, hereafter "scrubber technology," which balances the procurement, installation, operation, and plant efficiency costs with the projected reductions in mercury and other pollutants from the flue gas streams of Merrimack Units 1 and 2. In part, this determination is based on the fact that this technology achieves significant emissions reduction co-benefits, including but not limited to, cost effective reductions in sulfur dioxide, sulfur trioxide, small particulate matter, and improved visibility (regional haze).

(b) Interim mercury controls, such as activated carbon injection and other technologies for the reduction of mercury which are currently undergoing commercial application and testing, hereafter "interim controls," which are likely to significantly reduce mercury emissions in the interim period before scrubber technology is installed.

III. After these control technologies are installed at Merrimack Station, and after a period of operation has reliably established a consistent level of mercury removal, the department through monitoring shall ensure that that level of mercury removal is sustained, consistent with the proven operational capability of the system at Merrimack Station.

IV. To ensure that an ongoing and steadfast effort is made to implement practicable technological or operational solutions to achieve significant mercury reductions prior to the construction and operation of the scrubber technology at Merrimack Station, the owner of the affected coal-burning sources shall work to bring about such early reductions as described in this subdivision, and shall be provided incentives to do so.

V. The general court finds that:

(a) The installation of these control technologies will not only reduce mercury emissions significantly but will do so

without jeopardizing electric reliability and with reasonable costs to consumers.

(b) The installation of these control technologies is in the public interest of the citizens of New Hampshire and the customers of the affected sources.

(c) Notwithstanding the provisions of RSA 125-O:1, V(b), the purchase of mercury credits or allowances to comply with the mercury reduction requirements of this subdivision or the sale of mercury credits or allowances earned under this subdivision is not in the public interest.

(d) The mercury reduction requirements set forth in this subdivision represent a careful, thoughtful balancing of cost, benefits, and technological feasibility and therefore the requirements shall be viewed as an integrated strategy of non-severable components.

125-O:12 Definitions. In this subdivision:

I. "Affected sources" means, notwithstanding RSA 125-O:2, I, existing coal-burning power plant units in this state, specifically Merrimack Units 1 and 2 in Bow, and Schiller Units 4, 5, and 6 in Portsmouth.

II. "Baseline mercury emissions" means the total annual mercury emissions from all of the affected sources, calculated in accordance with RSA 125-O:14, II.

III. "Baseline mercury input" means the total annual mercury input found in the coal used by all of the affected sources, calculated in accordance with RSA 125-O:14, I.

IV. "Owner" means the owner or owners of the affected sources.

V. "Scrubber technology" means a wet flue gas desulphurization system.

VI. "Interim controls" means mercury control technologies, such as activated carbon injection and other technologies for the reduction of mercury currently undergoing commercial application and testing, and that are determined by the owner and the department, with the input of stakeholders, to be the most cost effective interim control technologies for reducing mercury emissions prior to the installation of scrubber technology.

125-O:13 Compliance.-

I. The owner shall install and have operational scrubber technology to control mercury emissions at Merrimack Units 1 and 2 no later than July 1, 2010. The achievement of this requirement is contingent upon obtaining all necessary permits and approvals from federal, state, and local regulatory agencies and bodies; however, all such regulatory agencies and bodies should give due consideration to the general court's finding that the installation and operation of scrubber technology at Merrimack Station is in the public interest as declared in RSA 125-O:11, V(b). The owner shall make appropriate initial filings with the department and the public utilities commission, if applicable, within one year of the effective date of this section, and with any other applicable regulatory agency or body in a timely manner.

II. Total mercury emissions from the affected sources shall be at least 90 percent less on an annual basis than the baseline mercury input, as defined in RSA 125-O:12, III, beginning on July 1, 2010.

III. The owner shall undertake its best efforts to implement interim controls to achieve significant mercury reductions prior to the construction and operation of the scrubber technology at Merrimack Station. This shall include expenditures of no more than \$5,000,000 by July 1, 2007 to test and implement, as practicable, mercury reduction control technologies or methods to achieve early reductions in mercury emissions below the baseline mercury emissions. The owner shall report to the department the results of any testing and shall submit a plan for department approval, which shall be made available for public review and input, before commencing implementation.

IV. In the event that the net power output (as measured in megawatts) from Merrimack Station is reduced, due to the power consumption requirements or operational inefficiencies of the installed scrubber technology, then the owner may invest in capital improvements at Merrimack Station that increase its net capability, within the requirements and regulations of state and federal enforceable programs.

V. Mercury reductions achieved through the operation of the control technologies will be sustained insofar as the proven operational capability of the system, as installed, allows. The department, in consultation with the owner, shall determine the maximum sustainable rate of mercury emissions reductions and incorporate such rate as a condition of operational permits issued by the department for Merrimack Units 1 and 2. This requirement in no way affects the ability of the owner to earn over-compliance credits consistent with RSA 125-O:16, II.

VI. The purchase of mercury emissions allowances or credits from any established emissions allowance or credit program shall not be allowed for compliance with the mercury reduction requirements of this chapter.-

VII. If the requirement of paragraph II is not achieved in any given year after the July 1, 2010 implementation date, and after full operation of the scrubber technology, then the owner may utilize early emissions reduction credits or over-compliance credits, or both, to make up any shortfall, and thereby be in compliance.

VIII. If the requirement of paragraph II is not achieved by the owner in any year after the July 1, 2010 implementation date despite the owner's installation and full operation of scrubber technology, consistent with good operational practice, and the owner's exhaustion of any available early emissions reduction or over-compliance credits, then the owner shall be deemed in violation of this section unless it submits a plan to the department, within 30 days of such noncompliance, and subsequently obtains approval of that plan for achieving compliance within one year from the date of such noncompliance. The department

may impose conditions for approval of such plan.

125-O:14 Measurement of Baseline Mercury Input and Emissions.

I. Baseline mercury input shall be determined as follows:

(a) No later than the first day of the second month following the effective date of this section, and continuing for 12 months thereafter, a representative monthly sample of the coal used traditionally, not to include trial or test coal blends, by each affected source shall be collected from each of the units identified in subparagraph (b) and analyzed to determine the average mercury content of the fuel for each unit expressed in pounds of mercury input per ton of coal combusted at each affected source. The mercury content of the coal derived from these analyses for each affected source shall be multiplied by the average annual throughput of coal for the period 2003, 2004, and 2005 (average tons of coal combusted per year) for each respective affected source to yield the average pounds of mercury input per year into each affected source. The sum of these annual input pound averages from each affected source shall equal the baseline mercury input.

(b) Determination of the mercury content of the coal shall follow appropriate ASTM testing procedures (ASTM D3684-01). For purposes of baseline mercury input determination, coal sampling shall occur at Merrimack Unit 1 and Unit 2, and at either Schiller Unit 4 or Unit 6 which shall serve to represent all Schiller units. At least 4 of the samples taken from each of these units shall correspond with the stack testing done at each of these units under paragraph II.

II. Baseline mercury emissions shall be determined as follows:

(a) A minimum of 4 stack tests shall be conducted at each of the units specified in subparagraph (b) using appropriate testing protocols, to determine a statistically valid average mercury emissions rate for each unit expressed in pounds of mercury emitted per ton of coal combusted at each affected source. The rate for each affected source shall be multiplied by the average annual throughput of coal for the period 2003, 2004, and 2005 (average tons of coal combusted per year) for each respective affected source to yield the average pounds of mercury emitted per year from each affected source. The sum of these annual emitted pound averages from each affected source shall equal the baseline mercury emissions.

(b) For purposes of the baseline mercury emissions determination, stack tests shall be conducted at Merrimack Unit 1 and Unit 2, and at either Schiller Unit 4 or Unit 6 which shall serve to represent all Schiller units. In the event that mercury emissions improvements are made or are being made during the testing period, the stack tests shall be conducted without the improvements running at the time of the tests.

III. The owner shall provide to the department for its approval the owner's plans to accomplish the testing requirements under paragraphs I and II. The owner shall provide written reports to the department, for verification and approval, that include the test results and calculations used to determine:

(a) The baseline mercury input, no later than 15 months following the effective date of this section; and

(b) The baseline mercury emissions, no later than 18 months following the effective date of this section.

125-O:15 Monitoring of Mercury Emissions. Prior to the availability and operation of continuous emissions monitoring (CEM) systems, and subsequent to the baseline emissions testing under RSA 125-O:14, II, stack tests or another methodology approved by the department shall be conducted twice per year to determine mercury emissions levels from the affected sources. Any stack tests performed shall employ a federally recognized and approved methodology, proposed by the owner and employing a test protocol approved by the department. When a federal performance specification takes effect, and a mercury CEM system capable of meeting the federal specifications becomes available, a mercury CEM system, approved by the department, shall be installed at Merrimack Units 1 and 2 and at other affected sources as deemed appropriate by the department.

125-O:16 Economic Performance Incentives.

I.(a) The department shall issue to the owner early emissions reduction credits in the form of credits or fractions thereof for each pound of mercury or fraction thereof reduced below the baseline mercury emissions, on an annual basis, in the period prior to July 1, 2010. Ratios of early reductions credits to pounds of mercury reduced shall be as follows: 1.5 credits per pound (1.5:1) reduced prior to July 1, 2008, and 1.25 credits per pound (1.25:1) for reductions between July 1, 2008 and December 31, 2010.

(b) These reductions shall be calculated based upon the results of stack tests conducted, measurement by continuous emission monitoring, or other methodology approved by the department to confirm emissions during the time of operation of mercury reduction technology or method. Early emissions reduction credits may be banked by the owner or utilized after July 1, 2010 to meet the reduction requirement of RSA 125-O:13, II as allowed under RSA 125-O:13, VII. Early emissions reduction credits shall not be sellable or transferable to non-affected sources; however, upon the July 1, 2013 compliance date, the owner may request a one-for-one conversion of early emissions reduction credits to over-compliance credits.

(c) If a federal rule applicable to mercury emissions at one or more of the affected sources is enacted with an implementation date prior to July 1, 2010, then early reduction credits may only be earned for emissions reductions that exceed the level required by the federal rule of the affected sources in aggregate or the baseline mercury emissions level, whichever is stricter, at the same ratios listed in subparagraph (a), and any stricter requirements under the federal Clean Air Act, as implemented, shall control reductions requirements.

(d) Early emissions reduction credits shall not be used for compliance with the requirement of RSA 125-O:13, II prior to the installation of scrubber technology and, as such, shall not be used as a means to delay the installation of the scrubber

technology.

II.(a) The department shall issue to the owner over-compliance credits in the form of credits or fractions thereof for each pound of mercury or fraction thereof reduced in excess of the emissions reduction requirement of RSA 125-O:13, II, on an annual basis, following the compliance date of July 1, 2010. The ratios of over-compliance credits to excess pounds of mercury reduced shall be as follows: 0.5 credits per pound reduced between the range of 80 to 85 percent reduction; 1 credit per pound reduced between the range of 85 to 90 percent reduction; and 1.5 credits per pound reduced in the range of 90 percent or greater reduction. Over-compliance credits may be banked for future use. The requirements of RSA 125-O:13, V do not alter the emissions levels at which over-compliance credits are earned.

(b) If a federal rule applicable to mercury emissions at one or more of the affected sources is enacted, then over-compliance credits may only be earned for emissions reductions that exceed the level required by the federal rule of the affected sources in aggregate or the requirement of RSA 125-O:13, II, whichever is lower, at the same ratios listed in subparagraph (a).

125-O:17 Variances. The owner may request a variance from the mercury emissions reduction requirements of this subdivision by submitting a written request to the department, which shall be made available for public review and input. The request shall provide sufficient information concerning the conditions or special circumstances on which the variance request is based to demonstrate to the satisfaction of the department that variance from the applicable requirements is necessary.

I. Where an alternative schedule is sought, the owner shall submit a proposed schedule which demonstrates reasonable further progress and contains a date for final compliance as soon as practicable. If the department deems such a delay is reasonable under the cited circumstances, it shall grant the requested variance.

II. Where an alternative reduction requirement is sought, the owner shall submit information to substantiate an energy supply crisis, a major fuel disruption, an unanticipated or unavoidable disruption in the operations of the affected sources, or technological or economic infeasibility. The department, after consultation with the public utilities commission, shall grant or deny the requested variance. If requested by the owner, the department shall provide the owner with an opportunity for a hearing on the request.

125-O:18 Cost Recovery. If the owner is a regulated utility, the owner shall be allowed to recover via regulated rates all prudent costs of complying with the requirements of this subdivision in a manner approved by the public utilities commission.

AMENDED ANALYSIS

This bill provides for a 90 percent reduction of mercury emissions from coal-burning power plants by requiring the installation of scrubber technology no later than July 1, 2010 and provides economic incentives for earlier installation and greater reductions in emissions.
2006-1007h

Amendment to HB 1687

Proposed by the Committee on Legislative Administration - R

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

AN ACT extending certain studies and adding a certain duty relative to pharmacy reimbursement.

Amend the bill by replacing section 6 with the following:

6 New Paragraph; Committee to Study Medicaid Reimbursement; Duty Added. Amend 2005, 73:3 by inserting after paragraph II the following new paragraph:

III. Examining a closed pharmacy network by region to bid based on price.

7 Committee to Study Medicaid Reimbursement; Reporting Date Extended. Amend 2005, 73:5 to read as follows:

73:5 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, [2005] 2006.

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

AMENDED ANALYSIS

This bill extends the reporting dates for certain studies.

This bill also extends the committee to study Medicaid reimbursement rates for pharmacy providers, established in 2005, 73, and adds a duty to the committee's study. The extension of this committee and the new duty was requested by the committee established in 2005, 73.

2006-1422h

Amendment to HB 1692-FN

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

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

1 Registration of Criminal Offenders; Definitions. Amend RSA 651-B:1, III to read as follows:

III. "Sexual offender" means a person who is required to register as a result of any violation or attempted violation of:

(a) RSA 632-A:2, 632-A:3, 632-A:4, I(a), 632-A:4, I(b) if the actor was 21 years of age or older at the time of the offense, 645:1, II, or 645:1, III; [or]

(b) A law of another state or the federal government reasonably equivalent to a violation listed in subparagraph (a)

[-]; or

(c) Any other criminal offense which is not specifically listed in subparagraph (a) if the court finds by clear and convincing evidence at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification and protection of the public would be furthered by requiring the person to register. In determining whether the offender should be required to register, the court may consider the offender's prior criminal history and any other relevant information. Duration of the registration shall be for a period of time as required by the court but not less than 10 years from the date of release from custody. The court shall also make a finding as to whether the offender's name and registration information shall appear on the public list authorized by RSA 651-B:7. In determining whether the offender's name shall appear on the public list, the court shall consider whether the victim was a minor at the time of the crime; the nature of the offenses that are currently listed on the public list; whether public safety would be furthered by including the offender on the public list; and any other relevant factors. The hearing at which such a determination is made shall comply with due process requirements, including a right to appeal the finding. The court shall provide the defendant an opportunity to be heard on the issue prior to the imposition of the registration requirement and shall state on the record the reasons for its findings and the reasons for requiring registration.

2] Registration of Criminal Offenders; Definitions. Amend RSA 651-B:1, V to read as follows:

V. "Offender against children" means a person who is required to register as a result of any violation or attempted violation of:

(a) Any of the following offenses, where the victim was under the age of 18 at the time of the offense, RSA 633:1, 633:2, 633:3, 639:2, or 645:2; or

(b) RSA 169-B:41, II, 639:3, III, 649-A:3, 649-B:3, 649-B:4 or 650:2, II; or

(c) A law of another state or the federal government reasonably equivalent to a violation listed in subparagraph (a) or (b)[-]; or

(d) Any other criminal offense committed against a victim under the age of 18 at the time of the offense which is not specifically listed in subparagraph (a) or (b) if the court finds by clear and convincing evidence at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification and protection of the public would be furthered by requiring the person to register. In determining whether the offender should be required to register, the court may consider the offender's prior criminal history and any other relevant information. Duration of the registration shall be for a period of time as required by the court but not less than 10 years from the date of release from custody. The court shall also make a finding as to whether the offender's name and registration information shall appear on the public list authorized by RSA 651-B:7. In determining whether the offender's name shall appear on the public list, the court shall consider the nature of the offenses that are currently listed on the public list; whether public safety would be furthered by including the offender on the public list; and any other relevant factors. The hearing at which such a determination is made shall comply with due process requirements, including a right to appeal the finding. The court shall provide the defendant an opportunity to be heard on the issue prior to the imposition of the registration requirement and shall state on the record the reasons for its findings and the reasons for requiring registration.

3] Registration of Criminal Offenders; Definitions. RSA 651-B:1, VII is repealed and reenacted to read as follows:

VII.(a) "Required to register" means that a sexual offender or offender against children was charged with an offense or an attempt to commit an offense listed in this chapter that resulted in one of the following outcomes:

(1) Conviction;

(2) A finding of not guilty by reason of insanity;

(3) An adjudication as a juvenile delinquent and the court at the time of the dispositional hearing finds, pursuant to RSA 169-B:19, that the juvenile is required to register;

(4) An adjudication of juvenile delinquency or its equivalent in another state or territory of the United States if the juvenile is required to register under the laws of that jurisdiction; or

(5) An order committing the person as a sexually violent predator pursuant to RSA 135 E.

(b) A juvenile certified to stand trial as an adult, who is convicted, found not guilty by reason of insanity, or committed as a sexually violent predator, shall be treated as an adult for all purposes under this chapter.

4] New Paragraph; Registration of Criminal Offenders; Definitions. Amend RSA 651-B:1, by inserting after paragraph VII the following new paragraph:

VIII. Notwithstanding RSA 21:6-a, in this chapter "residence" means a place where a person is living or temporarily staying for more than a total of 5 days during a one-month period, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.

5] Registration of Criminal Offenders; Registration. Amend RSA 651-B:2 to read as follows:

651-B:2 Registration.

I. Every sexual offender or offender against children shall be registered with the department of safety, division of state police, as provided in this ~~[subdivision]~~ **chapter**.

II. Upon receipt of information pursuant to RSA 106-B:14 concerning ~~[the conviction of]~~ **the disposition of any charges against** any sex offender or offender against children, the division shall register such person and shall include the relevant information in the law enforcement name search (LENS) system.

III. Upon receipt from any out-of-state law enforcement agency of information that a sex offender or offender against children has moved to New Hampshire, the division shall register such person and shall include the relevant information in the LENS system.

IV. The information that a person is required to register on the public list as a sexual offender or offender against children, including his or her qualifying offense or offenses, shall be available to law enforcement through the offender's criminal record and motor vehicle record. If an offender's obligation to register terminates for any reason, the department shall notify the division of motor vehicles of the change and the offender's motor vehicle record shall no longer reflect that the person is required to register as a sexual offender or offender against children.

6 Registration of Criminal Offenders; Release of Certain Sexual Offenders Into The Community; Duties. Amend RSA 651-B:3 to read as follows:

651-B:3 Release of Certain Sexual Offenders Into the Community; Duties.

I. Upon release of any sexual offender or offender against children required to register, whether on probation, parole, conditional or unconditional release, completion of sentence, release from secure psychiatric care, **release into the community after involuntary commitment, release from a juvenile detention facility**, or for any other reason, the official in charge of such release shall notify the offender of the offender's duty to report under this chapter. The offender shall acknowledge in writing that he has received such notice. The official shall obtain the address at which the offender expects to reside upon release and shall report such address to the department. The department shall inform the local law enforcement agency where the offender expects to reside. The division shall enter the information concerning the offender's release and notification in the LENS system.

II. Upon receipt from any out-of-state law enforcement agency of information that a sex offender or offender against children has moved to New Hampshire, **the department shall obtain the address at which the offender expects to reside and shall inform the local law enforcement agency.** The department shall locate and shall serve notice upon such offender of the offender's duty to report under this chapter. **Service by the department is not required if the offender has already registered with the local law enforcement agency in which the offender resides or is located as required by this chapter. At the time of the initial registration, the** ~~[The]~~ offender shall acknowledge in writing that the offender has received such notice **of the duty to report.** ~~[The department shall obtain the address at which the offender expects to reside and shall inform the local law enforcement agency.]~~ The division shall enter the information concerning the offender's location in New Hampshire and notification in the LENS system.

