

State of New Hampshire

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HOUSE RECORD

Second Year of the 160th General Court
Calendar and Journal of the 2008 Session

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Thursday, December 13, 2007

No. 1

Contains: Retained Bill Amendments

HOUSE CALENDAR

RETAINED BILL AMENDMENTS

**ALL LEGISLATORS ARE ASKED TO BRING
THIS CALENDAR FOR USE ON
WEDNESDAY, JANUARY 2, 2008**

WEDNESDAY, JANUARY 2

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

2007-2623h

Amendment to CACR 8

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

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

RELATING TO: the term of office of the governor.

PROVIDING THAT: the governor's term of office shall be 4 years.

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

I. That article 42 of the second part of the constitution be amended to read as follows:

[Art.] 42. [Election of Governor, Return of Votes; Electors; If No Choice, Legislature to Elect One of Two Highest Candidates; Qualifications for Governor.] The governor shall be ~~[chosen biennially]~~ **elected for a 4-year term** in the month of November; and the votes for governor shall be received, sorted, counted, certified and returned, in the same manner as the votes for senators; and the secretary shall lay the same before the senate and house of representatives, on the first Wednesday following the first Tuesday of January to be by them examined, and in case of an election by a plurality of votes through the state, the choice shall be by them declared and published. And the qualifications of electors of the governor shall be the same as those for senators; and if no person shall have a plurality of votes, the senate and house of representatives shall, by joint ballot elect one of the two persons, having the highest number of votes, who shall be declared governor. And no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this state for 7 years next preceding, and unless he shall be of the age of 30 years.

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

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2008 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2007 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 article 42 of the second part of the constitution to read as follows:

[Art.] 42. [Election of Governor, Return of Votes; Electors; If No Choice, Legislature to Elect One of Two Highest Candidates; Qualifications for Governor.] The governor shall be elected for a 4-year term in the month of November; and the votes for governor shall be received, sorted, counted, certified and returned, in the same manner as the votes for senators; and the secretary shall lay the same before the senate and house of representatives, on the first Wednesday following the first Tuesday of January to be by them examined, and in case of an election by a plurality of votes through the state, the choice shall be by them declared and published. And the qualifications of electors of the governor shall be the same as those for senators; and if no person shall have a plurality of votes, the senate and house of representatives shall, by joint ballot elect one of the two persons, having the highest number of votes, who shall be declared governor. And no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this state for 7 years next preceding, and unless he shall be of the age of 30 years."

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 2007 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 governor's term of office shall be 4 years.

2007-2496h

Amendment to CACR 9

Proposed by the Committee on Municipal and County Government - R

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

RELATING TO: clerks of the probate court.

PROVIDING THAT: clerks of the probate court shall be appointed instead of elected.

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

I. That article 71 of the second part of the constitution be amended to read as follows:

[Art.] 71. [County Treasurers, ~~Registers of Probate,~~ County Attorneys, Sheriffs, and Registers of Deeds Elected.] The county treasurers, ~~registers of probate,~~ county attorneys, sheriffs and registers of deeds, shall be elected by the inhabitants of the several towns, in the several counties in the state, according to the method now practiced, and the laws of the state, Provided nevertheless the legislature shall have authority to alter the manner of certifying the votes, and the mode of electing those officers; but not so as to deprive the people of the right they now have of electing them.

II. That article 81 of the second part of the constitution be amended to read as follows:

[Art.] 81. [Judges and ~~Registers~~ **Clerks** of Probate Not to Act as Counsel.] No judge, or ~~register~~ **clerk** of probate, shall be of counsel, act as advocate, or receive any fees as advocate or counsel, in any probate business which is pending, or may be brought into any court of probate in the county of which he is judge or ~~register~~ **clerk**.

III. That article 82 of the second part of the constitution be amended to read as follows:

[Art.] 82. [Clerks of Courts, by Whom Appointed.] The judges of the courts ~~(those of probate excepted)~~ shall appoint their respective clerks to hold their office during pleasure: And no such clerk shall act as an attorney or be of counsel in any cause in the court of which he is clerk, nor shall he draw any writ originating a civil action.

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

V. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2008 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2007 session of the general court shall be approved.

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

"Are you in favor of amending Article 71, Article 81, and Article 82 of the second part of the constitution to rename the position of register of probate to clerk of probate, to end the election of registers of probate, and to provide that the clerks of probate will be appointed by the probate judges, so that these articles read as follows:

[Art.] 71. [County Treasurers, County Attorneys, Sheriffs, and Registers of Deeds Elected.] The county treasurers, county attorneys, sheriffs and registers of deeds, shall be elected by the inhabitants of the several towns, in the several counties in the state, according to the method now practiced, and the laws of the state, Provided nevertheless the legislature

shall have authority to alter the manner of certifying the votes, and the mode of electing those officers; but not so as to deprive the people of the right they now have of electing them.

[Art.] 81. [Judges and Clerks of Probate Not to Act as Counsel.] No judge, or clerk of probate, shall be of counsel, act as advocate, or receive any fees as advocate or counsel, in any probate business which is pending, or may be brought into any court of probate in the county of which he is judge or clerk.

[Art.] 82. [Clerks of Courts, by Whom Appointed.] The judges of the courts shall appoint their respective clerks to hold their office during pleasure: And no such clerk shall act as an attorney or be of counsel in any cause in the court of which he is clerk, nor shall he draw any writ originating a civil action."

VII. 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 2007 General Court" shall be printed in bold type at the top of the ballot.

VIII. 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 clerks of the probate court shall be appointed by the appropriate probate judge.

2007-2638h

Amendment to HB 65

Proposed by the Committee on Executive Departments and Administration - R

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

AN ACT relative to the Pease development authority.

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

1 Pease Development Authority; Power to Sell, Lease or Otherwise Convey Property.

Amend RSA 12-G:8, V to read as follows:

V. To sell, convey, lease, exchange, transfer, abandon, or otherwise dispose of, or mortgage, pledge, or create a security interest in, all or any of its airport or division property or any interest therein, except that no real property of the division may be sold~~[-conveyed, exchanged, transferred, or otherwise disposed of, except by license, lease, or other agreement subject to a term of not more than seven years,]~~ without the prior approval of the governor and the executive council ***and without first being offered by the governor and council to the city, town, or county in which the property is located, in accordance with RSA 4:40.***

2 Status of Authority Employees; Entitlement to State Benefits. Amend RSA 12-G:11 to read as follows:

12-G:11 Status of Authority Employees; Entitlement to State Benefits; Reimbursement of Costs.

I. Except for any classified employee of ***the authority assigned to the division[;]*** ***as provided in paragraph IV:***

(a) The authority may hire, fix, and pay compensation, prescribe duties and qualifications, and establish personnel policies without regard to any personnel or civil service law or personnel or civil service rule of the state~~[- Except for any classified employee of the division, the employees of the authority shall not be classified employees of the state within the meaning of RSA 21-I:49. Except for any classified employee of the division;]~~

(b) ***All employees of the authority, including without limitation the executive director and the division director, shall be nonclassified state employees; and***

(c) Any individual employed by the authority shall be [deemed] an employee at will and shall serve at the pleasure of the authority.

II. Notwithstanding any other provision of law, any nonclassified employee's service with the authority, including employment with the authority prior to the effective date of this paragraph, shall be credited to such employee as continuous state service for all purposes, including without limitation rate of pay, determination of seniority and years of state service, longevity pay, and annual, sick, or other forms of leave.

[II.] ***III.*** Notwithstanding the provisions of paragraph I, any individual employed by the authority, except for any classified employee of the authority, whose employment calls for 30 hours or more work in a normal calendar week, and whose position is anticipated to have a duration of 6 months or more, shall be entitled to elect to receive such health, dental, life insurance, deferred compensation, and retirement benefits as are afforded to classified employees of the state. Upon election by such individual, the authority shall pay from its revenues the state's share of such benefits. Any remaining costs of health, dental, life insurance, deferred compensation, and retirement benefits which an individual elects to receive pursuant to this section, shall be withheld from such individual's salary as a payroll deduction. Written notice of the availability of these benefit options shall be provided to each individual upon employment by the authority. This paragraph shall not apply to any classified employee of the division.

[III.] ***IV.*** The state classified positions of the port authority shall be transferred to the authority when the duties, functions, and jurisdiction of the port authority are transferred to the authority. Any person employed in such a position at the time of such transfer or at any time subsequent thereto shall be deemed a classified employee of the division. All classified employees of the division shall be classified employees of the state of New Hampshire within the meaning of RSA 21-I:49 and shall be subject to all requirements, and be entitled to all benefits and emoluments, of the state personnel system[. Nothing herein shall preclude the general court from increasing or decreasing the number of classified positions within the division.], ***unless they elect on or before January 1, 2009, to become nonclassified employees of the authority as set forth in paragraph I. Any classified employee of the authority who elects to become a nonclassified employee of the authority shall be entitled to the rate of pay and health, dental, and life insurance, deferred compensation, and retirement benefits at least equivalent to those held by authority employees with equivalent years of state service.***

V. Notwithstanding any other provision of law:

(a) No new state classified positions shall be established at the authority or the division and all state classified positions established at the division pursuant to paragraph IV shall be extinguished if vacant as of June 30, 2008, or immediately upon separation from employment, either voluntarily or involuntarily, of any person holding such position after June 30, 2008.

(b) Any new employee hired by the authority after July 1, 2008, including any new employee of the authority assigned to the division, shall be a nonclassified employee of the authority as set forth in paragraph I.

(c) Any person holding or appointed to the position of chief harbor master or deputy chief harbor master shall be a certified police officer and a group II member of the state retirement system. If such person is not a member of the state retirement system at the time of employment as chief harbor master or deputy chief harbor master, such person shall become immediately upon appointment a member of the retirement system subject to the requirements of such system then in effect.

[IV.] ***VI.*** Notwithstanding any other provision of law, the authority or the executive director may assign as necessary any employee of the authority with appropriate skills and training to perform any responsibility, task, or duty assigned by statute to the authority or the division, including without limitation, on a temporary basis, any responsibility, task, or

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duty previously or otherwise assigned to any classified employee of the division. To the extent that the wages, salary, benefits, or other expenses, including without limitation reasonable overhead expenses, of any employee of the authority assigned to carry out any responsibility, task, or duty of the division are paid from the fund established under RSA 12-G:36 or revenues of the authority other than division revenues, such fund or other source of revenue shall be reimbursed for the cost of such wages, salary, benefits, and other expenses, including without limitation reasonable overhead expenses, from funds drawn from the fund established under RSA 12-G:37 and, to the extent authorized, from the fund established under RSA 12-G:46. The executive director of the authority, subject to the approval of the board, is authorized to determine and fix, as necessary, rates of reimbursement.

3 Pease Development Authority; Ports and Harbors Fund Nonlapsing. Amend RSA 12-G:37 to read as follows:

12-G:37 Pease Development Authority Ports and Harbors Fund.

I. For the purpose of providing a fund to be known as the Pease Development Authority Ports and Harbors Fund, the state treasurer shall credit to such fund any appropriation made to the authority for each fiscal year relating to the division, division property, a division project, or any activity of the division, except any appropriation made to the harbor dredging and pier maintenance fund in accordance with RSA 12-G:46.

II. All sums so credited are appropriated to the authority *for the benefit of the division*:

(a) To purchase, lease, acquire, own, improve, use, sell, convey, transfer, or otherwise deal in and with division property, a division project, or any interest therein, whether tangible or intangible, as otherwise authorized under this chapter;

(b) To pay the costs of operating, maintaining, improving, and repairing all division property and division projects;

(c) To pay all costs as allocated by the authority for administering and operating the division, including, but not limited to, all wages, salaries, benefits, and other expenses authorized by the board, the executive director, the division director, or other provision of law, including without limitation, reimbursement of the fund established under RSA 12-G:36 or any other source of revenue of the authority other than division revenues to the extent that the wages, salary, benefits, or other expenses, including without limitation reasonable overhead expenses, of any employee of the authority assigned to carry out any responsibility, task, or duty of the division are paid from the fund established under RSA 12-G:36 or from revenues of the authority other than division revenues;

(d) To pay the principal of, and premium, if any, and the interest on any outstanding bonds of the state related to division property or division projects as the same become due and payable;

(e) *To create and maintain reserves required or provided for in any resolution authorizing, or any security document securing, such bonds of the authority related to division property or division projects;*

(f) To pay all payments in lieu of taxes owed by the authority, if any, related to division property or division projects; and

[(f)] (g) In general for the payment of all expenses incident to the management and operation of the division, *division property, or division projects* as are consistent with its statutory purpose and as the board may from time to time determine.

III. This fund shall constitute a continuing *nonlapsing* appropriation for the benefit of the *division* [authority]. ~~Except as provided in RSA 12-G:42, XIII, all division revenues associated with operations and responsibilities assigned by the authority to the division in excess of the operating expenditures required for the activities of the division shall be deposited in the general fund until such time as any bonds authorized and issued relating to division property or division projects have been retired. After such bonds have been retired, any amount remaining to the credit of the authority in this fund at the close of any fiscal~~

year in excess of the amounts required under paragraph II shall lapse and shall be returned to the general fund of the state].

IV. Money in this fund shall be paid to the treasurer of the authority on manifests approved by the governor and council in the same manner as other state claims are paid, provided that there shall be advanced to the treasurer such money as may be requested by the treasurer of the authority and approved by the governor and council, and provided further that manifests covering the money so advanced shall be submitted according to regular procedure at the earliest practicable time.

V. ***Division revenues or any other revenues, other than revenues from or associated with airport property or airport projects, received and due to the authority shall be retained by the authority and shall be used for division property or division projects in such manner as the board may determine consistent with the provisions of this chapter or as is otherwise provided by law or by the terms and conditions incident to any gift, grant, devise, bequest, trust, or security document.***

VI. Notwithstanding any other provision of law, no money in the fund shall be used for or paid on account of any obligation or liability of the authority related to or arising out of the ownership, operation, or maintenance of airport property or airport projects.

4 Pease Development Authority; Division of Ports and Harbors; Authority Relative to Employment of Division Director. Amend RSA 12-G:43 to read as follows:

12-G:43 Division of Ports and Harbors.

I. There is established within the authority a division of ports and harbors ***that is subject to the direction and control of the board, the executive director, and the division director.*** The division of ports and harbors shall:

(a) Plan for the maintenance and development of the ports and state tidal waters from the head of navigation to the seaward limits within the jurisdiction of the state, in order to foster and stimulate commerce and the shipment of freight through the state's ports and, as an agency of the state, to assist shipping, and commercial and industrial interests that may depend on the sea for transport of products, including such interests as may be desirous of locating in tidewater areas of the state; as well as to encourage the establishment of accommodations for the boat traveler, the area boat owners, the pleasure fishermen, and others who pass up and down our coast line or in its tributaries.

(b) Aid in the development of salt water fisheries and associated industries.

(c) Cooperate with any agencies or departments of the federal government in planning the maintenance, development, and use of the state ports and state tidal waters.

(d) Plan, develop, maintain, use, and operate a heliport facility on property owned or controlled by the division. The division shall cooperate with departments, agencies, authorities, or commissions of the federal, state, or local governments and accept grants, aid, or services from such agencies in the carrying out of this purpose. Such authorization relating to heliport facilities shall include and be governed by all other provisions of this chapter.

(e) Maintain at all times a complete inventory of division property and port projects.

(f) Perform such other duties and functions relating to the administration, management, and operation of division property and division projects as are assigned to division by the authority.

II. The ~~[governor and council]~~ ***board*** shall ~~[appoint]~~ ***employ on such terms and conditions as the board shall specify,*** a director of the division of ports and harbors who shall be qualified by education and experience and who shall ~~[hold office for a term of 5 years. Whenever an appointment of the director of the division is to be made, the board may make recommendations to the governor and submit such recommendations to the governor for the governor's consideration; however, the governor shall not be bound by such recommendations. The governor and council shall have authority to remove the director of the division as provided in RSA 4:1]~~ ***be subject to the direction and control of the board***

and the executive director. The director of the division shall be the administrative officer of the division and shall have general and active supervision and direction over the day-to-day business and affairs of the division and its employees, subject, however, to the direction and control of the board and the executive director. The division director shall perform all such other duties as from time to time may be assigned by the board or the executive director. The division director shall also be the secretary of the division of ports and harbors advisory council, shall keep a record of the proceedings of the council, and shall be the custodian of all books, documents, and papers filed with the division or the ports and harbors advisory council. The division director shall have the power to cause copies to be made of all minutes and other records and documents of the council and to give certificates under the seal of the authority to the effect that such copies are true copies, and all persons dealing with the division or authority may rely upon such certificates. ~~[In addition to the classified employees of the division, the division director, with the concurrence of the executive director, may employ such assistants and clerical and administrative staff as are within the limits of funds available for that purpose.]~~ The salary of the division director shall be established by the board.

5 Applicability to Current Director of Division of Ports and Harbors. Notwithstanding section 4 of this act, the person serving as the director of the division of ports and harbors on the effective date of this act shall continue to serve as division director in accordance with the terms and conditions of the original appointment and the provisions of this act not inconsistent with such appointment, until such term of office has expired; provided, however, that the appointment and term of office shall earlier and immediately terminate and be extinguished when such person resigns or otherwise leaves such office prior to expiration of the term.

6 New Section; Report on the Division of Ports and Harbors. Amend RSA 12-G by inserting after section 43 the following new section:

12-G:43-a Report on the Division of Ports and Harbors.

I. The division director shall submit a biennial report on the status of development at the division to the governor and council, the board, the mayor and the city council in the city of Portsmouth, the selectmen in the towns of Rye, Newington, Hampton, Newcastle and Seabrook, the chairmen of the house and senate executive departments and administration committees, and the commissioner of the department of resources and economic development. Such report shall be submitted and made available to the public biennially beginning on June 30, 2010. The first report issued on June 30, 2010 shall be for the 2-year period ending on June 30, 2009.

II. The report shall include descriptions of:

(a) The financial status of the division, including a report on the activities of the Pease development authority ports and harbors fund and a recommendation on whether to continue the fund as a nonlapsing fund and an accounting of the activities of the division of ports and harbors revolving loan fund.

(b) Any contracts involving use of division property that have been executed in the previous 24-month period and the status and scope of all ongoing port development projects.

(c) Programs and informational meetings held to permit and encourage communication between the division and the communities it serves.

(d) Environmental reports, investigations, and permits received by, prepared by or on behalf of the division with respect to division property and activities on division property.

(e) Any proposals for the sale of division property.

7 Division of Ports and Harbors Advisory Council. Amend RSA 12-G:44, I to read as follows:

12-G:44 Division of Ports and Harbors Advisory Council.

I. There is hereby established a division of ports and harbors advisory council consisting of 8 members, 6 of whom shall be appointed by the governor, with the advice and consent of the council. ~~[At least 3]~~ **Two** of said appointive members shall be residents of the cities and towns of the seacoast region or state tidal waters ~~[and at least]~~ **that are not represented on the board**, one appointive member shall be a commercial fisherman engaged in that industry on the seacoast, and **2 appointive members shall be experienced in a maritime industry**. Each **appointive member** shall serve for a term of 5 years. Said members shall serve until their successors are appointed and qualified. Any vacancy occurring in the membership of the appointive members shall be filled by the governor and council for the unexpired term. In addition to the 6 appointive members, the commissioner of the department of resources and economic development, or designee, and the mayor of the city of Portsmouth, or designee, shall be, by virtue of their offices, members of the council.

8 Pease Development Authority; Division of Ports and Harbors; Authority Relative to Dredge Management. Amend the introductory paragraph of RSA 12-G:45 to read as follows:

12-G:45 Dredge Management in Tidal Waters. The division, subject to the supervision, **direction, and control** of the authority and in consultation with the division of ports and harbors advisory council, **the executive director, and the division director**, shall be responsible for managing harbor and channel dredging activities within state tidal waters. The division shall:

9 Pease Development Authority; Division of Ports and Harbors; Rules Relative to Pilot Qualifications. Amend RSA 12-G:47 to read as follows:

12-G:47 Pilots. The authority, in consultation with the **executive director, the** division director, and the division of ports and harbors advisory council, may adopt rules prescribing the qualifications of pilots, and from time to time appoint and commission, under its hand and seal, as many pilots as it may judge necessary, and remove the same at pleasure; and it shall take from them such security, by bond or otherwise, as it may deem proper.

10 Pease Development Authority; Division of Ports and Harbors; Clarification of Agency Management Authority. Amend RSA 12-G:50 to read as follows:

12-G:50 Duties; Chief Harbor Master; Deputy Chief Harbor Master; Harbor Masters.

I. Subject to the supervision of the authority, **the executive director**, and the division director, the chief harbor master's duties shall include but not be limited to the following:

(a) Enforcement of authority directives and rules adopted by the authority pursuant to this chapter relating to the activities and operations of the division or division property.

(b) Issuing and overseeing mooring permits and management of the mooring wait list and of the assignment and placement of moorings.

(c) Designation of anchorage areas.

(d) Management of navigation aides outside of the federal channel.

(e) Management of the movement of traffic, as necessary.

(f) Direction of the removal or movement of vessels during emergencies.

(g) Overseeing the dredge management program.

(h) Overseeing the harbor management program.

(i) Inquiring into and prosecuting all offenses occurring within the chief harbor master's jurisdiction.

(j) Any other duties assigned by the authority or the division director.

II. Subject to the supervision of the authority, **the executive director**, the division director, and the chief harbor master, the deputy chief harbor master's duties shall include but not be limited to the following:

(a) Enforcement of authority directives and rules adopted pursuant to this chapter relating to the division or division property.

(b) Performance of the duties of the chief harbor master during the absence or incapacity of the chief harbor master or when such duties are specifically delegated to the deputy chief harbor master by the authority, the division director, or the chief harbor master.

(c) Performance of any other duties assigned by the authority, the division director, or the chief harbor master.

III. Subject to the supervision of the authority, *the executive director*, the division director, the chief harbor master, and the deputy chief harbor master, the duties of a harbor master shall include but not be limited to the following:

(a) Monitoring the placement and use of moorings in state tidal waters to which the harbor master has been specifically assigned by the chief harbor master or the deputy chief harbor master.

(b) Notifying the chief harbor master or the deputy chief harbor master of any violations of any provision of RSA 12-G or any rules of the authority adopted under RSA 12-G relating to the division or division property.

(c) Performance of any other duties assigned by the division director or the chief harbor master or the deputy chief harbor master.

IV. An assistant harbor master shall assist the chief harbor master, the deputy chief harbor master, or any harbor master as directed by the division director, the chief harbor master, or the deputy chief harbor master in the performance of the chief harbor master's, the deputy chief harbor master's, or harbor master's duties.

11 Impoundment and Forfeiture of Vessels and Moorings; Reference Change. Amend RSA 12-G:52-b, V to read as follows:

V. Upon the expiration of the 90-day period identified in paragraph III, the division director may dispose of any unredeemed vessel or mooring by destroying such vessel or mooring or by offering such vessel or mooring for sale at public auction or the division director may retain such vessel or mooring for use by the state; provided, however, if the vessel or mooring is sold or retained, the purchaser or the state, in the event of retention, shall pay the cost of impoundment, removal, and storage, and shall obtain release of the lien identified in paragraph I. Any money received by reason of sale of such vessel or mooring at public auction shall be deposited in the ~~[harbor management fund]~~ **Pease development authority ports and harbors fund established in RSA 12-G:37.**

12 Review of Report on Economic Development; Reference Change. Amend RSA 12-A:34 to read as follows:

12-A:34 Review of Reports Required. For the purpose of ensuring comparability of impact reports on economic development programs issued under ~~[RSAs]~~ **RSA 4-C:6-a, RSA 12-A:33, [12-G:30,]** and **RSA 162-A:23-a**, the department of resources and economic development, in consultation with the legislative budget assistant, shall periodically review such reports at least once every 5 years and make recommendations to be utilized by the agencies making such reports for an improved and consistent methodology for assessing the quantity and quality of jobs created and saved and the growth potential and environmental impacts of such programs. This section shall not apply to promotional literature.

13 New Subparagraph: Special Accounts; Pease Development Authority Ports and Harbors Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:

(269) Moneys deposited in the Pease development authority ports and harbors fund established in RSA 12-G:37.

14 Repeal. The following are repealed:

I. RSA 12-G:10, relative to coordination with the department of resources and economic development.

II. RSA 12-G:30, relative to reports on economic development programs.

III. RSA 12-G:42, XIII, relative to a special account within the ports and harbors fund.

IV. RSA 12-G:46-a, relative to the harbor management fund.

V. RSA 6:12, I(b)(225), relative to the harbor management fund.
15 Effective date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Expands the authority of the Pease development authority to lease division property.

II. Provides that employees of the authority, other than certain employees of the division of ports and harbors, are nonclassified state employees and establishes a procedure for classified employees of the division of ports and harbors to become nonclassified state employees.

III. Changes the position of director of the division of ports and harbors from an appointment by governor and council to a nonclassified position, and provides that such person shall be hired by the board and under the supervision of the executive director.

IV. Repeals provisions relative to coordination with the department of resources and economic development, reports on economic development programs, and the harbor management fund.

2007-2636h

Amendment to HB 76-FN

Proposed by the Majority of the Committee on Environment and Agriculture - R

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

AN ACT relative to the office of energy and planning.

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

1 Office of Energy and Planning; name change; Office of Environmental Protection, Energy, and Planning. Amend the chapter heading of RSA 4-C to read as follows:

CHAPTER 4-C

OFFICE OF **ENVIRONMENTAL PROTECTION**, ENERGY, AND PLANNING

2 Reference Changes; Office of Energy and Planning Renamed Office of Environmental Protection, Energy, and Planning. Amend the following RSA provisions by replacing "office of energy and planning" with "office of environmental protection, energy, and planning": 4-C:2; 4-C:3; 4-C:4; 4-C: 5; 4-C:6; 4-C:6-a; 4-C:7; 4-C:8; 4-C:9; 4-C:9-a; 4-C:10; 4-C:19; 4-C:25; 4-C:28; 4-C:29; 9-A:2; 9-A:4; 12-G:13; 12-K:2; 12-K:3; 12-K:6; 12-K:8; 12-K:9; 17-M:2; 21-O:5-a; 21-O:7; 21-P:48; 36:45; 36:46; 36:47; 36-B:1; 78-A:25; 78-A:26; 125-G:2; 125-G:3; 125-G:5; 125-G:16; 126-A:4; 147-B:4; 162-C:1; 162-H:3; 162-L:15; 162-L:19; 204-C:8; 216-A:3-c; 216-F:5; 216-J:2; 217-A:3; 227-C:4; 227-E:3; 227-E:6; 227-G:2; 227-M:4; 233-A:2; 235:23; 238:20; 261:153; 270:64; 270:71; 374:22-j; 384-B:1; 432:19; 482-A:32; 483:8; 483:10; 483:10-a; 483-A:6; 483-A:7; 483-B:4; 483-B:5; 483-B:12; 483-B:16; 483-B:19; 485-A:4; 485-C:3; 673:3-a; 674:3; 675:9.

3 Policy, Purpose. Amend RSA 4-C:1 to read as follows:

4-C:1 Establishment; **Policy, Purpose**, General Duties, and Responsibilities.

I. There is established the office of **environmental protection**, energy, and planning within the office of the governor. The office of **environmental protection**, energy, and planning shall be under the supervision and direction of the governor or the governor's designee. The governor's designee shall be known as the director of the office of **environmental protection**, energy, and planning.

II. The general court finds that the growing population and expanding economy of the state have had a profound impact on the life-sustaining natural environment. The air, water, land, and other natural resources, taken for granted since the settlement of the state, are now recognized as finite and precious. It is now understood that human activity must be guided by and in harmony with the system of relationships among the elements of nature. Therefore, the general court hereby declares that the policy of the state of New Hampshire is to conserve, improve, and protect its natural resources and environment, and to control air, land, and water pollution in order to enhance the health, safety, and welfare of the people of the

state. It shall further be the policy of the state to improve and coordinate the environmental plans, functions, powers, and programs of the state, in cooperation with the federal government, state and local governments, other public and private organizations, and concerned individuals, and to manage the basic resources of air, land, and water to the end that the state may fulfill its responsibility as trustee of the environment for the present and future generations.

III. The general court, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influence of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances, and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of humanity, declares that it is the continuing policy of the state government, in cooperation with the federal government, state and local governments, other public and private organizations, and concerned individuals, to use all practicable means and measures, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which people and nature can exist in productive harmony, and to fulfill the social, economic, and other requirements of present and future generations of New Hampshire residents.