III. Semi-annually, the department shall verify the address at which the offender resides by sending a letter by certified non-forwarding mail to the offender. The address verification shall be sent to the offender prior to the offender's birthday and again prior to the offender's 6-month semi-annual registration. The address verification shall remind the offender of the obligation to register in person on a semi-annual basis. The offender shall sign the letter and return it to the department within 10 business days of receipt. If the offender's mailing address is to a post-office box, the department shall deliver by other means as determined by the department a letter to the offender's residence. The offender shall sign and return the letter within 10 business days of receipt.

7 Registration of Criminal Offenders; Duty to Report. Amend RSA 651-B:4, I to read as follows:

I.(a)(1) Any person required to be registered under this chapter shall report **in person** ~~[such person's current mailing address, place of residence or temporary domicile, and place of employment or schooling]~~ to the local law enforcement agency within ~~[30]~~ **5 business** days after the person's release as required under RSA 651-B:3, or within ~~[30]~~ **5 business days** after the person's date of establishment of residence in New Hampshire if the person is required to register as a result of an offense committed in another jurisdiction. Such report shall also be made **semi-annually** within ~~[30]~~ **5 business** days after each anniversary of the person's date of birth **and the sixth month following the person's date of birth** and additionally within ~~[30]~~ **5 business** days after any change of ~~[address or place of residence]~~ **any information the person is required to report pursuant to this chapter. If an offender has more than one residence, the offender shall report in person to each local law enforcement agency having jurisdiction over each of the offender's residences.**

(2) Such person shall ~~[also]~~ be required to submit to a photograph taken by the law enforcement agency each time the person is required to report to the law enforcement agency under this section.

(3) Such person shall also provide the following information at the time of registration: name, age, race, sex, date of birth, height, weight, hair and eye color, address of any permanent residence and address of any current temporary residence, within the state or out of state, mailing address, date and place of any employment or schooling, and vehicle make, model, color, license tag number. A post office box shall not be provided in lieu of a

physical residential address. Such person shall also provide any additional information required by department rules adopted in accordance with RSA 651-B:8.

(b) Any nonresident sexual offender or offender against children who enters this state for the purpose of employment, with or without compensation, or to attend any public or private educational institution for a period exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year shall report **in person** to the local law enforcement agency having jurisdiction over the place of employment or school within ~~[10]~~ **5 business** days of the nonresident offender entering the state for employment or schooling, and additionally within ~~[10]~~ **5 business** days after any change of place of employment or schooling. In the event a nonresident offender required to register under this paragraph does not have a principal place of employment, the offender shall register **in person** with the department in Concord. Upon the nonresident offender's initial registration, the local law enforcement agency or the department shall notify the offender of the offender's duty to report under this chapter. The offender shall report the address of the offender's place of employment or schooling while in the state, the address where the offender resides out of state, and other information required by **RSA 651-B:4, I(a)(3) and** department rules adopted in accordance with RSA 651-B:8. Such report shall also be made **semi-annually** within ~~[30]~~ **5 business** days after each anniversary of the person's date of birth **and the sixth month following the person's date of birth**, and additionally within ~~[10]~~ **5 business** days after any change ~~[of address or place of employment or schooling]~~ **in the information the person is required to report pursuant to this chapter.**

8 Registration of Criminal Offenders; Change of Name or Alias, or Address; Duty to Inform. Amend RSA 651-B:5 to read as follows:

651-B:5 Change of Name or Alias, or Address; Duty to Inform.

~~[F.] When any person required to be registered under RSA 651-B:[4, I(a)] changes residence, or their name or alias,~~ **changes any information the person is required to report pursuant to this chapter** the person shall give written notification of the ~~[person's new address, name, or alias]~~ **new information** to the local law enforcement agency to which he or she last reported under RSA 651-B:4 within ~~[10]~~ **5 business** days of such change of **information** ~~[residence, name, or alias]~~. Such notice shall not relieve the person of the duty to report under RSA 651-B:4 at the new place of residence, **employment, or schooling**. The local law enforcement agency receiving such notice shall forward a copy to the division within 3 days after receipt. The division shall notify the local law enforcement agency at the new place of residence **employment or schooling**, or the appropriate out-of-state law enforcement agency if the new place of residence, **employment or schooling** is outside New Hampshire~~].~~ **The division** ~~[and]~~ shall include ~~[such change of address or change of name]~~ **any new** information in the LENS system.

~~[H. When any nonresident person required to be registered under RSA 651-B:4, I(b)] changes residence, place of employment or schooling, or their name or alias, the person shall give written notification of the person's new address, place of employment or schooling, name, or alias to the local law enforcement agency to which he or she last reported under RSA 651-B:4 within 10 days of such change of residence, place of employment or schooling, name, or alias. Such notice shall not relieve the person of the duty to report under RSA 651-B:4 at the new place of residence. The local law enforcement agency receiving such notice shall forward a copy to the division within 3 days after receipt. The division shall notify the local law enforcement agency at the new place of residence, or the appropriate out-of-state law enforcement agency if the new place of residence is outside New Hampshire, and shall include such change of address or change of name information in the LENS system.~~

~~III. Any sexual offender or offender against children who, with or without compensation, is employed by or attends any public or private educational institution for a period exceeding 14 consecutive days, or for an aggregate period of time exceeding 30 days during any calendar year, shall give written notification of any changes to the person's place of employment or schooling to the local law enforcement agency to which he or she last reported under RSA 651-B:4 within 10 days of such change of place of employment or schooling. The local law enforcement agency receiving such notice shall forward a copy to the division within 3 days after receipt. If the sexual offender or offender against children continues to be employed by or attend any public or private educational institution, the division shall notify the local law enforcement agency at the new place of employment or schooling, or the appropriate out-of-state law enforcement agency if the new place of employment or schooling is outside New Hampshire, and shall include such changes in the LENS system.]~~

9 Registration of Criminal Offenders; Duration of Registration. Amend RSA 651-B:6, II to read as follows:

II. Any sexual offender required to register as a result of a violation or attempted violation of RSA 632-A:4, I(a) or RSA 645:1, II, and any offender against children required to register as a result of a violation or attempted violation of RSA 633:3 or 645:2, I, or of an equivalent offense in an out-of-state jurisdiction, shall be registered for a 10-year period from the date of release, provided that any such registration period shall not run concurrently with any registration period resulting from a subsequent violation or attempted violation of an offense for which the person is required to register provisions of paragraph II, any sexual offender or offender against children who is required to register as a result **of a violation** of more than one offense listed in RSA 651-B:1, III or RSA 651-B:1, V, or who is sentenced to an extended term of imprisonment pursuant to RSA 651:6, I(b) shall be registered for life.

10 New Paragraph; Registration of Criminal Offenders; Duration of Registration. Amend RSA 651-B:6 by inserting after paragraph III the following new paragraph:

IV. Registration of any juvenile required to register pursuant to RSA 651-B:1, VII(a)(3) or (4) shall end when the juvenile turns 17 years of age unless the court which adjudicated the juvenile as a delinquent retains jurisdiction over the juvenile pursuant to RSA 169-B:4, V, in which case registration of the juvenile shall end when the court terminates jurisdiction over the juvenile's case. When the registration of a juvenile terminates, the department shall remove information relating to the juvenile from the LENS system and records of the juvenile's registration shall be handled in accordance with RSA 169-B:35 and RSA 169-B:36.

III Availability of Information to the Public. Amend 651-B:7, II-VI(a) to read as follows:

II.(a) The division shall maintain a separate list of all individuals registered pursuant to this chapter who are required to register as a result of any violation or attempted violation of one of the following offenses, or of any law of another state or the federal government reasonably equivalent to one of the following offenses:

(1) ***RSA 632-A:2, I(j)***

(2) ***RSA 632-A:2, I(k)***

~~(3)~~ (3) RSA 632-A:2, I(l).

~~(4)~~ (4) RSA 632-A:2, II-III.

~~(5)~~ (5) RSA 632-A:3, II, provided that the age difference between the ~~[convicted]~~ individual ***required to register*** and the victim was more than 3 years at the time of the offense.

~~(6)~~ (6) RSA 632-A:3, III.

~~(7)~~ (7) RSA 645:1, II-III.

~~(8)~~ (8) Any offense described in RSA 651-B:1, V.

(b)(1) The list described in subparagraph (a) shall include:

(A) The name, address, and date of birth of the registered individual.

(B) The offense for which the individual is required to register.

(C) The date and court of the adjudication on the offense for which the individual is registered.

(D) Outstanding arrest warrants, and the information listed in subparagraphs (b)(1)(A)-(C), for any sexual offender or offender against children who has not complied with the obligation to register under this chapter.

(E) A photograph or physical description of the individual, if available.

(2) Where such information is available, the list may also include:

(A) The date and court of the individual's other adjudications, if any.

(B) Information on the profile of the victim or victims of the individual's offense or offenses.

(C) The method of approach utilized by the individual.

(3) In no event shall the list include the identity of any victim. ***Sexual offenders convicted under RSA 632-A:2 shall be listed on the public list in a manner which does not disclose, directly or indirectly, that the victim and the defendant were related or members of the same household. For sexual offenders convicted under RSA 632-A:1, I, no specific reference to any statutory subparagraph shall appear on the public list.***

(c) In no event shall the list made available to the public pursuant to this section include a sexual offender or offender against children who has been adjudicated as a juvenile delinquent.

III. At periodic intervals, not less frequently than once each month, the commissioner of the department of corrections, ~~and~~ the superintendent of each county department of corrections and the commissioner of the department of health and human services shall forward to the division a statement identifying every offender who is confined in a facility under their control who is required to register as a result of ***a violation or attempted violation*** of an offense described in subparagraph II(a), and who is eligible at that time for any unsupervised work detail, release into the community following secure psychiatric care, or other assignment which may bring the offender into contact with members of the public. These statements shall include the information set forth in subparagraphs II(b)(1)(A), (B), and (C), and may also include the information set forth in subparagraphs II(b)(2)(A)-(D). In no event shall the statements include the identity of any victim. These statements shall be incorporated by the division into the list maintained under paragraph II.

IV.(a) The division shall provide a copy of the list described in this section to each local law enforcement agency at periodic intervals, through written, electronic, computerized, or other accessible means, but in no event less frequently than once each month. The list shall be made available to interested members of the public upon request to a local law enforcement agency. The department of safety may make the list available to interested members of the public through the use of the department's official public Internet access site. The department shall adopt rules, pursuant to RSA 541-A, establishing procedures for the collection of information described in this section, the transmission of the information from the division to the local law enforcement agencies, and the conditions under which the list shall be made available to the public. These rules shall enable the public to request information about a named individual or about all listed individuals residing or confined in the state. The rules may also include provisions for the imposition of a reasonable fee to defray the administrative costs of collecting the information and making the information available to the public.

(b) Local law enforcement agencies may photograph, at the time of the registration, any individual who is required to be registered pursuant to this chapter. The consent of the registrant shall not be necessary. Such photographs may be used in

the performance of any valid law enforcement function.

(c) In the discretion of the local law enforcement agency, such agency may affirmatively notify the public that an offender who is included on the public list received by the agency pursuant to paragraph IV(a) is residing in the community.

V. Local law enforcement agencies, employees of local law enforcement agencies, ~~and~~ county and state officials, ***municipal and school officials, and municipalities and school districts*** shall be immune from civil and criminal liability for good faith conduct under this chapter, ***including any decision to provide or not provide affirmative notification to the public pursuant to RSA 651-B:7, IV(c).*** Nothing in this paragraph shall be deemed to grant any such immunity to any person for that person's reckless or wanton conduct.

VI.(a) Notwithstanding the provisions of this section, any individual required to be registered whose name and information is contained on the list described in subparagraph II(a) and who ~~has been convicted~~ ***is required to register as a result*** of any violation or attempted violation of RSA 632-A:2, III or RSA 632-A:3, II, provided that the age difference between the ~~convicted~~ individual ***required to register*** and the victim was 3 years or less at the time of the offense and the person has no prior ~~convictions~~ ***adjudications*** requiring registration under RSA 651-B:2, may file with the clerk of the superior court for the county in which the judgment was rendered an application for review of the public registration requirement contained in RSA 651-B:7. This application shall not be filed prior to the completion of all the terms and conditions of the sentence and in no case earlier than 10 years after the date of release ~~following conviction~~. After review of the application, the court may schedule a hearing. ***Prior to granting any petition to remove an offender from the public list, the court shall provide notice to the county attorney who prosecuted the case, the victim advocate, and the victim or victim's family and permit those parties to be heard on the petition. If the court denies the offender's petition, the offender may not file another application pursuant to this paragraph for 5 years from the date of the denial and shall include a risk assessment prepared at the offender's expense.***

12 Registration of Criminal Offenders; Penalties. Amend RSA 651-B:9 to read as follows
651-B:9 Penalty.

I. A sexual offender or offender against children ***who is required to register under this chapter and*** who negligently fails to comply with the requirements of this chapter shall be guilty of a ~~violation~~ ***misdemeanor***.

II. A sexual offender or offender against children ***who is required to register under this chapter and*** who knowingly fails to comply with the requirements of this chapter shall be guilty of a ~~misdemeanor~~ ***class B felony***. ***An offender who is required to register for a period of 10 years following his or her release, pursuant to RSA 651-B:6, II, shall be required to register for additional 10 years from the date of conviction for violating this paragraph. The obligation to register for an additional 10 years from the date of conviction for violating this paragraph shall be consecutive to the registration period imposed pursuant to RSA 651-B:6 and shall be imposed even if the original registration period has elapsed.***

III. A sexual offender or offender against children previously convicted ~~of a misdemeanor~~ pursuant to paragraph II who ***is required to register under this chapter and who*** knowingly fails to comply with the requirements of this chapter shall be guilty of a class ~~B~~ ***A*** felony. ***An offender who is required to register for a period of 10 years following his or her release, pursuant to RSA 651-B:6, II, who is convicted for violating this paragraph shall be required to register for life.***

IV. The penalties imposed under paragraphs I-III shall not apply to juveniles required to register pursuant to RSA 651-B:1, VII(a)(3) or (4). The court with jurisdiction over such juveniles may impose an appropriate disposition for a violation of this section.

~~IV.]~~ V. Any person who violates the provisions of RSA 651-B:7 shall be guilty of a violation.

VI. A sexual offender or offender against children who knowingly provides false information in response to any of the requirements of this chapter shall be guilty of a class B felony.

VII. A person is guilty of a class B felony if the person has reason to believe that a sexual offender or offender against children is not complying, or has not complied, with the requirements of this chapter and who purposely assists the offender in eluding any law enforcement agency that is seeking to find the offender to question the offender about, or to arrest the offender for, his or her non-compliance with the requirements of this chapter, and engages in any of the following acts or omissions:

(a) Withholds information from, or does not notify, the law enforcement agency about the offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the offender;

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the offender;

(d) Provides information to the law enforcement agency regarding the offender which the person knows to be false information; or

(e) Warns the offender that the law enforcement agency is attempting to locate the offender.

13 New Sections; Registration of Criminal Offenders; Registration Fee; Application. Amend RSA 651-B by inserting after section 10 the following new sections:

651-B:11 Registration Fee.

I. A sexual offender or offender against children shall pay a fee of [~~\$25~~] **\$15** at the time of the offender's initial registration and semi-annually at the time of the offender's re-registration. ***The department shall use all fees collected under this paragraph to defray the cost of maintaining the sex offender registry. Such funds shall be continually appropriated to the department for such use and shall be nonlapsing.***

II. Anyone required to pay the registration fee who cannot afford to pay the fee shall, within 10 days of registration, request a waiver of the fee and a hearing on the matter before the commissioner. If such a request is made, the commission shall promptly schedule and conduct a hearing pursuant to rules adopted under RSA 541-A. At the hearing the offender shall have the burden to prove that the offender cannot afford to pay the fee because the offender is indigent. After hearing, the decision of the commission shall be final, and the offender shall have a right to appeal the decision in the superior court. Under no circumstances shall the offender's request for a hearing or indigency relieve the offender of the obligation to register pursuant to the time-frames required by this chapter.

651-B:12 Application. Whenever possible, the provisions of this chapter shall be interpreted and applied consistent with the provisions of the federal Jacob Wetterling Act, as amended.

14 Capital Offense and Murder in the First Degree. Amend RSA 597:1-c to read as follows:

597:1-c [~~Capital Offenses and Murder in the First Degree.~~] ***Offenses Punishable By Life Imprisonment.*** Any person arrested for an offense punishable by ***up to life in prison*** [~~death or murder in the first degree~~], where the proof is evident or the presumption great, shall not be allowed bail.

15 Sexual Assault and Offenses; Penalties. Amend the introductory paragraph of RSA 632-A:10-a to read as follows:

632-A:10-a Penalties. Notwithstanding RSA 651:2, ***and except where an extended term is sought as provided in RSA 651:6.***

16 New Subparagraph; Sexual Assault and Offenses. Amend RSA 632-A:10-a, V by inserting after subparagraph (b) the following new subparagraph:

(c) Prior to granting any petition pursuant to paragraph V(b), the court shall provide notice to the county attorney who prosecuted the case, the victim advocate, and the victim or victim's family and permit those parties to be heard on the petition. If the court denies the offender's petition, the offender may not file another application pursuant to this paragraph for 5 years from the date of the denial and shall include a risk assessment prepared at the offender's expense.

17 Sentences; Extended Term of Imprisonment. Amend RSA 651:6, I(j) to read as follows:

(j) Possesses a radio device with the intent to use that device in the commission of robbery, burglary, theft, gambling, stalking, or a violation of any provision of RSA 318-B. In this section, the term "radio device" means any device capable of receiving a wireless transmission on any frequency allocated for law enforcement use, or any device capable of transmitting and receiving a wireless transmission; [~~or~~]

18 New Subparagraphs; Sentences; Extended Term of Imprisonment. Amend RSA 651:6, I by inserting after subparagraph (k) the following new subparagraphs:

(l) Has committed or attempted to commit aggravated felonious sexual assault in violation of RSA 632-A:2, I(l) or RSA 632-A:2, II where the defendant was 18 years of age or older at the time of the offense;

(m) Has committed or attempted to commit aggravated felonious sexual assault in violation of RSA 632-A:2, III, and one or more of the acts comprising the pattern of sexual assault was an offense under RSA 632-A:2, I(l) or RSA 632-A:2, II, or both, and the defendant was 18 years of age or older when the pattern of sexual assault began;

(n) Has purposely, knowingly, or recklessly with extreme indifference to the value of human life committed an act or acts constituting first degree assault as defined in RSA 631:1 against a person under 13 years of age where the serious bodily injury has resulted in brain damage or physical disability to the child that is likely to be permanent; or

(o) Has committed murder as defined in RSA 630:1-b against a person under 13 years of age.