[H] IV. It is the continuing responsibility of the state government to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate state plans, functions, programs, and resources to the end that the state may fulfill the responsibility of each generation as trustee of the environment for succeeding generations. The office of environmental protection, energy, and planning shall:

(a) Plan for the [orderly development of the state and the] wise management of the state's resources **and the orderly development of the state to achieve an ecological balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities.**

(b) Compile, analyze, and disseminate data, information, and research services as necessary to advance the welfare of the state **and the environment.**

(c) Encourage and assist planning, growth management, and development activities of cities and towns and groups of cities and towns with the purpose of encouraging smart growth **in accordance with the comprehensive state development plan developed pursuant to RSA 9-A:1.**

(d) Encourage the coordination and correlation of state planning by agencies of state government **to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences.**

(e) Participate in interstate, regional, and national planning efforts **to assure for all residents of the state safe, healthful, productive, and esthetically and culturally pleasing surroundings.**

(f) Administer federal and state grant-in-aid programs assigned to the office by statute or executive order.

(g) Participate and advise in matters of land use planning **and resource protection** regarding lakes and rivers management programs.

(h) Take a leadership role in encouraging smart growth and preserving farmland, open space land, and traditional village centers **to preserve important historic, cultural, and natural aspects of our New Hampshire heritage, and maintain, wherever possible, an environment which supports diversity and a variety of individual choice.**

(i) Take a leadership role in promoting the role of conservation in the use of energy, maximizing the use of energy efficient systems, and minimizing the environmental effect of energy production and use.

(j) Take a leadership role in promoting the maximum attainable recycling of resources and maximizing the quality and economic value of renewable resources.

~~[(j)]~~ **(k)** Administer the following programs: the statewide comprehensive outdoor recreation plan, the national flood insurance program, the land conservation investment program, the scenic and cultural byways system, fuel assistance contracts, and weatherization contracts. The office shall employ necessary personnel to administer these programs. In administering fuel assistance and weatherization contracts, the office shall ensure that when an individual applies for fuel assistance or weatherization, the individual shall be provided with application forms and information about the Link-Up New Hampshire and Lifeline Telephone Assistance programs, and shall be provided assistance in applying for these programs.

~~[(j)]~~ **(l)** Perform such other duties as the governor may assign.

4 New Subdivision; Environmental Protection Ombudsman. Amend RSA 4-C by inserting after section 30 the following new subdivision:

4-C:31 Environmental Protection Ombudsman.

I. There is established the non-classified position of environmental protection ombudsman in the office of the governor to provide a single point of contact in state government for public questions and concerns about the environment in New Hampshire. This position shall have no regulatory authority. In all matters before the state, the environmental protection ombudsman shall have standing to speak for the environment.

II. The position shall be administratively attached to the office of environmental protection, energy, and planning. The position shall be filled by election by the house of representatives and senate, in joint session, at the first meeting of the general court in 2010 and in like manner every 6 years thereafter. Vacancies in the position shall be filled by a joint session of the general court in a timely fashion. The ombudsman may be removed, for good cause, in accordance with RSA 91:3.

III. The environmental protection ombudsman shall:

(a) Develop, disseminate, regularly review, and update a clear, concise, and measurable definition of adverse effect on the environment.

(b) Monitor the efforts of state departments, municipalities, and other agencies within the state to ensure that their efforts, programs, and projects do not adversely effect the environment.

(c) Advise departments, municipalities, and other agencies within the state of possible adverse environmental effects caused by their actions and offer possible alternatives.

(d) Serve as a communications link or neutral negotiator between the public and state agencies where a difference of opinion creates significant public concern.

(e) Communicate, on a regular basis, with the general court and the public about environmental problems affecting the state and efforts being taken to eliminate or reduce the effects of the problems.

5 New Paragraph; Environmental Protection Ombudsman. Amend RSA 162-C:1 by inserting after paragraph XIII the following new paragraph:

XIV. The environmental protection ombudsman, or designee.

6 Effective Date.

I. Sections 4 and 5 of this act shall take effect July 1, 2009.

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

AMENDED ANALYSIS

This bill:

I. Renames the office of energy and planning and amends its duties.

II. Establishes the position of environmental protection ombudsman.

2007-2509h

Amendment to HB 91-FN

Proposed by the Committee on Legislative Administration - C

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

AN ACT relative to lobbyist registration and statements, repealing the restriction on simultaneous employment and public service, and relative to regulation of volunteer public service.

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

1 Lobbyist Registration; Registration Required. RSA 15:1, I is repealed and reenacted to read as follows:

I.(a) The following persons shall register as lobbyists with the secretary of state:

(1) Any person who works as an independent contractor or who provides services for a fee for another to represent the other for the purposes specified in paragraph II including, but not limited to, an attorney, or a legislative or government relations representative;

(2) Any person who is an employee of any other person or employer, and who works in a representative capacity exclusively for the purposes specified in paragraph II; and

(3) Any person who is an employee of any other person or employer, who is employed for purposes in addition to or other than the purposes specified in paragraph II, and who spends more than 75 hours in a calendar year working in a representative capacity for the purposes specified in paragraph II.

(b) Each person described in subparagraphs (a)(1) and (2) shall register no later than 10 business days after engaging in the activities specified in paragraph II. Each person described in subparagraph (a)(3) shall register no later than 10 business days following completion of 75 hours of such work. Each registration shall report the existence of a relationship between a single client and either a single lobbyist or a partnership, firm, or corporation with one or more partners, members, or employees of a firm acting as a lobbyist.

2 Expiration Date. Amend RSA 15:1, IV to read as follows:

IV. All registrations required under this section shall expire on December [1] 31.

3 New Paragraph; Exclusions From Requirements. Amend RSA 15:1 by inserting after paragraph IV the following new paragraph:

V. The following communications are excluded from the regulation imposed by this chapter and shall not be considered in a determination of whether a person is required to register and report as a lobbyist:

(a) Public testimony before a legislative committee or sub-committee;

(b) Public testimony before any entity subject to RSA 91-A, the right-to-know law;

(c) A written document filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(d) Communication made by a public official acting in the public official's official capacity;

(e) Communication made by a representative of a media organization if the purpose of the communication is gathering or disseminating news and information to the public;

(f) Communication made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, the internet, or other medium of mass communication;

(g) Communication made in writing which becomes a public record subject to the provisions of RSA 91-A, the right-to-know law, provided in response to a written request by a legislative or executive branch official; and

(h) Attendance or participation in executive and legislative branch task forces, work groups, stakeholder groups, and other similar meetings which are not subject to RSA 91-A, provided that, prior to or concurrent with the convening of any such group or meeting, the convening authority files with the secretary of state a statement listing the subject matter, participants, and anticipated duration of the group or meeting and provides a copy to the participants. The secretary of state shall make available a form to effectuate the purpose of this filing requirement.

4 Lobbyist Statements. Amend RSA 15:6, II to read as follows:

II. Lobbyists shall file statements no later than the ~~[second Friday]~~ **last Wednesday** of each ~~[month]~~ **January, April, July, and October** covering all fees received and expenditures, contributions, honorariums, or expense reimbursements made during the previous month, **since the last required filing**, from fees received at any time from a lobbying client or employer or from funds otherwise provided by the lobbyist, partnership, firm, or corporation, or from the client or employer. **The first statement filed by persons who register as lobbyists pursuant to RSA 15:1, I(a)(3) shall cover all fees received and expenditures or expense reimbursements made from such fees received and funds provided during the 75 hours worked prior to registration.**

5 Lobbyist Statements. Amend RSA 15:6, V(f)-(h) to read as follows:

(f) ~~[For each political contribution made that is reportable pursuant to RSA 664:~~

- ~~(1) The name of the candidate.~~
- ~~(2) The office the candidate is seeking.~~
- ~~(3) The value of the contribution.~~
- ~~(4) If the contribution is an in-kind contribution, a brief description of the contribution.~~

~~(g)]~~ For all expenditures for salaries, benefits, support staff, and office expenses, related directly or indirectly to lobbying, a statement of the total aggregate expenses for salaries, support staff, and office expenses related directly or indirectly to lobbying shall satisfy the requirement that an itemized statement of these expenses be filed.

~~[(h)]~~ **(g)** The following statement followed by a line for each person filing the form to sign and date the form: "I have read RSA 15[, RSA 15-B, and RSA 664] and hereby swear or affirm that the foregoing information is true and complete to the best of my knowledge and belief." ~~[This statement shall be made under oath before a notary public or justice of the peace.]~~

6 Gifts; Exclusion From Definition. Amend RSA 15-B:2, V(c)(5) and (6) to read as follows:

(5) Objects **or services** which primarily serve an informational purpose provided in the ordinary course of business, such as reports, books, maps, or charts.

(6) Money in any form, an object, or an intangible thing **or service** of economic value, where the donor's act of giving is purely private and personal in nature and the money, object, or intangible thing **or service** of economic value would have been given and received even if the person were not an elected official, public official, public employee, constitutional official, or legislative employee.

7 New Subparagraph; Definition of Gift; Exclusion Added. Amend RSA 15-B:2, V(c) by inserting after subparagraph (12) the following new subparagraph:

(13) Information or advice concerning any state law or rule, any legislation pending or proposed before the general court, or any pending or proposed administrative rule.

8 Executive Branch; Code of Ethics; Appointee and Volunteer Service. RSA 21-G:25 is repealed and reenacted to read as follows:

21-G:25 Ethical Standards for Appointee and Volunteer Public Service. Appointee and volunteer public service within the executive branch is an honorable tradition that should be encouraged and maintained. Appointees and volunteers shall not use such public service, directly or indirectly:

I. For personal financial gain; or

II. To facilitate nonpublic communications with executive branch officials for the purpose of promoting or advancing any matter on behalf of themselves, their employers or business associates, or any other third party.

9 Purpose; Financial Disclosure. The general court finds that many public spirited citizens perform volunteer service for the state each year under circumstances where their service does not create any appreciable opportunity to influence the setting of public policy, the expenditure of state funds, or the selection of vendors for the state. Recognizing that the purpose of financial disclosure is to ensure the public has access to information about the financial interests of those who act on the public's behalf when setting public policy, spending state funds, or choosing vendors to do work for the state, requiring volunteers who do not perform such actions to file statements of financial interests does not advance the purpose of the statute and may chill volunteerism. The general court intends to exempt from financial disclosure requirements those individuals who serve the state solely in a volunteer capacity and whose service does not afford any appreciable opportunity to influence public policy or spending, including but not limited to individuals who assist with search and rescue, teach hunter safety, work on recreational trails, or assist with the annual Easter egg hunt.

10 Financial Disclosure; Filing. Amend RSA 15-A:3 to read as follows:

15-A:3 Persons Required to File.

I. The following persons shall file a statement of financial interests as required by this chapter:

[I-] (a) All candidates who file for state or county office.

[II-] (b) All persons filing an acceptance of nomination form for state or county office.

[III-] (c) Every person appointed by the governor, governor and council, president of the senate, or the speaker of the house of representatives to any board, commission, committee, board of directors, authority, or equivalent state entity whether regulatory, advisory, or administrative in nature.

[IV-] (d) All agency heads.

[V-] (e) Any public official designated, due to the responsibilities of the position, by the agency head.

[VI-] (f) The secretary of state and the treasurer, and any of their subordinates designated, due to the responsibilities of the position, by the secretary of state or treasurer.

[VII-] (g) All persons elected to state or county office, and all persons appointed to such elective office to fill a vacancy; and

[VIII-] (h) Any person, not employed by or working under contract for the state, who is acting on behalf of the governor or an agency while engaged in state business.

II.(a) Any person who is otherwise subject to the filing requirements of paragraph I (h) shall be exempt from filing a statement of financial interests provided the head of the executive branch entity for whom the individual is volunteering certifies in a public register of volunteers, to be maintained by the secretary of state, that the volunteer's work for the state:

(1) Does not directly or indirectly influence the setting of public policy;

(2) Does not directly or indirectly influence decisions on how state funds will be expended; and

(3) Does not directly or indirectly influence the selection of vendors for the state.

(b) The secretary of state shall establish a public register of volunteers for the state that shall include the name and town or city of residence of the volunteer and the executive branch entity for whom the volunteer work is done. The name and residence of exempt volunteers shall not be listed for volunteers who provide service occurring at a single event that does not exceed one day in duration, provided the head of the executive branch entity accepting the volunteer service submits a brief

description of the event and an estimate of the number of volunteers to the secretary of state for inclusion in the register.

(c) The head of any executive branch entity that accepts volunteer work shall cause a list of volunteers who qualify for this exemption to be certified to the secretary of state. An annual certification shall be submitted not later than the last Wednesday in January listing all exempt volunteers who are expected to volunteer during that calendar year. A certification shall be submitted no later than the last Wednesday of each month certifying all new exempt volunteers who started service with that entity during the previous month.

11 Executive Branch Volunteer List. Each head of an executive branch entity that accepts volunteer work shall cause a list of volunteers providing service to the state on the effective date of this act who qualify for the exemption set forth in RSA 15-A:3, II to be submitted to the secretary of state within 60 days of the effective date of this act.

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

AMENDED ANALYSIS

This bill changes the registration requirements for lobbyists and the frequency and content of the statements required to be filed. The bill repeals the restriction on simultaneous employment and public service, and exempts certain appointed and volunteer service from the financial disclosure requirements. The bill also establishes an executive branch public register of volunteers.

2007-2604h

Amendment to HB 159

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

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

AN ACT establishing an interbranch criminal and juvenile justice council.

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

1 New Chapter; Interbranch Criminal and Juvenile Council. Amend RSA by inserting after chapter 651-D the following new chapter:

CHAPTER 651-E

INTERBRANCH CRIMINAL AND JUVENILE JUSTICE COUNCIL

651-E:1 Council Established. There is established an interbranch criminal and juvenile justice council to provide leadership, communication, and coordination among those involved in or affected by the criminal and juvenile justice systems.

651-E:2 Membership and Compensation.

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

- (a) The governor, or designee.
- (b) Two members of the senate, appointed by the president of the senate.
- (c) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (d) The chief justice of the supreme court, or designee.
- (e) The attorney general, or designee.
- (f) The commissioner of the department of corrections, or designee.
- (g) The commissioner of the department of safety, or designee.
- (h) The director of the division of juvenile justice, department of health and human services, or designee.
- (i) The director of the division of field services, department of corrections, or designee.
- (j) The director of the police standards and training council, or designee.
- (k) The director of victim/witness services, department of justice, or designee.
- (l) The chief justice of the superior court, or designee.
- (m) The administrative judge of the district court and family division, or designee.

(n) The executive director of the judicial council.
 (o) The president of the county attorneys affiliate of the New Hampshire Association of Counties, or designee.
 (p) The president of the county corrections superintendents affiliate of the New Hampshire Association of Counties, or designee.
 (q) The president of the New Hampshire Association of Chiefs of Police, or designee.
 (r) The executive director of the New Hampshire Public Defender, or designee.
 (s) The president of the New Hampshire Association of Criminal Defense Lawyers, or designee.
 (t) The executive director of the New Hampshire Civil Liberties Union, or designee.
 (u) The chairperson of the governor's commission on alcohol and drug abuse, or designee.

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

651-E:3 Duties. The council shall:

I. Identify, study, develop, and implement effective criminal and juvenile justice policy.

II. Promote the effective allocation and use of public and private resources within the criminal and juvenile justice system.

III. Foster effective communication, understanding, cooperation, and coordination among those involved in, or affected by, the criminal and juvenile justice system.

IV. Inform and engage the public regarding criminal and juvenile justice matters.

651-E:4 Chairperson; Quorum. The members of the council shall elect a chairperson from among the members. The first meeting of the council shall be called by the speaker of the house of representatives or the speaker's designee. The first meeting of the council shall be held within 45 days of the effective date of this section. Twelve members of the council shall constitute a quorum.

651-E:5 Report. The council shall submit an annual report beginning on November 1, 2008, together with its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library.

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

AMENDED ANALYSIS

This bill establishes the interbranch criminal and juvenile justice council.

2007-2591h

Amendment to HB 172-FN

Proposed by the Majority of the Committee on Environment and Agriculture - R
 Amend the title of the bill by replacing it with the following:

AN ACT relative to state meat inspection.

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

1 State Meat Inspector. Amend RSA 427:1-a to read as follows:

427:1-a Applicability. The provisions of this subdivision shall not apply or be in effect unless and until such time as the Food Safety and Inspection Service Division of the United States Department of Agriculture withdraws its meat inspection program from the state ***or unless and until such time as such agency allows the interstate sale of meat under the provisions of RSA 427:1 through RSA 427:37.***

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

AMENDED ANALYSIS

This bill allows the state meat inspection program to operate when the United States Department of Agriculture withdraws its meat inspection program from the state or otherwise allows the state meat inspection program to proceed.

2007-2580h

**Amendment to HB 173-FN-A
Proposed by the Committee on Finance - C**

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

1 New Subdivision; Large Animal Veterinarian Net Tuition Repayment Program.

Amend RSA 200-J by inserting after section 4 the following new subdivision:

Large Animal Veterinarian Net Tuition Repayment Program

200-J:5 Large Animal Veterinarian Net Tuition Repayment Program Established. The postsecondary education commission shall administer a program for the promotion, acquisition, and retention of a large animal veterinarian in the state in those areas where there is a need, with special consideration given to the counties of Coos, Carroll, Grafton, and Belknap. A qualifying veterinarian shall have at least 35 percent of his or her veterinary practice devoted to large animal veterinary medicine in each year in which a net tuition repayment is made. "Net tuition" means tuition costs for any post-secondary school education that was directed towards the completion of a doctor of veterinary medicine or veterinariae medicinae doctoris. The percentage of a practice devoted to large animal veterinary medicine shall be determined by the time spent in his or her full time practice, including travel, not on income earned.

200-J:6 Application; Repayment. An individual who has completed his or her veterinary medical education, including internships and residencies, and agrees to practice as a licensed veterinarian in an area of this state where there is a need, which may include Coos, Carroll, Grafton, and/or Belknap counties, may apply to the postsecondary education commission for repayment under the large animal veterinarian net tuition repayment program and become eligible to be reimbursed up to 100 percent of his or her qualifying veterinary net tuition costs or \$100,000, whichever is less, after a 10 full year period of maintaining a veterinary practice as specified in RSA 200-J:5. A 10 percent net tuition repayment shall be made upon entering into practice in this state and after each full year of practice for a maximum of 10 periods of repayment.

200-J:7 Fund Established.

I. There is hereby established in the office of the state treasurer a fund to be known as the large animal veterinarian net tuition repayment fund. The fund shall include any sums appropriated for such purpose. In addition, the postsecondary education commission is authorized to accept public sector and private sector grants, gifts, or donations of any kind for the purpose of funding the provisions of this subdivision. The moneys in this fund shall be nonlapsing and shall be continually appropriated to the postsecondary education commission. The fund may be expended by the postsecondary education commission to accomplish the purposes of this subdivision. The state treasurer may invest moneys in the fund as provided by law, with interest received on such investment credited to the fund.

II. A minimum balance of \$100,000 shall be in the large animal veterinarian net tuition repayment fund prior to the selection of the first participating veterinarian. In order for additional veterinarians to participate in the program, \$100,000 shall be available in the fund for each participating veterinarian.

200-J:8 Administration; Rulemaking. The postsecondary education commission, with the counsel of the state veterinarian, shall adopt rules, pursuant to RSA 541-A, relative to procedures, eligibility, and qualifications for applicants, qualifying educational costs, criteria for terms of service by a large animal veterinarian, procedures for repayment of net tuition costs, and the administration of the program by the postsecondary education commission. The state veterinarian shall annually report to the general court on the effectiveness of this program.

2 Appropriation. The sum of \$1 is hereby appropriated to the postsecondary education commission for deposit in the large animal veterinarian net tuition repayment fund established in RSA 200-J:7. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

3 New Subparagraph; State Treasurer; Accounts. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:

(269) Moneys deposited in the large animal veterinarian net tuition repayment fund established in RSA 200-J:7.

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

AMENDED ANALYSIS

This bill establishes the large animal veterinarian net tuition repayment program and fund for the promotion, acquisition, and retention of large animal veterinarians in those areas of the state where there is a need, including the north country. This bill makes an appropriation to the fund.

2007-2451h

Amendment to HB 174-FN

Proposed by the Majority of the Committee on Executive Departments and Administration - R

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

AN ACT relative to regulating home contractors.

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

1 New Subdivision; Regulating Home Contractors. Amend RSA 310-A by inserting after section 181 the following new subdivision:

Home Contractors

310-A:182 Purpose. The purpose of this subdivision is to provide consumer protection for the people of New Hampshire by registering home contractors.

310-A:183 Definitions. In this subdivision:

I. "Actual loss" means the amounts payable for the cost of repair, replacement, completion, or performance under the terms of a residential contracting agreement with respect to which a claim is made.

II. "Apprentice" means any person who is engaged in learning and assisting in home construction or home improvement under an apprenticeship program.

III. "Board" means the state board of registration for home contractors, established by RSA 310-A:184.

IV. "Claimant" means an owner and resident of a residential building, containing at least one but not more than 4 dwelling units, who has entered into a construction contract with a contractor to carry out construction work on such building, and who is making a claim against the contractor for failure of performance under the contract.

V. "Contract" means an agreement, written or oral, for the performance of certain residential contracting work, including all labor, goods, and services set forth under such agreement.

VI. "Employee" means any person employed by and under the direction and control of a home contractor required to be registered under RSA 310-A:190 and who performs services.

VII. "Home contractor" means any person who owns or operates a contracting business who, personally or through others, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid for residential contracting work, and includes those individuals who perform home contracting services for retailers who sell home contracting services in conjunction with the sale of a product.

VIII. "Owner" means any homeowner of a pre-existing or proposed new building containing at least one but not more than 4 dwelling units, or a tenant thereof, who orders,

contracts for, or purchases the services of a home contractor or subcontractor, and such owner's primary business is not rental of tenant housing.

IX. "Person" means any individual, partnership, corporation, association, or other organization.

X. "Registrant" means any contractor duly registered under the provisions of this subdivision.

XI. "Residential contracting" means the construction, reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, demolition, or construction of an addition to any building containing at least one but not more than 4 dwelling units, which building or portion thereof is used or designed to be used as a residence or dwelling unit, or to structures which are adjacent to such residence or building. "Residential contracting" shall not mean the installation of appliances such as televisions or other home electronics units by a retailer from whom the appliance was purchased.

XII. "Subcontractor" means any person other than a supplier of material or labor, who enters into a contract, written or verbal, with a contractor for the performance of any part of the contractor's contract, or who enters into a contract with any other subcontractor for the performance of any part of the subcontractor's contract, and who does not perform work directly for an owner or tenant.

XIII. "Tenant" means a person who has entered into a lease or other contractual arrangement with the owner.

310-A:184 Board Established.

I. There shall be a state board of registration for home contractors consisting of 5 members: 2 contractors, one modular home installer, and 2 public members. Each member shall be appointed by the governor, with the approval of the council, to a term of 5 years. No member of the board shall be appointed to more than 2 consecutive terms. Any vacancy on the board shall be filled for the remainder of the unexpired term.

II. Any public member of the board shall be a person who is not, and never was, a contractor, subcontractor, or the spouse of any such person, and who does not have, and never has had, a material financial interest in either the provision of residential contracting services or an activity directly related to residential contracting, including the representation of the board or trade for a fee at any time during the 5 years preceding appointment.

310-A:185 Compensation and Expenses. Members of the board shall serve without compensation, but shall be reimbursed for all actual traveling, incidentals, and clerical expenses necessarily incurred in carrying out the provisions of this subdivision.

310-A:186 Organization and Meetings. The board shall hold at least 4 regular meetings each year, and special meetings may be held at such times as the business of the board may require. Notice of all meetings shall be given in such manner as the rules of the board may provide. The board shall annually elect a chairperson and a vice-chairperson from among its members. A quorum of the board shall consist of not less than 3 members, at least one of whom shall be a public member.

310-A:187 Rulemaking Authority. The board shall adopt rules, pursuant to RSA 541-A, relative to:

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

II. The application procedure to register under this subdivision.

III. The qualifications of registration applicants under this subdivision.

IV. Registration approval, denial, renewal, suspension, or revocation as established in this subdivision.

V. Ethical and professional standards required to be met by each registrant under this subdivision, and how disciplinary actions by the board shall be implemented for violations of these standards.

VI. Fees authorized under this subdivision.

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

VIII. Matters for the proper administration of this subdivision.

310-A:188 Fees. The board shall establish fees for registration of applicants and for renewal of registration to provide services under this subdivision, and for transcribing and transferring records and other services. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year.

310-A:189 Receipts and Disbursements. The secretary of the board shall receive and account at least monthly for all moneys derived under the provisions of this subdivision, and shall pay the same to the state treasurer. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures from this fund for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under this subdivision. Under no circumstances shall the total amount of payments made exceed the amount of fees collected. Any balance in this account shall lapse at the end of each fiscal year.

310-A:190 Registration of Contractors Required; Registration by Corporation or Partnership.

I. The board shall register home contractors. When issued, a registration shall be valid throughout the state, and the registrant shall be entitled to perform the work of a home contractor anywhere within the state without any payment or additional fee. Each applicant for registration shall present to the secretary of the board on a form furnished by the board a written application for registration, containing such relevant information as the board may require, accompanied by the required fee.

II. No contractor shall undertake, offer to undertake, or agree to perform residential contracting services unless registered therefor with the approval of the board.

III. It shall be the duty of the board to issue and deliver a certificate of registration to all applicants who have applied for and have been approved for registration pursuant to this subdivision.

310-A:191 Application for Registration; Required Information. In order to be registered as a contractor, an applicant shall make a written application under oath to the board on a form provided by the board. Said application shall set forth information that includes, but shall not be limited to:

I. The applicant's name and physical business address exclusive of post office box addresses.

II. The names and addresses of all owners, partners, or trustees of an applicant including, in case of corporate entities, the names and addresses of all officers and directors, and evidence of registration with the secretary of state under RSA 293-A, 305-A, or 349, as appropriate. If such corporate information is accurately reflected in the articles of organization or amendments thereto, or a current annual report of condition or other documents on file with the secretary of state or the Securities and Exchange Commission, a copy of the relevant sections of such filing shall satisfy the application requirements specified in this paragraph.

III. Whether the applicant has ever been previously registered or licensed in this state under this subdivision, or in another jurisdiction as a contractor, under what other business and trade names he or she was previously registered, and whether any of the registrations have ever been suspended or revoked, or has ever been denied.

IV. All applicants must be a citizen of the United States or have status as a legal resident alien.

310-A:192 Registration Applications to be Public Records; Display of Registration Number by Contractors.

I. The board shall keep on file, in convenient form and open to public inspection, all applications for registration and copies of registrations issued and the names of all contractors whose registration has been revoked, suspended, or surrendered.

II. Every written contract, building permit, and advertisement shall display the contractor's certificate of registration number, when the contractor is required to be registered.

310-A:193 Changes of Name or Address; Procedure Upon Expiration of Certificate; Replacement Certificates.

I. Every registered contractor shall notify the board within 30 days of any change of trade name or address.

II. Upon the expiration, termination, or voluntary surrender of a registration, the registrant shall deliver the registration to the board, which shall cancel the registration and endorse the date of expiration, termination, or surrender.

III. If a certificate of registration is lost, misplaced, or destroyed, the registrant shall file an affidavit to that effect and the board, for a nominal fee, shall issue a replacement registration, clearly identified as such, both on the certificate of registration and in the records of the board.

310-A:194 Expiration and Renewal of Registration. Regardless of any outstanding registration to the contrary, all registrations issued by the board shall expire biennially on the last day of the month of the registrant's birth, but may be renewed during the following month. The fee for renewal of all registrations issued under this subdivision shall be established by the board. Upon failure to pay the renewal fee within the required period, a registrant may renew the registration by submitting the required fee plus a 20 percent late fee before the last day of the month following the month of the registrant's birth. Any application received thereafter shall be rejected, unless accompanied by a new written application pursuant to RSA 310-A:190 and RSA 310-A:191.

310-A:195 Grounds for Denying Registration or Renewal; Reconsideration.

I. No application for registration or renewal conforming to the requirements of this subdivision may be denied except for a finding by the board that the applicant has done one or more of the following acts which are grounds for denial:

(a) Made material omissions or misrepresentations of fact on an application for registration or renewal under this subdivision.

(b) Failed to pay the registration fee required by this subdivision.

(c) Engaged in fraud, bad faith, or unfair or deceptive acts or practices in violation of RSA 358-A in the performance of residential construction services.

(d) Failed to meet or violated any of the requirements for a registered contractor set forth in this subdivision or has performed or is attempting to perform any act prohibited by this subdivision.

II. If a registration is refused, the applicant may, within 10 days from the date notice of refusal is mailed, make a request for reconsideration. The board shall render its decision within a reasonable period of time, but not more than 60 days following the request.

310-A:196 Suspension or Revocation of Registration; Grounds. Prior to its expiration date, a certificate of registration may be suspended or revoked by the board in accordance with the procedures and on the grounds set forth in RSA 310-A:195, or may be terminated by voluntary surrender by the registrant. Further grounds for suspension or revocation include any violation by a registrant or any agent or employee of the registrant of any of the provisions of this subdivision.

310-A:197 Prohibited Acts by Contractors.