19 Sentences; Extended Term of Imprisonment. Amend RSA 651:6, III to read as follows:

III. If authorized by paragraph I or II, and if notice of the possible application of this section is given the defendant prior to the commencement of trial, a defendant may be sentenced to an extended term of imprisonment. An extended term is, for a person convicted of:

(a) Any felony, other than murder or manslaughter, a minimum to be fixed by the court of not more than 10 years and a maximum to be fixed by the court of not more than 30 years;

(b) A misdemeanor, a minimum to be fixed by the court of not more than 2 years and a maximum to be fixed by the court of not more than 5 years;

(c) Manslaughter, a minimum to be fixed by the court of not more than 20 years and a maximum to be fixed by the court of not more than 40 years;

(d) Murder, life imprisonment;

(e) Two or more offenses under RSA 632-A:2, life imprisonment without parole;

(f) A third offense under RSA 632-A:3, life imprisonment; **or**

(g) ~~[A class A felony under RSA 632-A:2, I(d) and a subsequent separate offense under RSA 632-A:2, I(d), a minimum to be fixed by the court of not less than 15 years and a maximum of life imprisonment without parole; or~~

~~(h)] Any of the crimes listed under RSA 651:6, I(j), a minimum to be fixed by the court of not less than 90 days and a maximum of not more than one year.~~

20 New Paragraphs; Sentences; Extended Term of Imprisonment. Amend RSA 651:6 by inserting after paragraph III the following new paragraphs:

IV. If authorized by subparagraphs I(l), (m), or (n) and if notice of the possible application of this section is given to the defendant prior to the commencement of trial, a person may be sentenced to an extended term of imprisonment as follows:

(a) A minimum to be fixed by the court of not more than 25 years and a maximum of life imprisonment; and

(b) The sentence shall also include, in addition to any other penalties provided by law, a special sentence of lifetime supervision by the department of corrections. The defendant shall comply with the conditions of lifetime supervision which are imposed by the court or the department of corrections. Violation of any of the conditions of lifetime supervision shall be deemed contempt of court. The special sentence of lifetime supervision shall begin upon the offender's release from incarceration, parole or probation. A defendant who is sentence to lifetime supervision pursuant to this paragraph is not eligible for release from the lifetime supervision pursuant to RSA 632-A:10-a, V(b).

V. If authorized by subparagraph I(o) and if notice of the possible application of this section is given to the defendant prior to the commencement of trial, a person shall be sentenced to an extended term of imprisonment as follows: a minimum to be fixed by the court of not less than 35 years and a maximum of life imprisonment.

VI. A person shall be sentenced according to the terms of paragraph VII if the court finds, and includes such findings in the record, that such person:

(a)(1) Committed a violation of RSA 632-A:2, I(l), RSA 632-A:2, II, or RSA 632-A:2, III, in which one or more of the acts comprising the pattern of sexual assault was an offense under RSA 632-A:2, I(l) or RSA 632-A:2, II, or both, after having previously been convicted of an offense in violation of one of the aforementioned offenses or any other statute prohibiting the same conduct in another state, territory or possession of the United States, and

(2) The person committed the subsequent offense while released on bail on the earlier offense or the sentence for the earlier conviction involved a term of incarceration, probation, parole, or other supervised release; or

(b)(1) Committed a violation of RSA 631:1 after having previously been convicted of an offense in violation of RSA 631:1, or any other statute prohibiting the same conduct in another state, territory or possession of the United States, if the earlier offense also involved a victim under 13 years of age where the serious bodily injury resulted in brain damage or physical disability to the child that is likely to be permanent; and

(2) The person committed the subsequent offense while released on bail on the earlier offense or the sentence for the earlier conviction involved a term of incarceration, probation, parole, or other supervised release; or

(c)(1) Committed a violation of RSA 630:1-b after having previously been convicted of an offense in violation of RSA 630:1-b, or any other statute prohibiting the same conduct in another state, territory, or possession of the United States; and

(2) The person committed the subsequent offense while released on bail on the earlier offense or the sentence for the earlier conviction involved a term of incarceration, probation, parole, or other supervised release.

VII. If the court has made the findings authorized by RSA 651:6, VI, and if notice of the possible application of this section is given to the defendant prior to the commencement of trial, a person shall be sentenced to an extended term of imprisonment of life without parole.

21 New Chapter; Involuntary Civil Commitment of Sexually Violent Predators. Amend RSA by inserting after chapter 135-D the following new chapter:

INVOLUNTARY CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS

135-E:1 Findings and Intent. The general court finds that a small but extremely dangerous number of sexually violent predators exist who do not have a mental disease or defect that renders them appropriate for involuntary treatment under RSA 135-C, which is intended to provide short-term treatment to individuals with serious mental disorders and then return them to the community. In contrast to persons appropriate for civil commitment, sexually violent predators generally have antisocial personality features which are unamenable to existing mental illness treatment modalities, and those features render them likely to engage in criminal, sexually violent behavior. The general court further finds that the likelihood of sexually violent predators engaging in repeat acts of predatory sexual violence is high. The existing involuntary commitment procedures for the treatment and care of mentally ill persons are inadequate to address the risk these sexually violent predators pose to society. The general court further finds that the prognosis for rehabilitating sexually violent predators in a prison setting is poor, the treatment needs of this population are very long term, and the treatment modalities for this population are very different from the traditional treatment modalities for people appropriate for commitment under existing law. It is therefore the intent of the general court to create a civil commitment procedure for the long-term care and treatment of sexually violent predators.

135-E:2 Definitions. In this chapter:

I. "Agency with jurisdiction" means the agency that releases, upon lawful order or authority, a person who is serving a sentence in the custody of the department of corrections, or a person who was involuntarily committed upon a finding that the person was not guilty by reason of insanity or incompetent to stand trial.

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

III. "Convicted of a sexually violent offense" means a person who has been:

(a) Adjudicated guilty of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere;

(b) Adjudicated not guilty by reason of insanity of a sexually violent offense; or

(c) Found incompetent to stand trial on a charge of a sexually violent offense and the court makes the finding required pursuant to RSA 135-E:5.

IV. "Court" means the superior court in the county where that person was last convicted of a sexually violent offense, or if the person is in custody on an out-of-state or federal sexually violent offense the county where the person plans to reside upon release or, if no residence in this state is planned, in the county where the facility from which the person to be released is located.

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

VI. "Likely to engage in acts of sexual violence" means the person's propensity to commit acts of sexual violence is of such a degree that the person has serious difficulty in controlling his or her behavior as to pose a potentially serious likelihood of danger to others.

VII. "Mental abnormality" means a mental condition affecting a person's emotional or volitional capacity which predisposes the person to commit sexually violent offenses.

VIII. "Parole board" means the adult parole board established in RSA 651-A:3.

IX. "Person" means an individual 18 years of age or older who is a potential or actual subject of proceedings under this chapter.

X. "Sexually motivated" means that one of the purposes for which the defendant committed the crime was for sexual gratification.

XI. "Sexually violent offense" means:

(a) Capital murder in violation of RSA 630:1, I(e);

(b) First degree murder in violation of RSA 630:1-a, I(b)(1);

(c) Aggravated felonious sexual assault in violation of RSA 632-A:2;

(d) Kidnapping in violation of RSA 633:1, I(d), where the offender confined the victim with the purpose to commit sexual assault against the victim;

(e) Burglary in violation of RSA 635:1, I, where the offender entered a building or occupied structure with the purpose to commit sexual assault;

(f) An attempt, criminal solicitation, or conspiracy, to commit any of the offenses listed above; or

(g) A violation of any other statute prohibiting the same conduct as the offenses listed above in another state, territory, or possession of the United States.

XII. "Sexually violent predator" means any person who:

(a) Has been convicted of a sexually violent offense;

(b) Suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment; and

(c) Is not eligible for involuntary admission under RSA 135-C or RSA 171-B.

XIII. "Total confinement" means that the person is being held in any physically secure facility being operated by or contractually operated for the department of corrections or the department of health and human services. A person shall also be deemed to be in total confinement for applicability of provisions under this chapter if the person is serving an incarcerative sentence under the custody of the department of corrections or is being held in any other secure facility for any reason. A person is not subject to total confinement if the person is subject to an incarcerative sentence or other custody in a secure facility but has contact with the community, such as through work release, a halfway house, or other supervised or unsupervised release into the community.

135-E:3 Notice to County Attorney or Attorney General; Multidisciplinary Teams Established.

I. The commissioner, or designee, shall establish a multidisciplinary team or teams, each of which shall include, but is not limited to, 2 licensed psychiatrists or psychologists or one licensed psychiatrist and one licensed psychologist each of whom has specialized training or experience in the area of treatment and diagnosis of sex offenders. The attorney general shall serve as legal counsel to the multidisciplinary team. The purpose of the team shall be to evaluate whether persons convicted of a sexually violent offense who are eligible for release from total confinement meet the definition of a sexually violent predator.

II. When a person who has committed a sexually violent offense is to be released from total confinement in New Hampshire, the agency with jurisdiction over the person shall give written notice to the county attorney of the county where that person was last convicted of a sexually violent offense, or attorney general if the case was prosecuted by the attorney

general. If the person is in custody on an out-of-state or federal sexually violent offense the agency with jurisdiction shall give written notice to the county attorney of the county where the person plans to reside upon release or, if no residence in this state is planned, the county attorney in the county where the facility from which the person to be released is located or to the attorney general if the person has been convicted of murder. Except as provided in RSA 135-E:4, the written notice shall be given:

(a) At least 9 months prior to the anticipated release from total confinement of a person serving a sentence in the custody of the department of corrections, except that in the case of persons who are totally confined for a period of less than 9 months, written notice shall be given as soon as practicable; or

(b) At least 9 months prior to the anticipated hearing regarding possible release of a person committed to the custody of the department who has been found not guilty by reason of insanity for a sexually violent offense.

III. Upon receipt of such notice, if there is an articulable basis to believe that the person is likely to engage in acts of sexual violence, either the county attorney, attorney general, or the agency with jurisdiction may request that the multidisciplinary team assess and evaluate the person to determine whether the person is a sexually violent predator.

IV. If a request to assess and evaluate a person is made pursuant to paragraph III, the agency with jurisdiction shall provide the multidisciplinary team with the following information:

(a) The person's name, identifying characteristics, anticipated future residence, the type of supervision the person will receive in the community, if any, and the person's offense history;

(b) The person's criminal history, including police reports, victim statements, pre-sentence investigation reports, post-sentence investigation reports, if available, and any other documents containing facts of the person's criminal incidents;

(c) Mental health, mental status, and medical records, including all clinical records and notes concerning the person;

(d) Documentation of institutional adjustment and any treatment received; and

(e) If the person was returned to custody after a period of supervision, documentation of adjustment during supervision and any treatment received.

V.(a) The multidisciplinary team shall assess and evaluate each person referred to the team. The assessment and evaluation shall include a review of the person's institutional history and treatment record, if any, the person's criminal background, and any other factor that is relevant to the determination of whether such person is a sexually violent predator.

(b) Before concluding the evaluation, the multidisciplinary team shall offer the person being evaluated a personal interview. If the person agrees to participate in a personal interview, at least one member of the team who is a licensed psychiatrist or psychologist shall conduct the interview. If the person refuses to fully participate in a personal interview, the multidisciplinary team may proceed with its recommendation without a personal interview of the person.

(c) Within 6 months after receiving notice of a person's anticipated release from total confinement, the department of health and human services shall provide to the county attorney or attorney general a written report of the multidisciplinary team's findings as to whether the person meets the definition of a sexually violent predator.

135-E:4 Release From Total Confinement; Transfers; Petition to Hold in Custody.

I. In the event that a person who has been convicted of a sexually violent offense is eligible for immediate release from total confinement, the agency with jurisdiction shall provide immediate notice to the county attorney or attorney general of the person's release. The county attorney or attorney general or the agency with jurisdiction may file a petition for an emergency hearing in the superior court requesting that the person subject to immediate release be evaluated by the multidisciplinary team to determine whether the person is a sexually violent predator. The hearing shall be held within 24 hours of the filing of the petition, excluding Saturdays, Sundays, and holidays. The person shall not be released from total confinement until after the hearing has been held. At the hearing, the court shall determine whether there is probable cause to believe that the person is a sexually violent predator. If the court finds probable cause, the person shall be held in an appropriate secure facility.

II. Within 72 hours after finding probable cause, the multidisciplinary team shall assess whether the person meets the definition of a sexually violent predator. If the multidisciplinary team determines that the person does not meet the definition of a sexually violent predator, the department shall provide notice to the county attorney or attorney general and that person shall be immediately released. If the multidisciplinary team determines that the person meets the definition of a sexually violent predator, the team shall provide the county attorney or attorney general with its written assessment and recommendation within the 72-hour period or, if the 72-hour period ends on a weekend or holiday, within the next working day thereafter.

III. Within 48 hours after receipt of the written assessment and recommendation from the multidisciplinary team, the county attorney or attorney general may file a petition with the superior court alleging that the person is a sexually violent predator and stating facts sufficient to support such allegation. If a petition is not filed within 48 hours after receipt of the written assessment and recommendation by the county attorney or attorney general, the person shall be immediately released. If a petition is filed pursuant to this section, the person shall be held in an appropriate secure facility for further proceedings in accordance with this chapter.

IV. A person shall be released if the multidisciplinary team or the county attorney or attorney general do not comply with the time limitations in this section. The provisions of this section, however, are not jurisdictional, and failure to comply with the time limitations, which results in the release of a person who has been convicted of a sexually violent offense, is not

dispositive of the case and does not prevent the county attorney or attorney general from filing a petition against a person otherwise subject to the provisions of this chapter. However, the court shall not consider any petition filed more than 6 months after the person's release from incarceration unless the timing of the petition is due to newly discovered material facts, which shall be alleged in the petition.

135-E:5 Persons Found Incompetent to Stand Trial.

I. If the county attorney or attorney general seeks to civilly commit a person charged with a sexually violent offense and found incompetent to stand trial, the court shall order the person to remain in custody for a reasonable period of time, not to exceed 90 days, for proceedings pursuant to this section.

II. The court shall first hear evidence and determine whether the person did commit the act or acts charged. The hearing on this issue shall comply with all the procedures specified in this section. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged beyond a reasonable doubt. In determining whether the state has met its burden, the court shall consider the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including the person's ability to assist his or her counsel by recounting the facts, identifying witnesses, testifying in his or her own defense, or providing other relevant information or assistance to counsel or the court. If the person's incompetence substantially interferes with the person's ability to assist his or her counsel, the court shall not find the person committed the act or acts charged unless the court can conclude beyond a reasonable doubt that the acts occurred, and that the strength of the state's case, including physical evidence, eye witness testimony, and corroborating evidence, is such that the person's limitations could not have had a substantial impact on the proceedings. If, after the conclusion of the hearing, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, the court shall enter a final order, appealable to the supreme court on that issue. If the person appeals, the person shall be held in an appropriate secure facility. If the person does not appeal or if the appeal is unsuccessful, the court shall proceed as specified in this section.

III. Within 90 days after the court finds that the person committed the act or acts charged or after appeal, the multidisciplinary team shall conduct an evaluation pursuant to the procedures outlined in RSA 135-E:3 to determine whether the person meets the definition of a sexually violent predator and the department shall provide to the county attorney or attorney general a written report of the multidisciplinary team's findings as to whether the person meets the definition of a sexually violent predator.

135-E:6 Petition; Contents. If the multidisciplinary team finds the person meets the definition of a sexually violent predator, the county attorney or attorney general may file a petition within 14 days with the superior court alleging that the person is a sexually violent predator and stating facts sufficient to support such allegation. If the county attorney or attorney general does not file a petition within 14 days, and the person is otherwise subject to release, the person shall be released.

135-E:7 Determination of Probable Cause.

I. When the county attorney or attorney general files a petition seeking to have a person declared a sexually violent predator, within 10 days of the filing of the petition, the court shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If the court determines based on the content of the petition that there is probable cause to believe that the person is a sexually violent predator, the court shall order that the person remain in custody and be held in an appropriate secure facility for further proceedings in accordance with this chapter.

II. If the offender's incarcerative sentence expires before a hearing on the merits of a petition for civil commitment pursuant to this chapter, the court shall conduct a probable cause hearing within 2 days of the expiration of the person's incarcerative sentence. If the court concludes following the hearing that there is probable cause to believe that the person is a sexually violent predator, the court shall order that the person remain in custody and held in an appropriate secure facility for further proceedings in accordance with this chapter.

135-E:8 Contract Authority. The department may contract with a private entity or state agency for use of and operation of facilities to comply with the requirements of this chapter.

135-E:9 Trial; Procedure.

I. The person or the county attorney or attorney general has the right to demand that the trial be before a jury. A demand for a jury trial must be filed, in writing, no later than 30 days after the finding of probable cause. If no demand is made, the trial shall be to the court. At all adversarial proceedings under this chapter, the person subject to this chapter is entitled to the assistance of appointed counsel if the person is indigent.

II. Within 60 days after the court's initial determination of probable cause, or, in cases where a jury trial has been elected, 60 days after the election of a jury trial, the court shall conduct a trial to determine whether the person is a sexually violent predator.

III. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the interests of justice, when the person will not be substantially prejudiced by the delay.

IV. The person may retain experts or mental health professionals to perform an examination. If the person wishes to be examined by a professional of the person's own choice, the examiner shall be provided reasonable access to the person, as well as to all relevant medical and mental health records and reports. In the case of a person who is indigent, the court, upon the

person's request, shall appoint experts or authorize other services pursuant to RSA 604-A:6. If the defendant retains an expert to perform a mental health examination, the person shall also submit to an examination by an expert of the state's choosing. If the person refuses to submit to an examination by the state's expert the court shall prohibit the person's mental health experts from testifying concerning any mental health tests, evaluations, or examinations of the person.

135-E:10 Rules of Procedure and Evidence. In all civil commitment proceedings for sexually violent predators under this chapter:

I. The doctor-patient privilege under RSA 329:26, RSA 330-A:19, the rules of evidence or other similar statutes or rules shall not apply in proceedings under this chapter.

II. The court may consider evidence of the person's prior conduct if such evidence is relevant to the issue of whether the person is a sexually violent predator.

III. Hearsay evidence, including reports of a member of the multidisciplinary team or reports produced on behalf of the multidisciplinary team, shall be admissible in proceedings under this chapter unless the court finds that such evidence is not reliable. In a trial, however, hearsay evidence shall not be used as the sole basis for committing a person under this chapter.

135-E:11 Determination.

I. The state shall have the burden of proving by clear and convincing evidence that the person is a sexually violent predator. If the determination is made by a jury, the verdict shall be unanimous. If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial. If the court declares a mistrial, the county attorney or attorney general may refile the petition and proceed according to the provisions of this chapter. Any retrial shall occur within 90 days after the previous trial, unless the subsequent proceeding is continued in accordance with RSA 135-E:9, II.

II. If the court or jury determines that the person is a sexually violent predator, upon the expiration of the incarcerative portion of all criminal sentences and disposition of any detainers other than detainers for deportation by the United States Bureau of Citizenship and Immigration Services, the person shall be committed to the custody of the department of health and human services for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person no longer poses a potentially serious likelihood of danger to others. At all times, persons who are detained or committed under this chapter shall be kept in a secure facility segregated from patients of the department who are not detained or committed under this chapter. An order committing a person shall be valid for up to 5 years.

III. The determination that a person is a sexually violent predator may be appealed. The public defender shall be appointed to represent the person on appeal if the person is indigent.

135-E:12 Examinations; Release of Committed Persons.

I. Prior to the expiration of the initial commitment order or any recommittal order, the county attorney or attorney general may file a petition to recommit the person.

II. If the state petitions to renew the committal, the court shall hold a hearing. The person is entitled to be present and is entitled to the benefit of all procedural protections afforded the person at the initial trial, except for the right to a jury. The state has the right to have the person examined by professionals chosen by the state. At the hearing, the state bears the burden of proving, by clear and convincing evidence, that the person remains a sexually violent predator. Any recommittal order shall be valid for a period of up to 5 years.

135-E:13 Authorized Petition for Release.

I. If the commissioner, or designee, at any time determines that the person is not likely to commit acts of sexual violence if discharged, the commissioner or the his or her designee shall notify the court and the court shall hold a hearing. The petition shall be served upon the court and the county attorney or attorney general. The court, upon receipt of such notice, shall schedule a hearing within 60 days, unless continued for good cause.

II. The county attorney or attorney general shall represent the state, and has the right to have the person examined by professionals of the county attorney or attorney general's choice. The state bears the burden of proving, by clear and convincing evidence, that the person remains a sexually violent predator.

135-E:14 Petitions for Release. A person may file a petition for discharge at any time after commitment under this chapter without the approval of the commissioner, or his or her designee. Notice of the petition shall be provided to the commissioner and to the county attorney or attorney general. After reviewing the petition filed by the person the court may request the commissioner or county attorney or attorney general to respond to the petition. The commissioner or county attorney or attorney general is not required to respond to a petition filed pursuant to this section unless ordered to do so by the court. If the court determines that appointment of counsel may assist in an appropriate resolution of the petition, and the person is indigent, the court shall appoint counsel to represent the person. If the court determines that the petition is without merit on its face, the court may deny the petition without a hearing.