I. The following acts are prohibited by contractors:

(a) Operating without a certificate of registration issued by the board.

(b) Abandoning or failing to perform, without justification, any contract or project engaged in or undertaken by a registered contractor, or deviating from or

disregarding plans or specifications in any substantial respect without justification or the consent of the owner.

(c) Failing to credit to the owner any payment the owner has made to the contractor in connection with a residential contracting transaction.

(d) Making any material misrepresentation or omission in the procurement of a contract or making any false promise of a character likely to influence, persuade, or induce the procurement of a contract.

(e) Contracting beyond the scope of the registration as a contractor.

(f) Acting directly, regardless of the receipt or the expectation of receipt of compensation or gain from the mortgage lender, in connection with a residential contracting transaction by preparing, offering or negotiating or attempting to or agreeing to prepare, arrange, offer, or negotiate a mortgage loan on behalf of a mortgage lender.

(g) Acting as a mortgage broker or agent for any mortgage lender.

(h) Publishing, directly or indirectly, any advertisement relating to home contracting which does not contain the contractor's certificate of registration number or which contains an assertion, representation, or statement of fact which is false, deceptive, or misleading.

(i) Advertising in any manner which fails to include an accurate reference to the contractor's certificate of registration if the contractor is required to be registered.

(j) Violating the building laws of the state or of any of its political subdivisions after receiving notice of a violation and having a reasonable opportunity to cure the violation.

(k) Misrepresenting a material fact by an applicant in obtaining a certificate of registration.

(l) Failing to reasonably notify the board of any change of trade name or address as required by RSA 310-A:193, I.

(m) Conducting a residential contracting business in any name other than the one in which the contractor is registered.

(n) Failing to pay within a reasonable time for materials or services properly delivered or rendered in connection with operating as a contractor where sufficient funds are received as payment for the particular construction work, project, or operation for which the services or materials were rendered or purchased.

(o) Failing to comply with any order, demand, or requirement lawfully made by the board or attorney general under and within the authority of this subdivision.

(p) Demanding or receiving payment in violation of RSA 310-A:199, I(e).

(q) Violating any other provision of this subdivision.

II. Violations of this section may subject the violator to administrative sanctions and penalties described in RSA 310-A:202.

III. Violations of any of the provisions of this section shall constitute an unfair or deceptive act or practice within the meaning of RSA 358-A:2 and subject the violator to the penalties of RSA 358-A.

310-A:198 Persons Exempt From Registration Requirement. The following persons are not required to be registered under this subdivision:

I. The state or any of its political subdivisions.

II. Any school, public or private, offering as part of a vocational education program courses and training in any aspects of home contracting.

III. Electricians, plumbers, architects or any other persons who are required by New Hampshire law to attain standards of competency or experience as a prerequisite to licensure for and engaging in such profession and who are acting exclusively within the scope of the profession for which they are currently licensed pursuant to such other law.

IV. Persons dealing in the sale of goods or materials who neither arrange to perform nor perform directly or indirectly any work or labor in connection with the installation of or application of the goods or materials.

V. Persons building their own homes or personally doing the renovations.

VI. Subcontractors and employees who perform labor or services for a contractor registered under this subdivision and who does not act in the capacity of a contractor.

VII. Any contractor who works on one undertaking or project by one or more contracts where the aggregate contract price is less than \$1,500, provided, however, that the contract is not in an amount of less than \$1,500 for the purpose of evading this subdivision.

VIII. Any person who engages in the business of a contractor on other than a full-time basis, and who has earned in gross revenues, as a contractor, less than \$10,000 in the previous 12-month period.

IX. Persons who install central heating systems, air-conditioning systems, energy-conservation devices, or who provide conservation services conducted by or on behalf of a public utility.

X. A retail company with a net worth of at least \$50,000,000 and the employees of such retailer who are making or selling home improvements within the scope of their employment, when using a registered home contractor.

310-A:199 Residential Contracting Agreements; Owner to be Given Copy of Agreement; Alternative Dispute Resolution Clauses Permitted.

I. Every agreement to perform residential contracting services, between a contractor and an owner, that requires an initial down payment or deposit or involves a total contract price in excess of \$5,000 shall require a written agreement and shall include the following minimum information:

(a) The full name, physical business address, and registration number of the contractor who solicited or negotiated the contract, and the date when the contract was executed by the parties. A registration number is not required for contractors who are exempt from registration under RSA 310-A:198.

(b) The anticipated date on which the work under the contract is scheduled to begin and the anticipated date on which the work is scheduled to be substantially completed.

(c) A detailed description of the work to be done and the materials to be used in the performance of the contract.

(d) The total amount agreed to be paid for the work to be performed under the contract.

(e) Where applicable, a time schedule of payments to be made under the contract and the amount of each payment stated in dollars, including all finance charges. Any deposit required under the contract to be paid in advance of the commencement of work under the contract shall not exceed the greater of 1/3 of the total contract price or the total of the actual cost of any materials or equipment of a special order or custom-made nature, which must be ordered in advance of the commencement of work, in order to assure that the project will proceed on schedule. No final payment shall be demanded until the contract is substantially completed.

(f) The signatures of all parties shall be affixed to the contract.

(g) There shall be a clear and conspicuous notice appearing in the contract:

(1) That all contractors must comply with this subdivision and that any inquiries about a contractor relating to a registration should be directed to the board.

(2) Of the registration number of the contractor, unless the contractor is exempt from registration under RSA 310-A:198.

(3) Of an owner's 3 day right of rescission under RSA 361-B:2, when applicable.

(4) Of any warranties offered and the owner's rights under the provisions of this subdivision.

(5) In 10 point bold type or larger, directly above the space provided for the signature, "Do not sign this contract if there are any blank spaces."

(6) Of any lien placed on or security interest pledged on the residence as a consequence of the contract.

(7) A statement describing any liability insurance maintained by the contractor.

(8) A statement to homeowners pursuant to RSA 359-G:7, when applicable.

(h) An enumeration of such other matters upon which the owner and the contractor may lawfully agree, provided, however, that no such agreement may waive any rights conveyed to the owner under the provisions of this subdivision.

(i) Any other provision otherwise required by the applicable laws of the state.

II. No contract shall contain an acceleration clause under which any part or all of the balance not yet due may be declared due and payable because the holder deems himself or herself to be insecure. However, where the contractor deems himself or herself to be insecure, he or she may require as a prerequisite to continuing the work that the balance of funds due under the contract be placed in a joint escrow account requiring the signature of the contractor and the owner for withdrawal.

III. At the time of signing, the owner shall be furnished with a copy of the contract signed by both the contractor and the owner. No work shall begin prior to the signing of the contract and transmittal to the owner of a copy of such contract, unless that owner asserts that exigent circumstances exist. Exigent circumstances shall include, but not be limited to, severe damage to the residential building, such as by fire or water, that requires immediate repair in order to mitigate further damage or make the residential building habitable.

IV. Any contract entered into between a contractor and owner shall require the contractor to inform the owner of all necessary permits.

V. Any contract entered into between a contractor and owner may provide that the contractor may initiate alternative dispute resolution through any mediation or arbitration services approved by the board, provided that the alternative dispute resolution provision is clearly and conspicuously disclosed in the contract. Any contract that includes a mediation arbitration provision shall also authorize the parties to opt out of the mediation or arbitration provision and to seek a remedy in a court of competent jurisdiction.

VI. Contracts which fail to comply with the requirements of this section shall not be invalid solely because of noncompliance.

310-A:200 Enforcement of Subdivision; Court Action; Mediation or Arbitration.

I. Any party may bring an action to enforce any provision of this subdivision, or to seek damages subject to the provisions of this subdivision, in the superior court, the district court, or the small claims court, subject to each court's jurisdictional requirements.

II. In the alternative, any party may request that a dispute resulting from and relating to residential contracting be decided under the terms of a mediation or arbitration program approved by the board.

310-A:201 Mediation and Arbitration Services Program; Three-Year Limitations Period; Appeals.

I. There shall be a mediation and arbitration services program approved by the board, to consider disputes between owners and registered contractors, concerning or arising from contracts for residential contracting services. No claim may be filed for mediation or arbitration after 3 years from the date of the contract.

II. All registered contractors who enter into contracts for residential contracting impliedly consent to the provisions contained in this section.

III. A contractor who is required to submit to arbitration as a result of an owner's application for arbitration may file a counterclaim, based on or arising from the same contract, in that arbitration.

310-A:202 Penalties.

I. If the board determines that any registrant is liable for a violation of any of the provisions of this subdivision, the board may suspend the registrant's certificate of registration for such period of time as shall be determined by the board not to exceed 5 years, revoke the registrant's certificate of registration, or reprimand the registrant.

II. The board may assess an administrative penalty not to exceed \$2,000, payable within 30 days of its order, for each violation of any provision of this subdivision committed by contractors who are registered or who are required to be registered under this subdivision.

III. In determining whether to impose an administrative penalty, the board shall consider the seriousness of the violation, the deleterious effect of the violation on the complainant, any good faith on the part of the contractor, and the contractor's history of previous violations.

IV. Any contractor who knowingly operates without obtaining a certificate of registration as required by this subdivision and who is not otherwise exempt from the registration requirement or any contractor who continues to operate after revocation of or during suspension of, or who fails to renew his or her certificate of registration, shall be guilty of a misdemeanor.

V. Such penalties may be sought in an action brought by the attorney general, county attorney, or police department, pursuant to RSA 358-A, and shall be in addition to any administrative penalty otherwise applicable.

310-A:203 Subdivision Not to Lessen Individual Responsibility. This subdivision shall not be construed to relieve or lessen the responsibility of any person registered under this subdivision, nor shall the state be deemed to have assumed any such liability by reason of the issuance of registration.

2 New Subparagraph; Consumer Protection and Antitrust Bureau; Duties. Amend RSA 21-M:9, II by inserting after subparagraph (u) the following new subparagraph:

(v) Enforcing the provisions of RSA 310-A:182 through RSA 310-A:203, relative to home contractors.

3 Joint Board. Amend RSA 310-A:1 to read as follows:

310-A:1 Joint Board Established. There shall be a joint board of licensure and certification for professional engineers, architects, land surveyors, foresters, professional geologists, natural scientists, landscape architects, ~~and~~ court reporters, **and home contractors** consisting of each of the members of the board of professional engineers, board of architects, state board of licensure for land surveyors, foresters' board, board of professional geologists, the board of natural scientists, the board of landscape architects, ~~and~~ the board of court reporters, **and the board of registration for home contractors**. The joint board shall meet at least quarterly to carry out its duties established under this chapter.

4 Board of Registration for Home Contractors; Initial Appointments; Staggered Terms. The initial members of the board of registration for home contractors shall serve staggered terms, appointed as follows: the modular home installer shall be appointed for a 3-year term, one public member and one contractor shall be appointed for 4-year terms, and one public member and one contractor shall be appointed for 5-year terms. Thereafter, appointed members shall serve 5-year terms, and until their successors are appointed.

5 Application; Adoption of Rules. No person shall be required to be registered under the provisions of RSA 310-A:182 through 310-A:203 as inserted by this act until the effective date of the initial rules adopted by the board of registration for home contractors pursuant to RSA 541-A, as provided in RSA 310-A:187.

6 Effective Date. This act shall take effect July 1, 2008.

AMENDED ANALYSIS

This bill establishes the requirements for registration and regulation of home contractors by the board of registration for home contractors.

2007-2596h

Amendment to HB 185-FN

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 economic revitalization zone credits.

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

1 Limit On Total Economic Revitalization Zone Credits. Amend RSA 162-N:5 to read as follows:

162-N:5 Limit On Total Economic Revitalization Zone Credits. The aggregate value of all of economic revitalization zone tax credit agreements that the commissioner of resources and economic development enters into shall not exceed the limit of \$825,000 in any fiscal year. ***Amounts carried forward pursuant to RSA 162-N:7 shall not be counted against this limit in any year in which they are applied.*** Notwithstanding RSA 162-N:6, the maximum credit ~~[awarded to]~~ ***which may be utilized by*** a taxpayer in any fiscal year shall not exceed \$40,000.

2 Application of Economic Revitalization Zone Tax Credit. Amend RSA 162-N:7 to read as follows:

162-N:7 Application of Economic Revitalization Zone Tax Credit. The economic revitalization zone tax credit shall be applied against the business profits tax under RSA 77-A, and any unused portion thereof may be applied against the business enterprise tax under RSA 77-E. Any unused portion of the credit allowed under this chapter ***or any eligible credit in excess of \$40,000 allowed under this chapter,*** may be carried forward and allowed against taxes due under RSA 77-A or RSA 77-E for 5 taxable periods from the taxable period in which the tax was paid. ***For the purpose of the credit allowed under RSA 77-A:5, X, the economic revitalization zone credit shall be considered taxes paid under RSA 77-E.***

3 Applicability. Notwithstanding any other provision of law, all agreements made by the commissioner of resource and economic development under 2003, 301:2 prior to July 1, 2007, shall be honored, according to the provisions of 2003, 301:2.

4 Effective Date. This act shall take effect July 1, 2008.

AMENDED ANALYSIS

This bill establishes criteria for carrying forward a portion of the economic revitalization zone tax credit.

2007-2598h

Amendment to HB 186-FN

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

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

AN ACT relative to audit recounts.

Amend the bill by replacing section 1 with the following:

1 New Chapter; Audit Recounts. Amend RSA by inserting after chapter 660 the following new chapter:

CHAPTER 660-A AUDIT RECOUNTS

660-A:1 Application. The secretary of state shall choose a random process to select towns and wards using optical scan equipment to count votes that equal at least 5 percent of the votes cast in the most recent general election for the purpose of an audit recount. For each town or ward selected, the office to be recounted shall be randomly selected from the offices of president, United States senator, representative to Congress, governor, and state senator.

660-A:2 Time and Notice. The secretary of state shall begin the process of audit recounts on the Monday following the deadline for requesting a recount. If a recount is requested for the same town and office chosen for an audit recount, additional towns and wards shall be chosen consistent with RSA 660-A:1 to replace those also chosen for a recount. A recount shall take place at any suitable state facility in the city of Concord as may be designated by the secretary of state. The secretary of state shall give notice thereof to each of the candidates involved in an audit recount. The secretary of state shall also prepare and

distribute to each of the candidates the rules and procedures governing the audit recount at the time and place of the recount.

660-A:3 Conduct of Audit Recount. Audit recounts shall be conducted in a manner consistent with RSA 660:5 except, however, candidates involved with the audit recount may not protest ballots being counted.

660-A:4 Posting Results. Results of the audit recounts shall be announced following the recount and made available to the public. Any candidate involved in an audit may, notwithstanding RSA 660, request a formal recount of the candidate's entire district within 48 hours of the announced outcome of the audit if the results vary significantly from the declared results. Fees for a requested recount under this provision shall be the same as in RSA 660:2.

AMENDED ANALYSIS

This bill requires the secretary of state to perform audit recounts of towns and wards representing 5 percent of the votes cast after each general election.

2007-2435h

Amendment to HB 211-FN

Proposed by the Committee on Transportation - C

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

AN ACT requiring that driver's license applicants be informed of and examined on laws relating to blind pedestrians.

Amend RSA 263:6-c, I as inserted by section 1 of the bill by replacing it with the following:

I. Before issuing or renewing a driver's license, the department shall inform the applicant of the provisions of RSA 265:41 and other safety issues respecting blind pedestrians.

AMENDED ANALYSIS

This bill requires the department of safety to inform licensees of laws relating to blind pedestrians and to examine first-time driver's license applicants on such laws.

2007-2491h

Amendment to HB 241

Proposed by the Committee on Election Law - C

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

1 Political Expenditures and Contributions; Prohibited Political Contributions; Business Organizations. RSA 664:4, I is repealed and reenacted to read as follows:

I. By any business organization, or by any officer, director, executive, agent, partner, or employee acting in behalf of such business organization. This shall not prohibit the establishment by a business organization of a political committee that operates as a separate entity from the business organization, provided that the committee's expenditures and contributions are made through a separate, segregated account consisting only of voluntary contributions solicited from individuals. The provisions of this section shall not apply to sole proprietorships.

2 Political Expenditures and Contributions; Prohibited Political Contributions; Labor Unions; Segregated Account Exception. Amend RSA 664:4, III to read as follows:

III. By any labor union or group of labor unions, or by any officer, director, executive, agent, or employee acting in behalf of such union or group of unions; or by any organization representing or affiliated with any such union or group of unions, or by any officer, director, executive, agent, or employee acting in behalf of such organization. ***This shall not prohibit the establishment by a labor union or group of labor unions of a political committee that operates as a separate entity from the labor union or group of labor unions, provided that the committee's expenditures and contributions are made through a separate, segregated account consisting only of voluntary contributions solicited from individuals.***

3 Repeal. RSA 664:4, II, relative to prohibited political contributions by partnerships, is repealed.

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

2007-2632h

Amendment to HB 285

Proposed by the Committee on Election Law - C

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

AN ACT relative to voting machines.

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

1 New Sections; Voting Machines. Amend RSA 656 by inserting after section 40 the following new sections:

656:40-a System Requirements Specification.

I. The secretary of state shall appoint a system requirements specification group consisting of 10 members, one of whom shall be designated as chairman, selected for their expertise in electronic hardware and software design, knowledge of voting and election process requirements, and, with regard to at least one member, experience in procurement policy and practices. The group may solicit assistance from any source to assure that its recommendations comply with applicable technical, environmental, and legal standards. The group shall meet at the call of the chairman and shall receive mileage at the state employees rate when attending to the duties of the group.

II. The system requirements specification group shall develop system requirements specifications for voting machines approved under this subdivision. The specifications shall assure that voting machines achieve the following:

- (a) Verifiably valid and accurate vote counting and reporting of election results.
- (b) Preservation of paper ballots and voting machine data.
- (c) Public confidence in the integrity and transparency of the system and the voting process.

III. The system requirements specification group shall quarterly report its results to the system requirements specification evaluation committee established in RSA 656:40-b and to the secretary of state.

656:40-b System Requirements Specification Evaluation Committee.

I. There is hereby established a system requirements specification evaluation committee. The members of the committee shall be as follows:

(a) Three members of the system requirements specification group established in RSA 656:40-a, including the chairman of the group, appointed by the secretary of state.

(b) Three persons who are town moderators at the time of appointment, appointed by the secretary of state.

(c) Three persons, two of whom are town clerks at the time of appointment and one of whom is a city clerk at the time of employment, nominated by the New Hampshire City and Town Clerks' Association and subsequently shall be appointed by the secretary of state.

(d) Two members of the standing committee with jurisdiction over election law of the house of representatives, appointed by the speaker of the house of representatives.

(e) Two members of the standing committee with jurisdiction over election law of the senate, appointed by the president of the senate.

II. Members of the committee who are not state employees shall receive mileage at the state employees rate when attending to the duties of the committee.

III. Members of the committee appointed under subparagraphs I(d) and (e) shall serve for terms that are coterminous with their terms in office.

IV. The chairman of the system requirements specification group shall also be the chairman of the system specifications evaluation committee and shall call the first meeting.

V. The committee shall review the system requirements specifications submitted to it under RSA 656:40-a. The review shall include a public hearing and the deliberations of the committee shall be public. Upon completing its review, the committee shall develop a system description for use in requests for proposals that it will report to the ballot law commission.

2 Action by Ballot Law Commission; Acquisition of Voting Machines. RSA 656:41 is repealed and reenacted to read as follows:

656:41 Action by Ballot Law Commission; Acquisition of Voting Machines.

I. Within 30 days of receiving the report of the system requirements specification evaluation committee required by RSA 656:40-b, V, the ballot law commission shall review the report and hold a public hearing on whether or not to approve the report. If the commission does not approve the report, the commission shall send written notice of its decision, and the reasons therefor, to the system requirements specification evaluation committee and request that the committee submit a revised report to the ballot law commission within 30 days. If the commission decides to approve the report, it shall direct the secretary of state to reconvene the system requirements specification evaluation committee to implement a request for proposals process for purchases and or leases of voting machines. The request for proposals shall incorporate the system description reported by the system requirements specification evaluation committee.

II. The request for proposals shall result in a contract between the state and one or more vendors for purchases and leases by the state and by municipalities of voting machines meeting the requirements established under this subdivision. The contract shall specify terms and conditions and maximum costs for purchases and leases. Contract documents shall become a matter of public record.

III. No vendor other than a vendor contracting with the state under this section may sell or lease any voting machine in this state after the effective date of this section. Any vendor entering into a contract under this section may only sell or lease voting machines according to the terms of the contract.

3 Applicability. The provisions of this act shall not affect the use of any voting machine approved prior to the effective date of this act. The provisions of this act shall not affect any purchases or leases of voting machines made prior to the effective date of this act.

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

AMENDED ANALYSIS

This bill changes the procedure for approving and the requirements for purchasing and leasing voting machines.

2007-2554h

Amendment to HB 291

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

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

1 Fireworks; Requirements for Sale of Display and Consumer Fireworks; License Renewal. Amend RSA 160-B:6, II to read as follows:

II. After the person has obtained a municipal permit to sell display and consumer fireworks, such person may apply for a state license to sell display and consumer fireworks. Upon application of any person, the commissioner, or a person designated by the commissioner, may issue a license authorizing the applicant to sell or market display and consumer fireworks in this state ~~[for not more than one year from the date of issue]~~, provided the person has first obtained a permit to sell display and consumer fireworks pursuant to RSA 160-B:6, I. The license shall bear the name, address, description, and signature of the licensee. The license shall be displayed at all times, openly and publicly, at the licensee's place of business. The license shall be issued within a reasonable time after application.

The license shall be valid for not more than one year from the date of issue and may

be renewed on May 1 of the following year. The initial licensing fee shall be pro-rated to correspond with the initial date of issue.

2 Fireworks; Requirements for the Sale of Permissible Fireworks; License Renewal. Amend RSA 160-C:3, II to read as follows:

II. After the person has obtained a municipal permit to sell permissible fireworks, the person may apply for a state license to sell permissible fireworks. Upon application of any person, the commissioner or designee may issue a license authorizing the applicant to sell or market permissible fireworks in this state ~~[for not more than one year from the date of issue]~~, provided the person has first obtained a permit to sell fireworks pursuant to RSA 160-C:3, I. The license shall bear the name, address, description, and signature of the licensee. The license shall be displayed at all times, openly and publicly, at the licensee's place of business. ***The license shall be valid for not more than one year from the date of issue and may be renewed on May 1 of the following year. The initial license fee shall be pro-rated to correspond with the initial date of issue.***

3 Fireworks Licenses for 2009 Pro-Rated. Fireworks licenses issued or renewed between January 1, 2009 and May 1, 2009 shall be pro-rated to provide for the May 1 renewal date established in sections 1 and 2 of this act.

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

AMENDED ANALYSIS

This bill establishes an May 1 renewal date for fireworks licenses.

2007-2661h

Amendment to HB 295

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

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

AN ACT relative to fuel quality standards and testing requirements for combustion of biomass and biomass fuel.

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

1 New Paragraph; Biomass Defined. Amend RSA 125-C:2 by inserting after paragraph III the following new paragraph:

III-a. "Biomass" means organic matter used as a fuel, not including wood derived from construction and demolition debris, as defined in RSA 149-M:4, IV-a; wood which has been chemically treated; agricultural crops or aquatic plants or byproducts from such crops or plants, which have been used to rehabilitate a contaminated or brownfields site through a process known as "phytoremediation;" or any product or byproduct derived from a material regulated as a solid waste.

2 New Paragraph; Eligible Biomass Fuel Defined. Amend RSA 125-C:2 by inserting after paragraph VII the following new paragraph:

VII-a. "Eligible biomass fuel" means fuel sources including biomass or neat biodiesel, as defined in RSA 362-A:1-a, I-b, and other neat liquid fuels that are derived from biomass.

3 New Subparagraph; Biomass and Eligible Biomass Fuel. Amend RSA 125-C:4, I by inserting after subparagraph (q) the following new subparagraph:

(r) Standards and testing requirements for biomass and eligible biomass fuel as authorized by RSA 125-C:6, XIV-a.

4 New Paragraph; Standards and Testing Requirements for Biomass and Eligible Biomass Fuel. Amend RSA 125-C:6 by inserting after paragraph XIV the following new paragraph:

XIV-a. Establishing fuel quality standards and testing requirements for biomass and eligible biomass fuel related to the combustion of such materials at stationary sources. The commissioner may establish such standards as necessary to maintain statewide compliance with Clean Air Act standards and RSA 125-I.

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

AMENDED ANALYSIS

This bill authorizes the commissioner of the department of environmental services to establish fuel quality standards and testing requirements for biomass and eligible biomass fuel, as defined in the bill, related to the combustion of such materials at stationary sources.

2007-2478h

Amendment to HB 310

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

Amend section 1 of the bill by inserting after RSA 674:61 the following new RSA section:

674:62 Regional Notification.

I.(a) Any municipality which receives an application to construct a small wind energy system which will be visible from any other New Hampshire municipality within a 20-mile radius shall provide written notification of such application and pending action to such other municipality within the 20-mile radius.

(b) This notification shall include sending a letter to the planning board and governing body of the municipality within the 20-mile radius detailing the pending action on the application and shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality within the 20-mile radius, stating the specifics of the application, the pending action, and the date of the next public hearing on the application. Such notice shall be published not less than 7 days nor more than 21 days prior to the public hearing date.

II.(a) Any person, prior to constructing a new small wind energy system in any municipality where no approval is required but which will be visible from any other New Hampshire municipality within a 20-mile radius, shall provide written notification of such planned construction to such other municipality within the 20-mile radius.

(b) This notification shall include sending a letter to the planning board and governing body of the municipality within the 20-mile radius detailing the planned construction and shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality within a 20-mile radius, outlining the planned construction.

III. Municipalities within the 20-mile radius described in paragraphs I or II and their residents shall be allowed to comment at any public hearing related to the application. Regional notification and comments from other municipalities or their residents shall not be construed to imply legal standing to challenge any decision.

2007-2447h

Amendment to HB 315

Proposed by the Committee on Municipal and County Government - C

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

AN ACT relative to criminal background checks of prospective municipal employees through the division of state police.

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

1 New Section; Municipal Employee Background Investigations. Amend RSA 41 by inserting after section 9-a the following new section:

41:9-b Employee Candidate Background Checks.

I. The governing body of a town, or a town manager in a town which has adopted the provisions of RSA 37, may require a background investigation and a criminal history records check on any candidate for employment in a position in the town that requires the employee to work with or around children or elderly persons, enter the homes of citizens, or collect or manage money, prior to a final offer of employment. The town may extend a conditional offer of employment to a candidate, with a final offer of employment subject to a successfully completed criminal history records check.

II. A candidate for employment in a position which the governing body or town manager determines requires a background investigation and a criminal history records check shall submit to the town a notarized criminal history records release form, as provided by the division of state police, which authorizes the release of the person's criminal records, if any. The candidate shall submit with the release form a complete set of fingerprints taken by an authorized employee of the town or as otherwise directed by the governing body or town manager. In the event that the first set of fingerprints is invalid due to insufficient pattern and a second set of fingerprints is necessary in order to complete the criminal history records check, the conditional offer of employment shall remain in effect. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the town may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where a candidate has lived during the past 5 years.

III. The town shall submit the criminal history records release form and applicant finger print card to the division of state police, which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the background investigation, the division of state police shall report any criminal conviction information to the town governing body or town manager. The town may submit information electronically, in accordance with procedures established by the division of state police. The town shall maintain the confidentiality and security of all criminal history records information received pursuant to this paragraph.

IV. The governing body may require the candidate to pay the actual costs of the background investigation and the criminal history records check.

V. In this section, "candidate for employment" shall include candidates for volunteer positions in the municipality.

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

AMENDED ANALYSIS

This bill allows municipalities to obtain background investigations and criminal history records checks on prospective employees through the division of state police.

2007-2653h

Amendment to HB 330

Proposed by the Committee on Education - C

Amend section 2 of the bill by replacing paragraph I with the following:

I. The members of the task force shall be as follows:

(a) Two members of the house of representatives, one of whom shall be from the education committee, appointed by the speaker of the house of representatives.

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

(c) Two members from the department of education, appointed by the commissioner of the department of education.

(d) One school principal, appointed by the governor.

(e) Three public school teachers, appointed by the governor.

(f) Two computer technology professionals, appointed by the governor.

(g) Two 7th graders from public schools, appointed by the governor.

(h) One business administrator, appointed by the New Hampshire Association of School Business Officials.

(i) One member from the New Hampshire Advantage Foundation, appointed by the Foundation.

2007-2411h

Amendment to HB 331

Proposed by the Committee on Municipal and County Government - C

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

AN ACT relative to time limits on design review.

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

1 Building Permits to be Withheld in Certain Cases; Plat or Application Subject of Notice. Amend RSA 676:12, VI to read as follows:

VI. The provisions of paragraph I shall not apply to any plat or application which has been the subject of notice by the planning board pursuant to RSA 676:4, I(d) prior to the first legal notice of a proposed change in a building code or zoning ordinance or any amendment thereto. No proposed subdivision or site plan review or zoning ordinance or amendment thereto shall affect a plat or application which has been the subject of notice by the planning board pursuant to RSA 676:4, I(d) so long as said plat or application was the subject of notice prior to the first legal notice of said change or amendment. The provisions of this paragraph shall **also** apply to proposals submitted to a planning board for design review pursuant to RSA 676:4, II(b), provided that a formal application is filed with the planning board within 12 months of the end of the design review process. **At a public meeting, the board may determine that the design review process of an application has ended and shall inform the applicant in writing with 10 days of such determination.**

2 Board's Procedures on Plats; Design Review Phase. Amend RSA 676:4, II(b) to read as follows:

(b) Design review phase. The board or its designee may engage in nonbinding discussions with the applicant beyond conceptual and general discussions which involve more specific design and engineering details; provided, however, that the design review phase may proceed only after identification of and notice to abutters, holders of conservation, preservation, or agricultural preservation restrictions, and the general public as required by subparagraph I(d). **The board may establish reasonable rules of procedure relating to the design review process, including submission requirements.** Statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken.

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

AMENDED ANALYSIS

This bill permits the planning board to establish rules of procedure relating to the design review process and to determine when the process has ended.

2007-2444h

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

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

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

II. School district trust funds created pursuant to this section shall be held in custody by the trustee named pursuant to RSA 31:22 of trust funds of the town wherein the school district lies, or in the case of school districts embracing 2 or more towns, by the trustees of trust funds of that town which the voters of the school district may elect at the annual school district meeting. In order to expend such funds, the school board shall hold a public hearing prior to the expenditure to be made. **After the hearing and a decision by the school board to proceed with the expenditure and within 10 calendar days of the decision, any 5 residents of the school district may, in writing, petition the trustees of the trust funds for a public hearing to further consider the single issue of**

whether the expenditure is for the purpose for which the fund was established. The trustees shall hold their hearing in a timely manner. Immediately following the close of the public hearing, the trustees shall publicly vote on whether the proposed expenditure is for the purpose for which the fund was established. The trustees' decision on the issue shall be final and binding on the school district. Notice of the time, place, and subject of *each* such hearing shall be published in a newspaper of general circulation in the relevant municipality at least 7 days before the meeting is held. Amend RSA 198:20-c, III-a as inserted by section 1 of the bill by replacing it with the following:

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

2007-2576h

Amendment to HB 358

Proposed by the Committee on Election Law - C

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

AN ACT relative to the procedure for listing candidates on election ballots.

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

1 Municipal Elections; City Charters; Preparation of Ballots. Amend RSA 49-C:6 to read as follows:

49-C:6 Preparation of Ballots. The city clerk shall prepare the ballots to be used at the municipal elections. Under charters providing for election by the Australian ballot system, the ballots shall be prepared in accordance with the procedure provided for in general election laws governing such system. Under charters providing for non-partisan elections, the ballot shall contain the names in alphabetical order by surname ***according to the alphabetization procedure established in RSA 656:5-a, II***, without party designation, of all who file with the city clerk as candidates for elective office. In the alternative, the charter may provide for a random selection of the order of names on the ballot. The charter shall specify a filing period, the filing fee to be paid for each office, and, as an alternative method of becoming a candidate on the ballot, the number of qualified voters which may be subscribed to a nominating petition in such form as the charter may set out.

2 Nominations for Special State Elections; Order of Names on Ballot. Amend RSA 655:81, IX to read as follows:

IX. The names of all candidates for a party nomination at a special election primary shall be printed in alphabetical order on the ballot ***according to the alphabetization procedure established in RSA 656:5-a, II***, and the same ballot listing shall be used at all polling places where the special primary election is held; and

3 New Section; Preparation of State General Election Voting Materials; Order of Candidates. Amend RSA 656 by inserting after section 5 the following new section:

656:5-a Order of Candidates.

I. On the first Wednesday following the first Tuesday in January of every year, the secretary of state or designee shall hold a public drawing, on the date publicly announced by the secretary of state, in the secretary of state's office to pick randomly one letter of the alphabet for that election year. The drawing shall be attended by the governor, the chairmen of the parties, the speaker of the house of representative, the president of the senate, and the minority leaders of both houses of the general court, or their designees.

II. The candidates for each office shall be listed alphabetically according to their surnames within each party column. The letter picked under paragraph I for that election year shall be treated as the first letter of the alphabet, and alphabetization shall follow from that letter forward to the letter immediately preceding the letter picked. For example, if the

letter “t” is picked, alphabetization shall proceed from “t” to “z,” and then from “a” to “s.” Should more than one candidate’s surname begin with the same letter, the first letter in the surnames which is different shall be the letter to determine placement of the names on the ballot.

4 Primary Election Voting Materials; Order of Names. Amend RSA 656:24 to read as follows:

656:24 Order of Names. With the exception of the office of state representative, whenever there are 2 or more candidates for nomination to the same office, the names of such candidates shall be alternated on the state primary election ballots used so that each name shall appear thereon as nearly as may be an equal number of times at the top, at the bottom, and in each intermediate place, if any, of the list in which it belongs. Names of candidates for nomination to the office of state representative shall be arranged in the alphabetical order of their surnames ***according to the alphabetization procedure established in RSA 656:5-a, II.***

5 Presidential Primary Election Voting Materials; Order of Names. Amend RSA 656:32 to read as follows:

656:32 Other Provisions. The provisions of RSA 656:24-656:28 relating to state primary election ballots shall apply to presidential primary ballots, except that candidates on the presidential primary ballot shall be listed in the alphabetical order of their surnames ***according to the alphabetization procedure established in RSA 656:5-a, II.***

6 Constitutional Convention Ballots; Form. Amend RSA 667:12 to read as follows:

667:12 Form. Every ballot for the election shall contain the name and domicile of each candidate who has filed a declaration of candidacy for delegate. The names of candidates upon the ballot shall be arranged in perpendicular columns under the title “For Delegate to the Constitutional Convention.” Below the title shall be printed in easily legible type the words “Vote for” followed by a spelled number designating the number of persons to be elected to such office. At the right of the name of each candidate and on the same line, there shall be a square. Following the names there shall be as many blank lines as there are persons to be elected. Whenever there are 2 or more candidates, the names shall be printed upon the ballot in alphabetical order of their surnames ***according to the alphabetization procedure established in RSA 656:5-a, II.***

7 Town Elections; Official Ballot; Voting Materials. Amend RSA 669:23 to read as follows:

669:23 Preparation of Voting Materials. The town clerk shall prepare the official ballots for the town and shall arrange the names of candidates upon said ballots in parallel columns. Immediately above the names of each block of candidates shall be printed the title of the office for which they are candidates, such as “For Selectman.” Below the title of each office shall be printed in small but easily legible type the words “Vote for not more than (here insert a number designating how many persons are to be voted for).” Directly to the right of the name of each candidate there shall be a square. Whenever there are 2 or more candidates for the same office the names shall be printed upon the ballot in the alphabetical order of their surnames ***according to the alphabetization procedure established in RSA 656:5-a, II. In the alternative, the governing body may provide for a random selection of the order of names on the ballot.*** Following the names printed on the ballot under the title of each office, there shall be as many blank lines as there are persons to be elected to that office.

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

AMENDED ANALYSIS

This bill establishes a procedure for the random drawing of letters for the ordering of names on election ballots.

2007-2547h

Amendment to HB 359-FN

Proposed by the Committee on Judiciary - C

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

1 Recovery of Assistance. Amend RSA 167:14-a, VI to read as follows:

VI. **(a)** For purposes of recovering the costs of medical assistance, the estate of a recipient shall include all property, real or personal, which at the time of a recipient's death was held by the recipient in joint tenancy with rights of survivorship, tenancy in common, or life estate ~~[- without regard to the date that such title or interest was established.]~~ **for all such title or interest established on or after July 1, 2005. Recovery shall be limited to the value of the recipient's ownership interest and in no case shall such amount exceed the total amount of medical assistance provided to the deceased recipient, nor shall recovery extend to any interest in property, real or personal, for which a non-recipient owner paid fair market value at the time said ownership interest was acquired.**

(b) No sooner than 45 days from the death of the recipient, the department shall provide the other joint owner or owners notice of the department's claim. **Written notice shall include a description of all categories of individuals exempt from recovery by reason of familial status as allowed under 42 U.S.C. section 1396p(b)(2) and RSA 167:16-a, IV, as well as the availability and method of requesting a hardship waiver.** Within 30 days of the receipt of notification of the department's claim, the joint owner or owners shall acknowledge receipt of the department's claim and, provided that there shall not be undue hardship imposed upon the surviving joint owner or owners, either tender an amount equal to the deceased recipient's interest in the identified property and/or financial instrument to the state of New Hampshire toward the deceased's medical assistance bill, but such amount shall not exceed the total amount of medical assistance provided to the deceased recipient, or enter into a binding agreement to make such payment as soon as is practicable. If the joint owner or owners refuse to acknowledge receipt of the department's claim or to tender payment or fail to fulfill the agreement to pay without good cause, as required by this paragraph, the commissioner may bring an action in superior court **or probate court, as the case may be,** to compel such payment. Nothing in this paragraph shall be interpreted or applied so as to violate RSA 167:16-a~~[-IV]~~ or 42 U.S.C. section 1396p(b)(2)(A) **and (B)** prohibiting recovery when the recipient is survived by a spouse, minor children, or disabled children **or when the recipient is survived by either siblings or children under certain circumstances.**

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

AMENDED ANALYSIS

This bill limits recovery of assistance to property interests created on or after July 1, 2005. It also limits recovery to the value of the interest held by the recipient of the assistance. The bill also requires the department to provide written notice of the procedure for obtaining a hardship waiver and those persons who are exempt from recovery by state and federal law.

2007-2486h

Amendment to HB 369-FN

Proposed by the Committee on Judiciary - C

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

AN ACT relative to state reimbursement and payment for costs of bailiffs.

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

1 Fees of Sheriffs; Reimbursement and Payment by State for Costs of Bailiffs. Amend RSA 104:31, X to read as follows:

X. The state shall reimburse the sheriff's office, **and shall pay per diem judicial branch court security officers,** within available funds appropriated by the legislature, ~~[\$65]~~ **\$100** for each full day and ~~[\$35]~~ **\$50** for each half day, plus traveling expenses to attend any official business, for any person employed as a bailiff ~~[by the sheriff's office]~~. For the

purpose of this paragraph, a half day shall be defined as a day in which a bailiff works 4 hours or less. The state shall reimburse the counties, within available funds appropriated by the legislature, for all costs associated with employing court bailiffs, if those costs are the result of job requirements imposed by federal and state governments.

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

AMENDED ANALYSIS

This bill increases the amount the state is required to reimburse sheriffs' offices for the costs of bailiffs and the amount the state is required to pay per-diem judicial court security officers employed as bailiffs.

2007-2511h

Amendment to HB 373

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

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

1 Unlawful Possession of Alcohol by a Minor. RSA 179:10 is repealed and reenacted to read as follows:

179:10 Unlawful Possession of Alcohol by a Minor.

I. Except as provided in RSA 179:23, any person under the age of 21 years who has in his or her possession any liquor or alcoholic beverage, or who has consumed any alcoholic beverage, shall be guilty of a violation and shall be fined a minimum of \$300. Any second and subsequent offense shall be fined at least \$600. For purposes of this section, alcohol concentration as defined in RSA 259:3-b of .02 or more shall be prima facie evidence of consumption. In lieu of any or all portions of such fines, the court may impose community service for such period as the court deems appropriate under the circumstances. In addition to the penalties provided in this section, the court may, in its discretion, impose further penalties authorized by RSA 263:56-b.

II. Except for persons convicted on the basis of having consumed an alcoholic beverage, any person under the age of 21 years convicted of unlawful possession of liquor or beverage shall forfeit the same, and it shall be disposed of as the court directs. The proceeds, if any, shall be paid to the municipality in which the offense was committed.

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

2007-2600h

Amendment to HB 385-FN

Proposed by the Committee on Ways and Means - C

Amend the bill by replacing section 1 with the following:

1 Repeal. The following are repealed:

I. RSA 400-A:29, IX, relative to fees for producers.

II. RSA 402-J:1, III, relative to scope of the producer licensing.

III. RSA 402-J:6, I(c), relative to application for license.

Amend the bill by deleting section 12 and renumbering the original sections 13-17 to read as 12-16, respectively.

2007-2592h

Amendment to HB 399

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

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

AN ACT relative to the minimum hourly rate of compensation.

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

1 Exceptions to Minimum Hourly Rate. Amend RSA 279:21, VIII(b) to read as follows:

(b) Any employee of employers covered under the provisions of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. section 201, et seq.) **except employees**

employed as delivery drivers or sales merchandisers who are exempt under section 13(b)(1) of such act.

(c) For the purposes of calculating the overtime rate of compensation required to be paid to the following employees, the regular rate shall be 1/40 of the employee's weekly remuneration:

(1) Delivery drivers or sales merchandisers.

(2) Employees paid on a base salary and commission basis.

(3) Delivery drivers or sales merchandisers not exempt from the overtime requirements of the Fair Labor Standards Act.

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

AMENDED ANALYSIS

This bill clarifies the overtime rate of compensation for certain employees.

2007-2578h

Amendment to HB 415-FN

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

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

II. The state geologist shall make a preliminary report of the results of the geothermal assessment project 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, 2010. The state geologist shall make a final report of the results of the geothermal assessment project 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, 2011.

Amend section 1 of the bill by inserting after paragraph II the following new paragraph:

III. Any person exploring hydrothermal or geothermal resources, or any person installing a geothermal energy system who drills at least 3 boreholes 1,000 or more feet deep on one site, shall report to the state geologist a description or log of the geological formations and materials encountered in the borehole that achieved the greatest depth. The report shall include any temperature measurements from fluids or temperatures measured at the bottom of one of the boreholes. Each report shall be prepared by a geologist licensed in this state within 30 days of the completion of drilling.

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

2 Repeal. Section 1 of this act, relative to the geothermal assessment project, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect July 2, 2011.

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

AMENDED ANALYSIS

This bill requires the state geologist to conduct a geothermal assessment project. This bill also requires the reporting of geologic information by persons installing geothermal systems or exploring hydrothermal or geothermal resources.

2007-2519h

Amendment to HB 432-FN

Proposed by the Committee on Commerce - C

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

AN ACT relative to certain on-premises beverage and liquor licenses.

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

1 On-Premises Beverage and Liquor Licenses; Full Service Restaurants. Amend RSA 178:21, II(a)(1) to read as follows:

(a)(1) Licenses for Full Service Restaurants. The commission may issue a license to any full service restaurant. Such license shall entitle the licensee to sell beverages and

liquor at tables in the approved dining rooms of the restaurant with or without meals when the restaurant kitchen is in operation and meals are being actively promoted and served in that dining room. The dining room shall not, however, be used as a substitute for lounge operations. Licenses shall be granted only to restaurants approved by the commission and which show the commission on forms, filed with the license application, covering the 12 most recent calendar months prior to filing, that at least 50 percent of the gross sales of any such licensee is in food. Restaurants with annual food sales of at least [~~\$75,000~~] **\$150,000** shall be exempt from the 50 percent requirement. The commission shall at least annually review each license, and application for renewal, on the conditions stated in this paragraph.

2 On-Premises Cocktail Lounge Licenses; Full Service Restaurants; Area. Amend RSA 178:22, V(q) to read as follows:

(q) Full Service Restaurants. The commission may issue a cocktail lounge license to any full service restaurant holding a full service restaurant license under RSA 178:21, II(a)(1), to serve liquor and beverages in any room of the restaurant designated by the commission. The cocktail lounge shall be operated in conjunction with the dining rooms. No cocktail lounge shall be operated on days that the dining room is closed. No cocktail lounge shall operate before the dining room opens for meals, except if breakfast and noon meals are not offered, the cocktail lounge may operate 3 hours before the dining room opens for the evening meals. Liquor and beverages served in such room need not be consumed with meals. The commission may extend the cocktail lounge license to include the use of a dining area in the restaurant, after such area has been closed for serving meals, but not before 9:00 p.m., as an overflow area for the cocktail lounge when the lounge is filled to capacity. In the overflow area, liquor and beverages need not be served with meals. Licenses shall be granted only to such restaurants as the commission, at its discretion, shall approve and then only to such restaurants as shall demonstrate to the commission, in the manner prescribed by the commission, ***that the seating capacity of the cocktail lounge is no greater than 3 times the seating capacity of the dining room and*** that at least 50 percent of the combined restaurant and lounge and lounge sales shall fall within the category of food. Restaurants with annual food sales of at least [~~\$75,000~~] **\$150,000** shall be exempt from the 50 percent requirement, and the commission shall prorate the annual food sale requirements for seasonal restaurants. The commission may grant, regulate, suspend, or revoke a cocktail lounge license without affecting any other license granted to such restaurant.

3 New Subparagraph; On-Premises Cocktail Lounge Licenses; Taverns. Amend RSA 178:22, V by inserting after subparagraph (v) the following new subparagraph:

(w) Taverns.

(1)(A) The commission may issue a large tavern cocktail lounge license to any person at least 25 years of age who operates a tavern capable of seating 50 persons or more. Such license shall allow the licensee to serve liquor and beverages to patrons within the tavern.

(B) The commission may issue a small tavern cocktail lounge license to any person at least 25 years of age who operates a tavern capable of seating less than 50 persons. Such license shall allow the licensee to serve liquor and beverages to patrons within the tavern.

(2) No person under the age of 21 shall be allowed in the tavern. The tavern may not employ any person under the age of 21.

(3) The commission shall require, as a condition of the issuance, renewal, or reinstatement of any tavern cocktail lounge license that the licensee or applicant furnish sufficient security for liquor liability of the licensee of up to a limit of \$100,000 for any one person and \$300,000 for all persons per incident. Such security may be provided by:

(A) A continuous certificate of an insurance company or surety company authorized to transact business in this state, attesting to such coverage, which shall remain in effect unless cancelled or non-renewed in accordance with RSA 417-C, with a copy of notice of cancellation or non-renewal provided to the commission; or

(B) The deposit with the commission of money or securities satisfactory to the commission. Such securities shall be of a type which may be legally purchased by a savings bank or trust funds. Money or securities so deposited shall be subject to execution to satisfy judgment for liquor liability, but otherwise shall not be subject to attachment or execution.

4 On-Premises Liquor Licenses; Fees. Amend RSA 178:29, I to read as follows:

I. On-premises licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages and Liquor	Cocktail Lounge
Airport				\$1,200
Ballroom	\$ 45			\$1,200
Bed and Breakfast		\$ 480	\$ 840	
Beer Festival				
One-day	\$ 250			
Two-day	\$ 300			
Three-day	\$ 350			
Catering (all)				\$1,200
Catering (off-site only)				\$ 840
Catering (on-site only)				
18 events-	\$ 5			
36 events-	\$ 5			
52 events-	\$ 5			
Club Military				\$ 100
Club Social				
9 events	\$ 250			
18 events	\$ 450			
36 events	\$ 750			
52 events	\$1,200			
Club Private				\$1,200
Club Veterans				
9 events	\$ 250			
18 events	\$ 450			
36 events	\$ 750			
52 events	\$1,200			
College Club				\$1,200
Convention Center				\$2,400
Dining Car		\$ 480		\$ 840
Fairs		\$ 112		
Hotel		\$ 840		\$1,200
One day License				\$ 100
Performing Arts				\$ 360
Racetrack/Motor Vehicle				\$1,800
Racetrack/Pari-Mutuel				\$3,000
Rail Cars				\$1,200
Restaurant		\$ 480	\$ 840	\$1,200
Special License			\$ 25	
Sports/Entertainment Complex				\$1,800
9 events	\$ 250			
18 events	\$ 450			
36 events	\$ 750			
52 events	\$1,200			
Sports Recreation Facility				\$1,200
Tavern				

<i>Large</i>			\$24,000
<i>Small</i>			\$12,000
Vessel	\$ 480	\$ 840	\$1,200

5 Effective Date. This act shall take effect July 1, 2008.

AMENDED ANALYSIS

This bill establishes on-premises cocktail lounge licenses for taverns. This bill also establishes a minimum seating ratio for restaurants operating cocktail lounges and increases the food sales required for the exemption from the 50 percent food sales requirement.

2007-2541h

Amendment to HB 436

Proposed by the Committee on Labor, Industrial and Rehabilitative Services - R
Amend RSA 98-E:1-a as inserted by section 3 of the bill by replacing it with the following:

98-E:1-a Definition. In this chapter, "public employee" includes any person employed by the state or any subdivision thereof, including, but not limited to counties, cities, towns, precincts, water districts, school districts, and school administrative units.

Amend the bill by replacing all after section 4 with the following:

5 New Section; Employees' Remedies. RSA 98-E:4 is repealed and reenacted to read as follows:

98-E:4 Employees' Remedies.

I. A public employee may seek injunctive relief or maintain a civil action, or both, to recover damages for violation of this chapter in any court of competent jurisdiction by bench or jury trial.

II. If the public employee prevails, in addition to damages the court may allow the costs of the action and such attorney's fees as it finds to be reasonable to be paid by the defendant employer.

III. This chapter shall not alter or impair the rights of any person under a collective bargaining agreement or affect any other right or remedy provided in law.

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

2007-0769h

Amendment to HB 474

Proposed by the Committee on Municipal and County Government - C
Amend RSA 72:12-a, I as inserted by section 1 of the bill by replacing it with the following:

I. Any person, firm or corporation which builds, constructs, installs, or places in use in this state any treatment facility, device, appliance, or installation wholly or partly for the purpose of reducing, controlling, or eliminating any source of air or water pollution shall be entitled to have the value of said facility and any real estate necessary therefor, or a percentage thereof determined in accordance with this section, exempted from the taxes levied under this chapter for the period of years in which the facility, device, appliance, or installation is used in accordance with the provisions of this section. This paragraph shall not apply to privately-owned landfills or ancillary facilities located at such landfills, ***or to private septic and sewage treatment systems that have as their primary purpose treatment or disposal of human waste.***

Amend section 2 of the bill by replacing it with the following:

2 Effective Date. This act shall take effect April 1, 2008.

2007-2664h

Amendment to HB 502-FN-A-LOCAL

Proposed by the Committee on Children and Family Law - C
Amend the title of the bill by replacing it with the following:
AN ACT extending Medicaid coverage through age 20 to individuals who were foster children and are attending postsecondary school.

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

1 New Paragraph; Medical Assistance; Juveniles. Amend RSA 167:6 by inserting after paragraph V the following new paragraph:

V-a. For purposes of this section, a person shall be eligible to receive medical assistance who is under the age of 21, attending college, full-time or part-time, as defined by the educational institution and either

(a) Who was in foster care under the legal responsibility of the department on his or her 18th birthday pursuant to RSA 169-C, RSA 169-D, RSA 463; or RSA 170-B; or

(b) Who was in foster care under the legal responsibility of the department on his or her 17th birthday pursuant to RSA 169-B.

2 Committee Established. There is established a committee to study the state of Washington program that extends foster care and support services to youths who are in state-supervised foster care on their eighteenth birthday, provided such youths are enrolled in a postsecondary educational program and retain a grade point average of at least 2.0 on a 4.0 scale, or its equivalent, in such a program and the feasibility of extending health care benefits for children past age 21.

3 Membership and Compensation.

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

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives, one of which will be a member of the committee on children and family law.

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

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

4 Duties. The committee shall study:

I. The state of Washington program, and any other state program, that extends foster care and support services to youths who are in state-supervised foster care on their eighteenth birthdays provided such youths are enrolled in a postsecondary educational program and retain a grade point average of at least 2.0 on a 4.0 scale, or its equivalent, in such a program; and

II. The feasibility of extending health care benefits for children past age 21 and for those who are unable to participate in juvenile justice programs because they are over 17 years old.

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

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

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

AMENDED ANALYSIS

This bill redefines which juveniles may be able to receive public medical assistance.

This bill also establishes a study committee to study the state of Washington program, and other state programs, that extend foster care and support services to certain juveniles and the feasibility of extending healthcare benefits for children over 21 years old and certain children over 17 years old.

2007-2587h

Amendment to HB 503-FN

Proposed by the Majority of the Committee on Environment and Agriculture - R
Amend the bill by replacing the title with the following:

AN ACT relative to establishing a solid waste management fund and assessing a beverage container fee.

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

1 Repeal. RSA 149-M:6, XI, relative to a surcharge on out of state waste, is repealed.

2 Rulemaking; Solid Waste Management. RSA 149-M:7, VII is repealed and reenacted to read as follows:

VII. Administration of and standards for the assessment, payment, collection, and auditing conducted and penalties assessed pursuant to the beverage fee under RSA 149-M:59 and for disbursements made from the solid waste management fund pursuant to RSA 149-M:60.

3 New Subdivision; Funding for Solid Waste Management and Recycling. Amend RSA 149-M by inserting after section 57 the following new subdivision:
Funding for Solid Waste Management and Recycling

149-M:58 Beverage Defined. In this subdivision, “beverage” means all still and carbonated drinks; fruit juices and all beverages compounded therefrom; all bottled waters; and all packaged liquids intended for drinking. Milk and unmixed products thereof are not included as “beverages under this chapter. The term “beverage” as used in this chapter shall not apply to wine and liquor as defined in RSA 175:1.

149-M:59 Beverage Container Fee; Payment.

I. A beverage container fee of \$0.01 per container shall be paid by a beverage manufacturer, wholesaler or wholesale distributor upon the first sale of a beverage in this state.

II. All fees payable during the preceding calendar month shall be paid to the department on or before the fifteenth day of the following month. A penalty of 10 percent of the fees payable shall be added and collected by the commissioner for failure to pay any part of fees payable under this section when due.

149-M:60 Solid Waste Management Fund. There is hereby established in the office of the treasurer a solid waste management fund which shall be kept distinct and separate from all other funds. All moneys received from the beverage container fee established under RSA 149-M:59 shall be credited to such fund. Such fund shall be nonlapsing and continually appropriated to the department for the planning, recycling, and regulation of solid waste and for the investigation of solid waste complaints and cleanup of abandoned solid waste sites.

149-M:61 Use of Solid Waste Management Fund.

I. Up to 35 percent of beverage fee revenues deposited into the solid waste management fund established under RSA 149-M:60 shall be available to the department for solid waste management, including administration, technical assistance, operator training, education and outreach, permitting, regulatory compliance, complaint investigation, and cleanup of abandoned solid waste sites.

II. At least 65 percent of surcharge revenues deposited into the solid waste management fund established under RSA 149-M:60 shall be available as grants for household hazardous waste collection and management, educational events, roadside cleanup, recycling, solid waste reduction, and electronic waste management, in the following proportions:

(a) At least 70 percent to municipalities for recycling related activities including electronics;

(b) Up to 2 percent to nonprofit organizations, registered and in good standing with the attorney general, for educational purposes, roadside cleanup and beautification;

(c) Up to 8 percent for seed grants or no interest loans for start-up of businesses that manufacture products in New Hampshire using New Hampshire generated recyclable materials.

(d) Up to 20 percent for household hazardous waste grants.

III. The department shall adopt rules under RSA 541-A for the administration of the grant program in paragraph II, including application forms, process, and procedures for awarding and disbursing grants.

IV. Grants made under paragraph II shall be made annually by the department upon authorization by the recycling steering committee established under RSA 149-O.

4 Recycling Steering Committee. RSA 149-O is repealed and reenacted to read as follows:

CHAPTER 149-O RECYCLING STEERING COMMITTEE

149-O:1 Committee Established. There is established a recycling steering committee to promote recycling in New Hampshire.

149-O:2 Duties. The recycling steering committee shall have the following duties:

I. Advocating for recycling and waste reduction in New Hampshire.

II. Authorizing recycling, waste reduction, and waste management grants to be made to municipalities, businesses, and nonprofit organizations by the department using funds from the solid waste management fund established under RSA 149-M:60.

III. Establishing priorities for and amounts of grants distributed under RSA 149-O:2, II.

149-O:3 Membership.

I. The recycling steering committee shall consist of the following members, representing the major segments of the state's recycling community:

(a) One member of the house of representatives, appointed by the speaker of the house of representatives.

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

(c) One representative of New Hampshire's environmental community, appointed by the governor.

(d) A person responsible for recycling coordination in the department of environmental services, or another appropriate representative of the department, appointed by the commissioner of the department of environmental services.

(e) A representative from the New Hampshire Municipal Association, appointed by the association.

(f) The executive director of the Northeast Resource Recovery Association.

(g) A representative of the Business and Industry Association of New Hampshire, appointed by the association.

II. The members shall elect a chairperson and vice-chairperson.

III. Members shall be appointed for a period of 4 years.

149-O:4 Meetings. The recycling steering committee shall meet quarterly and at such other times as the chairperson may call.