135-E:15 Release of Records to Agencies.

I. In order to protect the public, relevant information and records that are otherwise confidential or privileged shall be released to the agency with jurisdiction, to a multidisciplinary team, or to the county attorney or attorney general for the purpose of meeting the notice requirements of this chapter and determining whether a person is or continues to be a sexually violent predator. A person, agency, or entity receiving information under this section which is confidential shall maintain the

confidentiality of that information. Such information does not lose its confidential status due to its release under this section.

II. Psychological or psychiatric reports, drug and alcohol reports, treatment records, medical records, pre-sentence investigative report, or victim impact statements that have been submitted to the court or admitted into evidence under this chapter shall be part of the record but shall be sealed and may be opened only pursuant to a court order.

135-E:16 Constitutional Requirements. The long-term control, care, and treatment of a person committed under this chapter shall conform to constitutional requirements.

135-E:17 Immunity from Civil Liability. The agency with jurisdiction and its officers and employees; the department and its officers and employees; members of the multidisciplinary team; the county attorney or attorney general and the county attorney or attorney general's employees; and those involved in the evaluation, care, and treatment of sexually violent persons committed under this chapter are immune from any civil liability for good faith conduct under this chapter.

135-E:18 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications to this chapter which can be given effect without the invalid provisions of applications, and to this end the unconstitutional provisions or applications of this chapter are severable.

135-E:19 Applicability. This chapter applies retroactively to all persons in custody as of the effective date of this statute who have been convicted of a sexually violent offense, as well as prospectively.

135-E:20 Notice Requirements.

I. No later than 30 days prior to the release of a sexually violent predator, the department shall give written notice of the person's release to the victim advocate for the county in which the person was prosecuted, and to the extent possible the victim or the victim's family shall be notified.

II. If a sexually violent predator who has an active or pending term of probation, parole, conditional release, or other court-ordered or postprison release supervision is released from custody, the department shall immediately notify the department of corrections. The parole board shall also be immediately notified of the release of a sexually violent predator who has an active or pending term of parole, conditional release, or other postprison release supervision that is administered by the parole board.

135-E:21 Escape.

I. A person who escapes or attempts to escape from lawful custody pursuant to this chapter is guilty of a class A felony.

II. If a person escapes while in custody pursuant to this chapter, the department shall immediately notify the victim and the county attorney or attorney general that filed the petition for civil commitment. If the escapee has an active or pending term of probation, parole, conditional release, or other court-ordered or postprison release supervision, the department shall also immediately notify the department of corrections. The parole board shall also be immediately notified of an escape if the escapee has an active or pending term of parole, conditional release, or other postprison release supervision that is administered by the parole board.

135-E:22 Rules. The department shall adopt rules, pursuant to RSA 541-A, relative to:

I. Procedures to be followed by members of the multidisciplinary teams when assessing and evaluating persons subject to this chapter.

II. Education and training requirements for members of the multidisciplinary teams and professionals who assess and evaluate persons under this chapter.

III. The designation of secure facilities for sexually violent predators who are subject to involuntary commitment under this chapter.

IV. The components of the basic treatment plan for all committed persons under this chapter.

V. The protocol for informing a person that he or she is being evaluated to determine whether he or she is a sexually violent predator under this chapter. Such protocol shall include procedures for informing the person of the right to refuse to participate in a personal interview with the multidisciplinary team or members thereof, the right to consult with counsel prior to participating in such an interview, and the right to have counsel appointed if the person is indigent.

135-E:23 Appointment of Counsel. The right of a person sought to be committed as a sexually violent predator to legal counsel prior to and during any judicial hearing conducted under this chapter shall be absolute and unconditional. The right to legal counsel for any person sought to be committed during any judicial proceeding conducted under this chapter shall be waived only if the client or person sought to be committed makes an informed decision to do so. The person sought to be committed shall pay the costs of the legal services in connection with hearings held under this chapter. If the person sought to be committed is unable to pay for counsel, the court shall appoint counsel pursuant to RSA 604-A:2. Such appointment shall be made no later than upon the filing of the petition and shall be made upon request of the person before any interview or personal examination of the person is conducted by the multidisciplinary team or other person in preparation for the filing of a petition.

22 Commitment to Hospitals; Competency Hearing; Commitment for Treatment. Amend RSA 135:17-a, V as follows:

V. If the court has determined that the defendant has not regained competency, and the court determines that he or she is dangerous to himself or herself or others, the court shall order the person to remain in custody for a reasonable period of time, not to exceed 90 days, to be evaluated for the appropriateness of involuntary treatment pursuant to RSA 135-C:34 or RSA 171-B:2. The court may order the person to submit to examinations by a physician, psychiatrist, or psychologist designated by the

state for the purpose of evaluating appropriateness and completing the certificate for involuntary admission into the state mental health services system, the state developmental services delivery system, or the secure psychiatric unit, as the case may be. ***If a defendant who was charged with a sexually violent offense, as defined in RSA 135-E:2, XI, has not regained competency, the court shall proceed pursuant to RSA 135-E.***

23 New Subparagraph; Delinquent Children; Dispositional Hearing. Amend RSA 169-B:19, I by inserting after subparagraph (j) the following new subparagraph:

(k) Order the minor to register as a sexual offender or offender against children pursuant to RSA 651-B until the juvenile reaches the age of 17 if the court finds that the minor presents a risk to public safety.

24 New Subparagraph; Delinquent Children; Dispositional Hearing. Amend RSA 169-B:19, III-a by inserting after subparagraph (e) the following new subparagraph:

(f) If the court retains jurisdiction over the minor pursuant to RSA 169-B:4, V, and the court has determined that the minor is required to register as a sexual offender or offender against children pursuant to RSA 169-B:19, I(k), the minor shall continue to register pursuant to RSA 651-B; provided, that so long as the court retains jurisdiction over the case.

25 New Subparagraph; Delinquent Children; Juvenile Case and Court Records. Amend RSA 169-B:35, III by inserting after subparagraph (c) the following new subparagraph:

(d) Pursuant to RSA 651-B, the department of safety shall disclose registration information to law enforcement agencies for juveniles if the court has found that the juvenile is required to register as a sexual offender or offender against children. In no event shall any juvenile required to register be listed on the list of sexual offenders and offenders against children made available to the public pursuant to RSA 651-B:7.

26 Committee to Identify and Evaluate Classification and Risk Assessment Procedures for Convicted Sex Offenders and Offenders Against Children Established.

I. There is established a committee to identify and evaluate classification and risk assessment procedures for convicted sex offenders and offenders against children.

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

(a) Four members of the house of representatives, at least 2 of whom shall be from the criminal justice and public safety committee, and one of whom shall be from the judiciary committee, appointed by the speaker of the house of representatives.

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

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

IV. The committee shall:

(a) Identify and evaluate classification and risk assessment procedures for convicted sex offenders and offenders against children.

(b) Identify classification and risk assessment procedures from other states, including those in the New England region.

(c) Identify the scope, use, and effectiveness of such procedures.

(d) Identify the benefits and liabilities of notifying the public of each level of classification and the best system for such notification.

(e) Identify funding sources for such classification and risk assessment procedures.

(f) Identify implementation procedures for past, present, and future offenders.

(g) Identify methods of evaluation and accountability.

(h) Study any additional information that the committee deems necessary.

V. The committee shall use the information collected to make recommendations to the legislature for the management of sex offenders and offenders against children.

VI. The committee shall solicit information and testimony from any organization or individual as deemed necessary to assist the committee in the performance of its duties, including:

(a) Employees of the department of safety with direct responsibility for maintaining the New Hampshire sex offender registry.

(b) Other department of safety employees as may be necessary.

(c) The department of corrections.

(d) The department of education.

(e) Forensic evaluators.

(f) Sex offender treatment providers.

(g) Victims' advocates.

(h) A licensed New Hampshire attorney primarily engaged in the practice of criminal defense.

(i) The New Hampshire Civil Liberties Union.

(j) The New Hampshire Association of Chiefs of Police.

(k) An advocate for the developmentally disabled.

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

VIII. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2007.

27 Global Positioning Satellite Monitoring; Feasibility Study. The department of corrections shall implement a study to evaluate the feasibility and efficacy of instituting life-time monitoring of serious sexual offenders and offenders against children by means of global positioning satellite technology or other monitoring or tracking systems and report the results of the study to the general court on or before November 1, 2006. The department of corrections shall implement a system for tracking sexual offenders and offenders against children by global positioning satellite technology by July 1, 2008.

28 Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

29 Effective Date.

I. Sections 26, 27, and 29 of this act shall take effect upon its passage.

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

AMENDED ANALYSIS

This bill revises the statutes concerning sexual predators, and establishes a committee to identify and evaluate classification and risk assessment procedures for convicted sex offenders and offenders against children.

2006-1425h

Amendment to HB 1692-FN

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

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

1 Registration of Criminal Offenders; Definitions. Amend RSA 651-B:1, III to read as follows:

III. "Sexual offender" means a person who is required to register as a result of any violation or attempted violation of:

(a) RSA 632-A:2, 632-A:3, 632-A:4, I(a), 632-A:4, I(b) if the actor was 21 years of age or older at the time of the offense, 645:1, II, or 645:1, III; ~~or~~

(b) A law of another state or the federal government reasonably equivalent to a violation listed in subparagraph (a) ~~[-]; or~~

(c) Any other criminal offense which is not specifically listed in subparagraph (a) if the court finds by clear and convincing evidence at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification and protection of the public would be furthered by requiring the person to register. In determining whether the offender should be required to register, the court may consider the offender's prior criminal history and any other relevant information. Duration of the registration shall be for a period of time as required by the court but not less than 10 years from the date of release from custody. The court shall also make a finding as to whether the offender's name and registration information shall appear on the public list authorized by RSA 651-B:7. In determining whether the offender's name shall appear on the public list, the court shall consider whether the victim was a minor at the time of the crime; the nature of the offenses that are currently listed on the public list; whether public safety would be furthered by including the offender on the public list; and any other relevant factors. The hearing at which such a determination is made shall comply with due process requirements, including a right to appeal the finding. The court shall provide the defendant an opportunity to be heard on the issue prior to the imposition of the registration requirement and shall state on the record the reasons for its findings and the reasons for requiring registration.

2 Registration of Criminal Offenders; Definitions. Amend RSA 651-B:1, V to read as follows:

V. "Offender against children" means a person who is required to register as a result of any violation or attempted violation of:

(a) Any of the following offenses, where the victim was under the age of 18 at the time of the offense, RSA 633:1, 633:2, 633:3, 639:2, or 645:2; or

(b) RSA 169-B:41, II, 639:3, III, 649-A:3, 649-B:3, 649-B:4 or 650:2, II; or

(c) A law of another state or the federal government reasonably equivalent to a violation listed in subparagraph (a) or (b) ~~[-]; or~~

(d) Any other criminal offense committed against a victim under the age of 18 at the time of the offense which is not specifically listed in subparagraph (a) or (b) if the court finds by clear and convincing evidence at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification and protection of the public would be furthered by requiring the person to register.

In determining whether the offender should be required to register, the court may consider the offender's prior criminal history and any other relevant information. Duration of the registration shall be for a period of time as required by the court but not less than 10 years from the date of release from custody. The court shall also make a finding as to whether the offender's name and registration information shall appear on the public list authorized by RSA 651-B:7. In determining whether the offender's name shall appear on the public list, the court shall consider the nature of the offenses that are currently listed on the public list; whether public safety would be furthered by including the offender on the public list; and any other relevant factors. The hearing at which such a determination is made shall comply with due process requirements, including a right to appeal the finding. The court shall provide the defendant an opportunity to be heard on the issue prior to the imposition of the registration requirement and shall state on the record the reasons for its findings and the reasons for requiring registration.

3 Registration of Criminal Offenders; Definitions. RSA 651-B:1, VII is repealed and reenacted to read as follows:

VII.(a) "Required to register" means that a sexual offender or offender against children was charged with an offense or an attempt to commit an offense listed in this chapter that resulted in one of the following outcomes:

(1) Conviction;

(2) A finding of not guilty by reason of insanity;

(3) An adjudication as a juvenile delinquent and the court at the time of the dispositional hearing finds, pursuant to RSA 169-B:19, that the juvenile is required to register;

(4) An adjudication of juvenile delinquency or its equivalent in another state or territory of the United States if the juvenile is required to register under the laws of that jurisdiction; or

(5) An order committing the person as a sexually violent predator pursuant to RSA 135 E.

(b) A juvenile certified to stand trial as an adult, who is convicted, found not guilty by reason of insanity, or committed as a sexually violent predator, shall be treated as an adult for all purposes under this chapter.

4 New Paragraph; Registration of Criminal Offenders; Definitions. Amend RSA 651-B:1, by inserting after paragraph VII the following new paragraph:

VIII. Notwithstanding RSA 21:6-a, in this chapter "residence" means a place where a person is living or temporarily staying for more than a total of 5 days during a one-month period, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.

5 Registration of Criminal Offenders; Registration. Amend RSA 651-B:2 to read as follows:

651-B:2 Registration.

I. Every sexual offender or offender against children shall be registered with the department of safety, division of state police, as provided in this ~~subdivision~~ **chapter**.

II. Upon receipt of information pursuant to RSA 106-B:14 concerning ~~[the conviction of]~~ **the disposition of any charges against** any sex offender or offender against children, the division shall register such person and shall include the relevant information in the law enforcement name search (LENS) system.

III. Upon receipt from any out-of-state law enforcement agency of information that a sex offender or offender against children has moved to New Hampshire, the division shall register such person and shall include the relevant information in the LENS system.

IV. The information that a person is required to register on the public list as a sexual offender or offender against children, including his or her qualifying offense or offenses, shall be available to law enforcement through the offender's criminal record and motor vehicle record. If an offender's obligation to register terminates for any reason, the department shall notify the division of motor vehicles of the change and the offender's motor vehicle record shall no longer reflect that the person is required to register as a sexual offender or offender against children.

6 Registration of Criminal Offenders; Release of Certain Sexual Offenders Into The Community; Duties. Amend RSA 651-B:3 to read as follows:

651-B:3 Release of Certain Sexual Offenders Into the Community; Duties.

I. Upon release of any sexual offender or offender against children required to register, whether on probation, parole, conditional or unconditional release, completion of sentence, release from secure psychiatric care, **release into the community after involuntary commitment, release from a juvenile detention facility**, or for any other reason, the official in charge of such release shall notify the offender of the offender's duty to report under this chapter. The offender shall acknowledge in writing that he has received such notice. The official shall obtain the address at which the offender expects to reside upon release and shall report such address to the department. The department shall inform the local law enforcement agency where the offender expects to reside. The division shall enter the information concerning the offender's release and notification in the LENS system.

II. Upon receipt from any out-of-state law enforcement agency of information that a sex offender or offender against children has moved to New Hampshire, **the department shall obtain the address at which the offender expects to reside**

and shall inform the local law enforcement agency. The department shall locate and shall serve notice upon such offender of the offender's duty to report under this chapter. ***Service by the department is not required if the offender has already registered with the local law enforcement agency in which the offender resides or is located as required by this chapter. At the time of the initial registration, the*** ~~[The]~~ offender shall acknowledge in writing that the offender has received such notice ***of the duty to report.*** ~~[The department shall obtain the address at which the offender expects to reside and shall inform the local law enforcement agency.]~~ The division shall enter the information concerning the offender's location in New Hampshire and notification in the LENS system.

III. Semi-annually, the department shall verify the address at which the offender resides by sending a letter by certified non-forwarding mail to the offender. The address verification shall be sent to the offender prior to the offender's birthday and again prior to the offender's 6-month semi-annual registration. The address verification shall remind the offender of the obligation to register in person on a semi-annual basis. The offender shall sign the letter and return it to the department within 10 business days of receipt. If the offender's mailing address is to a post-office box, the department shall deliver by other means as determined by the department a letter to the offender's residence. The offender shall sign and return the letter within 10 business days of receipt.

7 Registration of Criminal Offenders; Duty to Report. Amend RSA 651-B:4, I to read as follows:

I.(a)(1) Any person required to be registered under this chapter shall report ***in person*** ~~[such person's current mailing address, place of residence or temporary domicile, and place of employment or schooling]~~ to the local law enforcement agency within ~~[30]~~ ***5 business*** days after the person's release as required under RSA 651-B:3, or within ~~[30]~~ ***5 business*** days after the person's date of establishment of residence in New Hampshire if the person is required to register as a result of an offense committed in another jurisdiction. Such report shall also be made ***semi-annually*** within ~~[30]~~ ***5 business*** days after each anniversary of the person's date of birth ***and the sixth month following the person's date of birth*** and additionally within ~~[30]~~ ***5 business*** days after any change of ~~[address or place of residence]~~ ***any information the person is required to report pursuant to this chapter. If an offender has more than one residence, the offender shall report in person to each local law enforcement agency having jurisdiction over each of the offender's residences.***

(2) Such person shall ~~[also]~~ be required to submit to a photograph taken by the law enforcement agency each time the person is required to report to the law enforcement agency under this section.

(3) Such person shall also provide the following information at the time of registration: name, age, race, sex, date of birth, height, weight, hair and eye color, address of any permanent residence and address of any current temporary residence, within the state or out of state, mailing address, date and place of any employment or schooling, and vehicle make, model, color, license tag number. A post office box shall not be provided in lieu of a physical residential address. Such person shall also provide any additional information required by department rules adopted in accordance with RSA 651-B:8.

(b) Any nonresident sexual offender or offender against children who enters this state for the purpose of employment, with or without compensation, or to attend any public or private educational institution for a period exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year shall report ***in person*** to the local law enforcement agency having jurisdiction over the place of employment or school within ~~[10]~~ ***5 business*** days of the nonresident offender entering the state for employment or schooling, and additionally within ~~[10]~~ ***5 business*** days after any change of place of employment or schooling. In the event a nonresident offender required to register under this paragraph does not have a principal place of employment, the offender shall register ***in person*** with the department in Concord. Upon the nonresident offender's initial registration, the local law enforcement agency or the department shall notify the offender of the offender's duty to report under this chapter. The offender shall report the address of the offender's place of employment or schooling while in the state, the address where the offender resides out of state, and other information required by ***RSA 651-B:4, I(a)(3) and*** department rules adopted in accordance with RSA 651-B:8. Such report shall also be made ***semi-annually*** within ~~[30]~~ ***5 business*** days after each anniversary of the person's date of birth ***and the sixth month following the person's date of birth***, and additionally within ~~[10]~~ ***5 business*** days after any change ~~[of address or place of employment or schooling]~~ ***in the information the person is required to report pursuant to this chapter.***

8 Registration of Criminal Offenders; Change of Name or Alias, or Address; Duty to Inform. Amend RSA 651-B:5 to read as follows:

651-B:5 Change of Name or Alias, or Address; Duty to Inform.

~~[E.]~~ When any person required to be registered under RSA 651-B:~~[4, I(a) changes residence, or their name or alias,]~~ ***changes any information the person is required to report pursuant to this chapter*** the person shall give written notification of the ~~[person's new address, name, or alias]~~ ***new information*** to the local law enforcement agency to which he or she last reported under RSA 651-B:4 within ~~[10]~~ ***5 business*** days of such change of ***information*** ~~[residence, name, or alias]~~. Such notice shall not relieve the person of the duty to report under RSA 651-B:4 at the new place of residence, ***employment, or schooling.*** The local law enforcement agency receiving such notice shall forward a copy to the division within 3 days after receipt. The division shall notify the local law enforcement agency at the new place of residence ***employment or schooling***, or the appropriate out-of-state law enforcement agency if the new place of residence, ***employment or schooling*** is outside New

Hampshire[.]. **The division** [and] shall include [~~such change of address or change of name~~] **any new** information in the LENS system.