149-O:5 Report. The recycling steering committee shall prepare an annual report, including any recommended legislation, detailing the committee's work, including the number, dollar amount, and recipients of grants recommended under RSA 149-O:2, II, the adequacy of funding for the program, and the effectiveness of the program. The committee shall submit the report by February 1 each year to the chairpersons of the house and senate standing committees having jurisdiction over environmental matters, the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the state library, the governor, and the commissioner of the department of environmental services.

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

5 Reference Change. Amend RSA 149-M:29, II(h) to read as follows:

(h) The status of efforts by the ~~[market development]~~ **recycling** steering committee established in RSA 149-O:1.

6 New Subparagraph; Solid Waste Management Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:
(269) Moneys deposited in the solid waste management fund established by RSA 149-M:60.

7 Effective Date. This act shall take effect July 1, 2009.

AMENDED ANALYSIS

This bill establishes a solid waste management fund, establishes a beverage container fee, and changes the name, duties, and membership of the recycling market development steering committee.

2007-2613h

Amendment to HB 537

Proposed by the Committee on Children and Family Law - C

Amend the bill by replacing paragraph III of section 3 with the following:

III. Study the educational, social, and financial needs of teenagers leaving the foster care system and special education system and identify the type and adequacy of available transition services.

Amend the bill by replacing paragraph V of section 3 with the following:

V. Solicit information and testimony from youth and young adults who are or have been homeless and from agencies and organizations that provide services to homeless youth and young adults, including school assistance and other educational programs, runaway and homeless youth programs, mental health and substance abuse prevention and treatment programs, and New Hampshire Legal Assistance.

Amend the bill by replacing sections 4 and 5 with the following:

4 Chairperson; Quorum. The members of the task force shall elect a chairperson from among the members. The first meeting of the task force shall be called by the first-named house member. The first meeting of the task force shall be held within 45 days of the effective date of this section. The task force shall hold a minimum of 6 meetings. Six members of the task force shall constitute a quorum.

5 Report. The task force shall report its findings and make recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before September 1, 2009.

2007-2633h

Amendment to HB 563

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

1 New Section; Certificate of Stillbirth. Amend RSA 5-C by inserting after section 75 the following new section:

5-C:75-a Certificate of Stillbirth. The director shall establish a certificate of stillbirth for a fetal death, as defined in RSA 5-C:1, XII, occurring in this state on the following form:

New Hampshire Certificate of Stillbirth

Name of Parents: _____

Date of Stillbirth: _____

Place of Stillbirth: _____

Name parents choose: _____

(optional)

Issued by New Hampshire division of vital records administration

Director of vital records

Date

2 New Paragraph; Reporting of Fetal Deaths. Amend RSA 5-C:74 by inserting after paragraph IV the following new paragraph:

V. Upon request, the division shall complete and issue to the parent or parents a certificate of stillbirth for a fetal death, as defined in RSA 5-C:1, XII, on the form established pursuant to RSA 5-C:75-a.

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

AMENDED ANALYSIS

This bill requires the director of the division of vital records administration to establish a certificate of stillbirth.

2007-2603h

Amendment to HB 577-FN

Proposed by the Committee on Finance - R

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

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

491:1 Justices. The court shall consist of a chief justice and 22 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided.

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

491:1 Justices. The court shall consist of a chief justice and 23 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided.

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

491:1 Justices. The court shall consist of a chief justice, appointed by the governor and council to a 5-year term, and 22 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided. The chief justice shall be appointed from among the associate justices. In the event that the chief justice resigns as chief justice or is not reappointed at the expiration of the 5-year term, he or she may return to the position of associate justice, whether or not an associate justice vacancy then exists.

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

491:1 Justices. The court shall consist of a chief justice, appointed by the governor and council to a 5-year term, and 23 associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided. The chief justice shall be appointed from among the associate justices. In the event that the chief justice resigns as chief justice or is not reappointed at the expiration of the 5-year term, he or she may return to the position of associate justice, whether or not an associate justice vacancy then exists.

5 Repeal. The following are repealed:

I. 2004, 74, relative to the appointment and term of the chief justice of the superior court.

II. 2006, 38, relative to the appointment of the chief justice of the superior court and the number of superior court associate justices.

III. 2004, 240:4 and 5, relative to the number of associate superior court justices.

6 Nonlapsing Appropriation. The sum of \$183,781 of the amounts appropriated to the judicial branch in PAU 02-01-01-01 for the fiscal year ending June 30, 2008 shall not lapse, and shall be made available to the judicial branch for the fiscal year ending June 30, 2009 for expenditures made pursuant to section 1 of this act.

7 Contingency.

I. If the next vacancy in the superior court chief justice position occurs on or after July 1, 2008 and prior to July 1, 2009, section 3 of this act shall take effect on the date the

next vacancy occurs, section 4 of this act shall take effect July 1, 2009, and section 2 of this act shall not take effect.

II. If the next vacancy in the superior court chief justice position occurs on or after July 1, 2009, section 2 of this act shall take effect July 1, 2009, section 4 of this act shall take effect on the date the next vacancy occurs, and section 3 of this act shall not take effect.

8 Effective Date.

I. Sections 2, 3, and 4 of this act shall take effect as provided in section 7 of this act.

II. Section 6 of this act shall take effect June 30, 2008.

III. The remainder of this act shall take effect July 1, 2008.

AMENDED ANALYSIS

This bill increases the number of superior court justices to 22 on July 1, 2008 and to 23 on July 1, 2009. An appropriation to the judicial branch for fiscal year 2008 is made nonlapsing until June 30, 2009 for purposes of this increase.

2007-2606h

Amendment to HB 581-FN

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

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

AN ACT relative to the penalty for purposely mistreating service animals.

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

1 Cruelty to Service Animals. Amend RSA 167-D:9, II to read as follows:

II. Any person who purposely tortures, beats, kicks, strikes, mutilates, injures, or disables a **hearing ear dog, guide dog, search and rescue dog**, service dog, **or other service animal** or who purposely causes the death of ~~a service~~ **such dog or animal** shall be guilty of a class ~~A misdemeanor~~ **B felony**.

2 Service Animals; Definition Added. Amend RSA 167-D:1 by inserting after paragraph XI the following new paragraph:

XII. "Service animal" means any animal which assists a human being.

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

AMENDED ANALYSIS

This bill increases the penalty from a class A misdemeanor to a class B felony for cruelty to service animals to make it consistent with existing law relative to cruelty to any animal.

2007-2612h

Amendment to HB 584-FN

Proposed by the Committee on Children and Family Law - C

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

AN ACT including 17-year olds in the juvenile justice system.

2007-2470h

Amendment to HB 589-FN

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

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

1 Incarceration Under Suspended Sentence. Amend RSA 651:20, I(a) to read as follows:

(a) Any person sentenced to state prison shall not bring a petition to suspend sentence until such person has served at least 4 years or 2/3 of his minimum sentence, whichever is greater, and not more frequently than every 3 years thereafter. **For the purposes of this subparagraph:**

(1) For concurrent terms of imprisonment, the minimum term shall be satisfied by serving the longest minimum term imposed, and the maximum term shall be satisfied by serving the longest maximum term.

(2) For consecutive terms of imprisonment, the minimum terms of each sentence shall be added to arrive at an aggregate minimum term, and the

maximum terms of each sentence shall be added to arrive at an aggregate maximum term.

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

AMENDED ANALYSIS

This bill establishes a method for the calculation of minimum and maximum concurrent and consecutive terms of imprisonment for the purpose of petitioning to suspend sentence.

2007-2616h

Amendment to HB 594-FN

Proposed by the Committee on Executive Departments and Administration - C

Amend the bill by replacing section 1 with the following:

1 Department of Corrections; Authorization for Transfer to Group II.

I. Pursuant to the provision of RSA 100-A:3, IX, the following positions in the department of corrections classified as group I positions are deemed to have met the requirement of RSA 100-A:1, VII(b) and shall be transferred to group II status in the New Hampshire retirement system:

Position Title Position Number

Carpentry Supervisor I	12978
Carpentry Supervisor I	15470
Carpentry Supervisor I	41483
Electrician Supervisor II	12940
Electrician Supervisor II	41481
Electronic Technician I	16917
Electronic Technician I 18798	
License Plate Shop Manager	8T424
Maintenance Mechanic II	15448
Plumber Supervisor I	41482
Warehouseman	41514

II. The provisions of RSA 100-A:3, II-b shall apply to positions transferred by this act.

2007-2476h

Amendment to HB 595-FN

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

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

AN ACT requiring the commissioner of the department of corrections to adopt rules establishing a policy on and procedures for an internal clemency board to review and make recommendations on requests for sentence modifications.

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

1 New Subparagraph; Powers and Duties of Commissioner. Amend RSA 21-H:8, III by inserting after subparagraph (e) the following new subparagraph:

(f) A policy on and procedures for an internal clemency board to review each request for sentence modification pursuant to RSA 651:20 and to provide a recommendation on each request to the sentencing court.

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

AMENDED ANALYSIS

This bill requires the commissioner of the department of corrections to adopt rules establishing a policy on and procedures for an internal clemency board to review and make recommendations on requests for sentence modifications.

2007-2530h

Amendment to HB 620-FN

Proposed by the Committee on Commerce - R

Amend the title by replacing it with the following:

AN ACT relative to payday loans.

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

1 Payday Loan; Definition. RSA 399-A:1, X is repealed and reenacted to read as follows:

X. "Payday loan" means a small-dollar, short-maturity, secured or unsecured loan, other than a title loan, where the lender contracts for, exacts or receives, directly or indirectly, or where the borrower pays for, directly or indirectly, in connection with any such loan, any charges which in the aggregate are greater than 50 percent per annum.

2 Small Loan; Definition. Amend RSA 399-A:1, XIV to read as follows:

XIV. "Small loan" means a closed-end loan in the amount of \$10,000 or less or an open-end loan with a line of credit of \$10,000 or less, and where the lender contracts for, exacts or receives, directly or indirectly, **or where the borrower pays for directly or indirectly** in connection with any such loan any charges, whether for interest, **examination commission**, compensation, **service**, brokerage, endorsement fees, **other fees**, consideration, expense or otherwise, which in the aggregate are greater than 10 percent per annum **except for the lawful fees, if any, actually and necessarily paid out by the lender to any public officer, for filing or recording in any public office any instrument securing such loan and except for the reasonable costs, charges, and expenses, including court costs actually incurred in connection with a repossession of the security or an actual sale of the security.**

3 No Refinancing of Payday Loans. Amend RSA 399-A:11, X-XI to read as follows:

X. If a borrower desires to renew an existing closed-end loan [~~payday loan, or title loan~~] for the purpose of obtaining additional cash a new contract shall be drawn up in its entirety and such prior loan shall be paid in full from such proceeds of the new loan. **Payday loans shall not be rolled over, renewed, or refinanced.** All legal papers in connection with such prior loan shall be stamped "PAID IN FULL" and returned to such borrower.

XI. No charge for any examination, service, brokerage, commission, or other fee shall be directly or indirectly made or contracted for on closed-end **small** loans, **including** payday loans, or title loans except the lawful fees, if any, actually and necessarily paid out by the lender to any public officer, for filing or recording in any public office any instrument securing such loan, which fees may be collected when such loan is made, or at any time thereafter and except the reasonable costs, charges, and expenses, including court costs actually incurred in connection with a repossession of the security or an actual sale of the security in foreclosure proceedings or upon entry of judgment.

4 Debit Authorization. Amend RSA 399-A:13, II(d)-(e) to read as follows:

(d) Evidence of receipt from the borrower of a check **or other account debit authorization**, dated the same date, as security for the loan, stating the amount of the check, **if a check or other account debit authorization was given by the borrower.**

(e) An agreement by the lender not to present the check **or other account debit authorization** for payment or deposit until a specified maturity date, which date shall be at least 7 days and not more than 30 days after the date the loan is made [~~and after which date interest shall not accrue at a greater rate than 6 percent per year~~], **if a check or other account debit authorization was given by the borrower.**

5 New Subparagraph; Interest Cap. Amend RSA 399-A:13, II by inserting after subparagraph (g) the following new subparagraph:

(h) That after expiration of the time frame in subparagraph (e), interest shall not accrue at a greater rate than 6 percent per year.

6 Out-of-State Arbitration. Amend RSA 399-A:13, IV(b) to read as follows:

(b) Authorizing the lender or any third party to bring suit against the borrower in a court outside the state **or to require a borrower to accept an arbitration forum outside the state;** or

7 Lender Affiliates. Amend RSA 399-A:13, VI-VIII to read as follows:

VI. A lender shall not cause any person to be obligated to the lender **and any affiliate of the lender** in any capacity at any time in the principal amount of more than \$500.

VII. A lender shall not refinance, renew, **rollover**, or extend any loan; **a payday loan shall not be refinanced and shall not be paid off with the proceeds of another payday loan.**

VIII. A lender shall not cause a borrower to be obligated **to the lender or an affiliate of the lender** upon more than one loan at any time for the purpose of increasing charges payable by the borrower.

8 Debit Authorization. Amend RSA 399-A:13, XI to read as follows:

XI. A lender shall not take an interest in any property other than a check payable to the lender **or an authorization to debit a borrower's account** as security for a loan.

9 New Paragraphs; Payday Loan Lenders. Amend RSA 399-A:13 by inserting after paragraph XVIII the following new paragraphs:

XIX. A lender shall not prosecute a borrower or cause a borrower to be prosecuted if a check or ACH authorization given as security for a loan is dishonored.

XX. A lender and any affiliate of the lender shall not make a payday loan to a person who has previously borrowed from the lender or affiliate until the next business day after the prior loan has been paid off and in no case less than 12 hours from the time of payoff. The lender is responsible to document both the payoff date and the new loan date, if any, in a manner that compliance with this section can be verified by the commissioner. If the time between the payoff and the new loan is less than one full business day, the lender shall record the date and hour of the payoff and the date and hour of the new loan in a manner that compliance with this section can be verified by the commissioner. This cooling-off period shall be calculated from the date and time of the payoff by the borrower of a payday loan to the date and time that the borrower executes a new loan contract or is obligated under another payday loan, whichever is earlier.

XXI. A new loan contract form shall be completed by the borrower and a new loan contract shall be entered into and executed by the borrower and the lender for each loan; no pre-authorization or master loan agreement shall be used by the lender.

XXII. The interest rate for a payday loan shall not exceed the rate that results from the calculation of \$15 per \$100 on a 14-day loan.

XXIII.(a) If a borrower, on the business day immediately preceding the date a payday loan is due, returns to the lender's place of business where the loan was consummated, requests an extended payment plan (EPP), and signs an amendment to the parties' written agreement, then the lender must enter into an EPP with the borrower. The EPP must allow the borrower, for no additional finance charge, to pay the remaining balance of the payday loan in 4 substantially equal installments that coincide with the next 4 dates, following the amendment execution date, on which the borrower receives installments of regular income. The borrower may request an EPP in connection with any payday loan, provided that the borrower may request only one EPP from any single lender during any 12-month period. During the period that a borrower has an EPP outstanding and for 15 days following the date the borrower fully pays an EPP, a lender shall not make a new payday loan to the borrower.

(b) A lender making a payday loan shall provide the borrower, in the parties' written agreement, the following written notice in at least 8-point bold type immediately above the borrower's signature: "EXTENDED PAYMENT PLAN NOTICE. State law gives you the right to an extended payment plan (EPP), as described in this notice. If you – on the business day immediately preceding the date this payday loan is due – return to the lender's place of business where this loan was consummated, request an EPP, and sign an amendment to this agreement, then the lender must enter into an EPP with you. The EPP must allow you, for no additional finance charge, to pay the remaining balance of this loan in

4 substantially equal installments that coincide with the next 4 dates, following the amendment execution date, on which you receive installments of regular income. You may request an EPP in connection with any payday loan, provided that you may request only one EPP from any single lender during any 12-month period. During the period that you have an EPP outstanding and for 15 days following the date that you fully pay an EPP, a lender may not make a new payday loan to you.”

XXIV. For the purpose of this section, a “consecutive payday loan” means a payday loan that a lender makes to a borrower within 5 calendar days following the date that the borrower fully paid a previous payday loan made by the same lender to the same borrower. If a borrower obtains 5 consecutive payday loans from a lender, then the lender shall not make a new payday loan to the borrower until at least 2 calendar days have elapsed following the date that the borrower fully paid the fifth consecutive payday loan.

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

AMENDED ANALYSIS

This bill makes various changes to the law regarding payday loans.

2007-2662h

Amendment to HB 630-FN

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

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

1 Statement of Intent.

I. The general court recognizes that nationally there has been a significant increase in the number of deaths from the abuse of controlled drugs, primarily opioids such as Oxycontin and Methadone. New Hampshire has seen a 150 percent increase in deaths in the last 8 years from these drugs, primarily Methadone, and prescription drug abuse is the fastest growing form of substance abuse. Numerous states have addressed the issue of controlled substance abuse and diversion into the illegal drug trade by adopting electronic programs to monitor the prescribing and dispensing of controlled drugs. Therefore, the general court hereby establishes the controlled drug prescription monitoring program.

II. This program is intended to reduce patient mortality and morbidity associated with controlled drugs by providing a secure program through which the prescriber and the dispenser may access information on the patient's controlled drug prescription history. The program established by this act is designed to create a greater sense of safety, security, and comfort in the provider-patient relationship when controlled drugs are prescribed. Finally, by allowing restricted access by authorized law enforcement, under well-defined circumstances, this act may help reduce criminal justice costs associated with prescription drug diversion.

2 New Subdivision; Controlled Drug Prescription Monitoring Program. Amend RSA 318-B by inserting after section 30 the following new subdivision:

Controlled Drug Prescription Monitoring Program

318-B:31 Definitions. In this subdivision:

I. “Board” means the pharmacy board, established in RSA 318:2.

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

III. “Council” means the advisory council established in RSA 318-B:33.

IV. “Department” means the department of health and human services.

V. “Dispenser” means a person who delivers a schedule II–III controlled drug or its analog to the ultimate user but does not include:

(a) A licensed hospital pharmacy when distributing such drugs for the purpose of inpatient hospital care.

(b) A practitioner, or other authorized person, who administers such a drug.

(c) A wholesale distributor of a schedule II–III controlled drug or its analog.

VI. "Program" means the controlled drug prescription monitoring program established in RSA 318-B:32.

318-B:32 Controlled Drug Prescription Monitoring Program; Penalties.

I. The department shall design and establish an electronic system consistent with the American Society for Automation in Pharmacy (ASAP) standards to monitor the prescribing and dispensing of controlled drugs listed in schedules II and III, by practitioners within the state, and the dispensing of such controlled drugs by a pharmacy within the state or located within another state when dispensed to an individual at a specific address within the state by a pharmacy permitted by or registered with the pharmacy board.

II.(a) Each dispenser shall submit to the department information regarding each dispensing of a controlled drug in schedules II or III. The information submitted for each dispensing shall include, but not be limited to:

(1) Dispenser's Drug Enforcement Administration (DEA) registration number.

(2) Prescriber's DEA registration number.

(3) Date of dispensing.

(4) Prescription number.

(5) Whether prescription is new or a refill.

(6) Number of refills granted.

(7) National Drug Code (NDC) of drug dispensed.

(8) Quantity dispensed.

(9) Number of days supply of drug.

(10) Patient's name.

(11) Patient's address.

(12) Patient's date of birth.

(13) Patient's telephone number.

(14) Date prescription was written by prescriber.

(15) Type of payment for prescription, cash or other.

(b) This section does not apply to controlled drugs:

(1) Administered by a health care practitioner directly to a patient.

(2) Dispensed by a health care practitioner authorized to dispense pursuant to RSA 318:42 and RSA 318-B:10.

(3) Either dispensed by a pharmacist or administered by a health care practitioner to an in-patient or resident receiving care from a hospital, nursing home, assisted living facility, home health care agency, hospice, or intermediate care facility for the developmentally disabled or mentally ill which is licensed in this state.

III. Any person who fails to submit the information required in paragraph II or submits incorrect information shall be subject to a warning letter and provided with an opportunity to correct the failure. Any person who subsequently fails to correct or fails to resubmit the information shall be considered to have done so knowingly and shall be guilty of a violation for which a civil fine shall be imposed. The fine schedule shall be established by rule, pursuant to RSA 541-A, and shall not exceed a maximum of \$500 per violation.

IV. Any person who fails to report the dispensing of a controlled drug listed in schedules II and III, as required by this section, shall be subject to a warning letter and provided with an opportunity to correct the failure, unless the failure to report conceals a pattern of diversion of controlled drugs into illegal use. Any person who fails to correct or fails to report again after receiving a warning letter shall be considered to have done so knowingly and shall be guilty of a violation and subject to the penalties established under RSA 318-B:26 and Ph 710 of the pharmacy board's administrative rules.

V. Any person whose failure to report conceals a pattern of diversion of controlled drugs into illegal use shall be guilty of a violation and subject to the penalties established under RSA 318-B:26 and Ph 710 of the pharmacy board's administrative rules as applicable.

In addition, such person may be subject to appropriate criminal charges if the failure to report is determined to have been done knowingly to conceal criminal activity.

VI. Any person who engages in prescribing or dispensing of controlled drugs in schedule II or III without having registered with the program shall be guilty of a violation for which a civil penalty may be imposed. The civil penalties shall be established by rule adopted by the commissioner pursuant to RSA 541-A.

VII. The department shall develop a system of registration for all prescribers and dispensers of controlled drugs in schedules II or III within the state. Only registered prescribers and dispensers are eligible for electronic access to data maintained by the program. The system of registration shall be established by rules adopted by the commissioner, pursuant to RSA 541-A.

VIII. All costs incurred by the department for implementing and operating the program shall be supported through grants or gifts. The department may charge a fee to individuals who request data relating to their own prescription history or to individuals or entities requesting statistical or aggregate information from the program for public research, policy or educational purposes. A fee charged for an individual's request for his or her personal data shall not exceed the actual cost of providing that information.

IX. All prescribers of methadone shall attend educational courses regarding the safe use and prescription of methadone. The contents of the educational course shall be established by rules adopted by the commissioner pursuant to RSA 541-A.

318-B:33 Advisory Council Established.

I. There is hereby established an advisory council to assist the commissioner in carrying out his or her duties under this subdivision. The members of the council shall be as follows:

- (a) A representative of the board of medicine, appointed by the board.
- (b) A representative of the pharmacy board, appointed by the board.
- (c) A representative of the board of dental examiners, appointed by the board.
- (d) A representative of the board of nursing, appointed by the board.
- (e) The attorney general, or designee.
- (f) The commissioner of the department of health and human services, or designee.
- (g) A representative of the New Hampshire Medical Society, appointed by the society.
- (h) A representative of the New Hampshire Dental Society, appointed by the society.
- (i) A representative of the New Hampshire Association of Chiefs of Police, appointed by the association.
- (j) A representative of a retail pharmacy, appointed jointly by the New Hampshire Pharmacists Association, the New Hampshire Independent Pharmacy Association, and the New Hampshire Association of Chain Drug Stores.
- (k) A representative of the New Hampshire Civil Liberties Union, appointed by such organization.

II. The purpose of the council shall be to:

- (a) Adopt and revise the criteria for reviewing the prescribing and dispensing information collected.
- (b) Adopt and revise the criteria for reporting matters to the applicable health care regulatory board for further investigation.
- (c) Adopt and revise the criteria for reporting matters to and working cooperatively with, the appropriate law enforcement agency for further investigation.
- (d) Adopt and revise the criteria for notifying health care providers of individuals that are engaged in obtaining controlled substances from multiple prescribers or dispensers.

(e) Collect information on the outcomes and impact of the program including: satisfaction of users of the program, impact on prescribing patterns, impact on referrals to regulatory boards and law enforcement entities, and other relevant measures.

(f) Assist the commissioner in adopting and revising the rules under RSA 541-A to implement the program.

III. The council may meet as often as necessary to effectuate its goals. The first meeting shall be called by the representative of the department of health and human services within 45 days of the effective date of this subdivision. At the first meeting, a chairman shall be elected by the members.

318-B:34 Access to Prescription Information.

I. Prescription information submitted to the department shall be confidential and not be subject to RSA 91-A, except as provided under RSA 318-B:34, II, III, and IV. Information contained in the program, information obtained from it, and information contained in the records of requests for information from the program, is confidential, is not a public record or otherwise subject to disclosure under RSA 91-A, and is not subject to discovery, subpoena, or other means of legal compulsion for release and shall not be shared with an agency or institution, except as provided in this subdivision. Information collected for the program shall be retained by the program for 3 years and shall then be destroyed.

II. The department shall establish and maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained, is not disclosed except as follows:

(a) By electronic or written request, solicited or unsolicited, to prescribers and dispensers within the state who are registered with the program, for the purpose of providing medical or pharmaceutical care to patients; and

(b) By written request, to:

(1) An individual who requests his or her own prescription information.

(2) The state boards listed in RSA 318-B:33, the board of registration in optometry, and the board of podiatry.

(3) Local, state, and federal law enforcement officials investigating alleged criminal activity involving controlled drugs.

(4) The department of health and human services.

(5) A court in a criminal matter or a grand jury which requests such information.

(6) A controlled drug prescription monitoring program from another state, if an agreement is in place with the other state to ensure that the information is used and disseminated pursuant to the requirements of this state.

III. The department may review the prescription information as outlined in paragraph II only after removing information that could be used to identify prescribers and patients. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the department shall notify the appropriate law enforcement agency or professional licensing, certification, or regulatory agency or entity and provide prescription information required or necessary for an investigation.

IV. The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify prescribers, individual patients, and persons who received prescriptions from a dispenser.

318-B:35 Authority to Contract. The department may contract with another agency of this state or with a private vendor to ensure the effective operation of the program.

318-B:36 Rulemaking. The commissioner, with input and consent from the advisory council, shall adopt rules, pursuant to RSA 541-A, necessary to implement the program including:

I. A schedule of fines under RSA 318-B:32, III.

II. Content and format of all forms required under this subdivision.

III. Procedures, meetings, and conduct of the advisory council established in RSA 318-B:33.

318-B:37 Limitation of Liability. Any agency or individual who provides or receives information in good faith to or from the program shall not be liable for civil damages, prosecuted criminally, or subject to disciplinary action by an employer.

318-B:38 Unauthorized Access, Alteration, Destruction, or Disclosure of Information. A person is guilty of a class B felony if the person knowingly accesses, alters, destroys, or discloses program information except as authorized in this subdivision or as otherwise authorized by law.

3 Applicability; Report Required.

I. In the event that there is not adequate funding for the controlled drug prescription monitoring program established in section 2 of this act, the commissioner of the department of health and human services may curtail, temporarily suspend, or cancel the program.

II. The office of the legislative budget assistant shall conduct a performance audit of the program on or before December 31, 2012 for the use of the speaker of the house of representatives, the president of the senate, and the governor in evaluating the effectiveness of the program established in section 2 of this act.

4 New Paragraph; Notation Required. Amend RSA 318-B:9 by inserting after paragraph VI the following new paragraph:

VII. Each written prescription prescribed by a practitioner in this state for a controlled drug listed in schedule II or III, shall include both a written and numerical notation of the quantity on the face of the prescription and a notation of the date with the abbreviated month written on the face of the prescription. A pharmacist shall be permitted, upon verification by the prescriber, to document any information required by this paragraph.

5 New Section; Positive Identification Required. Amend RSA 318-B by inserting after section 9 the following new section:

318-B:9-a Positive Identification Required.

I.(a) A pharmacist shall not dispense a controlled drug listed in schedule II or III to a patient or a patient's agent without first determining, in the exercise of his or her professional judgment, that the order is valid. A pharmacist or pharmacist's agent shall request identification from the patient or patient's agent prior to dispensing any controlled drug. Appropriate identification shall be in the form of:

(1) A valid driver's license issued under New Hampshire law or the law of any other state;

(2) A valid military identification issued to either the patient or the patient's agent; or

(3) Any other government issued photo identification document.

(b) If the patient or patient's agent does not provide the appropriate identification, the pharmacist may dispense the controlled substance only when the pharmacist determines, in the exercise of his or her professional judgment, that the order is valid and includes such information in the patient's record.

II. Any controlled drug listed in schedule II or III may be dispensed by a pharmacist upon an oral or electronic prescription if, before filling the prescription, the pharmacist reduces it to writing, pursuant to the requirements of RSA 318-B:9, III or records it electronically, if permitted by federal law. Such prescriptions shall contain the date of the oral or electronic authorization.

6 Applicability. All prescribing and dispensing information maintained by the program established in section 2 of this act shall be destroyed upon the repeal of the program under section 7 of this act.

7 Repeal. RSA 318-B:31 – RSA 318-B:39 and sections 1 and 3 of this act, relative to the controlled drug prescription monitoring program, are repealed.