~~[H. When any nonresident person required to be registered under RSA 651-B:4, I(b) changes residence, place of employment or schooling, or their name or alias, the person shall give written notification of the person's new address, place of employment or schooling, name, or alias to the local law enforcement agency to which he or she last reported under RSA 651-B:4 within 10 days of such change of residence, place of employment or schooling, name, or alias. Such notice shall not relieve the person of the duty to report under RSA 651-B:4 at the new place of residence. The local law enforcement agency receiving such notice shall forward a copy to the division within 3 days after receipt. The division shall notify the local law enforcement agency at the new place of residence, or the appropriate out-of-state law enforcement agency if the new place of residence is outside New Hampshire, and shall include such change of address or change of name information in the LENS system.]~~

~~III. Any sexual offender or offender against children who, with or without compensation, is employed by or attends any public or private educational institution for a period exceeding 14 consecutive days, or for an aggregate period of time exceeding 30 days during any calendar year, shall give written notification of any changes to the person's place of employment or schooling to the local law enforcement agency to which he or she last reported under RSA 651-B:4 within 10 days of such change of place of employment or schooling. The local law enforcement agency receiving such notice shall forward a copy to the division within 3 days after receipt. If the sexual offender or offender against children continues to be employed by or attend any public or private educational institution, the division shall notify the local law enforcement agency at the new place of employment or schooling, or the appropriate out-of-state law enforcement agency if the new place of employment or schooling is outside New Hampshire, and shall include such changes in the LENS system.]~~

9 Registration of Criminal Offenders; Duration of Registration. Amend RSA 651-B:6, II to read as follows:

II. Any sexual offender required to register as a result of a violation or attempted violation of RSA 632-A:4, I(a) or RSA 645:1, II, and any offender against children required to register as a result of a violation or attempted violation of RSA 633:3 or 645:2, I, or of an equivalent offense in an out-of-state jurisdiction, shall be registered for a 10-year period from the date of release, provided that any such registration period shall not run concurrently with any registration period resulting from a subsequent violation or attempted violation of an offense for which the person is required to register provisions of paragraph II, any sexual offender or offender against children who is required to register as a result **of a violation** of more than one offense listed in RSA 651-B:1, III or RSA 651-B:1, V, or who is sentenced to an extended term of imprisonment pursuant to RSA 651:6, I(b) shall be registered for life.

10 New Paragraph; Registration of Criminal Offenders; Duration of Registration. Amend RSA 651-B:6 by inserting after paragraph III the following new paragraph:

IV. Registration of any juvenile required to register pursuant to RSA 651-B:1, VII(a)(3) or (4) shall end when the juvenile turns 17 years of age unless the court which adjudicated the juvenile as a delinquent retains jurisdiction over the juvenile pursuant to RSA 169-B:4, V, in which case registration of the juvenile shall end when the court terminates jurisdiction over the juvenile's case. When the registration of a juvenile terminates, the department shall remove information relating to the juvenile from the LENS system and records of the juvenile's registration shall be handled in accordance with RSA 169-B:35 and RSA 169-B:36.

11 Availability of Information to the Public. Amend 651-B:7, II-VI(a) to read as follows:

II.(a) The division shall maintain a separate list of all individuals registered pursuant to this chapter who are required to register as a result of any violation or attempted violation of one of the following offenses, or of any law of another state or the federal government reasonably equivalent to one of the following offenses:

(1) **RSA 632-A:2, I(j)**

(2) **RSA 632-A:2, I(k)**

~~[(+)]~~(3) RSA 632-A:2, I(l).

~~[(2)]~~(4) RSA 632-A:2, II-III.

~~[(3)]~~(5) RSA 632-A:3, II, provided that the age difference between the ~~[convicted]~~ individual **required to register** and the victim was more than 3 years at the time of the offense.

~~[(+)]~~(6) RSA 632-A:3, III.

~~[(5)]~~(7) RSA 645:1, II-III.

~~[(6)]~~(8) Any offense described in RSA 651-B:1, V.

(b)(1) The list described in subparagraph (a) shall include:

(A) The name, address, and date of birth of the registered individual.

(B) The offense for which the individual is required to register.

(C) The date and court of the adjudication on the offense for which the individual is registered.

(D) Outstanding arrest warrants, and the information listed in subparagraphs (b)(1)(A)-(C), for any sexual offender or offender against children who has not complied with the obligation to register under this chapter.

(E) A photograph or physical description of the individual, if available.

(2) Where such information is available, the list may also include:

- (A) The date and court of the individual's other adjudications, if any.
- (B) Information on the profile of the victim or victims of the individual's offense or offenses.
- (C) The method of approach utilized by the individual.

(3) In no event shall the list include the identity of any victim. ***Sexual offenders convicted under RSA 632-A:2 shall be listed on the public list in a manner which does not disclose, directly or indirectly, that the victim and the defendant were related or members of the same household. For sexual offenders convicted under RSA 632-A:1, I, no specific reference to any statutory subparagraph shall appear on the public list.***

(c) In no event shall the list made available to the public pursuant to this section include a sexual offender or offender against children who has been adjudicated as a juvenile delinquent.

III. At periodic intervals, not less frequently than once each month, the commissioner of the department of corrections, ~~and~~ the superintendent of each county department of corrections and the commissioner of the department of health and human services shall forward to the division a statement identifying every offender who is confined in a facility under their control who is required to register as a result of ***a violation or attempted violation*** of an offense described in subparagraph II(a), and who is eligible at that time for any unsupervised work detail, release into the community following secure psychiatric care, or other assignment which may bring the offender into contact with members of the public. These statements shall include the information set forth in subparagraphs II(b)(1)(A), (B), and (C), and may also include the information set forth in subparagraphs II(b)(2)(A)-(D). In no event shall the statements include the identity of any victim. These statements shall be incorporated by the division into the list maintained under paragraph II.

IV.(a) The division shall provide a copy of the list described in this section to each local law enforcement agency at periodic intervals, through written, electronic, computerized, or other accessible means, but in no event less frequently than once each month. The list shall be made available to interested members of the public upon request to a local law enforcement agency. The department of safety may make the list available to interested members of the public through the use of the department's official public Internet access site. The department shall adopt rules, pursuant to RSA 541-A, establishing procedures for the collection of information described in this section, the transmission of the information from the division to the local law enforcement agencies, and the conditions under which the list shall be made available to the public. These rules shall enable the public to request information about a named individual or about all listed individuals residing or confined in the state. The rules may also include provisions for the imposition of a reasonable fee to defray the administrative costs of collecting the information and making the information available to the public.

(b) Local law enforcement agencies may photograph, at the time of the registration, any individual who is required to be registered pursuant to this chapter. The consent of the registrant shall not be necessary. Such photographs may be used in the performance of any valid law enforcement function.

(c) In the discretion of the local law enforcement agency, such agency may affirmatively notify the public that an offender who is included on the public list received by the agency pursuant to paragraph IV(a) is residing in the community.

V. Local law enforcement agencies, employees of local law enforcement agencies, ~~and~~ county and state officials, ***municipal and school officials, and municipalities and school districts*** shall be immune from civil and criminal liability for good faith conduct under this chapter, ***including any decision to provide or not provide affirmative notification to the public pursuant to RSA 651-B:7, IV(c).*** Nothing in this paragraph shall be deemed to grant any such immunity to any person for that person's reckless or wanton conduct.

VI.(a) Notwithstanding the provisions of this section, any individual required to be registered whose name and information is contained on the list described in subparagraph II(a) and who ~~has been convicted~~ ***is required to register as a result*** of any violation or attempted violation of RSA 632-A:2, III or RSA 632-A:3, II, provided that the age difference between the ~~convicted~~ individual ***required to register*** and the victim was 3 years or less at the time of the offense and the person has no prior ~~convictions~~ ***adjudications*** requiring registration under RSA 651-B:2, may file with the clerk of the superior court for the county in which the judgment was rendered an application for review of the public registration requirement contained in RSA 651-B:7. This application shall not be filed prior to the completion of all the terms and conditions of the sentence and in no case earlier than 10 years after the date of release ~~following conviction~~. After review of the application, the court may schedule a hearing. ***Prior to granting any petition to remove an offender from the public list, the court shall provide notice to the county attorney who prosecuted the case, the victim advocate, and the victim or victim's family and permit those parties to be heard on the petition. If the court denies the offender's petition, the offender may not file another application pursuant to this paragraph for 5 years from the date of the denial and shall include a risk assessment prepared at the offender's expense.***

12 Registration of Criminal Offenders; Penalties. Amend RSA 651-B:9 to read as follows

651-B:9 Penalty.

I. A sexual offender or offender against children ***who is required to register under this chapter and*** who negligently fails to comply with the requirements of this chapter shall be guilty of a ~~violation~~ ***misdemeanor***.

II. A sexual offender or offender against children ***who is required to register under this chapter and*** who knowingly

fails to comply with the requirements of this chapter shall be guilty of a ~~[misdemeanor]~~ **class B felony**. *An offender who is required to register for a period of 10 years following his or her release, pursuant to RSA 651-B:6, II, shall be required to register for additional 10 years from the date of conviction for violating this paragraph. The obligation to register for an additional 10 years from the date of conviction for violating this paragraph shall be consecutive to the registration period imposed pursuant to RSA 651-B:6 and shall be imposed even if the original registration period has elapsed.*

III. A sexual offender or offender against children previously convicted ~~[of a misdemeanor]~~ pursuant to paragraph II who **is required to register under this chapter and who** knowingly fails to comply with the requirements of this chapter shall be guilty of a class ~~[B]~~ **A felony**. *An offender who is required to register for a period of 10 years following his or her release, pursuant to RSA 651-B:6, II, who is convicted for violating this paragraph shall be required to register for life.*

IV. The penalties imposed under paragraphs I-III shall not apply to juveniles required to register pursuant to RSA 651-B:1, VII(a)(3) or (4). The court with jurisdiction over such juveniles may impose an appropriate disposition for a violation of this section.

~~[IV-]~~ V. Any person who violates the provisions of RSA 651-B:7 shall be guilty of a violation.

VI. A sexual offender or offender against children who knowingly provides false information in response to any of the requirements of this chapter shall be guilty of a class B felony.

VII. A person is guilty of a class B felony if the person has reason to believe that a sexual offender or offender against children is not complying, or has not complied, with the requirements of this chapter and who purposely assists the offender in eluding any law enforcement agency that is seeking to find the offender to question the offender about, or to arrest the offender for, his or her non-compliance with the requirements of this chapter, and engages in any of the following acts or omissions:

(a) Withholds information from, or does not notify, the law enforcement agency about the offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the offender;

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the offender;

(d) Provides information to the law enforcement agency regarding the offender which the person knows to be false information; or

(e) Warns the offender that the law enforcement agency is attempting to locate the offender.

13 New Sections; Registration of Criminal Offenders; Registration Fee; Application. Amend RSA 651-B by inserting after section 10 the following new sections:

651-B:11 Registration Fee.

I. A sexual offender or offender against children shall pay a fee of ~~[\$25]~~ **\$15** at the time of the offender's initial registration and semi-annually at the time of the offender's re-registration. **The department shall use all fees collected under this paragraph to defray the cost of maintaining the sex offender registry. Such funds shall be continually appropriated to the department for such use and shall be nonlapsing.**

II. Anyone required to pay the registration fee who cannot afford to pay the fee shall, within 10 days of registration, request a waiver of the fee and a hearing on the matter before the commissioner. If such a request is made, the commission shall promptly schedule and conduct a hearing pursuant to rules adopted under RSA 541-A. At the hearing the offender shall have the burden to prove that the offender cannot afford to pay the fee because the offender is indigent. After hearing, the decision of the commission shall be final, and the offender shall have a right to appeal the decision in the superior court. Under no circumstances shall the offender's request for a hearing or indigency relieve the offender of the obligation to register pursuant to the time-frames required by this chapter.

651-B:12 Application. Whenever possible, the provisions of this chapter shall be interpreted and applied consistent with the provisions of the federal Jacob Wetterling Act, as amended.

14 Capital Offense and Murder in the First Degree. Amend RSA 597:1-c to read as follows:

597:1-c ~~[Capital Offenses and Murder in the First Degree.]~~ **Offenses Punishable By Life Imprisonment.** Any person arrested for an offense punishable by **up to life in prison** ~~[death or murder in the first degree]~~, where the proof is evident or the presumption great, shall not be allowed bail.

15 Sexual Assault and Offenses; Penalties. Amend the introductory paragraph of RSA 632-A:10-a to read as follows:

632-A:10-a Penalties. Notwithstanding RSA 651:2, **and except where an extended term is sought as provided in RSA 651:6:**

16 New Subparagraph; Sexual Assault and Offenses. Amend RSA 632-A:10-a, V by inserting after subparagraph (b) the following new subparagraph:

(c) Prior to granting any petition pursuant to paragraph V(b), the court shall provide notice to the county attorney

who prosecuted the case, the victim advocate, and the victim or victim's family and permit those parties to be heard on the petition. If the court denies the offender's petition, the offender may not file another application pursuant to this paragraph for 5 years from the date of the denial and shall include a risk assessment prepared at the offender's expense.

17 Sentences; Extended Term of Imprisonment. Amend RSA 651:6, I(j) to read as follows:

(j) Possesses a radio device with the intent to use that device in the commission of robbery, burglary, theft, gambling, stalking, or a violation of any provision of RSA 318-B. In this section, the term "radio device" means any device capable of receiving a wireless transmission on any frequency allocated for law enforcement use, or any device capable of transmitting and receiving a wireless transmission; ~~or~~

18 New Subparagraphs; Sentences; Extended Term of Imprisonment. Amend RSA 651:6, I by inserting after subparagraph (k) the following new subparagraphs:

(l) Has committed or attempted to commit aggravated felonious sexual assault in violation of RSA 632-A:2, I(l) or RSA 632-A:2, II where the defendant was 18 years of age or older at the time of the offense;

(m) Has committed or attempted to commit aggravated felonious sexual assault in violation of RSA 632-A:2, III, and one or more of the acts comprising the pattern of sexual assault was an offense under RSA 632-A:2, I(l) or RSA 632-A:2, II, or both, and the defendant was 18 years of age or older when the pattern of sexual assault began;

(n) Has purposely, knowingly, or recklessly with extreme indifference to the value of human life committed an act or acts constituting first degree assault as defined in RSA 631:1 against a person under 13 years of age where the serious bodily injury has resulted in brain damage or physical disability to the child that is likely to be permanent; or

(o) Has committed murder as defined in RSA 630:1-b against a person under 13 years of age.

19 Sentences; Extended Term of Imprisonment. Amend RSA 651:6, III to read as follows:

III. If authorized by paragraph I or II, and if notice of the possible application of this section is given the defendant prior to the commencement of trial, a defendant ~~shall~~ **may** be sentenced to an extended term of imprisonment. An extended term is, for a person convicted of:

(a) Any felony, other than murder or manslaughter, a minimum to be fixed by the court of not more than 10 years and a maximum to be fixed by the court of not ~~less~~ **more** than 30 years;

(b) A misdemeanor, a minimum to be fixed by the court of not more than 2 years and a maximum to be fixed by the court of not more than 5 years;

(c) Manslaughter, a minimum to be fixed by the court of not more than 20 years and a maximum to be fixed by the court of not more than 40 years;

(d) Murder, life imprisonment;

(e) Two or more offenses under RSA 632-A:2, life imprisonment without parole;

(f) A third offense under RSA 632-A:3, life imprisonment; **or**

(g) ~~[A class A felony under RSA 632-A:2, I(l) and a subsequent separate offense under RSA 632-A:2, I(l), a minimum to be fixed by the court of not less than 15 years and a maximum of life imprisonment without parole; or~~

~~(h)]~~ Any of the crimes listed under RSA 651:6, I(j), a minimum to be fixed by the court of not less than 90 days and a maximum of not more than one year.

20 New Paragraphs; Sentences; Extended Term of Imprisonment. Amend RSA 651:6 by inserting after paragraph III the following new paragraphs:

IV. If authorized by subparagraphs I(l), (m), or (n) and if notice of the possible application of this section is given to the defendant prior to the commencement of trial, a person shall be sentenced to an extended term of imprisonment as follows:

(a) A minimum to be fixed by the court of not less than 25 years and a maximum of life imprisonment; and

(b) The sentence shall also include, in addition to any other penalties provided by law, a special sentence of lifetime supervision by the department of corrections. The defendant shall comply with the conditions of lifetime supervision which are imposed by the court or the department of corrections. Violation of any of the conditions of lifetime supervision shall be deemed contempt of court. The special sentence of lifetime supervision shall begin upon the offender's release from incarceration, parole or probation. A defendant who is sentence to lifetime supervision pursuant to this paragraph is not eligible for release from the lifetime supervision pursuant to RSA 632-A:10-a, V(b).

V. If authorized by subparagraph I(o) and if notice of the possible application of this section is given to the defendant prior to the commencement of trial, a person shall be sentenced to an extended term of imprisonment as follows: a minimum to be fixed by the court of not less than 35 years and a maximum of life imprisonment.

VI. A person shall be sentenced according to the terms of paragraph VII if the court finds, and includes such findings in the record, that such person:

(a)(1) Committed a violation of RSA 632-A:2, I(l), RSA 632-A:2, II, or RSA 632-A:2, III, in which one or more of the acts comprising the pattern of sexual assault was an offense under RSA 632-A:2, I(l) or RSA 632-A:2, II, or both, after having previously been convicted of an offense in violation of one of the aforementioned offenses or any other statute prohibiting the same conduct in another state, territory or possession of the United States, and

(2) The person committed the subsequent offense while released on bail on the earlier offense or the sentence for

the earlier conviction involved a term of incarceration, probation, parole, or other supervised release; or

(b)(1) Committed a violation of RSA 631:1 after having previously been convicted of an offense in violation of RSA 631:1, or any other statute prohibiting the same conduct in another state, territory or possession of the United States, if the earlier offense also involved a victim under 13 years of age where the serious bodily injury resulted in brain damage or physical disability to the child that is likely to be permanent; and

(2) The person committed the subsequent offense while released on bail on the earlier offense or the sentence for the earlier conviction involved a term of incarceration, probation, parole, or other supervised release; or

(c)(1) Committed a violation of RSA 630:1-b after having previously been convicted of an offense in violation of RSA 630:1-b, or any other statute prohibiting the same conduct in another state, territory, or possession of the United States; and

(2) The person committed the subsequent offense while released on bail on the earlier offense or the sentence for the earlier conviction involved a term of incarceration, probation, parole, or other supervised release.

VII. If the court has made the findings authorized by RSA 651:6, VI, and if notice of the possible application of this section is given to the defendant prior to the commencement of trial, a person shall be sentenced to an extended term of imprisonment of life without parole.

21 New Chapter; Involuntary Civil Commitment of Sexually Violent Predators. Amend RSA by inserting after chapter 135-D the following new chapter:

INVOLUNTARY CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS

135-E:1 Findings and Intent. The general court finds that a small but extremely dangerous number of sexually violent predators exist who do not have a mental disease or defect that renders them appropriate for involuntary treatment under RSA 135-C, which is intended to provide short-term treatment to individuals with serious mental disorders and then return them to the community. In contrast to persons appropriate for civil commitment, sexually violent predators generally have antisocial personality features which are unamenable to existing mental illness treatment modalities, and those features render them likely to engage in criminal, sexually violent behavior. The general court further finds that the likelihood of sexually violent predators engaging in repeat acts of predatory sexual violence is high. The existing involuntary commitment procedures for the treatment and care of mentally ill persons are inadequate to address the risk these sexually violent predators pose to society. The general court further finds that the prognosis for rehabilitating sexually violent predators in a prison setting is poor, the treatment needs of this population are very long term, and the treatment modalities for this population are very different from the traditional treatment modalities for people appropriate for commitment under existing law. It is therefore the intent of the general court to create a civil commitment procedure for the long-term care and treatment of sexually violent predators.