8 Effective Date.

I. Section 7 of this act shall take effect July 1, 2013.

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

2007-2423h

Amendment to HB 666-FN

Proposed by the Committee on Environment and Agriculture - R

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

1 Animal Vaccines. Amend RSA 436:80 to read as follows:

436:80 Label. Sale and use of biological products and diagnostic reagents produced for animal use which are sold, given away or used within this state shall bear a label stating the name and address of the person, firm or institution producing it and the date of preparation. Said label and certification of licensure by the United States Department of Agriculture shall be submitted to the commissioner for his approval prior to acceptance for distribution in New Hampshire. ***Fees for certification and acceptance of licensure shall be \$500 for a permanent license and \$200 for a temporary or conditional license, and all fees received shall be deposited into the companion animal neutering fund established in RSA 437-A:4-a.***

2 Companion Animal Neutering Fund. Amend RSA 6:12, I(b)(59) to read as follows:

(59) Moneys received under RSA 466:4, I(c), RSA 466:6, III, ***RSA 436:80***, and RSA 437-A which shall be credited to the companion animal neutering fund, established in RSA 437-A:4-a.

3 Veterinarian Participation. Amend RSA 437-A:4, II (b) to read as follows:

(b) For all animals sterilized under RSA 437-A:3, II, the commissioner shall also reimburse, to the extent funds are available, any licensed veterinarian of this state participating in such program for an examination fee and the presurgical immunization of dogs [~~against rabies, distemper, hepatitis, leptospirosis, and parvovirus, or an examination fee and the presurgical immunization of~~] ***and*** cats against rabies[, ~~feline panleukopenia, calici, pneumonitis and rhinotracheitis, as the case may be~~]. Reimbursement for the full cost of the presurgical immunization shall be made by the commissioner to the participating veterinarian upon the written certification, signed by the veterinarian and the owner of the animal, that the immunization has been administered. There shall be no additional charges to the owners of animals sterilized under RSA 437-A:3, II for examination fees or the presurgical immunization. Owners of animals sterilized under RSA 437-A:3, I who have adopted such animals from shelters shall pay the cost of all presurgical immunizations and examination fees directly to the participating veterinarian.

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

AMENDED ANALYSIS

This bill establishes a fee for processing a license for the sale of animal vaccines.

This bill also removes certain animal diseases from the list of vaccinations eligible for reimbursement.

2007-2660h

Amendment to HB 678-FN

Proposed by the Committee on Education - R

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

AN ACT establishing a committee to study issues related to cochlear implants.

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

1 Committee Established. There is established a committee to study issues related to cochlear implants.

2 Membership and Compensation.

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

(a) Three members of the house of representatives, 2 of whom shall serve on the house education committee, and one of whom shall serve on the house finance committee.

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

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

3 Duties.

I. The committee shall:

(a) Study the procedure and costs for inclusion of related services pertaining to medical services, including transportation, which are necessary for purposes of diagnosis and evaluation or the surgical implant or replacement of a medical device.

(b) Evaluate existing procedures and costs for maintenance, programming, or mapping of such a device.

II. The committee may consult with department of education personnel or any other individual or organization with information or expertise relevant to the committee's objectives.

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

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

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

AMENDED ANALYSIS

This bill establishes a committee to study issues related to cochlear implants.

2007-2649h

Amendment to HB 679-FN-LOCAL

Proposed by the Committee on Education - R

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

1 Delinquent Children; Filing Reports. Amend RSA 169-B:5-a to read as follows:

169-B:5-a Filing Reports, Evaluations, and Other Records. All reports, evaluations and other records ***requested by the court*** from the department of health and human services, ***school districts***, counselors, and guardians ad litem in proceedings under this chapter shall be filed with the court and all other parties at least 5 days prior to any hearing, ***unless the court sets a different deadline upon the request of any party or agency providing the information.*** Once filed with the court and given to all other parties, the report, evaluation or other record need not be refiled during the proceeding. Failure to comply with the provisions of this section shall not be grounds for dismissal of the petition.

2 Delinquent Children; Diversion Programs. Amend RSA 169-B:10, II to read as follows:

II. At any time before or at arraignment pursuant to this chapter, a minor and the minor's family may be referred to a court-approved diversion program or other community resource. Referral may be made by the arresting or prosecuting agency or juvenile probation and parole officer, prior to filing a petition with the court or after the filing of a petition by such agency with the court's approval, or by the court on its own, or any party's motion. ***When the arresting or prosecuting agency, or juvenile probation and parole officer suspects that a minor has a disability, an administrator at the responsible school district shall be notified. If appropriate, the school district shall refer the minor for evaluation to determine if the child is in need of special education and related services.*** The administrative judge of the district court shall have the authority to approve diversion referral procedures for use in all juvenile matters throughout the state.

3 Delinquent Children; Appointment of Counsel. Amend RSA 169-B:12, I to read as follows:

I. Absent a valid waiver, the court shall appoint counsel at the time of arraignment of an indigent minor, provided that an indigent minor detained pursuant to RSA 169-B:11,

III, shall have counsel appointed upon the issuance of the detention order. For purposes of the appointment of counsel under this section, an indigent minor shall be a minor who satisfies the court, after appropriate inquiry, that the minor is financially unable to independently obtain counsel. ***If the court believes the minor has a cognitive, emotional, learning, or sensory disability, the court shall require the minor to consult with counsel.***

4 Delinquent Children; Arraignment. Amend RSA 169-B:13, I to read as follows:

I. No minor shall be detained for more than 24 hours, Sundays and holidays excluded, from the time of being taken into custody without being brought before a court. At any arraignment the court shall:

- (a) Advise the minor in writing and orally of any formal charges;
- (b) Inform the minor of the applicable constitutional rights;
- (c) Appoint counsel pursuant to RSA 169-B:12;
- (d) Establish any conditions for release; and
- (e) Set a hearing date.

(f)(1) Inquire of the juvenile and a parent or guardian of the juvenile if the juvenile has been:

(A) Determined to have a cognitive disability; or

(B) Determined to have a mental illness, emotional or behavioral disorder, or another disorder that may impede the child's decision-making abilities; or

(C) Identified as eligible for special education services.

(2) Such inquiry shall be conducted to gather complete and accurate information. The court shall make a record of the inquiry and of any information provided in response to the inquiry.

I-a. [However,] No plea shall be taken until the minor has the opportunity to consult with counsel or until a waiver is filed pursuant to RSA 169-B:12.

5 New Paragraph; Delinquent Children; Release or Detention. Amend RSA 169-B:14 by inserting after paragraph III the following new paragraph:

II-a. After arraignment, the court shall determine if the minor's school district shall be joined pursuant to RSA 169-B:22.

6 Delinquent Children; Adjudicatory Hearing. Amend RSA 169-B:16, III to read as follows:

III. If the court finds the minor has committed the alleged offense, it shall, unless a report done on the same minor less than 3 months previously is on file[.];

(a) Order the department of health and human services or other appropriate agency to make an investigation and written report consisting of, but not limited to, the home conditions, school records and the mental, physical and social history of the minor, ***and if ordered by the court,*** ~~[-When ordered by the court, such investigation]~~ shall include a physical and mental examination of the minor conducted pursuant to RSA 169-B:23, RSA 169-B:20 and RSA 169-B:21. ~~[No disposition order shall be made by the court without first reviewing the investigation report.]~~

(b) Determine whether the minor's school district shall be joined pursuant to RSA 169-B:22, and if joined, review the school district's recommendations. The court shall not issue a disposition order until it reviews the investigative report required under this chapter or the school district recommendations required under RSA 169-B:22.

7 New Paragraph; Special Education; Dispositional Hearing. Amend RSA 169-B:19 by inserting after paragraph IX the following new paragraph:

X. The court may issue such orders as are necessary to ensure provision of services under this chapter, provided that any order issued involving the department of education or a legally liable school district shall comply with RSA 169-B:22.

8 Reference Change; Delinquent Children. Amend RSA 169-B:22 to read as follows:

169-B:22 Disposition of ~~[Educationally Disabled]~~ **a Minor *with a Disability*.**

I. At any point during the proceedings, the court may, either on its own motion or that of any other person, and if the court contemplates a residential placement, the court shall immediately, join the legally liable school district for the limited purposes of directing the school district to determine whether the minor ~~[is educationally disabled]~~ **is a child with a disability** [as defined in RSA 186-C] or of directing the school district to review the services offered or provided under RSA 186-C, if the minor has already been determined to be ~~[educationally disabled]~~ **a child with a disability. If the court orders the school district to determine whether the minor is a child with a disability, the school district shall make this determination by treating the order as the equivalent of a referral by the child's parent for special education, and shall conduct any team meetings or evaluations that are required under law when a school district receives a referral by a child's parent.**

II. Once joined as a party, the legally liable school district shall have full access to all records maintained by the district court under this chapter. **The school district shall also report to the court its determination of whether the minor is a child with a disability, and the basis for such determination. If the child is determined to be a child with a disability, the school district** ~~[and]~~ shall make a recommendation to the court as to where the child's educational needs can ~~[best]~~ be met **in accordance with state and federal education laws.** In cases where the court does not follow the school district's recommendation, the court shall issue written findings explaining why the recommendation was not followed.

III. If the school district finds or has found that the minor~~[is educationally disabled]~~ **has a disability**, or if it is found that the minor ~~[is educationally disabled]~~ **is a child with a disability** on appeal from the school district's decision in accordance with the due process procedures of RSA 186-C, the school district shall offer an appropriate educational program and placement in accordance with RSA 186-C. Financial liability for such education program shall be as determined in RSA 186-C:19-b.

IV. In an administrative due process hearing conducted by the department of education pursuant to RSA 186-C, a school district may provide a hearing officer with information from district court records which the school district has accessed pursuant to paragraph II of this section, provided that at least 20 days prior to providing any records to the hearing officer, the school district files notice of its intention to do so with the court and all parties to the proceedings, and there is no objection to the release of records. A party objecting to the release of records may file a motion with the court describing the basis for the objection. The court shall schedule an expedited hearing on the matter to determine if such records may be released. In making this decision, the court shall balance the importance of the records to a fair and accurate determination of the merits against the privacy interests of the parties to the proceedings, and render a written decision setting forth its findings and rulings. No information released to a hearing officer pursuant to this paragraph shall be disclosed to any other person or entity without the written permission of the child's parent, guardian, or legal representative, except that a court conducting an appellate review of an administrative due process hearing shall have access to the same information released to a hearing officer pursuant to this paragraph.

V. In this section, "child with a disability" shall be as defined in RSA 186-C.

9 Child Protection Act; Adjudicatory Hearing. Amend RSA 169-C:18, V to read as follows:

V. If the court determines that a child has been abused or neglected, the court shall order a child placing agency to make an investigation and a social study consisting of, but not limited to, the home conditions, family background, and financial assessment, school record, mental, physical and social history of the family, including sibling relationships and

residences for appropriateness of preserving relationships between siblings who are separated as a result of court ordered placement, and submit it in writing to the court prior to the final disposition of the case. ***The court shall determine whether the minor's school district shall be joined pursuant to RSA 169-C:20, and if joined, the court shall review the school district's recommendations.*** No disposition order shall be made by a court without first reviewing the social study, except pursuant to a voluntary consent order or when waived by all the parties, ***and without first reviewing the school district recommendations required under RSA 169-C:20.*** Preliminary orders, continued pursuant to RSA 169-C:16, may be entered or modified as appropriate until the dispositional hearing.

10 Reference Change; Disposition of Child with a Disability. Amend RSA 169-C:20 to read as follows:

169-C:20 Disposition of ~~[Educationally Disabled]~~ ***a Child with a Disability.***

I. At any point during the proceedings, the court may, either on its own motion or that of any other person, and if the court contemplates a residential placement, the court shall immediately, join the legally liable school district for the limited purposes of directing the school district to determine whether the child ~~[is educationally disabled]~~ ***is a child with a disability*** ~~[as defined in RSA 186-C]~~ or of directing the school district to review the services offered or provided under RSA 186-C if the child had already been determined to be ~~[educationally disabled]~~ ***a child with a disability.*** ***If the court orders the school district to determine whether the minor is a child with a disability, the school district shall make this determination by treating the order as the equivalent of a referral by the child's parent for special education, and shall conduct any team meetings or evaluations that are required under law when a school district receives a referral by a child's parent.***

II. Once joined as a party, the legally liable school district shall have full access to all records maintained by the district court under this chapter. ***The school district shall also report to the court its determination of whether the minor is a child with a disability, and the basis for such determination. If the child is determined to be a child with a disability, the school district*** ~~[and]~~ ***shall make a recommendation to the court as to where the child's educational needs can*** ~~[best]~~ ***be met in accordance with state and federal education laws.*** In cases where the court does not follow the school district's recommendation, the court shall issue written findings explaining why the recommendation was not followed.

III. If the school district finds or has found that the child ~~[is educationally disabled]~~ ***is a child with a disability***, or if it is found that the child ~~[is educationally disabled]~~ ***is a child with a disability*** on appeal from the school district's decision in accordance with the due process procedures of RSA 186-C, the school district shall offer an appropriate educational program and placement in accordance with RSA 186-C. Financial liability for such education program shall be as determined in RSA 186-C:19-b.

IV. ***In an administrative due process hearing conducted by the department of education pursuant to RSA 186-C, a school district may provide a hearing officer with information from district court records which the school district has accessed pursuant to paragraph II of this section, provided that at least 20 days prior to providing any records to the hearing officer, the school district files notice of its intention to do so with the court and all parties to the proceedings, and there is no objection to the release of records. A party objecting to the release of records may file a motion with the court describing the basis for the objection. The court shall schedule an expedited hearing on the matter to determine if such records may be released. In making this decision, the court shall balance the importance of the records to a fair and accurate determination of the merits against the privacy interests of the parties to the proceedings, and render a written decision setting forth its finding, and rulings. No information released to a hearing officer***

pursuant to this paragraph shall be disclosed to any other person or entity without the written permission of the child's parent, guardian, or legal representative, except that a court conducting an appellate review of an administrative due process hearing shall have access to the same information released to a hearing officer pursuant to this paragraph.

V. In this section, "child with a disability" shall be as defined in RSA 186-C.

11 Reference Change; Children in Need of Services. Amend the introductory paragraph to RSA 169-D:5, VI and RSA 169-D:5, VI(a) to read as follows:

VI. When a school official is filing a petition involving a child ~~[determined to be educationally disabled]~~ **with a disability** pursuant to RSA 186-C, he **or she** shall include information which demonstrates that the legally liable school district:

(a) Has determined that the child ~~[is educationally disabled]~~ **has a disability**;

and

12 Children in Need of Services; Appointment of Counsel. Amend RSA 169-D:12, I to read as follows:

I. Absent a valid waiver, the court shall appoint counsel for the child at the time of the initial appearance. ***If the court believes that the minor has a cognitive, emotional, learning, or sensory disability, the court shall require the minor to consult with counsel.***

13 New Paragraph; Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17 by inserting after paragraph VII the following new paragraph:

VIII. The court may issue such orders as are necessary to ensure provision of services under this chapter, provided that any order issued involving the department of education or a legally liable school district shall comply with RSA 169-B:22.

14 Reference Change; Children in Need of Services. Amend RSA 169-D:18 to read as follows:

169-D:18 Disposition of ~~[Educationally Disabled]~~ Child **with a Disability**.

I. At any point during the proceedings, the court may, either on its own motion or that of any other person, and if the court contemplates a residential placement, the court shall immediately, join the legally liable school district for the limited purposes of directing the school district to determine whether the child ~~[is educationally disabled]~~ **is a child with a disability** as defined in RSA 186-C or of directing the school district to review the services offered or provided under RSA 186-C if the child has already been determined to ~~[be educationally disabled]~~ **be a child with a disability**. ***If the court orders the school district to determine whether the minor is a child with a disability, the school district shall make this determination by treating the order as the equivalent of a referral by the child's parent for special education, and shall conduct any team meetings or evaluations that are required under law when a school district receives a referral by a child's parent.***

II. Once joined as a party, the legally liable school district shall have full access to all records maintained by the district court under this chapter. ***The school district shall also report to the court its determination of whether the minor is a child with a disability, and the basis for such determination. If the child is determined to be a child with a disability, the school district [and] shall make a recommendation to the court as to where the child's educational needs can [best] be met in accordance with state or federal education laws.*** In cases where the court does not follow the school district's recommendation, the court shall issue written findings explaining why the recommendation was not followed.

III. If the school district finds or has found that the child ~~[is educationally disabled]~~ **is a child with a disability**, or if it is found that the child ~~[is educationally disabled]~~ **is a child with a disability** on appeal from the school district's decision in accordance with the due process procedures of RSA 186-C, the school district shall offer an appropriate

educational program and placement in accordance with RSA 186-C. Financial liability for such educational program shall be as determined in RSA 186-C:19-b.

IV. In an administrative due process hearing conducted by the department of education pursuant to RSA 186-C, a school district may provide a hearing officer with information from district court records which the school district has accessed pursuant to paragraph II of this section, provided that at least 20 days prior to providing any records to the hearing officer, the school district files notice of its intention to do so with the court and all parties to the proceedings, and there is no objection to the release of records. A party objecting to the release of records may file a motion with the court describing the basis for the objection. The court shall schedule an expedited hearing on the matter to determine if such records may be released. In making this decision, the court shall balance the importance of the records to a fair and accurate determination of the merits against the privacy interests of the parties to the proceedings and render a written decision setting forth its findings and rulings. No information released to a hearing officer pursuant to this paragraph shall be disclosed to any other person or entity without the written permission of the child's parent, guardian, or legal representative, except that a court conducting an appellate review of an administrative due process hearing shall have access to the same information released to a hearing officer pursuant to this paragraph.

V. In this section, "child with a disability" shall be as defined in RSA 186-C.

15 School Attendance; Legal Residence Required. Amend RSA 193:12, II(a)(2) to read as follows:

(2) In a divorce decree where parents are awarded joint decision making responsibility or joint legal custody, the legal residence of a minor child is the residence of the parent with whom the child resides. If a parent is awarded sole or primary residential responsibility or physical custody by a court of competent jurisdiction in this or any other state, legal residence of a minor child is the residence of the parent who has sole or primary residential responsibility or physical custody. If the parent with sole or primary physical custody lives outside the state of New Hampshire, the pupil does not have residence in New Hampshire. If the court order is for equal or approximately equal periods of residential responsibility, the child's legal residence for school attendance purposes shall be as stated in the order. ***If a child is in a court-ordered residential placement, foster home, or group home pursuant to RSA 169-B, RSA 169-C, RSA 169-D, RSA 170-C, or RSA 463, residence shall be determined in accordance with RSA 193:27.***

16 School Attendance; Legal Residence Required. Amend RSA 193:12, II(c)(1) to read as follows:

(c)(1) If a parent with legal ~~[and physical]~~ custody of a child moves from New Hampshire to another state while the child is in a court-ordered residential placement in this state or another state pursuant to RSA 169-B, RSA 169-C, RSA 169-D, ***RSA 170-C***, or RSA 463, the departments of education and health and human services shall make a written request of the receiving state to assume the ~~[educational costs]~~ ***programmatic and financial liability*** of the child's placement in this state or another state until ~~[legal]~~ ***physical*** custody of the child is returned to a parent or legal guardian. In this subparagraph, "receiving state" shall mean the state to which the child's parents move.

17 School Attendance; Legal Residence Required. Amend RSA 193:12, V to read as follows:

V. Except as provided in subparagraph II(b), nothing in this section shall limit or abridge the right of any child placed and cared for in any home for children, as defined in RSA 193:27, or of any child placed in the home of a relative of that child by the department of health and human services, or placed in the home of a relative or friend by a court pursuant to RSA 169-B, RSA 169-C, RSA 169-D, ***RSA 170-C***, or RSA 463, to attend the public schools of the school district in which the home for children or home of the relative or friend in which

a child is placed by the department of health and human services or by a court of competent jurisdiction is located, as provided in RSA 193:28.

18 School Attendance; Legal Residence Required. Amend RSA 193:12, V-b to read as follows:

V-b. Whenever a dispute arises among one or more school districts, the department of health and human services, or one or more of the previously mentioned parties, as to the residency of a child who is in the legal custody or guardianship of the department of health and human services, or who has been placed pursuant to a court order in a proceeding under RSA 169-B, RSA 169-C, RSA 169-D, or RSA 463, the department of health and human services ~~may~~ **shall** request in writing that the superintendents involved resolve the dispute. If the residency dispute remains unresolved 10 days after such request, the department of health and human services ~~may~~ **shall** request that the commissioner of the department of education determine the residence of the child. The child ~~may~~ **shall be permitted to** attend school in the district in which the child has been placed by the court or the department of health and human services pending the resolution of the residency dispute. Liability as to the cost of school attendance provided under this paragraph shall be determined by the commissioner of education.

19 Education of Children Placed in Homes; Definitions. Amend RSA 193:27, IV to read as follows:

IV. "Sending district" means the school district in which a child most recently resided other than in a home for children, the home of a relative or friend in which a child is placed by the department of health and human services or a court of competent jurisdiction pursuant to RSA 169-B, RSA 169-C, RSA 169-D, **RSA 170-C**, or RSA 463, health care facility, or state institution, if such child is not in the legal custody of a parent or if the parent resides outside the state; if the child is retained in the legal custody of a parent residing within the state, "sending district" means the school district in which the parent resides. For the purposes of this paragraph a parent shall not have legal custody if legal custody has been awarded to some other individual or agency, even if that parent retains residual parental rights. An award of legal custody by a court of competent jurisdiction, in this state or in any other state, shall determine legal custody under this paragraph.

20 Charter and Charter Conversion Schools; Definitions. Amend RSA 194-B:1, VII to read as follows:

VII. "Parent" means a parent, guardian, or other person or entity having legal custody of a child **or, in the case of a child with a disability, a surrogate parent who has been appointed in accordance with state or federal law.**

21 Charter and Charter Conversion Schools; Definitions. Amend RSA 194-B:1, XIV to read as follows:

XIV. "Teacher" means any individual providing or capable of providing direct instructional services to pupils, **and who meets requirements prescribed in the Elementary and Secondary Education Act and the Individuals With Disabilities Education Act.**

22 Charter and Charter Conversion Schools; Establishment. Amend RSA 194-B:3, II(u) to read as follows:

(u) Identity of consultants to be used for various services, if known, **or the qualifications or certifications of consultants not identified by name.**

23 Charter and Charter Conversion Schools; Requirements. Amend RSA 194-B:8, I to read as follows:

I. A charter school shall not discriminate nor violate individual civil rights in any manner prohibited by law. A charter school shall not discriminate against any ~~educationally disabled pupil~~ **child with a disability as defined in RSA 186-C.**

24 Charter and Charter Conversion Schools; Requirements. Amend RSA 194-B:8, III to read as follows:

III. A charter school shall provide instruction for at least the number of days required by state law. A charter school shall comply with compulsory attendance laws as provided in RSA 189:1, 189:1-a, and 193:1. Innovative scheduling resulting in at least that number of attendance hours required under RSA ~~186-C:15~~, 189:1, 189:1-a, and 193:1 and current state board attendance rules shall be encouraged.

25 Charter and Charter Conversion Schools; Funding. Amend RSA 194-B:11, III to read as follows:

III. In accordance with current department of education standards, the funding and educational decision-making process for ~~[educationally handicapped pupils]~~ **children with disabilities** attending a charter or open enrollment school shall be the responsibility of the ~~[local education agency (LEA)]~~ **school district** and shall retain all current options available to the parent and to the ~~[LEA]~~ **school district**.

26 Charter and Charter Conversion Schools; Oversight Committee. Amend RSA 194-B:21, I to read as follows:

I. There is hereby established a joint legislative oversight committee. The committee shall jointly meet at least once a year and shall monitor the effect of this chapter, make recommendations for any legislative changes with respect thereto, and make recommendations to the legislature to reduce the scope of, ease the administration of, simplify the compliance with, and, where appropriate, recommend to the legislature elimination of regulations and reduction of the amount of paperwork required ~~[in connection with all public education and the state's regulation thereof]~~. The committee shall include 3 senators appointed by the president of the senate, 3 members of the house appointed by the speaker of the house, and one member of the state board appointed by the chairperson of the state board who shall serve as a nonvoting member in an advisory capacity.

27 Reference Changes. Amend the following RSA provisions by replacing the phrases "educationally disabled child" with "child with a disability": RSA 186-C:2, I; and RSA 186-C:7, I.

28 Reference Changes. Amend the following RSA provisions by replacing the phrase "an educationally disabled child" with "a child with a disability": RSA 186-C:2, I; RSA 186-C:2, III-V; RSA 186-C:7, II; RSA 186-C:13, I(a)-(b); RSA 186-C:14, III; RSA 186-C:15; RSA 186-C:19; RSA 186-C:19-a; RSA 186-C:19-b, II; RSA 186-C:20, I; and RSA 193:3, III(g).

29 Reference Changes. Amend the following RSA provisions by replacing the phrases "educationally disabled children," "educationally disabled pupils," "educationally disabled students," and "educationally disabled individuals" with "children with disabilities": RSA 21-N:9, II(i); RSA 35:1-b; RSA 169-B:7, III; RSA 169-C:8, III; RSA 169-D:6, III; RSA 186-C:1; RSA 186-C:2, II; RSA 186-C:5; RSA 186-C:7, III; RSA 186-C:7-a, I-II; RSA 186-C:8, I-II; RSA 186-C:10; RSA 186-C:11; RSA 186-C:12; RSA 186-C:13, I; RSA 186-C:14, I; RSA 186-C:16, III; RSA 186-C:18, III(a); the section heading RSA 186-C:19; RSA 186-C:19, II; the section headings of RSA 186-C:19-a and RSA 186-C:19-b; RSA 186-C:19-b, III-V; RSA 186-C:21, V; RSA 186-C:22, V; RSA 193:3, I; RSA 194-B:3, II(n); the introductory paragraph of RSA 198:40-b; RSA 198:40-b, I(b); the introductory paragraph of RSA 198:40-b, II; RSA 198:40-b, II(a) and RSA 198:42, I.

30 Reference Changes. Amend the following RSA provisions by replacing the phrase "individualized education plan" or "individual education plan" with "individualized education program": RSA 186-C:7, I-II; RSA 186-C:16-b, VI; RSA 186-C:19, III; RSA 186-C:19-a, I; RSA 186-C:21, V; RSA 186-C:22, V; RSA 193:12, VI(a); and RSA 265:107-a, II.

31 Reference Changes. Amend the following RSA provisions by replacing the phrase "educationally related services" with "related services": RSA 126-A:40, I(b); RSA 169-B:40, I(b); RSA 169-C:27, I(b); RSA 169-D:29, I(b); RSA 186-C:2, I, I-a, III, and V; RSA 186-C:19, I; RSA 186-C:19-b, I(a), II, II(a)-(b), and IV; and RSA 193:29, I(a).

32 Effective Date. This act shall take effect July 1, 2008.

AMENDED ANALYSIS

This bill amends the procedures for delivery of special education and related services.

2007-2614h

Amendment to HB 682

Proposed by the Committee on Children and Family Law - C

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

AN ACT relative to guardianship of a minor.

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

1 Guardianship of Minors and Estates of Minors; Conduct of Hearing; Best Interests of the Child. Amend RSA 463:8, III to read as follows:

III.(a) Except as set forth in subparagraph (b), the burden of proof shall be on the petitioner to establish by a preponderance of the evidence that a guardianship of the person is in the best interests of the minor.

(b) If a parent objects to the establishment of the guardianship of the person requested by a non-parent, the court shall set a date for the hearing specified in this section. The burden of proof shall be on the petitioner to establish by clear and convincing evidence that the best interests of the minor require substitution or supplementation of parental care and supervision to provide for the essential physical and safety needs of the minor or to prevent specific, significant psychological harm to the minor.

(c) Supplemental or substitution guardianship of the person may be used to provide continuity to a minor's existing parental relationships which have been maintained for an extended period of time. In such cases, the court shall consider the continuity and quality of the relationship between the petitioner and the minor child, shall be guided by the best interest of the child, and may consider, but not be limited to, the following factors:

(1) The legal parent or parents, with whom the child had been residing prior to the consent, consented either in writing, orally, or by actions to the petitioner's formation of a parent-like relationship with the child.

(2) The petitioner and the child lived together in the same household.

(3) The petitioner assumed the obligation of parenthood by taking responsibility for the child's care and development, including financial support.

(4) The petitioner has been in a parental role for a length of time sufficient to establish with the child a bonded, dependent relationship, parental in nature, which would be detrimental to the child if dissolved.

[(e)] (d) The burden of proof shall be on the petitioner for the guardianship of the estate of a minor to establish by a preponderance of the evidence that the guardianship is necessary to provide for the proper management of the property and financial affairs of the minor.

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

AMENDED ANALYSIS

This bill establishes factors the court may consider in awarding supplemental or substitution guardianship of a minor to provide continuity to a minor's existing parental relationships.

2007-2507h

Amendment to HB 690

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

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

AN ACT establishing a pilot program for job skills training in volunteer work by unemployed individuals.