135-E:2 Definitions. In this chapter:

I. "Agency with jurisdiction" means the agency that releases, upon lawful order or authority, a person who is serving a sentence in the custody of the department of corrections, or a person who was involuntarily committed upon a finding that the person was not guilty by reason of insanity or incompetent to stand trial.

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

III. "Convicted of a sexually violent offense" means a person who has been:

(a) Adjudicated guilty of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere;

(b) Adjudicated not guilty by reason of insanity of a sexually violent offense; or

(c) Found incompetent to stand trial on a charge of a sexually violent offense and the court makes the finding required pursuant to RSA 135-E:5.

IV. "Court" means the superior court in the county where that person was last convicted of a sexually violent offense, or if the person is in custody on an out-of-state or federal sexually violent offense the county where the person plans to reside upon release or, if no residence in this state is planned, in the county where the facility from which the person to be released is located.

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

VI. "Likely to engage in acts of sexual violence" means the person's propensity to commit acts of sexual violence is of such a degree that the person has serious difficulty in controlling his or her behavior as to pose a potentially serious likelihood of danger to others.

VII. "Mental abnormality" means a mental condition affecting a person's emotional or volitional capacity which predisposes the person to commit sexually violent offenses.

VIII. "Parole board" means the adult parole board established in RSA 651-A:3.

IX. "Person" means an individual 18 years of age or older who is a potential or actual subject of proceedings under this chapter.

X. "Sexually motivated" means that one of the purposes for which the defendant committed the crime was for sexual gratification.

XI. "Sexually violent offense" means:

(a) Capital murder in violation of RSA 630:1, I(e);

(b) First degree murder in violation of RSA 630:1-a, I(b)(1);

(c) Aggravated felonious sexual assault in violation of RSA 632-A:2;

(d) Kidnapping in violation of RSA 633:1, I(d), where the offender confined the victim with the purpose to commit sexual assault against the victim;

(e) Burglary in violation of RSA 635:1, I, where the offender entered a building or occupied structure with the purpose to commit sexual assault;

(f) An attempt, criminal solicitation, or conspiracy, to commit any of the offenses listed above; or

(g) A violation of any other statute prohibiting the same conduct as the offenses listed above in another state, territory, or possession of the United States.

XII. "Sexually violent predator" means any person who:

(a) Has been convicted of a sexually violent offense;

(b) Suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment; and

(c) Is not eligible for involuntary admission under RSA 135-C or RSA 171-B.

XIII. "Total confinement" means that the person is being held in any physically secure facility being operated by or contractually operated for the department of corrections or the department of health and human services. A person shall also be deemed to be in total confinement for applicability of provisions under this chapter if the person is serving an incarcerative sentence under the custody of the department of corrections or is being held in any other secure facility for any reason. A person is not subject to total confinement if the person is subject to an incarcerative sentence or other custody in a secure facility but has contact with the community, such as through work release, a halfway house, or other supervised or unsupervised release into the community.

135-E:3 Notice to County Attorney or Attorney General; Multidisciplinary Teams Established.

I. The commissioner, or designee, shall establish a multidisciplinary team or teams, each of which shall include, but is not limited to, 2 licensed psychiatrists or psychologists or one licensed psychiatrist and one licensed psychologist each of whom has specialized training or experience in the area of treatment and diagnosis of sex offenders. The attorney general shall serve as legal counsel to the multidisciplinary team. The purpose of the team shall be to evaluate whether persons convicted of a sexually violent offense who are eligible for release from total confinement meet the definition of a sexually violent predator.

II. When a person who has committed a sexually violent offense is to be released from total confinement in New Hampshire, the agency with jurisdiction over the person shall give written notice to the county attorney of the county where that person was last convicted of a sexually violent offense, or attorney general if the case was prosecuted by the attorney general. If the person is in custody on an out-of-state or federal sexually violent offense the agency with jurisdiction shall give written notice to the county attorney of the county where the person plans to reside upon release or, if no residence in this state is planned, the county attorney in the county where the facility from which the person to be released is located or to the attorney general if the person has been convicted of murder. Except as provided in RSA 135-E:4, the written notice shall be given:

(a) At least 9 months prior to the anticipated release from total confinement of a person serving a sentence in the custody of the department of corrections, except that in the case of persons who are totally confined for a period of less than 9 months, written notice shall be given as soon as practicable; or

(b) At least 9 months prior to the anticipated hearing regarding possible release of a person committed to the custody of the department who has been found not guilty by reason of insanity for a sexually violent offense.

III. Upon receipt of such notice, if there is an articulable basis to believe that the person is likely to engage in acts of sexual violence, either the county attorney, attorney general, or the agency with jurisdiction may request that the multidisciplinary team assess and evaluate the person to determine whether the person is a sexually violent predator.

IV. If a request to assess and evaluate a person is made pursuant to paragraph III, the agency with jurisdiction shall provide the multidisciplinary team with the following information:

(a) The person's name, identifying characteristics, anticipated future residence, the type of supervision the person will receive in the community, if any, and the person's offense history;

(b) The person's criminal history, including police reports, victim statements, pre-sentence investigation reports, post-sentence investigation reports, if available, and any other documents containing facts of the person's criminal incidents;

(c) Mental health, mental status, and medical records, including all clinical records and notes concerning the person;

(d) Documentation of institutional adjustment and any treatment received; and

(e) If the person was returned to custody after a period of supervision, documentation of adjustment during supervision and any treatment received.

V.(a) The multidisciplinary team shall assess and evaluate each person referred to the team. The assessment and evaluation shall include a review of the person's institutional history and treatment record, if any, the person's criminal background, and any other factor that is relevant to the determination of whether such person is a sexually violent predator.

(b) Before concluding the evaluation, the multidisciplinary team shall offer the person being evaluated a personal interview. If the person agrees to participate in a personal interview, at least one member of the team who is a licensed

psychiatrist or psychologist shall conduct the interview. If the person refuses to fully participate in a personal interview, the multidisciplinary team may proceed with its recommendation without a personal interview of the person.

(c) Within 6 months after receiving notice of a person's anticipated release from total confinement, the department of health and human services shall provide to the county attorney or attorney general a written report of the multidisciplinary team's findings as to whether the person meets the definition of a sexually violent predator.

135-E:4 Release From Total Confinement; Transfers; Petition to Hold in Custody.

I. In the event that a person who has been convicted of a sexually violent offense is eligible for immediate release from total confinement, the agency with jurisdiction shall provide immediate notice to the county attorney or attorney general of the person's release. The county attorney or attorney general or the agency with jurisdiction may file a petition for an emergency hearing in the superior court requesting that the person subject to immediate release be evaluated by the multidisciplinary team to determine whether the person is a sexually violent predator. The hearing shall be held within 24 hours of the filing of the petition, excluding Saturdays, Sundays, and holidays. The person shall not be released from total confinement until after the hearing has been held. At the hearing, the court shall determine whether there is probable cause to believe that the person is a sexually violent predator. If the court finds probable cause, the person shall be held in an appropriate secure facility.

II. Within 72 hours after finding probable cause, the multidisciplinary team shall assess whether the person meets the definition of a sexually violent predator. If the multidisciplinary team determines that the person does not meet the definition of a sexually violent predator, the department shall provide notice to the county attorney or attorney general and that person shall be immediately released. If the multidisciplinary team determines that the person meets the definition of a sexually violent predator, the team shall provide the county attorney or attorney general with its written assessment and recommendation within the 72-hour period or, if the 72-hour period ends on a weekend or holiday, within the next working day thereafter.

III. Within 48 hours after receipt of the written assessment and recommendation from the multidisciplinary team, the county attorney or attorney general may file a petition with the superior court alleging that the person is a sexually violent predator and stating facts sufficient to support such allegation. If a petition is not filed within 48 hours after receipt of the written assessment and recommendation by the county attorney or attorney general, the person shall be immediately released. If a petition is filed pursuant to this section, the person shall be held in an appropriate secure facility for further proceedings in accordance with this chapter.

IV. A person shall be released if the multidisciplinary team or the county attorney or attorney general do not comply with the time limitations in this section. The provisions of this section, however, are not jurisdictional, and failure to comply with the time limitations, which results in the release of a person who has been convicted of a sexually violent offense, is not dispositive of the case and does not prevent the county attorney or attorney general from filing a petition against a person otherwise subject to the provisions of this chapter. However, the court shall not consider any petition filed more than 6 months after the person's release from incarceration unless the timing of the petition is due to newly discovered material facts, which shall be alleged in the petition.

135-E:5 Persons Found Incompetent to Stand Trial.

I. If the county attorney or attorney general seeks to civilly commit a person charged with a sexually violent offense and found incompetent to stand trial, the court shall order the person to remain in custody for a reasonable period of time, not to exceed 90 days, for proceedings pursuant to this section.

II. The court shall first hear evidence and determine whether the person did commit the act or acts charged. The hearing on this issue shall comply with all the procedures specified in this section. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged beyond a reasonable doubt. In determining whether the state has met its burden, the court shall consider the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including the person's ability to assist his or her counsel by recounting the facts, identifying witnesses, testifying in his or her own defense, or providing other relevant information or assistance to counsel or the court. If the person's incompetence substantially interferes with the person's ability to assist his or her counsel, the court shall not find the person committed the act or acts charged unless the court can conclude beyond a reasonable doubt that the acts occurred, and that the strength of the state's case, including physical evidence, eye witness testimony, and corroborating evidence, is such that the person's limitations could not have had a substantial impact on the proceedings. If, after the conclusion of the hearing, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, the court shall enter a final order, appealable to the supreme court on that issue. If the person appeals, the person shall be held in an appropriate secure facility. If the person does not appeal or if the appeal is unsuccessful, the court shall proceed as specified in this section.

III. Within 90 days after the court finds that the person committed the act or acts charged or after appeal, the multidisciplinary team shall conduct an evaluation pursuant to the procedures outlined in RSA 135-E:3 to determine whether the person meets the definition of a sexually violent predator and the department shall provide to the county attorney or attorney general a written report of the multidisciplinary team's findings as to whether the person meets the definition of a sexually violent predator.

135-E:6 Petition; Contents. If the multidisciplinary team finds the person meets the definition of a sexually violent predator, the county attorney or attorney general may file a petition within 14 days with the superior court alleging that the person is a sexually violent predator and stating facts sufficient to support such allegation. If the county attorney or attorney general does not file a petition within 14 days, and the person is otherwise subject to release, the person shall be released.

135-E:7 Determination of Probable Cause.

I. When the county attorney or attorney general files a petition seeking to have a person declared a sexually violent predator, within 10 days of the filing of the petition, the court shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If the court determines based on the content of the petition that there is probable cause to believe that the person is a sexually violent predator, the court shall order that the person remain in custody and be held in an appropriate secure facility for further proceedings in accordance with this chapter.

II. If the offender's incarcerative sentence expires before a hearing on the merits of a petition for civil commitment pursuant to this chapter, the court shall conduct a probable cause hearing within 2 days of the expiration of the person's incarcerative sentence. If the court concludes following the hearing that there is probable cause to believe that the person is a sexually violent predator, the court shall order that the person remain in custody and held in an appropriate secure facility for further proceedings in accordance with this chapter.

135-E:8 Contract Authority. The department may contract with a private entity or state agency for use of and operation of facilities to comply with the requirements of this chapter.

135-E:9 Trial; Procedure.

I. The person or the county attorney or attorney general has the right to demand that the trial be before a jury. A demand for a jury trial must be filed, in writing, no later than 30 days after the finding of probable cause. If no demand is made, the trial shall be to the court. At all adversarial proceedings under this chapter, the person subject to this chapter is entitled to the assistance of appointed counsel if the person is indigent.

II. Within 60 days after the court's initial determination of probable cause, or, in cases where a jury trial has been elected, 60 days after the election of a jury trial, the court shall conduct a trial to determine whether the person is a sexually violent predator.

III. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the interests of justice, when the person will not be substantially prejudiced by the delay.

IV. The person may retain experts or mental health professionals to perform an examination. If the person wishes to be examined by a professional of the person's own choice, the examiner shall be provided reasonable access to the person, as well as to all relevant medical and mental health records and reports. In the case of a person who is indigent, the court, upon the person's request, shall appoint experts or authorize other services pursuant to RSA 604-A:6. If the defendant retains an expert to perform a mental health examination, the person shall also submit to an examination by an expert of the state's choosing. If the person refuses to submit to an examination by the state's expert the court shall prohibit the person's mental health experts from testifying concerning any mental health tests, evaluations, or examinations of the person.

135-E:10 Rules of Procedure and Evidence. In all civil commitment proceedings for sexually violent predators under this chapter:

I. The doctor-patient privilege under RSA 329:26, RSA 330-A:19, the rules of evidence or other similar statutes or rules shall not apply in proceedings under this chapter.

II. The court may consider evidence of the person's prior conduct if such evidence is relevant to the issue of whether the person is a sexually violent predator.

III. Hearsay evidence, including reports of a member of the multidisciplinary team or reports produced on behalf of the multidisciplinary team, shall be admissible in proceedings under this chapter unless the court finds that such evidence is not reliable. In a trial, however, hearsay evidence shall not be used as the sole basis for committing a person under this chapter.

135-E:11 Determination.

I. The state shall have the burden of proving by clear and convincing evidence that the person is a sexually violent predator. If the determination is made by a jury, the verdict shall be unanimous. If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial. If the court declares a mistrial, the county attorney or attorney general may refile the petition and proceed according to the provisions of this chapter. Any retrial shall occur within 90 days after the previous trial, unless the subsequent proceeding is continued in accordance with RSA 135-E:9, II.

II. If the court or jury determines that the person is a sexually violent predator, upon the expiration of the incarcerative portion of all criminal sentences and disposition of any detainers other than detainers for deportation by the United States Bureau of Citizenship and Immigration Services, the person shall be committed to the custody of the department of health and human services for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person no longer poses a potentially serious likelihood of danger to others. At all times, persons who are detained or committed under this chapter shall be kept in a secure facility segregated from patients of the department who are not detained or committed under this chapter. An order committing a person shall be valid for up to 5 years.

III. The determination that a person is a sexually violent predator may be appealed. The public defender shall be

appointed to represent the person on appeal if the person is indigent.

135-E:12 Examinations; Release of Committed Persons.

I. Prior to the expiration of the initial commitment order or any recommittal order, the county attorney or attorney general may file a petition to recommit the person.

II. If the state petitions to renew the committal, the court shall hold a hearing. The person is entitled to be present and is entitled to the benefit of all procedural protections afforded the person at the initial trial, except for the right to a jury. The state has the right to have the person examined by professionals chosen by the state. At the hearing, the state bears the burden of proving, by clear and convincing evidence, that the person remains a sexually violent predator. Any recommittal order shall be valid for a period of up to 5 years.

135-E:13 Authorized Petition for Release.

I. If the commissioner, or designee, at any time determines that the person is not likely to commit acts of sexual violence if discharged, the commissioner or the his or her designee shall notify the court and the court shall hold a hearing. The petition shall be served upon the court and the county attorney or attorney general. The court, upon receipt of such notice, shall schedule a hearing within 60 days, unless continued for good cause.

II. The county attorney or attorney general shall represent the state, and has the right to have the person examined by professionals of the county attorney or attorney general's choice. The state bears the burden of proving, by clear and convincing evidence, that the person remains a sexually violent predator.

135-E:14 Petitions for Release. A person may file a petition for discharge at any time after commitment under this chapter without the approval of the commissioner, or his or her designee. Notice of the petition shall be provided to the commissioner and to the county attorney or attorney general. After reviewing the petition filed by the person the court may request the commissioner or county attorney or attorney general to respond to the petition. The commissioner or county attorney or attorney general is not required to respond to a petition filed pursuant to this section unless ordered to do so by the court. If the court determines that appointment of counsel may assist in an appropriate resolution of the petition, and the person is indigent, the court shall appoint counsel to represent the person. If the court determines that the petition is without merit on its face, the court may deny the petition without a hearing.

135-E:15 Release of Records to Agencies.

I. In order to protect the public, relevant information and records that are otherwise confidential or privileged shall be released to the agency with jurisdiction, to a multidisciplinary team, or to the county attorney or attorney general for the purpose of meeting the notice requirements of this chapter and determining whether a person is or continues to be a sexually violent predator. A person, agency, or entity receiving information under this section which is confidential shall maintain the confidentiality of that information. Such information does not lose its confidential status due to its release under this section.

II. Psychological or psychiatric reports, drug and alcohol reports, treatment records, medical records, pre-sentence investigative report, or victim impact statements that have been submitted to the court or admitted into evidence under this chapter shall be part of the record but shall be sealed and may be opened only pursuant to a court order.

135-E:16 Constitutional Requirements. The long-term control, care, and treatment of a person committed under this chapter shall conform to constitutional requirements.

135-E:17 Immunity from Civil Liability. The agency with jurisdiction and its officers and employees; the department and its officers and employees; members of the multidisciplinary team; the county attorney or attorney general and the county attorney or attorney general's employees; and those involved in the evaluation, care, and treatment of sexually violent persons committed under this chapter are immune from any civil liability for good faith conduct under this chapter.

135-E:18 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications to this chapter which can be given effect without the invalid provisions of applications, and to this end the unconstitutional provisions or applications of this chapter are severable.

135-E:19 Applicability. This chapter applies retroactively to all persons in custody as of the effective date of this statute who have been convicted of a sexually violent offense, as well as prospectively.

135-E:20 Notice Requirements.

I. No later than 30 days prior to the release of a sexually violent predator, the department shall give written notice of the person's release to the victim advocate for the county in which the person was prosecuted, and to the extent possible the victim or the victim's family shall be notified.

II. If a sexually violent predator who has an active or pending term of probation, parole, conditional release, or other court-ordered or postprison release supervision is released from custody, the department shall immediately notify the department of corrections. The parole board shall also be immediately notified of the release of a sexually violent predator who has an active or pending term of parole, conditional release, or other postprison release supervision that is administered by the parole board.

135-E:21 Escape.

I. A person who escapes or attempts to escape from lawful custody pursuant to this chapter is guilty of a class A felony.

II. If a person escapes while in custody pursuant to this chapter, the department shall immediately notify the victim and

the county attorney or attorney general that filed the petition for civil commitment. If the escapee has an active or pending term of probation, parole, conditional release, or other court-ordered or postprison release supervision, the department shall also immediately notify the department of corrections. The parole board shall also be immediately notified of an escape if the escapee has an active or pending term of parole, conditional release, or other postprison release supervision that is administered by the parole board.

135-E:22 Rules. The department shall adopt rules, pursuant to RSA 541-A, relative to:

I. Procedures to be followed by members of the multidisciplinary teams when assessing and evaluating persons subject to this chapter.

II. Education and training requirements for members of the multidisciplinary teams and professionals who assess and evaluate persons under this chapter.

III. The designation of secure facilities for sexually violent predators who are subject to involuntary commitment under this chapter.

IV. The components of the basic treatment plan for all committed persons under this chapter.

V. The protocol for informing a person that he or she is being evaluated to determine whether he or she is a sexually violent predator under this chapter. Such protocol shall include procedures for informing the person of the right to refuse to participate in a personal interview with the multidisciplinary team or members thereof, the right to consult with counsel prior to participating in such an interview, and the right to have counsel appointed if the person is indigent.

135-E:23 Appointment of Counsel. The right of a person sought to be committed as a sexually violent predator to legal counsel prior to and during any judicial hearing conducted under this chapter shall be absolute and unconditional. The right to legal counsel for any person sought to be committed during any judicial proceeding conducted under this chapter shall be waived only if the client or person sought to be committed makes an informed decision to do so. The person sought to be committed shall pay the costs of the legal services in connection with hearings held under this chapter. If the person sought to be committed is unable to pay for counsel, the court shall appoint counsel pursuant to RSA 604-A:2. Such appointment shall be made no later than upon the filing of the petition and shall be made upon request of the person before any interview or personal examination of the person is conducted by the multidisciplinary team or other person in preparation for the filing of a petition.