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

1 Job Skills Training Pilot Program Established.

I.(a) A pilot program is established to allow persons collecting unemployment benefits to perform suitable volunteer work providing job skills at approved non-profit

organizations designated by the department of employment security in accordance with such rules as the commissioner may adopt.

(b) Persons collecting unemployment benefits who meet the requirements of RSA 282-A:31, I may perform up to 16 hours of suitable volunteer work.

(c) Persons who are exempt from RSA 282-A:31, I(c) and (d) under RSA 282-A:31, V, but otherwise meet the requirements of RSA 282-A:31, I may perform up to 10 hours of suitable volunteer work.

(d) No approved individual participating in this program shall be ineligible for benefits or disqualified for benefits solely for working as a volunteer at an approved non-profit organization designated by the department under paragraph II, provided that said individual can demonstrate that he or she is learning new job skills related to the individual's labor market according to criteria set forth by the department and he or she is actively seeking suitable employment.

II. The department in accordance with such rules as the commissioner may adopt, shall determine areas of skills shortages in the New Hampshire workforce and designate a non-profit organization that performs work in the areas of skills shortages as suitable for providing job skills training to unemployed volunteers. The department shall create criteria and rules for participation in this program which shall include reporting requirements for approved individuals and approved non-profit organizations.

III. The department of employment security shall determine, in accordance with such rules as the commissioner may adopt, which activities constitute suitable volunteering as a means of gaining job skills.

IV. By the end of each fiscal year, the commissioner of the department of employment security shall prepare and submit a report to the New Hampshire general court specifying:

(a) Which non-profit organizations have been approved to provide job skills training;

(b) The nature of the job skills training provided at each designated organization; and

(c) The number of unemployed persons who have received job skills training at each designated organization and the average length of job skills training per person.

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

(a) Designation of approved non-profit organizations under subparagraph I(a) and paragraph II.

(b) Criteria for participation in this program under paragraph II.

(c) Determining which activities constitute suitable volunteering as a means of gaining job skills under paragraph III.

VI. For purposes of this program, "non-profit organization" means a state, county, city, town, or other political subdivision, or any organization or group of organizations described in section 501(c)(3) and exempt under section 501(a) of the Internal Revenue Code.

VII. No individual shall be approved to volunteer services with a current employer or with an employer who is an interested party under RSA 282-A:42, III.

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

AMENDED ANALYSIS

This bill establishes a pilot program to allow persons collecting unemployment benefits to do volunteer work providing job skills at organizations designated by the department of employment security.

2007-2512h

Amendment to HB 702

Proposed by the Committee on Children and Family Law - C

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

AN ACT relative to continued jurisdiction in child protection cases.

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

1 Child Protection Act; Continued Jurisdiction. Amend RSA 169-C:4, II to read as follows:

II. The court may, with the consent of the child, retain jurisdiction over any child, who, prior to his *or her* eighteenth birthday, was found to be neglected or abused and who is attending school until such child completes high school or until his *or her* twenty-first birthday, whichever occurs first; and the court is authorized to and shall make such orders relative to the support and maintenance of said child during the period after the child's eighteenth birthday as justice may require.

II-a. A child who has consented to the continued jurisdiction of the court pursuant to paragraph II, may revoke his or her consent and request that the case be closed. The revocation of consent and request to close a case shall be made in writing and filed with the court. Upon receipt of the request, the court shall forward copies to all parties of record at their last known address. If no party objects within 10 business days of the date the court forwarded copies of the request to the parties, the court shall accept the child's revocation of consent and shall close the case. If a party objects the court may, after consideration of the objection, either grant the request and close the case without hearing or schedule the matter for hearing. If the matter is scheduled for hearing, the court shall accept the child's revocation of consent and close the case unless the court finds that immediate closure would create a risk of substantial harm to the child. If the court finds that immediate closure would create a risk of substantial harm to the child, the court shall continue the matter for a period not to exceed 30 days and direct that the department work with the child to develop an independent living plan which shall include referrals to appropriate services. If at the end of such period, the child still wishes to revoke his or her consent and to request that the case be closed, the court shall accept the revocation of consent and close the case.

2 New Paragraph; Child Protection Act; Voluntary Service Plan. Amend RSA 169-C:34 by inserting after paragraph V the following new paragraph:

V-a. Notwithstanding any other provision of law to the contrary, the department may, pursuant to a voluntary service plan that is developed and provided for the child by the department, offer voluntary services to any child who prior his or her eighteenth birthday was found to be neglected or abused, who was in legal custody of the department as of his or her eighteenth birthday, and who is less than 21 years of age.

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

AMENDED ANALYSIS

This bill establishes the procedure for the court to continue or close the case of a child over 18 years of age who had previously consented to continued jurisdiction of the court under RSA 169-C. The bill also permits the department of health and human services to provide a voluntary service plan to a person under 21 years of age who had been abused or neglected as a child.

2007-2477h

Amendment to HB 717

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

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

1 New Chapter; Community Services and Care Planning Boards. Amend RSA by inserting after chapter 677 the following new chapter:

CHAPTER 678

COMMUNITY SERVICES AND CARE PLANNING BOARDS

678:1 Declaration of Purpose and Findings. The general court hereby finds and declares that:

I. New Hampshire has a rich history of neighbors helping neighbors and residents of municipalities actively participating and organizing themselves to take care of their fellow residents and improve their communities. It also serves the public good and general welfare for the state to support, maintain, and strengthen these locally-based practices and traditions.

II. There is a critical need for the proper and continuous assessment of the community service needs of all residents and the development of local plans, projects, support systems, and other mechanisms to enhance the public health, prosperity, quality of life, safety, and general welfare of all citizens.

678:2 Definitions. In this chapter:

I. “Board” means a community services and care planning board established under this chapter.

II. “Community services master plan” (CSMP) means an assessment of the availability, adequacy, and accessibility of the human services systems in each community and shall include the following elements:

(a) A list and description of the specific community assets and programs in existence to serve and support citizens of all ages and abilities;

(b) An analysis of specific improvements to community assets and programs, in priority order that the board recommends be made over the next 5 years and the specific issues these improvements address. These improvements shall be as measurable as possible and include consideration of improvements to all health and human services provided to residents and funded all or in part by the state and other public sources;

(c) The community assets available and needed to achieve each improvement, the most important barriers that must be overcome to achieve each improvement, and an assessment of the feasibility and cost of achieving each improvement;

(d) An overall strategy and problem-solving approach and process for achieving the improvements and a description of the rationale for using these strategies; and

(e) A 5 year plan of action with annual updates as required, which follow the strategy to achieve the improvements. These action steps shall include describing each step, establishing measurable objectives and benchmarks for achieving each step, setting up timelines and the process and methods for achieving each step, and identifying the agencies and persons responsible for accomplishing each step.

III. “Community services” means all the health and social services and supports provided and available to residents in a municipality including those provided by charitable, for profit, and proprietary providers; individuals and groups; and agencies and other providers funded in all or part by the department of health and human services or other state, county, and governmental entities.

IV. “Community well-being index” means an aggregate measure consisting of individual measures of specific aspects of the physical and social well-being of all residents of a municipality that is adopted by boards for use in their annual assessment and state of the community report and to develop their CSMP. The index may include measures of the health of residents and their quality of health care; the quality of housing and prevalence of homelessness; the sense of community and belonging, as measured by participation in community events and decisions; successful mobility; safe and well-managed schools; volunteering and other contributions by residents to the community and their neighbors; children and youth thriving and transitioning successfully into adulthood; youth and adults avoiding dangerous and risky behaviors; elders and residents with disabilities living in dignity and included in community life; the breadth and vitality of community activities, institutions, traditions, and celebrations; shared vision and common purpose; and commitment to building community for the future and ensuring that fellow residents get the care they need.

678:3 Establishment of Community Services and Care Planning Boards.

I. The legislative body of any municipality may establish a community services and care planning board.

II. The community services and care planning board shall consist of no fewer than 3 and no more than 9 members who shall be residents of the municipality, and appointed in a manner as prescribed by the legislative body of the municipality.

III. No more than 5 alternate members may be appointed. When an alternate sits in the absence or the disqualification of a regular member, the alternate shall have full voting powers. Members of a community services and care planning board may also serve on other municipal boards and commissions, including a conservation commission established under RSA 36-A, a historic district commission established under RSA 673:4, or a heritage commission established under RSA 673:4-a.

678:4 Duties of the Board.

I. It shall be the duty of every board established under RSA 678:3 to prepare and amend from time to time a CSMP to guide the development of community services and support systems and the provision of health and social services and community supports to residents that affect community well-being. A CSMP may include consideration of any areas outside the boundaries of the municipality which in the judgment of the board bear a relationship to or have an impact on the planning of the municipality. Every board shall update and amend the adopted CSMP with funds appropriated for that purpose by the local legislative body. In preparing, amending, and updating the master plan:

(a) The board shall have responsibility for promoting interest in, and understanding of, the CSMP of the municipality. In order to promote this interest and understanding, the board may publish and distribute copies of the master plan, or copies of any report relating to the master plan, hold public forums and meetings, and may employ such other means of publicity and education as it deems advisable.

(b) The board shall also have authority to make any inventories of community assets, investigations of community social issues, evaluations of the availability and accessibility of health and social services and support systems, and any necessary recommendations.

II. It shall be the duty of every board established under RSA 678:3 to prepare an annual state of the community report which shall be included in the municipality's annual report. The report shall include the community well-being index as defined in RSA 678:2, IV and information explaining all its components, how it was devised, and any other sections the board deems necessary to describe and explain the social services and support systems of the municipality and trends in the municipality.

III. The board may report and recommend to the appropriate public officials and public agencies programs for the development, protection, and improvement of the social services and support systems of the municipality. Each program shall include recommendations for its financing. The board may consult with and advise public officials and agencies; health and human services providers and funders; civic and charitable groups, networks, and associations; schools; educational, professional, advocacy, and research groups; and other organizations. The board may also consult with citizens, for the purposes of implementing the CSMP and making recommendations for developing the social services and support systems of the municipality.

IV. Members of the board, when duly authorized by the board as a whole, may attend planning conferences or meetings, or hearings upon pending municipal planning legislation. The board may by majority vote authorize the payment of reasonable expenses incident to such attendance.

V. The board may recommend to the governing body amendments or additions to local ordinances, services, and programs to improve the community's social services and support systems.

VI. In general, the board may be given such powers by the municipality as are necessary to enable the board to fulfill its functions.

678:5 Terms of Board Members. Terms of board members shall be 3 years, except that all vacancies shall be filled for the unexpired term. In the first year of a community services and care planning board's existence, members shall be appointed to the following terms: at least one member to a one-year term, at least one member to a 2-year term, and at least one member to a 3-year term.

678:6 Abolishment of Board.

I. The local legislative body of a city, of a county in which there are located unincorporated towns or unorganized places, or of a town operating under the town council form of government, shall determine the manner in which the board may be abolished.

II. In all other towns, upon a petition to abolish the board, signed by 100 or more voters or 1/10 of the registered voters in town, whichever number is less, the board shall submit the proposal to the town or village district in the same manner prescribed in RSA 675:4.

III. The question put to the voters shall be in substantially the following form: "Are you in favor of abolishing the community services and care planning board as proposed by petition of the voters of this town (village district)?"

678:7 Transfer of Documents Upon Abolition of Board. If the board is abolished, the records shall be transferred to the city or town clerk.

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

2007-2626h

Amendment to HB 740-FN

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

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

1 Mental Health Services System; Bureaus Established. RSA 135-C:6 is repealed and reenacted to read as follows:

135-C:6 Bureaus Established; Staffing.

I. There shall be established within the department the bureau of behavioral health services, which shall include, but not be limited to, New Hampshire hospital, Glenclyff home, and community mental health services.

II. The commissioner shall appoint a person duly qualified by training and experience to serve as chief executive officer of New Hampshire hospital and perform such duties as are assigned by the commissioner.

III. The commissioner shall appoint a chief operating officer of New Hampshire hospital. Such person shall be, through training and experience, qualified to serve and shall perform such duties as are assigned by the commissioner.

IV. The commissioner may establish one or more positions of unit director and senior physician, psychiatrist, dentist, and director of nursing and shall appoint qualified personnel to these positions. The commissioner may abolish these positions because of a change in organization, lack of work, unappropriated or insufficient funds, or like reasons.

V. The commissioner shall appoint a person duly qualified by training and experience to serve as administrator of the Glenclyff home and perform such duties as are assigned by the commissioner.

VI. There shall be established a medical director, who shall be responsible for providing oversight and advice on the clinical services and treatment within the state mental health services system. The commissioner shall appoint or designate a person duly qualified by training and experience to fulfill these responsibilities and to perform such other duties as are assigned by the commissioner.

VII. The annual salary of each person appointed to a position established under this section and his or her right to maintenance shall be in accordance with RSA 94:1-5.

VIII. Each person appointed under this section shall serve subject to the following provisions:

(a) The commissioner may terminate the appointee from the position for either:
(1) Good cause, which shall include, but not be limited to malfeasance, misfeasance, or insubordination; or

(2) The abolition of a position because of a change in organization, lack of work, unappropriated or insufficient funds, or like reasons.

(b) Termination shall be made only after written notice to the appointee stating the reasons for the decision. Within 10 days after receipt of the notice of the termination, the appointee may appeal the termination in writing to the commissioner. Within 20 days of receiving the notice of appeal, the commissioner shall conduct a hearing in accordance with rules adopted under RSA 541-A. Within 10 days after completion of the hearing process, the commissioner shall render a written decision either upholding or reversing the termination. If the commissioner reverses the termination, the appointee shall be reinstated and all pay and benefits lost during the time of the appeals process shall be restored to the appointee.

2 New Paragraph; Mental Health Services System; Disclosure of Certain Information. Amend RSA 135-C:19-a by inserting after paragraph II the following new paragraph:

II-a. Notwithstanding RSA 329:26 and RSA 330-A:32, when the medical director, or designee, determines that obtaining information is essential to the care and treatment of a person admitted pursuant to RSA 135-C:27 - RSA 135-C:55 and the consent of the person admitted cannot be obtained, the designated receiving facility may request and any community mental health program which has previously provided services to such person shall immediately provide information about the person including medications prescribed, known medication allergies, services provided and other information essential to the medical and psychiatric care of the person admitted. The facility may disclose information necessary to identify the person and the facility which is requesting the information. No community mental health program which discloses otherwise confidential information to a designated receiving facility following a request made pursuant to this program shall be civilly or criminally liable for disclosing such information.

3 Nonemergency Involuntary Admissions; Revocation of Conditional Discharge. Amend RSA 135-C:51 to read as follows:

135-C:51 Revocation of Conditional Discharge.

I. If a psychiatrist **or ARNP, as defined in RSA 135-C:2, II-a**, at a community mental health program providing continuing treatment on an outpatient basis to a person conditionally discharged pursuant to RSA 135-C:50, reasonably believes that:

(a) The person has violated a condition of the discharge; or
(b) A condition or circumstance exists which may create a potentially serious likelihood of danger to the person or to others, the psychiatrist **or ARNP** may conduct or cause to be conducted by a treatment team member or an emergency service staff member, an examination of the person to determine if the conditional discharge should be revoked. ~~[The]~~ **Before an** examination may be conducted ~~[only after the person has been given]~~, **a** written notice ~~[of]~~ **shall be prepared identifying** the belief, and the reasons therefor, that a violation of the conditional discharge has occurred or other circumstances or condition exists which may create a potentially serious likelihood of danger to the person or to others. **The written notice shall be offered to and read to the person prior to conducting an examination.**

II. **A reasonable effort shall be made to find the person, in order to offer and read the notice required under paragraph I.** If the person ~~[refuses to]~~ **cannot be located or** consent to an examination ~~[under paragraph I]~~ **cannot be obtained**, the psychiatrist or other representative of the community mental health program may sign a complaint. Upon issuance of such a complaint, any law enforcement officer shall take custody of the person and immediately deliver him **or her** to the place specified in the complaint.

III. If the psychiatrist **or ARNP**, following the examination the psychiatrist **or ARNP** conducted or caused to be conducted of the person, finds that the person either has violated a condition of the discharge or is in such a mental condition as a result of mental illness as to create a potentially serious likelihood of danger to himself **or herself** or to others, he **or she** may temporarily revoke the conditional discharge. If the conditional discharge is temporarily revoked, the psychiatrist, **or ARNP**, or designee, shall ~~inform the person affected in writing~~ **prepare, offer to and read to the person a written notice** giving the reasons for the revocation and the psychiatrist **or ARNP** shall identify the receiving facility to which the person is to be delivered.

IV. A law enforcement officer shall take custody of the person whose conditional discharge was temporarily revoked under paragraph III and deliver him **or her**, together with a copy of the notice and the reasons for the temporary revocation, to the receiving facility identified by the psychiatrist, where he **or she** shall be personally examined by the administrator of the facility or ~~his~~ designee and the reasons for temporary revocation of the discharge shall be reviewed. Following such examination and review, if the administrator of the facility or ~~his qualified~~ designee finds that the person conditionally discharged has violated a condition of the discharge or is in such a mental condition as a result of mental illness as to create a potentially serious likelihood of danger to himself **or herself** or to others, he **or she** may revoke absolutely the conditional discharge. ~~He shall provide to such person written notice~~ **The administrator of the facility, or designee, shall prepare, offer to and read to the person a written notice** of the reasons for the absolute revocation. The person whose conditional discharge has been absolutely revoked shall be subject to the terms and conditions of the order of involuntary admission made pursuant to RSA 135-C:34-54 from which conditional discharge was granted as if the conditional discharge had not been granted.

4 Reference Changes. Amend RSA 21-P:7-c, I to read as follows:

I. All security officers of the hospital security force shall possess such police powers as are granted to them by the commissioner of safety pursuant to RSA 21-P:4, XI. All officers of the hospital security force hired after the effective date of this paragraph shall be required to meet the training standards required generally of police officers by the police standards and training council pursuant to RSA 188-F and in addition shall receive additional training in dealing with persons with mental illness as specified by the commissioner of safety after consultation with the ~~superintendent~~ **chief executive officer** of the New Hampshire hospital.

5 Reference Changes. Amend RSA 94:1-a, I(b) as follows:

I. Strike out:

- | | |
|--|--------------------------|
| (a) FF New Hampshire hospital | assistant superintendent |
| (b) FF Glenclyff home | superintendent |
| (c) GG New Hampshire hospital | superintendent |
| (d) HH Department of health and human services | superintendent |

II. Insert:

- | | |
|-------------------------------|-------------------------|
| (a) FF New Hampshire hospital | chief operating officer |
| (b) FF Glenclyff home | administrator |
| (c) HH New Hampshire hospital | chief executive officer |

6 Glenclyff Home; Reference Change. Amend RSA 94:5, I(c)(1) to read as follows:

- (1) ~~superintendent~~ **administrator**;

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

AMENDED ANALYSIS

This bill makes changes to RSA 135-C to make it consistent with the reorganization of the department of health and human services.

2007-2585h

Amendment to HB 759-FN

Proposed by the Committee on Commerce - R

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

1 Principal; Definition. Amend RSA 361-A:1, VIII-a to read as follows:

VIII-a. "Principal" of the applicant or licensee means an owner with 10 percent or more ownership interest, corporate officer, director, member, general or limited liability partner, limited partner with 10 percent or more ownership interest, trustee, beneficiary of 10 percent or more of the trust that owns the applicant or licensee, **indirect owner**, senior manager, New Hampshire branch manager, and any person occupying similar status or performing similar functions.

2 Sales Finance Company; Definition. Amend the introductory paragraph of RSA 361-A:1, XIII to read as follows:

XIII. "Sales finance company" means a person engaged, in whole or in part, directly or indirectly, in the business of providing motor vehicle financing in this state to one or more retail buyers, or in the business of purchasing retail installment contracts from one or more retail sellers. The term includes but is not limited to any **state or** federally chartered bank, savings bank, trust company, credit union, cooperative bank, finance company, lending agency, industrial bank, or investment company, if so engaged. The term does not include the pledgee of an aggregate number of such contracts to secure a bona fide loan thereon, **or other persons not within the intent of this chapter as the commissioner may designate by rule or order**, nor does it include a licensed retail seller who:

3 State Chartered Banks; Licenses. Amend RSA 361-A:2, I to read as follows:

I. No person shall engage in the business of a sales finance company or retail seller in this state without a license therefor as provided in this chapter. Persons subject to this chapter shall be responsible for the supervision of their employees, agents, and branch offices. No **state or** federally chartered bank, savings bank, trust company, credit union, cooperative bank, or industrial bank shall be required to obtain such a license but shall comply with the provisions of RSA 361-A:7-12, unless otherwise exempted in this chapter.

4 Annual Report Due. Amend RSA 361-A:2-b, I(a) to read as follows:

I.(a) Each sales finance company licensee shall file, under oath, an annual report with the commissioner on or before ~~February 1~~ **March 31** each year concerning operations for the preceding year or license period ending December 31 upon a form prescribed by the commissioner

5 New Section; Prohibitions. Amend RSA 361-A by inserting after section 3-a the following new section:

361:3-b Prohibitions.

I. It is unlawful for any person, in connection with the solicitation, offer, or closing of a loan, directly or indirectly:

(a) To employ any device, scheme, or artifice to defraud;

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II. It is unlawful for any person to make or cause to be made in any document filed under this chapter or in any proceeding under this chapter any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

III. Any condition, stipulation or provision binding any person to waive compliance with any provision of this chapter or any rule or order under this chapter is void.

6 Banking Department; Examination of Records. Amend RSA 361-A:6-a, II to read as follows:

II. The affairs and records of every sales finance company licensee or person shall be subject at any time to periodic, special, regular, or other examination by the banking department with or without notice to the licensee or person. Those licensees or persons that maintain their files and business documents in another state shall appoint a New Hampshire agent and shall return such files and documents **to such agent, or** to their principal New Hampshire office, **or to the banking department** ~~[or the office of their New Hampshire agent]~~ for examination no later than 21 calendar days after being requested to do so by the banking department. When the commissioner requests a list of New Hampshire consumers who have contracted with the licensee or other similar summary document from a licensee from which to select particular files for review, the licensee shall ensure that the list is received by the commissioner within 7 calendar days and return the files selected by the commissioner to the commissioner within 14 calendar days to ensure compliance with the 21 day requirement. Failure to provide files and documents within the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day after 21 days the files and documents are not produced. Failure to provide files and documents within 60 days after being requested to do so by the banking department shall be sufficient cause for license revocation, suspension, or denial.

7 Balloon Payment Loans. Amend RSA 361-A:8-a, III(c) to read as follows:

(c) If the balloon contract so provides, a disposition fee may be charged to the retail buyer, provided such fee does not exceed \$250, or such greater or lesser amount announced by the commissioner to annually adjust the disposition fee based upon changes in ~~[the "all items" category]~~ **the consumer price index for all urban consumers, all items category**, of consumer prices compiled and reported by the U.S. Department of Labor, Bureau of Labor Statistics.

8 Books and Records. Amend RSA 361-A:9-a to read as follows:

361-A:9-a Books and Records.

I. A licensee shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The records shall enable the commissioner to determine whether the licensee is complying with the provisions of this chapter, any rules adopted under it, and any other law, rule, or regulation applicable to the conduct of the business for which it is licensed under this chapter. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any licensee to destroy original records or documents. Each licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

II. If the commissioner or examiner finds any business records to be inadequate, or kept or posted in a manner not in accordance with generally accepted accounting principles, the commissioner may employ experts to reconstruct, rewrite, post, or balance them at the expense of the person being examined if such person has failed to maintain, complete, or correct such business records after the commissioner or examiner has given him or her written notice and a reasonable opportunity to do so.

9 New Paragraph; Penalties. Amend RSA 361-A:11 by inserting after paragraph I the following new paragraph:

I-a. Any person who willfully violates any provisions of RSA 361-A:3-b, I or II or a cease and desist order or injunction issued pursuant to RSA 361-A:3-a shall be guilty of a class B felony. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction of any other offense.

10 New Paragraph; Penalties. Amend RSA 361-A:11 by inserting after paragraph VIII the following new paragraph:

IX. The attorney general on the commissioner's behalf, may, with or without prior administrative action by the commissioner, bring an action against any person in any superior court in this state to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, bar, restraining order, or writ of mandamus shall be granted and a receiver may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner or attorney general to post a bond. The court shall have the power to enforce obedience to such injunction, in addition to all of the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both. In a proceeding in superior court under this paragraph where the state prevails, the commissioner and the attorney general shall be entitled to recover all costs and expenses of investigation, and the court shall include the costs in its final judgment.

11 Bank Commissioner. Amend the introductory paragraph of RSA 383:11 to read as follows:

383:11 Payment of Cost of Examination. The bank commissioner shall, each fiscal year, charge and collect from the institutions, the condition and management of which he or she is required to examine under the provisions of RSA 383:9, and which he or she supervises under the provisions of RSA 361-A, RSA 397-A, ~~and~~ **RSA 397-B**, RSA 399-A, **RSA 399-D**, **and RSA 399-G**, the total amount appropriated for the bank commissioner's department. Said sum shall be collected as follows:

12 Bank Commissioner. Amend RSA 383:11, II(b) to read as follows:

(b) From non-depository lenders, **debt adjusters, money transmitters**, and brokers. Each licensee **and registrant** subject to the supervision of the bank commissioner under the provisions of RSA 397-A, **RSA 397-B**, RSA 399-A, **RSA 399-D**, **RSA 399-G**, and sales finance companies under RSA 361-A, shall be charged and shall pay such proportion of said balance applicable to the consumer credit administration division under the banking department's program appropriation unit designation as ~~its~~ **the gross revenue received from the total dollar volume of loans made, originated, funded, or brokered [bear], or debt adjustment contracts entered into, or mortgage servicing fees received or money transmitted from each licensee's New Hampshire business bears** to the total **gross revenue received from the total dollar volume of all such loans made, originated, funded, or brokered, or debt adjustment contracts entered into, or mortgage servicing fees received, or money transmitted, from New Hampshire business** by such licensees during the preceding calendar year ending December 31, as shown by their annual reports to the commissioner.

13 Branch Office; Definition. Amend the introductory paragraph of RSA 397-A:1, IV to read as follows:

IV. "Branch office" means a ~~business~~ location within this state of a person required to be licensed under this chapter that is identified by any means to the public as a location at which a mortgage banker or mortgage broker conducts mortgage business. Branch office does not include:

(a) A person's principal office location.

(b) A location identified solely in a telephone directory line listing or on a business card or letterhead if:

(1) The listing, card, or letterhead also sets forth the address and telephone number of a New Hampshire office of the mortgage banker or mortgage broker from which all individuals conducting mortgage business from such identified location are directly supervised; and

(2) No more than one agent, employee, originator, or other representative transacts business on behalf of the mortgage banker or broker from such identified location.

(c) Any other location not within the intent of this paragraph as the commissioner may determine.

14 Principal; Definition. Amend RSA 397-A:1, XIX to read as follows:

XIX. "Principal" of the applicant or licensee means an owner with 10 percent or more ownership interest, corporate officer, director, member, general or limited liability partner, limited partner with 10 percent or more ownership interest, trustee, beneficiary of 10 percent or more of the trust that owns the applicant or licensee, *indirect owner*, senior manager, New Hampshire branch manager, and any person occupying similar status or performing similar functions.

15 New Paragraphs; Application of Chapter. Amend RSA 397-A:2 by inserting after paragraph V the following new paragraphs:

VI. It is unlawful for any person, in connection with the solicitation, offer, closing, or servicing of a mortgage loan, directly or indirectly:

- (a) To employ any device, scheme, or artifice to defraud;
- (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or
- (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

VII. It is unlawful for any person to make or cause to be made in any document filed under this chapter or in any proceeding under this chapter any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

VIII. Any condition, stipulation, or provision binding any person to waive compliance with any provision of this chapter or any rule or order under this chapter is void.

16 License Grant. Amend RSA 397-A:6, I to read as follows:

I. If the commissioner determines that the applicant meets the requirements of this chapter, then the commissioner shall forthwith issue a license or licenses permitting the applicant to engage in the business of making or brokering mortgage loans in accordance with the laws of this state. Licensees shall be responsible for the supervision of their employees, agents, loan originators, and branch offices. ***Licensees shall conduct background checks, including checking the list of entities issued by the Office of Foreign Assets Control (OFAC) whose assets were frozen by executive order, on all of their loan originators.***

17 Record Keeping. Amend RSA 397-A:11, II to read as follows:

II. Those licensees that maintain their files and business records in another state are required to return such files to their principal or branch New Hampshire office, ***to the banking department***, or to the office of their New Hampshire agent for examination no later than 21 calendar days after being requested to do so by the department. When the commissioner requests a loan list or other similar summary document from a licensee from which to select particular files for review, the licensee shall ensure that the list is received by the commissioner within 7 calendar days, and return the files selected by the commissioner to the commissioner within 14 calendar days to ensure compliance with the 21-day requirement. Failure to provide files and documents within the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day after 21 days the files and documents are not produced. Failure to provide files and documents within 60 days after being requested to do so by the department shall be sufficient cause for license revocation, suspension, or denial.