22 Commitment to Hospitals; Competency Hearing; Commitment for Treatment. Amend RSA 135:17-a, V as follows:

V. If the court has determined that the defendant has not regained competency, and the court determines that he or she is dangerous to himself or herself or others, the court shall order the person to remain in custody for a reasonable period of time, not to exceed 90 days, to be evaluated for the appropriateness of involuntary treatment pursuant to RSA 135-C:34 or RSA 171-B:2. The court may order the person to submit to examinations by a physician, psychiatrist, or psychologist designated by the state for the purpose of evaluating appropriateness and completing the certificate for involuntary admission into the state mental health services system, the state developmental services delivery system, or the secure psychiatric unit, as the case may be. ***If a defendant who was charged with a sexually violent offense, as defined in RSA 135-E:2, XI, has not regained competency, the court shall proceed pursuant to RSA 135-E.***

23 New Subparagraph; Delinquent Children; Dispositional Hearing. Amend RSA 169-B:19, I by inserting after subparagraph (j) the following new subparagraph:

(k) Order the minor to register as a sexual offender or offender against children pursuant to RSA 651-B until the juvenile reaches the age of 17 if the court finds that the minor presents a risk to public safety.

24 New Subparagraph; Delinquent Children; Dispositional Hearing. Amend RSA 169-B:19, III-a by inserting after subparagraph (e) the following new subparagraph:

(f) If the court retains jurisdiction over the minor pursuant to RSA 169-B:4, V, and the court has determined that the minor is required to register as a sexual offender or offender against children pursuant to RSA 169-B:19, I(k), the minor shall continue to register pursuant to RSA 651-B; provided, that so long as the court retains jurisdiction over the case.

25 New Subparagraph; Delinquent Children; Juvenile Case and Court Records. Amend RSA 169-B:35, III by inserting after subparagraph (c) the following new subparagraph:

(d) Pursuant to RSA 651-B, the department of safety shall disclose registration information to law enforcement agencies for juveniles if the court has found that the juvenile is required to register as a sexual offender or offender against children. In no event shall any juvenile required to register be listed on the list of sexual offenders and offenders against children made available to the public pursuant to RSA 651-B:7.

26 Committee to Identify and Evaluate Classification and Risk Assessment Procedures for Convicted Sex Offenders and Offenders Against Children Established.

I. There is established a committee to identify and evaluate classification and risk assessment procedures for convicted sex offenders and offenders against children.

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

(a) Four members of the house of representatives, at least 2 of whom shall be from the criminal justice and public safety committee, and one of whom shall be from the judiciary committee, appointed by the speaker of the house of representatives.

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

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

IV. The committee shall:

(a) Identify and evaluate classification and risk assessment procedures for convicted sex offenders and offenders against children.

(b) Identify classification and risk assessment procedures from other states, including those in the New England region.

(c) Identify the scope, use, and effectiveness of such procedures.

(d) Identify the benefits and liabilities of notifying the public of each level of classification and the best system for such notification.

(e) Identify funding sources for such classification and risk assessment procedures.

(f) Identify implementation procedures for past, present, and future offenders.

(g) Identify methods of evaluation and accountability.

(h) Study any additional information that the committee deems necessary.

V. The committee shall use the information collected to make recommendations to the legislature for the management of sex offenders and offenders against children.

VI. The committee shall solicit information and testimony from any organization or individual as deemed necessary to assist the committee in the performance of its duties, including:

(a) Employees of the department of safety with direct responsibility for maintaining the New Hampshire sex offender registry.

(b) Other department of safety employees as may be necessary.

(c) The department of corrections.

(d) The department of education.

(e) Forensic evaluators.

(f) Sex offender treatment providers.

(g) Victims' advocates.

(h) A licensed New Hampshire attorney primarily engaged in the practice of criminal defense.

(i) The New Hampshire Civil Liberties Union.

(j) The New Hampshire Association of Chiefs of Police.

(k) An advocate for the developmentally disabled.

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

VIII. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2007.

27 Global Positioning Satellite Monitoring; Feasibility Study. The department of corrections shall implement a study to evaluate the feasibility and efficacy of instituting life-time monitoring of serious sexual offenders and offenders against children by means of global positioning satellite technology or other monitoring or tracking systems and report the results of the study to the general court on or before November 1, 2006. The department of corrections shall implement a system for tracking sexual offenders and offenders against children by global positioning satellite technology by July 1, 2008.

28 Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

29 Effective Date.

I. Sections 26, 27, and 29 of this act shall take effect upon its passage.

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

AMENDED ANALYSIS

This bill revises the statutes concerning sexual predators, and establishes a committee to identify and evaluate classification and risk assessment procedures for convicted sex offenders and offenders against children.

2006-0852h

Amendment to HB 1697-FN

Proposed by the Committee on Finance - R

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

□ Councilors and Commissioners. Amend the section heading and amending language of 2005, 177:73 and the introductory paragraph of RSA 94:1-a, II as inserted by 2005, 177:73 to read as follows:

177:73 Salary Wages for Councilors and Commissioners; ~~[July 7, 2006]~~ **June 16, 2006. Amend** RSA 94:1-a, II ~~[is repealed and reenacted]~~ to read as follows:

II. The salary wages for the positions set forth below shall be as follows commencing ~~[July 7, 2006]~~ **June 16, 2006:**

2) Judiciary. Amend the section heading of 2005, 177:76 to read as follows:

177:76 Judicial Salaries; ~~[July 7, 2006]~~ **June 16, 2006.**

3) Judicial Employees. Amend 2005, 177:79 to read as follows:

177:79 Judicial Employees; ~~[July 7, 2006]~~ **June 16, 2006.** All judicial employees shall receive 2 percent salary increases on ~~[July 7, 2006]~~ **June 16, 2006.**

4) Legislative Employees. Amend 2005, 177:82 to read as follows:

177:82 Legislative Employees; ~~[July 7, 2006]~~ **June 16, 2006.** Legislative employees shall receive 2 percent salary increases effective ~~[July 7, 2006]~~ **June 16, 2006**, if such increases are approved by the appointing authority.

5) State Officers; Unclassified State Employees. Amend the section heading of 2005, 177:85 to read as follows:

177:85 Compensation of State Officers; Unclassified State Employees; ~~[July 7, 2006]~~ **June 16, 2006[.].**

6) Department of Justice; Attorneys. Amend the section heading and amending language of 2005, 177:88 and the introductory paragraph of RSA 94:1-a, I(c) as amended by 2005, 177:88 to read as follows:

177:88 Department of Justice; Attorney Salaries; ~~[July 7, 2006]~~ **June 16, 2006. Amend** RSA 94:1-a, I(c) ~~[is repealed and reenacted]~~ to read as follows:

I(c) For attorney positions in the department of justice, except for the attorney general and deputy attorney general, the following shall apply commencing on ~~[July 7, 2006]~~ **June 16, 2006:**

7) Other Non-Classified or Unclassified Employees. Amend 2005, 177:89 to read as follows:

177:89 Increases in Salary; Other Non-Classified or Unclassified Employees. All other nonclassified or unclassified employees not covered by the provisions for salary increases in this act shall be granted a salary increase of 2 percent effective July 8, 2005, an additional salary increase of 2 percent effective January 6, 2006, and an additional salary increase of 2 percent effective ~~[July 7, 2006]~~ **June 16, 2006.**

8) Classified Salaries. Amend the section heading and amending language of 2005, 177:145 and the introductory paragraph of RSA 99:1-a as inserted by 2005, 177:145 to read as follows:

177:145 Classified Salaries; ~~[July 7, 2006]~~ **June 16, 2006. Amend** RSA 99:1-a ~~[is repealed and reenacted]~~ to read as follows:

99:1-a Salaries Established. The salary ranges for all classified employees commencing ~~[July 7, 2006]~~ **June 16, 2006** shall be established as follows:

9) Classified Increases. Amend the section heading and amending language of 2005, 177:148 and RSA 99:3 as inserted by 2005, 177:148 to read as follows:

177:148 Classified Increases; ~~[July 7, 2006]~~ **June 16, 2006. Amend** RSA 99:3 ~~[is repealed and reenacted]~~ to read as follows:

99:3 Increase in Salary. Notwithstanding the provisions of RSA 273-A or any other provision of law to the contrary, classified employees of the state as of ~~[July 7, 2006]~~ **June 16, 2006**, shall be placed in the corresponding steps in the new salary ranges as their length of service justifies and their salaries shall be in accordance with the salary scales set forth in RSA 99:1-a. The provisions hereof shall not be construed as affecting so-called longevity payments which shall be in addition to the regular salary scale.

10) Effective Date Changed from July 1, 2006 to June 16, 2006. Amend 2005, 177:191, V to read as follows:

V. Sections ~~[67,]~~ 73, 76, 79, 82, 85, 88, 145, and 148 of this act shall take effect ~~[July 7, 2006]~~ **June 16, 2006 and section 67 of this act shall take effect July 7, 2006.**

11) Appropriation. The following sums are appropriated from the following sources for the purposes of sections 1-9 of this act for the fiscal year ending June 30, 2007:

All	General	Federal	Highway	Turnpike	Fish and Game	Other
\$682,134	\$334,314	\$117,259	\$ 90,792	\$ 11,801	\$ 9,755	\$118,213

12) Effective Date. This act shall take effect upon its passage.
2006-1236h

Amendment to HB 1710-FN-A

Proposed by the Committee on Finance - R

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

AN ACT relative to appropriations to the department of health and human services for home care providers and community mental centers and making an appropriation to increase the hourly rate of pay for direct care providers for persons with developmental and acquired disabilities.

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

1) Appropriations.

I. The sum of \$457,802 is hereby appropriated to the department of health and human services for the fiscal year ending June 30, 2007, for the purpose of funding the fiscal year 2007 cost of rate increases for home care providers and services

implemented during fiscal year 2006. This appropriation is in addition to any other funds appropriated to the department of health and human services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

II. The sum of \$719,895 is hereby appropriated to the department of health and human services for the fiscal year ending June 30, 2007, for the purpose of providing a 4.6 percent rate increase for home care providers and services in fiscal year 2007. This rate increase shall be in addition to the rate increases for home care providers and services implemented during fiscal year 2006. This appropriation is in addition to any other funds appropriated to the department of health and human services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

2] Appropriation. The sum of \$200,000 is hereby appropriated to the department of health and human services for the biennium ending June 30, 2007 for community mental health centers that did not meet their fiscal year Medicaid billing projections and have an operating deficit. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

3] National Alliance on Mental Illness. Notwithstanding any provision of law to the contrary, the department of health and human services shall pay \$210,000 for the fiscal year ending June 30, 2007 from the amounts appropriated pursuant to 2005, 176 PAU 05-01-09-04-01, class 98 to the National Alliance on Mental Illness for family mutual support services.

4] Provider Rates. Notwithstanding any provision of law to the contrary, amounts appropriated in 2005, 176 PAU 05-01-06-07-01, class 93 shall not be transferred or expended for any other purpose until the intent of the general court as stated in this section is followed. It is the intent of the general court that the department of health and human services shall in all instances comply with all applicable provisions of law and administrative rules relative to the rates paid to the providers funded from said class, and that the commissioner set rates paid to these providers consistent with the operating budget appropriations allotted to them including any rate increases provided for in the operating budget, and shall set rates paid to these providers that reflect legislative decisions to provide specific rate increases as footnoted in the operating budget.

5] Appropriation. There is hereby appropriated the sum of \$2,000,000, for the biennium ending June 30, 2007, to the department of health and human services for the purpose of increasing the hourly pay of direct care providers for persons with developmental and acquired disabilities. For the purposes of this section, direct care providers shall include, but not be limited to, individuals who are employed by, have a contract with, or receive any form of remuneration from a provider agency to provide such services. This state appropriation shall be reduced by the amount of matching federal funds received by the department. Any funds provided from the state to provider agencies pursuant to this section which are not expended pursuant to the purposes of this section, shall be returned by such agencies to the commissioner, and shall lapse. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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

AMENDED ANALYSIS

This bill makes appropriations to the department of health and human services for the purposes of funding rate increases for home care providers and community mental health centers. This bill also requires the department of health and human services to pay a certain amount to the National Alliance on Mental Illness for family mutual support services.

This bill also makes an appropriation to the department of health and human services for the purposes of increasing the hourly rate of pay for direct care providers for persons with developmental and acquired disabilities. The appropriation made for direct care providers is to be reduced by the amount of federal matching funds received.

2006-0863h

Amendment to HB 1726-FN

Proposed by the Committee on Finance - R

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

1] Payment of Legal Fees of Certain Supreme Court Justices.

I. The judicial branch shall pay the following amounts to the following persons as full and final payment for legal fees incurred by such persons in the capacity as supreme court justices as a result of claims they were subjected to, and prevailed as to, involved in impeachment proceedings initiated by the legislature:

- | | |
|--|-----------|
| (a) Retired Chief Justice David A. Brock | \$474,000 |
| (b) Retired Associate Justice Sherman D. Horton, Jr. | \$37,000 |
| (c) Chief Justice John T. Broderick, Jr. | \$90,000 |

II. Prior to payment of the sums under paragraph I, retired justices Brock and Horton and chief justice Broderick shall submit to the department of administrative services, signed release statements from themselves that the payments made under paragraph I are full and final payments for legal fees incurred for the impeachment proceedings.

2] Funding of Payment. The judicial branch shall make the payments pursuant to section 1 from the judicial branch operating budget on the effective date of this act. The sum of \$601,000 required for the payments shall be a charge against sums appropriated to the judicial branch for the biennium ending June 30, 2007.

3] Effective Date. This act shall take effect upon its passage.

2006-1307h

Floor Amendment to HB 1738-FN

Proposed by Rep. Kurk

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

1 New Subdivision; Highway Video Surveillance. Amend RSA 236 by inserting after section 129 the following new subdivision:

Highway Video Surveillance

236:130 Highway Surveillance Prohibited.

I. In this subdivision, "surveillance" means the act of determining the ownership of a motor vehicle or the identity of a motor vehicle's occupants on the public ways of the state or its political subdivisions through the use of a camera or other imaging device or any other device, including but not limited to a transponder, cellular telephone, global positioning satellite, or radio frequency identification device, that by itself or in conjunction with other devices or information can be used to determine the ownership of a motor vehicle or the identity of a motor vehicle's occupants.

II. Neither the state of New Hampshire nor its political subdivisions shall engage in surveillance on any public ways of the state or its political subdivisions.

III. The prohibition set forth in paragraph II shall not apply where surveillance:

(a) Is specifically authorized by statute;

(b) Is undertaken on a case-by-case basis in the investigation of a particular violation, misdemeanor, or felony;

(c) Is undertaken to produce images or data that:

(1) Are viewed only at the transportation management center of the department of transportation in connection with a particular incident occurring on a public way; and

(2) Are not recorded;

(d) Is incidental to the monitoring of a building or other structure under the control of the state or a political subdivision of the state; or

(e) Is undertaken for the security of the following bridges and approach structures: I-95 Piscataqua River Bridge, Sarah Mildred Long Bridge, and the Memorial Bridge, all in Portsmouth.

IV. Nothing in this section shall prevent the creation, transmission, or recording of any images or data which cannot, by enhancement, manipulation, or otherwise, be used for surveillance.

V. Any person violating the provisions of this section shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person.

236:131 Information from Other Sources. Neither the state of New Hampshire nor its political subdivisions shall obtain from others, including private businesses and federal and state governments, any information that it is prohibited from obtaining under the provisions of RSA 236:130.

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

AMENDED ANALYSIS

This bill prohibits the use of surveillance devices on New Hampshire highways unless authorized by statute or under certain other circumstances.

2006-1177h

Amendment to HB 1744-FN-A

Proposed by the Committee on Executive Departments and Administration - R

Amend the bill by replacing all after section 3 with the following:

4 Games of Chance; Enforcement. Amend RSA 287-D:1-a to read as follows:

287-D:1-a ~~[Administration and]~~ Enforcement. The *pari-mutuel commission, with the assistance of the* attorney general and the ~~[respective]~~ chief of police *of any city or town where games of chance are held*, shall administer and enforce the provisions of this chapter.

5 New Section; Rulemaking. Adopt RSA 287 by inserting after section 287-D:1-a the following new section:

287-D:1-b Rulemaking. The pari-mutuel commission shall adopt rules, pursuant to RSA 541-A, relative to:

I. The application procedure for games of chance licenses for charitable organizations.

II. Information to be required on license applications for games of chance licenses for charitable organizations

III. The application procedure for games of chance licenses for game operators.

IV. Information to be required on license applications for games of chance licenses for game operators.

V. Procedures for a hearing following revocation of any license issued pursuant to this chapter.

VI. The operation of games of chance.

VII. The rental or lease of facilities pursuant to RSA 287-D:2-a, VI and the leasing or purchasing of equipment for use in games of chance.

VIII. Refunds of license fees pursuant to RSA 287-D:2-d, VI.

IX. Accountability controls to ensure game integrity, including, but not limited to, cash, attendance, prizes, income,

expense and financial reporting, and record-keeping to be implemented by licensed charitable organizations and licensed game operators in addition to requirements set forth in RSA 287-D:5.

X. Enforcement of this chapter pursuant to RSA 287-D:6 and RSA 287-D:7.

XI. Background and criminal records checks pursuant to RSA 287-D:8.

XII. The issuance of subpoenas pursuant to RSA 287-D:9.

XIII. Other matters related to the proper administration of this chapter.

6 Games of Chance Authorized. Amend RSA 287-D:2, II to read as follows:

II. No one may apply for a license for the operation of games of chance without first obtaining written permission of the owner of the property where the games will be conducted. Such permission shall be acknowledged before a notary public or justice of the peace and shall be obtained on a form supplied by the ~~[chief of police of said city or town]~~ **pari-mutuel commission**.

7 Games of Chance; License Applications. Amend RSA 287-D:2-a to read as follows:

287-D:2-a License Applications.

I. Applications shall be submitted to the ~~[respective chief of police and to the attorney general]~~ **pari-mutuel commission** by an officer, director, or duly authorized official of the charitable organization. Proof of authority to submit the application on behalf of the charitable organization may be required. **The applicant shall send copies of the application submitted to the pari-mutuel commission to the attorney general and the chief of police of each city or town where games of chance are held.**

II. Applications shall be made only on the forms supplied to the charitable organization by the ~~[attorney general]~~ **pari-mutuel commission including, at a minimum, the following information provided that the commission may, by rule, establish additional items to be submitted on the application form or attached to it:**

(a) **If known, the date or dates and location or locations of each game of chance to be sponsored by the charity.**

(b) **A list of the names and addresses of the current bona fide members of the charity.**

(c) **The name of the New Hampshire bank and the bank account number for the account in which money from the game of chance will be deposited and withdrawn.**

(d) **The name, date of birth, and social security number of all bona fide charitable organization members who will participate in the operation of the games. The pari-mutuel commission shall keep as exempt from disclosure, pursuant to RSA 91-A, any social security numbers submitted.**

(e) **The name and address of any game operator who will be involved in the operation of the games.**

(f) **If any of the proposed games are to be held in a location licensed pursuant to RSA 287-D:2-a, VI, the name and address of the person or business from whom the space is being rented.**

(g) **If the charitable organization is buying or renting any equipment for the game of chance, the name and address of the seller or renter.**

III. No license shall be issued unless the application form is fully completed by the duly authorized officer, director, or official of the charitable organization.

IV. **Initial applications shall be received by the pari-mutuel commission at least 60 days before the first game date of the year. Each subsequent application** shall be received by the ~~[chief of police and attorney general]~~ **pari-mutuel commission** ~~[15 days prior to the first game date of each month]~~ **on or before December 1 for a license for games to be held during the following year.** This requirement may be waived by the ~~[attorney general]~~ **pari-mutuel commission** for good cause shown.

V. The applicant shall certify under oath that:

(a) The information provided on the application is accurate.

(b) Only bona fide members of the charitable organization **or persons complying with the requirements of RSA 287-D:2-c** will operate the games of chance.

(c) That neither the applicant nor any ~~[member of the charitable organization]~~ **person** who will be participating in the operation of the games of chance has been convicted of a ~~[felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court,][a crime]~~ **felony within the previous 10 years which has not been annulled by a court or a misdemeanor involving falsehood or dishonesty within the previous 5 years which has not been annulled by a court**, or has violated any statutes or rules governing charitable gambling.

(d) The applicant or any ~~[member of the charitable organization]~~ **person** who will be participating in the operation of the games of chance is aware of all statutes and rules applicable to the operation of games of chance.

VI. If a charitable organization intends to lease or rent premises for the conduct of any game of chance from an entity other than a charitable organization or governmental subdivision, the entity leasing or renting out the premises shall be licensed by the pari-mutuel commission. The license shall be applied for by filing an application supplied by the pari-mutuel commission. The pari-mutuel commission may issue a license for a period of one year

which shall expire on June 30 of each year unless sooner revoked or suspended for just cause by the pari-mutuel commission.

VII. To be eligible for licensure under this chapter, a charitable organization shall:

(a) Document that it is exempt from federal income tax.

(b) Establish that the religious, civic, fraternal, veterans, or charitable purposes for which it was organized, other than charitable gambling, are furthered through activities conducted in the town or city in which the charitable organization is organized.

(c) Register, if required under RSA 7:19 – RSA 7:32, with the director of charitable trusts.

(d) Maintain a current list of bona fide members.

(e) Maintain a New Hampshire bank account solely in the name of the charitable organization in which the money from games of chance shall be deposited and withdrawn.

(f) Meet all other applicable requirements specified in this chapter and in rules adopted by the pari-mutuel commission.

VIII. No person shall be permitted to participate in the operation of a game of chance, unless that person is:

(a) Listed on the application form pursuant to subparagraph II(d), or added to the list pursuant to paragraph IX, and has submitted to a background and criminal record check pursuant to RSA 287-D:8; or

(b) A licensed game operator pursuant to RSA 287-D:2-c.

IX. The charitable organization may amend or supplement the list of members who will participate in the operation of a game of chance, pursuant to subparagraph II(d), up to 10 working days prior to any particular game.

X. At least 45 days prior to each game date, the charitable organization shall submit the date and location of the game of chance if this information has not already been submitted to the pari-mutuel commission pursuant to subparagraph II(a).

8 Operation of Games of Chance. Amend RSA 287-D:2-b, I and II to read as follows:

I.(a) Only **persons complying with the requirements of RSA 287-D:2-c** or bona fide members of charitable organizations shall operate games of chance; except that, if all bona fide members of a charitable organization are under 18 years of age, adult officers or directors of the charitable organization or parents or legal guardians of bona fide minor members, who have been authorized by the officers or directors of the charitable organization, shall operate the games. Proof of bona fide membership shall be required **for any person not subject to the requirements of RSA 287-D:2-c.**

(b) Notwithstanding subparagraph (a), if, by reason of the established criteria for membership, all bona fide members of the charitable organization are physically or mentally disabled, or both, the officers, directors, or authorized officials of the charitable organization may designate individuals to conduct the operation of games of chance on behalf of said charitable organization. Individuals so designated are subject to all applicable provisions of this chapter, **shall be listed pursuant to RSA 287-D:2-a, II(b) or RSA 287-D:2-a, IX**, and the designation of such individuals is subject to the approval of the ~~[chiefs of police]~~ **pari-mutuel commission.**

(c) Notwithstanding subparagraph (a), all charitable organizations that conduct games of chance for charitable purposes may allow spouses, sons, and daughters of bona fide members who are at least 18 years of age to assist with the operation of the games of chance. ~~[A list of the names of the persons assisting shall be submitted to the chief of police prior to the scheduled game of chance event.]~~ **These spouses, sons, and daughters are subject to all applicable provisions of this chapter, shall be listed pursuant to RSA 287-D:2-a, II(b) or RSA 287-D:2-a, IX, and are subject to the approval of the pari-mutuel commission.**

II. No compensation shall be paid to operators of a game of chance **unless agreed to in advance in writing by the charity.** Compensation shall include, but is not necessarily limited to, money or any other thing of value. **If the paid game operator's compensation is contingent upon the amount of revenue received from a game of chance, the compensation shall be a fixed percentage of the gross revenue from the game of chance excluding the paid game operator's expenses. If the compensation of a paid game operator is not contingent upon the amount of revenue received, the compensation shall be a reasonable estimate, expressed as a percentage of the gross revenue. The contract shall clearly disclose the assumptions upon which the estimate is based. The stated assumptions shall be based upon all of the relevant facts known to the paid game operator regarding the services to be provided and the past performance of games of chance operated by the paid game operator.**

II-a. Unless otherwise agreed to in advance, pursuant to paragraph II, in writing by the charitable organization, operators of games of chance may be reimbursed for their out-of-pocket expenses in an amount not to exceed \$[8]25 per game date, provided that such expenses are itemized and submitted in writing to the charitable organization.

9 New Paragraphs; Operation of Games of Chance. Amend RSA 287-D:2-b by inserting after paragraph VI the following new paragraphs:

VII. Only the treasurer of the charitable organization or a bona fide member of the charitable organization designated by the treasurer, shall handle any monetary transactions related to the game of chance.

VIII. The charitable organization shall deposit cash and proceeds from a game of chance into the New Hampshire bank account required by RSA 287-D:2-a, VII(e). All expenses, including prizes of more than \$500.00, game operator fees, and equipment and hall rental fees shall be paid by check from that New Hampshire bank account. The treasurer of the charitable organization shall document all prizes awarded as prescribed in rules adopted by the pari-mutuel commission.

IX. All game of chance paraphernalia or related equipment used in conducting games of chance shall be subject to inspection and approval by the pari-mutuel commission.

X. The charitable organization shall keep a record of all persons participating in the operation of a game of chance, including but not limited to, the date and location of the game and the person's name, address, telephone number, and type of participation in the game.

XI. For games where chips have no monetary face value, the charitable organization may offer any number of games per game date up to a limit of \$300 per person including buy-ins and re-buys.

10 New Section; Licensing of Game Operators. Adopt RSA 287-D:2-c by inserting after section 287-D:2-b the following new sections:

287-D:2-c Licensing of Game Operators.

I. As used in this section, game operators means any consultant or any person other than a bona fide member of the charitable organization involved in conducting, managing, supervising, directing, or running the games of chance, and those involved in such tasks as dealing, running a roulette wheel, handling chips, and serving beverages or food.

II. Applications shall be made only on the forms supplied to the game operator by the pari-mutuel commission including, at a minimum, the following information provided that the pari-mutuel commission may, by rule, establish additional items to be submitted on the application form or attached to it:

(a) The name of the game operator.

(b) The name of the game operator's employer and the employer's address and telephone number.

(c) A list of the games of chance in which the game operator will participate including the date of the game, the location of the game, and the charitable organization holding the game.

(d) A list of any other states in which the game operator has been registered or licensed as a professional fundraiser, professional game operator, or other similar position.

(e) Whether a registration or license listed in subparagraph (d) has been denied, suspended, revoked, or enjoined by a court or state agency, or if such proceedings are pending; and

(f) The names and addresses of any individuals with whom the applicant is affiliated in the fundraising or game operating business.

III. No person shall be permitted to participate in the operation of a game of chance as a game operator, unless that person:

(a) Is listed on a charitable organization's application form pursuant to RSA 287-D:2-a, II(e);

(b) Has submitted a background and criminal check pursuant to RSA 287-D:8; and

(c) Is a licensed game operator pursuant to this section.

IV. Initial applications shall be received by the pari-mutuel commission at least 60 days before the first game date of the year. Each subsequent application shall be received by the pari-mutuel commission on or before December 1 for a license for games to be held during the following year.

V. The game operator or the game operator's employer shall submit a \$20,000 bond to the pari-mutuel commission with the application form.

287-D:2-d License Fees and Specifications.

I. An applicant for a charitable organization license under RSA 287-D:2-a shall apply to the pari-mutuel commission, and upon payment of a fee of \$25 per game date and if the applicant meets all other requirements of this chapter, a license shall be issued. Only one license shall be issued to each applicant per year to operate games of chance for 10 days, which 10 days need not be consecutive. A license issued under RSA 287-D:2-a shall expire on December 31. The pari-mutuel commission shall notify the attorney general and police chief of any city or town where games of chance are held of any applications approved.

II. An applicant for a game of chance facility license under RSA 287-D:2-a, VI shall apply to the pari-mutuel commission, and upon payment of a fee of \$250 per year and if the applicant meets all other requirements of this chapter, a license shall be issued. Only one license shall be issued to each applicant per year. A license issued under RSA 287-D:2-a, VI shall expire on June 30.

III. An applicant for a game operator license under RSA 287-D:2-c shall apply to the pari-mutuel commission, and upon payment of a fee of \$500 per year and if the applicant meets all other requirements of this chapter, a license shall be issued. Only one license shall be issued to each applicant per year. A license issued under RSA 287-D:2-c shall expire on December 31. The pari-mutuel commission shall notify the attorney general and police chief of any city or town where games of chance are held of any applications approved. RSA 7:28-c shall not apply to game operator licensees subject to this chapter.

IV. A license issued under RSA 287-D:2-a shall authorize games at specific times on specific dates at specific locations.

V. No more than 2 licensed charitable organizations may conduct games of chance at any one location on any specified

date.

VI. Any license issued under RSA 287-D:2-a or RSA 287-D:2-c shall not be transferable and the fees for the license shall not be refunded except for good cause shown as specified in rules adopted by the pari-mutuel commission.

11 New Paragraphs; Equipment; Wagering; Prizes; Facilities. Amend RSA 287-D:3 by inserting after paragraph V the following new paragraphs:

VI. Any contract for the rental of a facility for a game of chance shall be independent of any contract for the rental of equipment. Those contracts shall not be contingent upon the charitable organization's agreement that it will contract with a particular business for a particular facility or equipment.

VII. A charitable organization shall only rent a facility by means of a fixed rental payment. The fixed rental payment shall not be based on a percentage of what the charitable organization receives from the game of chance and it shall reflect fair rental value of the property for any use not just as a place to hold a game of chance. Any rental entered into by the charitable organization shall be submitted with the charitable organization's license application for review by the pari-mutuel commission.

12 Fees; Financial Reports and Inspections. RSA 287-D:5 is repealed and reenacted to read as follows:

287-D:5 Financial Reports and Inspections.

I. A charitable organization shall submit a complete financial report for each license issued under RSA 287-D:2 and RSA 287-D:2-a to the pari-mutuel commission on forms supplied to the charitable organization by the pari-mutuel commission within 30 days of the end of each month during which a game of chance was held.

II. The financial report shall be completed by the treasurer of the charitable organization or a duly authorized officer, director, or official of the charitable organization who shall certify such accounting under oath.

III. The financial report shall include:

(a) A complete statement of all revenues and expenses.

(b) A record of the amount of prizes awarded.

(c) The names and addresses of the members who participated in the games of chance.

(d) The name and address of any fundraising counsel or game operator involved in conducting the games of chance.

IV. The charitable organization shall retain canceled checks for the payment of expenses and prizes for a period of 2 years.

V. All financial reports filed by charitable organizations shall be maintained by the pari-mutuel commission for a period of one year from the date of filing and shall be open to public inspection.

VI. All financial records pertaining to the games of chance shall be maintained by the treasurer of the charitable organization or other duly authorized director, officer, or official of the charitable organization and shall be made available to the pari-mutuel commission, the attorney general or the chief of police of any city or town where games of chance are held upon request. The pari-mutuel commission may audit such financial records.

VII. A charitable organization shall maintain complete and accurate documentation of all revenues and expenses contained in the financial reports for at least 2 years from the date the financial report is filed.

13 New Paragraph; Penalties; Suspension; and Revocation. Amend RSA 287-D:6 by inserting after paragraph II the following new paragraph:

III. The pari-mutuel commission may suspend or revoke the license of any licensee who violates any provision of this subdivision or for just cause shown. Any licensee whose license is revoked shall not be eligible for licensure for a period of up to one year from the date of revocation.

14 New Section; Rehearing and Appeal. Amend RSA 287-D by inserting after section 6 the following new sections:

287-D:7 Rehearing and Appeal. Any person aggrieved by a decision of the pari-mutuel commission to deny or revoke a license issued pursuant to this chapter may apply to the pari-mutuel commission for a rehearing within 15 business days of the decision. Rehearings and appeals shall be governed by RSA 541.

287-D:8 Background and Criminal Records Check.

I. All applicants for a license pursuant to this chapter shall submit to the pari-mutuel commission with their license application a New Hampshire department of safety, division of state police, notarized criminal record release authorization form.

II. Upon receipt of an applicant's criminal record information, the pari-mutuel commission shall make a determination of eligibility for licensure.

III. All applicants shall also be subject to a background check by the pari-mutuel commission to determine if they are eligible for licensure under this chapter.

287-D:9 Subpoenas. The pari-mutuel commission may issue subpoenas for witnesses and for documents relative to investigations or adjudicatory hearings held by the pari-mutuel commission.

15 Games of Chance Study Commission Established. There is established a games of chance study commission to evaluate the effect of this legislation on games of chance.

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

(a) Three members of the house of representatives, 2 of who shall be from the house executive department and

administration committee and one of whom shall be from the ways and means committee, appointed by the speaker of the house of representatives.

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

(c) A commissioner from the pari-mutuel commission, chosen by the pari-mutuel commission chairman.

(d) The executive director of the pari-mutuel commission, or the director's designee.

(e) One member from the gaming industry who represents companies presently involved in games of chance appointed by the chairman of the pari-mutuel commission.

(f) Two persons representing the charities who are currently involved in the operation of games of chance, appointed by the attorney general.

(g) One member of the New Hampshire Police Chief's Association who has experience with games of chance held in his or her community appointed by the association.

(h) One representative of the department of justice, appointed by the attorney general.

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

III. The games of chance study commission shall evaluate the effect of this legislation on games of chance. The commission shall solicit input from the regulated community to assist the commission. The commission shall also solicit input from individuals with experience relevant to implementation, administration, and enforcement of RSA 287-D, as deemed necessary by the games of chance study commission. The games of chance commission shall also study:

(a) The establishment of minimal amounts to be paid to charity.

(b) The existence of possible streams of state revenue.

(c) Limits on wagering, prizes, and any other pertinent issues regarding revenue.

(d) Any other areas the commission deems related to the effect of this act on games of chance.

IV. The members of the games of chance study commission shall elect a chairperson from among the members. The first meeting of the commission shall be held within 60 days of the effective date of this section. The chairperson of the commission shall hold meetings no less than once per quarter. Six members of the commission shall constitute a quorum.

V. The games of chance study commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before July 1, 2007.

16 Effective Date. This act shall take effect July 1, 2006.
2006-1260h

Floor Amendment to HB 1744-FN-A Proposed by Rep. Kurk

Amend the bill by inserting after the enacting clause the following and renumbering the original sections 1-16 to read as 2-17, respectively:

¶ Findings and Purpose. The legislature finds that:

I.(a) Charitable organizations provide important and necessary educational, religious, and social services to the people of this state;

(b) Charitable gaming has been authorized in this state for the specific purposes of affording charitable organizations an alternative method of raising funds so that they may further the purpose for which they were established;

(c) Increasingly, a large percentage of the proceeds of charitable games are being diverted away from the charitable organizations to private businesses; and

(d) Uniform regulation for the conduct of charitable games of chance is in the best interest of charitable organizations and the people of the state.

II. The 2006 amendments to RSA 287-D made by this act are enacted with the purposes to ensure that charitable organizations that sponsor games of chance obtain the maximum possible financial return, and to protect the interest of the public by ensuring the integrity of such games. The provisions of RSA 287-D shall be liberally interpreted, construed, and administered to effectuate these purposes.

Amend RSA 287-D:3 as inserted by section 12 of the bill by inserting after paragraph VII the following new paragraph:

VIII. The charitable organization shall retain no less than 40 percent of the gross revenues less any prizes paid for any game date on which game operators licensed under RSA 287-D:2-c are involved in any capacity. Such revenues shall be used by the organization to advance its charitable purpose.

2006-1076h

Amendment to HB 1760

Proposed by the Minority of the Committee on Municipal and County Government - R

Amend RSA 72:73 as inserted by section 1 of the bill by replacing it with the following:

72:73 Exemption for Bio-Heat Systems; Procedure for Adoption.

I. A town or city may adopt or modify the exemption granted under this section by the procedure in RSA 72:27-a.

II. Each town or city adopting a bio-heat system property tax exemption shall determine the qualifications for and dollar amount of an exemption from assessed value, for local property tax purposes, applicable to either or both of the following:

- (a) Residential or commercial property owners for a bio-heat system used to heat a home or business, provided the exemption shall not exceed \$5,000.
- (b) Persons manufacturing or supplying bio-heat systems or fuel.

III. In this section, a “bio-heat system” means a home or business heating system using biodiesel, a renewable fuel substitute that is composed of mono-alkyl esters of long chain fatty acids, which is derived from vegetable oils or animal fats, and meets the requirements of the American Society for Testing and Materials (ASTM) specification D6751. The bio-heat system may be either a new or existing heating system designed or modified expressly for biodiesel, and must burn a fuel containing at least 20 percent biodiesel (B20) exclusively.

IV. An applicant shall attach proof of the new or modified system’s purpose to the exemption application submitted to the selectmen or assessing officials.

V. For the purposes of the exemption in paragraph II, commercial property owners or persons manufacturing or supplying bio-heat systems or fuel shall include manufacturers, distributors, wholesalers, and retailers of bio-heat systems as well as businesses manufacturing, blending, distributing, wholesaling, or retailing home-heating fuels containing at least 20 percent biodiesel (B20). Property eligible shall include, but not be limited to, refineries, storage tanks and buildings, pumps, and related equipment directly and exclusively used for manufacturing, blending, distributing, wholesaling, or retailing bio-heat fuels.

2006-1378h

Amendment to HB 1767-FN-A
Proposed by the Committee on Finance - R

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

1 Acquisition of Real Estate Damaged or Destroyed in October 2005 Floods. Pursuant to RSA 4:29, the governor, with the advice and consent of the council, shall purchase, on behalf of the state, the property located in Alstead, Langdon, and Walpole that was severely damaged or destroyed in the October 2005 floods. Such property shall be purchased at its pre-flood assessed value less the total amount of financial aid that the current property owner received from any other source, such as insurance payments or state or federal disaster assistance. Nothing in this section shall require a property owner to sell his or her property. The property owner also may elect to retain a life estate in any portion of the property.

2 Appropriation; Bonds.

I. The sum not to exceed \$3,400,000, for the biennium ending June 30, 2007, is hereby appropriated to the office of the governor for the purpose of purchasing property pursuant to section 1 of this act.

II. To provide funds for the appropriation made in paragraph I, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$3,400,000, and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payment of principal and interest of the bonds and notes shall be made from the general funds of the state.

Amend subparagraph I(c) of section 3 of the bill by replacing it with the following:

(c) One member of the board of selectmen from each of the following towns, appointed by that town’s board: Alstead, Langdon, and Walpole.

Amend section 4 of the bill by replacing it with the following:

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

2006-0910h

Amendment to HJR 20

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

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

A RESOLUTION supporting adult stem cell research.

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

Whereas, in recent years it has been demonstrated that significant advancement in the treatment and prevention of a multitude of tragically debilitating conditions can be enhanced through the use of adult stem cell multipotential therapy; and

Whereas, several states have endorsed and funded adult stem cell research; and

Whereas, the encouragement of adult stem cell research would be economically beneficial to the state of New Hampshire through entrepreneurial activity in the field of bio-medical research; now, therefore, be it

Resolved by the Senate and House of Representatives in General Court convened:

That the general court of New Hampshire strongly endorses and supports adult stem cell research, including the use of stem cells from umbilical cords, umbilical cord blood, and placentas; and

That copies of this resolution be sent by the house clerk to the President of the United States, the Vice President of the United States, the Speaker of the United States House of Representatives, and the New Hampshire congressional delegation.

AMENDED ANALYSIS

This house joint resolution supports adult stem cell research.