18 New Paragraph; Records Keeping. Amend RSA 397-A:11 by inserting after paragraph IV the following new paragraph:

V. If the commissioner or examiner finds any records to be inadequate, or kept or posted in a manner not in accordance with generally accepted accounting principles, the commissioner may employ experts to reconstruct, rewrite, post, or balance them at the expense of the person being examined if such person has failed to maintain, complete, or correct such records after the commissioner or examiner has given him or her written notice and a reasonable opportunity to do so.

19 Examinations. Amend RSA 397-A:12, V-a to read as follows:

V-a. The commissioner may, in his or her discretion, accept all or a part of a report of examination of a mortgage banker or mortgage broker, certified to by the regulatory supervisory official of another state. To avoid unnecessary duplication of examinations **and investigations**, the commissioner, insofar as he or she deems it practicable in administering this section, may cooperate **and share information** with the regulators of **this state and** other states, the Federal Trade Commission, the Department of Housing and Urban Development, other federal regulators, or their successors in conducting examinations and investigations.

20 Annual Reports. Amend RSA 397-A:13, I to read as follows:

I. Each licensee shall file, under oath, an annual report with the banking department on or before ~~February 1~~ **March 31** each year concerning operations for the preceding year or license period ending December 31 upon the form prescribed by the banking department. The annual report shall include a list of all individuals, and the address of the work location or an undertaking to provide the address immediately upon the department's request, of each such individual, who act as originators for the licensee.

21 New Paragraph; Violations. Amend RSA 397-A:18 by inserting after paragraph III the following new paragraph:

IV. If any person refuses to obey the commissioner's order, an action may be brought by the attorney general on the commissioner's behalf in any superior court in this state to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance of such violation. In any such action, an order or judgment may be entered awarding a temporary or permanent injunction, and awarding the commissioner or the attorney general or both costs in bringing such action. The court shall have the power to enforce obedience to such injunction, in addition to all of the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both.

22 New Paragraph; Penalty. Amend RSA 397-A:21 by inserting after paragraph I the following new paragraph:

I-a. Any person who willfully violates any provisions of RSA 397-A:2, VI or VII or a cease and desist order or injunction issued pursuant to RSA 397-A:18, II shall be guilty of a class B felony. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction of any other offense.

23 New Paragraph; Penalty. Amend RSA 397-A:21 by inserting after paragraph V the following new paragraph:

VI. The attorney general on the commissioner's behalf, may, with or without prior administrative action by the commissioner, bring an action against any person in any superior court in this state to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, bar, restraining order, or writ of mandamus shall be granted and a receiver may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner or attorney general to post a bond. The court shall have the power to enforce obedience to such injunction, in addition to all of the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both. In a proceeding in superior court under this paragraph where the state prevails, the commissioner and the attorney general shall be entitled to recover all costs and expenses of investigation, and the court shall include the costs in its final judgment.

24 Principal; Definition. Amend RSA 397-B:1, V to read as follows:

V. "Principal" of the applicant or ~~licensee~~ **registrant** means an owner with 10 percent or more ownership interest, corporate officer, director, member, general or limited liability partner, limited partner with 10 percent or more ownership interest, trustee, beneficiary of 10 percent or more of the trust that owns the applicant or licensee, **indirect owner**, senior manager, New Hampshire branch manager, and any person occupying similar status or performing similar functions.

25 New Paragraph; Injunction. Amend RSA 397-B:3 by inserting after paragraph VIII the following new paragraph:

VIII-a. If any person refuses to obey the commissioner's order, an action may be brought by the attorney general on the commissioner's behalf in any superior court in this state to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance of such violation. In any such action, an order or judgment may be entered awarding a temporary or permanent injunction, and awarding the commissioner or the attorney general or both costs in bringing such action. The court shall have the power to enforce obedience to such injunction, in addition to all of the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both.

26 New Paragraphs; Prohibitions. Amend RSA 397-B:3 by inserting after paragraph IX the following new paragraphs:

X. It is unlawful for any person, in connection with the servicing of a mortgage loan, directly or indirectly:

- (a) To employ any device, scheme, or artifice to defraud;
- (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or
- (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

XI. It is unlawful for any person to make or cause to be made in any document filed under this chapter or in any proceeding under this chapter any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

XII. Any condition, stipulation, or provision binding any person to waive compliance with any provision of this chapter or any rule or order under this chapter is void.

27 New Paragraph; Registration. Amend RSA 397-B:4 by inserting after paragraph III the following new paragraph:

IV. Persons registered under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the registrant shall promptly submit to the commissioner an amendment to its application records that will correct the information on file with the commissioner. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment.

28 Record Keeping. Amend RSA 397-B:4-a to read as follows:

397-B:4-a Record Keeping.

I. A registrant shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The records shall enable the commissioner to determine whether the registrant is complying with the provisions of this chapter, any rules adopted under it, and any other law, rule, or regulation applicable to the conduct of the business for which it is registered under this chapter. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed

to permit any registrant to destroy original records or documents. Each registrant shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

II. If the commissioner or examiner finds any business records to be inadequate, or kept or posted in a manner not in accordance with generally accepted accounting principles, the commissioner may employ experts to reconstruct, rewrite, post, or balance them at the expense of the person being examined if such person has failed to maintain, complete, or correct such business records after the commissioner or examiner has given him or her written notice and a reasonable opportunity to do so.

III. Each registrant shall file, under oath, an annual report with the banking department on or before March 31 each year concerning operations for the preceding year or registration period ending December 31 upon the form prescribed by the banking department. Any mortgage servicing company failing to file the annual report required by this section within the time prescribed may be required to pay to the department a penalty of \$25 for each calendar day the annual report is overdue up to a maximum penalty of \$2,500 per report.

29 New Paragraph; Penalties. Amend RSA 397-B:6 by inserting after paragraph V the following new paragraph:

VI. The attorney general on the commissioner's behalf, may, with or without prior administrative action by the commissioner, bring an action against any person in any superior court in this state to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, bar, restraining order, or writ of mandamus shall be granted and a receiver may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner or attorney general to post a bond. The court shall have the power to enforce obedience to such injunction, in addition to all the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both. In a proceeding in superior court under this paragraph where the state prevails, the commissioner and the attorney general shall be entitled to recover all costs and expenses of investigation, and the court shall include the costs in its final judgment.

30 New Section; Violations. Amend RSA 397-B by inserting after section 6 the following new section:

397-B:6-a Violations. Any person who willfully violates any provisions of RSA 397-B:3, X or XI or a cease and desist order or injunction issued pursuant to RSA 397-B:3, VIII shall be guilty of a class B felony. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction of any other offense.

31 Exemption. Amend RSA 397-B:10 to read as follows:

397-B:10 Exemption. The provisions of this chapter shall not apply to any bank, trust company, savings and loan association, or cooperative bank, savings bank, or credit union which may be chartered by this state or any other state or by any agency of the United States, ***or to any other person not within the intent of this chapter as the commissioner may designate by rule or order***, nor shall the registration provisions of this chapter apply to any individual or entity licensed by the banking department as a mortgage banker in accordance with RSA 397-A.

32 New Paragraph; Definitions. Amend RSA 399-A:1 by inserting after paragraph 1-a the following new paragraph:

I-b. "Affiliate" means a partnership, corporation, trust, limited liability company, or other organization that directly or indirectly owns, is under common ownership with, or is directly or indirectly owned by, a lender.

33 Principal; Definition. Amend RSA 399-A:1, XIII to read as follows:

XIII. "Principal" of the applicant or licensee means an owner with 10 percent or more ownership interest, corporate officer, director, member, general or limited liability partner, limited partner with 10 percent or more ownership interest, trustee, beneficiary of 10 percent or more of the trust that owns the applicant or licensee, **indirect owner**, senior manager, New Hampshire branch manager, and any person occupying similar status or performing similar functions.

34 License Required. Amend RSA 399-A:2, III to read as follows:

III. This chapter shall not apply to any person lawfully engaged in business as permitted by the laws of this state or of the United States relative to banks, trust companies, insurance companies, savings or building and loan associations, or credit unions, or to loans made by them, **or to any other person not within the intent of this chapter as the commissioner may designate by rule or order**, nor shall this chapter apply to any person engaged solely in the business of making loans for educational purposes or to the loans made by such persons.

35 New Paragraph; License Required; Penalty. Amend RSA 399-A:2 by inserting after paragraph IV the following new paragraph:

V. Any person who willfully violates any provisions of RSA 399-A:8-a, I or II or a cease and desist order or injunction issued pursuant to RSA 399-A:8 shall be guilty of a class B felony. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction of any other offense.

36 Application and Fees. Amend RSA 399-A:3, II to read as follows:

II. Every applicant for licensing shall be required to submit to the banking department detailed financial information sufficient for the commissioner to determine the applicant's ability to conduct the business of a small loan lender, payday lender, or title loan lender with financial integrity. The application shall include ~~[a balance sheet or a statement of net worth prepared in accordance with generally accepted accounting principles. Net worth]~~ **a financial statement that shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, income statement, statement of changes in owner's equity, a cash flow statement, and note disclosures. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the licensee. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge. If the financial statement is more than 6 months old, the applicant shall also submit an interim balance sheet and income statement not more than 3 months old. Financial statements provided in connection with a license application under this section shall be subject to review and verification during the course of any examination or investigation conducted under this chapter. Each applicant and licensee shall maintain a positive net worth at all times.** Each applicant shall demonstrate that it has available for use in such business at each location specified in the application, at least \$25,000, or in the case of a licensee, has such amount available or actually invested in loans made under this chapter at each location or has posted a continuous surety bond in the amount of \$25,000 in the form and under the terms determined by the commissioner.

37 Reporting Requirements. Amend RSA 399-A:6, I(a) to read as follows:

I.(a) Each licensee shall file, under oath, an annual report with the commissioner on or before ~~[February 1st]~~ **March 31** each year concerning its business and operations for the preceding calendar year or license period ending December ~~[31st]~~ **31** in the form prescribed by the commissioner.

38 Cease and Desist Orders. Amend RSA 399-A:8 to read as follows:

399-A:8 Cease and Desist Orders.

I. The banking department may issue a cease and desist order against any licensee or person who it has reasonable cause to believe has violated or is about to violate the

provisions of this chapter or any rule or order under this chapter. Delivery of such order shall be by hand or registered mail at the principal office of the licensee or other person. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. All hearings shall comply with RSA 541-A. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, such person shall be deemed in default, and the proceeding may be determined against him or her upon consideration of the cease and desist order, the allegations of which may be deemed to be true. If the person to whom a cease and desist order is issued fails to request a hearing within 30 calendar days of receipt of such order, then such person shall likewise be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.

II. If any person refuses to obey the commissioner's order, an action may be brought by the attorney general on the commissioner's behalf in any superior court in this state to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance of such violation. In any such action, an order or judgment may be entered awarding a temporary or permanent injunction, and awarding the commissioner or the attorney general or both costs in bringing such action. The court shall have the power to enforce such injunction, in addition to all of the court's customary powers, by imposing a fine not exceeding \$10,000 or by imprisonment, or both.

39 New Section; Prohibitions. Amend RSA 399-A by inserting after section 8 the following new section:

399-A:8-a Prohibitions.

I. It is unlawful for any person, in connection with the solicitation, offer, or closing of a loan, directly or indirectly:

- (a) To employ any device, scheme, or artifice to defraud;
- (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or
- (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II. It is unlawful for any person to make or cause to be made in any document filed under this chapter or in any proceeding under this chapter any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

III. Any condition, stipulation, or provision binding any person to waive compliance with any provision of this chapter or any rule or order under this chapter is void.

40 Banking Department; Examinations. Amend RSA 399-A:10, III to read as follows:

III. Those licensees or persons that maintain their files and business documents in another state shall appoint a New Hampshire agent and shall return such files and documents to their principal New Hampshire office, ***the banking department***, or the office of their New Hampshire agent for examination no later than 21 calendar days after being requested to do so by the department. When the commissioner requests a list of New Hampshire consumers who have contracted with the licensee or other similar summary document from a licensee from which to select particular files for review, the licensee shall ensure that the list is received by the commissioner within 7 calendar days and return the

files selected by the commissioner to the commissioner within 14 calendar days to ensure compliance with the 21-day requirement. Failure to provide files and documents within the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day after 21 days the files and documents are not produced. Failure to provide files and documents within 60 days after being requested to do so by the department shall be sufficient cause for license revocation, suspension, or denial, or other penalties under this chapter.

41 New Paragraph; Powers of Commissioner. Amend RSA 399-A:18 by inserting after paragraph VI the following new paragraph:

VII. The attorney general on the commissioner's behalf, may, with or without prior administrative action by the commissioner, bring an action against any person in any superior court in this state to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, bar, restraining order, or writ of mandamus shall be granted and a receiver may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner or attorney general to post a bond. The court shall have the power to enforce obedience to such injunction, in addition to all of the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both. In a proceeding in superior court under this paragraph where the state prevails, the commissioner and the attorney general shall be entitled to recover all costs and expenses of investigation, and the court shall include the costs in its final judgment.

42 Principal; Definition. Amend RSA 399-D:2, VII-a to read as follows:

VII-a. "Principal" of the applicant or licensee means an owner with 10 percent or more ownership interest, corporate officer, director, member, general or limited liability partner, limited partner with 10 percent or more ownership interest, trustee, beneficiary of 10 percent or more of the trust that owns the applicant or licensee, **indirect owner**, senior manager, New Hampshire branch manager, and any person occupying similar status or performing similar functions.

43 New Section; Prohibitions. Amend RSA 399-D by inserting after section 13 the following new section:

399-D:13-a Prohibitions.

I. It is unlawful for any person, in connection with the solicitation, offer, or implementation of a debt adjustment service, directly or indirectly:

(a) To employ any device, scheme, or artifice to defraud;

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II. It is unlawful for any person to make or cause to be made in any document filed under this chapter or in any proceeding under this chapter any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

III. Any condition, stipulation, or provision binding any person to waive compliance with any provision of this chapter or any rule or order under this chapter is void.

44 Books and Records. Amend RSA 399-D:21, II to read as follows:

II. Books and Records:

(a) Every licensee shall keep and use in ~~his or her~~ **its** business, books, accounts, and records which will enable the commissioner to determine whether such licensee is complying with the provisions of this chapter and with the regulations of the commissioner.

(b) Every licensee shall preserve such books, accounts, and records for at least [7] 5 years after making the final entry on any transaction recorded therein.

III. If the commissioner or examiner finds any accounts or records to be inadequate, or kept or posted in a manner not in accordance with generally accepted accounting principles, the commissioner may employ experts to reconstruct, rewrite, post, or balance them at the expense of the person being examined if such person has failed to maintain, complete, or correct such records or accounting after the commissioner or examiner has given him or her written notice and a reasonable opportunity to do so.

45 Banking Department; Examinations. Amend RSA 399-D:22, V to read as follows:

V. Licensees that maintain their files in another state are required to return such files to their New Hampshire office ~~or if there is no office in New Hampshire~~, **to the banking department**, or to the office of their New Hampshire agent as named in the license application as amended. Such licensees are required to return all files and records no later than 21 calendar days after being requested to do so by the banking department. When the commissioner requests a list of New Hampshire consumers who have contracted with the licensee or other similar summary document from a licensee from which to select particular files for review, the licensee shall ensure that the list is received by the commissioner within 7 calendar days and return the files selected by the commissioner to the commissioner within 14 calendar days to ensure compliance with the 21-day requirement. Failure to provide files and documents within the time established by this paragraph shall subject a licensee or person to a fine of \$50 per day for each day after 21 days the files and documents are not produced. Failure to provide files and documents within 60 days after being requested to do so by the banking department shall be sufficient cause for license revocation, suspension, or denial.

46 New Paragraph; Violations. Amend RSA 399-D:23 by inserting after paragraph II the following new paragraph:

III. If any person refuses to obey the commissioner's order, an action may be brought by the attorney general on the commissioner's behalf in any superior court in this state to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance of such violation. In any such action, an order or judgment may be entered awarding a temporary or permanent injunction, and awarding the commissioner or the attorney general or both costs in bringing such action. The court shall have the power to enforce obedience to such injunction, in addition to all of the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both.

47 New Paragraph; Penalty. Amend RSA 399-D:24 by inserting after paragraph V the following new paragraph:

VI. The attorney general on the commissioner's behalf, may, with or without prior administrative action by the commissioner, bring an action against any person in any superior court in this state to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, bar, restraining order, or writ of mandamus shall be granted and a receiver may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner or attorney general to post a bond. The court shall have the power to enforce obedience to such injunction, in addition to all of the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both. In a proceeding in superior court under this paragraph where the state prevails, the commissioner and the attorney general shall be entitled to recover all costs and expenses of investigation, and the court shall include the costs in its final judgment.

48 New Section; Violations. Amend RSA 399-D by inserting after section 24 the following new section:

399-D:24-a Violations. Any person who willfully violates any provisions of RSA 399-D:13-a, I or II or a cease and desist order or injunction issued pursuant to RSA 399-D:23, II

shall be guilty of a class B felony. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction of any other offense.

49 Annual Report. Amend RSA 399-D:28, I(a) to read as follows:

I.(a) Each licensee shall file, under oath, an annual report with the commissioner on or before ~~[February 1]~~ **March 31** of each year concerning its business and operations for the preceding calendar year or license period ending December 31 in the form prescribed by the commissioner. ~~[A separate annual report shall be filed for each type of license held by the licensee.]~~

50 Principal; Definition. Amend RSA 399-G:1, XI to read as follows:

XI. "Principal" of the applicant or licensee means an owner with 10 percent or more ownership interest in the applicant or licensee, a corporate officer, director, member, general and limited liability partner, limited partner with 10 percent or more ownership interest, trustee, beneficiary of 10 percent or more of the trust that owns the applicant or licensee, **indirect owner**, senior manager, and any person occupying similar status or performing similar functions.

51 Licensing Filings. Amend RSA 399-G:5, I to read as follows:

I. To be considered for licensing, each person shall complete and file with the department one verified application prescribed by the commissioner. At a minimum, the application shall state the primary business address of the applicant, the applicant's tax identification number, the address of its principal office and all authorized delegates located or to be located within the state, **a copy of its FinCEN Form 107 Registration of Money Services Business filing**, and a list of the principals of the applicant. Each principal ~~[and indirect owner]~~ shall provide their social security number and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and those persons listed in the application, and the applicant's financial condition and history. The applicant shall disclose whether the applicant or any of its principals ~~[or indirect owners]~~ has ever been issued or been the subject of an injunction or administrative order, has ever been convicted of a misdemeanor involving the financial services industry or any aspect of the financial services business, or has ever been convicted of any felony.

52 Record Keeping. Amend RSA 399-G:12, II to read as follows:

II. Those licensees that maintain their files in another state are required to return the files to their principal New Hampshire office, **to the banking department**, or the office of their New Hampshire agent for examination no later than 21 calendar days after being requested to do so by the department. **Such licensees are required to return all files and records no later than 21 calendar days after being requested to do so by the banking department. When the commissioner requests a list of New Hampshire consumers who have contracted with the licensee or other similar summary document from a licensee from which to select particular files for review, the licensee shall ensure that the list is received by the commissioner within 7 calendar days and return the files selected by the commissioner to the commissioner within 14 calendar days to ensure compliance with the 21 day requirement.** Failure to provide files and documents shall subject a licensee to a fine of \$50 per day for each day after 21 days the files and documents are not produced. Failure to provide files and documents within 60 days after being requested to do so by the department, shall be sufficient cause for license revocation, suspension, or denial.

53 New Paragraphs; Record Keeping. Amend RSA 399-G:12 by inserting after paragraph III the following new paragraphs:

IV. If the commissioner or examiner finds any accounts or records to be inadequate, or kept or posted in a manner not in accordance with generally accepted accounting

principles, the commissioner may employ experts to reconstruct, rewrite, post, or balance them at the expense of the person being examined if such person has failed to maintain, complete, or correct such records or accounting after the commissioner or examiner has given him or her written notice and a reasonable opportunity to do so.

54 Annual Report. Amend RSA 399-G:14, I to read as follows:

I. Each licensee shall file, under oath, an annual report with the banking department on or before ~~February 1~~ **March 31** each year concerning operations for the preceding year or license period ending December 31 upon the form prescribed by the department.

55 Annual Financial Statement; Audit. Amend RSA 399-G:14, III to read as follows:

III. Each licensee shall also file, under oath, its financial statement with the commissioner within 90 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles with appropriate note disclosures **and, unless excepted by an order from the commissioner for hardship reasons, shall be audited by an independent certified public accountant.** A money transmitter's financial statement shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement, and a statement of net worth. ~~[If the financial statement filed under this section is not audited, a certification statement shall be attached and signed by an authorized officer of the licensee. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge.]~~ **The financial statement shall include or be accompanied by a calculation that reflects the fiscal year's average daily transactions in United States dollars.**

56 New Section; Prohibitions. Amend RSA 399-G by inserting after section 18 the following new section:

399-G:18-a Prohibitions.

I. It is unlawful for any person, in connection with the solicitation, offer, or transaction of money transmission, directly or indirectly:

(a) To employ any device, scheme, or artifice to defraud;

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II. It is unlawful for any person to make or cause to be made in any document filed under this chapter or in any proceeding under this chapter any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

57 New Paragraph; Powers of the Commissioner. Amend RSA 399-G:19, III by inserting after paragraph II the following new paragraph:

III. If any person refuses to obey the commissioner's order, an action may be brought by the attorney general on the commissioner's behalf in any superior court in this state to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance of such violation. In any such action, an order or judgment may be entered awarding a temporary or permanent injunction, and awarding the commissioner or the attorney general or both costs in bringing such action. The court shall have the power to enforce obedience to such injunction, in addition to all of the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both.

58 New Section; Prosecution of Violations. Amend RSA 399-G by inserting after section 19 the following new section:

399-G:19-a Prosecution of Violations. Any person who willfully violates any provisions of RSA 399-G:18-a, I or II or a cease and desist order or injunction issued pursuant to RSA 399-G:19, II shall be guilty of a class B felony. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction of any other offense.

59 New Paragraph; Powers of Commissioner. Amend RSA 399-G:21 by inserting after paragraph V the following new paragraph:

VI. The attorney general on the commissioner's behalf, may, with or without prior administrative action by the commissioner, bring an action against any person in any superior court in this state to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, bar, restraining order, or writ of mandamus shall be granted and a receiver may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner or attorney general to post a bond. The court shall have the power to enforce obedience to such injunction, in addition to all of the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both. In a proceeding in superior court under this paragraph where the state prevails, the commissioner and the attorney general shall be entitled to recover all costs and expenses of investigation, and the court shall include the costs in its final judgment.

60 Reference to Indirect Owners Deleted. Amend the introductory paragraph of RSA 361-A:2, II(a) to read as follows:

II.(a) The application for such license shall be in writing and verified on a form prescribed by the commissioner. The application shall contain the name of the applicant; the tax applicant's identification number; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the trade name, if any, under which the applicant proposes to conduct such business; and such other pertinent information as the commissioner may require. The application shall include a list of the names and resident addresses of principals and the name of any person occupying a similar status or performing similar functions. Each principal ~~[and indirect owner]~~ shall provide his or her social security numbers and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and those persons listed in the application, and in the case of sales finance companies, the applicant's financial condition and history. The applicant shall disclose if any injunction or administrative order has been issued against the applicant or any of its principals ~~[or indirect owners]~~ listed in the application and whether the applicant or any of its principals ~~[or indirect owners]~~ have been convicted of a misdemeanor involving the lending industry or any aspect of the lending business or convicted of any felony.

61 Reference to Indirect Owners Deleted. Amend RSA 397-A:5, I to read as follows:

I. To be considered for licensing, each person shall complete and file with the department one verified application prescribed by the commissioner. At a minimum, the application shall state the primary business address of the applicant, the applicant's tax identification number, the address of its principal office and all branch offices located or to be located within the state, and a list of the principals of the applicant. Each principal ~~[and indirect owner]~~ shall provide his or her social security number and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and its principals, and the applicant's financial condition and history. The applicant shall disclose whether the applicant or any of its principals ~~[or indirect owners]~~ has ever been issued or been the subject of an injunction or

administrative order, has ever been convicted of a misdemeanor involving the lending industry or any aspect of the lending business or has ever been convicted of any felony.

62 Reference to Indirect Owners Deleted. Amend RSA 397-B:4, I(b) to read as follows:

(b) The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's tax identification number, and the applicant's proposed method of doing business. The applicant shall disclose whether the applicant or any of its principals ~~[or indirect owners]~~ has ever been issued or been the subject of an injunction or administrative order, has ever been convicted of a misdemeanor involving the lending industry or any aspect of the lending business, or has ever been convicted of any felony. Each principal ~~[and indirect owner]~~ shall provide his or her social security number and authorize the commissioner to conduct a background check.

63 Reference to Indirect Owners Deleted. Amend RSA 399-A:3, I(a) to read as follows:

I.(a) Every applicant for licensing under this chapter shall file with the commissioner a written verified application, on a form prescribed by the commissioner. The application shall contain the name of the applicant; the applicant's tax identification number; the address where the business is or is to be conducted and similar information for any branch office of the applicant; the trade name, if any, under which the applicant proposes to conduct such business; the articles of incorporation or organization or partnership agreement; the name and address of the New Hampshire resident agent if the applicant is a foreign entity; and such other pertinent information as the commissioner may require. The application shall include the names of the applicant's principals ~~[indirect owners,]~~ and the name of any person occupying a similar status or performing similar functions. Each such principal ~~[and indirect owner]~~ shall provide his or her social security number and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and its principals, and the applicant's financial condition and history. The applicant shall disclose if any injunction or administrative order has been issued against the applicant or any of its principals ~~[or indirect owners]~~ and whether the applicant or any of its principals ~~[or indirect owners]~~ have been convicted of a misdemeanor involving the lending industry or any aspect of the lending business or of any felony. Each applicant and licensee who conducts payday or title loan lending shall maintain an office in this state that is accessible to consumers. Persons subject to this chapter shall be responsible for the supervision of their employees, agents, and branch offices. Each initial and renewal license application shall be accompanied by a nonrefundable application fee of \$450 for the principal place of business of the licensee and the sum of \$450 for each branch of such licensee maintained in this state.

64 Reference to Indirect Owners Deleted. Amend the introductory paragraph of RSA 399-D:5, II to read as follows:

II. To be considered for licensing, each person, firm, or corporation shall file with the department one verified application on a form prescribed by the commissioner. At a minimum, the application shall be in writing, setting forth the primary business address of the applicant, the applicant's tax identification number, the address of its principal office and all branch offices located or to be located within the state, and a list of the principals ~~[or indirect owners]~~ and the name of any person occupying a similar status or performing similar functions. Each principal ~~[and indirect owner]~~ shall provide his or her social security number and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, qualifications, and business history of the applicant and those persons listed in the application, and the applicant's financial condition and history. The applicant shall disclose if any injunction or administrative order has been issued against the applicant or

any of its principals [~~or indirect owners~~] and whether the applicant or any of its principals [~~or indirect owners~~] have been convicted of a misdemeanor involving the lending industry or any aspect of the lending business or convicted of any felony. Each application shall designate the name and address of the manager or person in charge at each licensed location and shall contain other information required by rules adopted under this chapter. The applicant shall submit any other information that the commissioner may require. In addition:

65 License and Registration Grant. Amend RSA 399-G:6, VI to read as follows:

VI. Money transmitters, who sell or issue payment instruments or stored value, or receive money or monetary value for transmission to another location shall be liable to customers for the amount of money as well as any fees paid by the customer and received by the money transmitter, authorized delegate or person acting on his or her behalf, if the money fails to reach its intended recipient unless transmission to the recipient is prohibited by law. ***If an intended recipient of a money transmission fails to accept or retrieve the money transmitted, a licensee's responsibility to any person for a money transmission conducted on that person's behalf by the licensee's authorized delegate shall be limited to the amount of money transmitted.***

66 New Paragraph; Licensee Requirements. Amend RSA 399-D:7 by inserting after paragraph VII the following new paragraph:

VIII. Licensees shall maintain a positive net worth at all times.

67 Repeal. RSA 399-A:19, relative to review of commissioner's actions, is repealed.

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

2007-2643h

Amendment to HB 765-FN

Proposed by the Committee on Education - C

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

AN ACT establishing a committee to study the financial liability for placement of a child with a disability.

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

1 Committee Established. There is established a committee to study the financial liability for placement of a child with a disability.

2 Membership and Compensation.

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

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

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

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

3 Duties. The committee shall study the financial liability for placement of a child with a disability, and may solicit advice and information from any person or organizations with relevant expertise.

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

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

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

AMENDED ANALYSIS

This bill establishes a committee to study the financial liability for placement of a child with a disability.

2007-2650h

Amendment to HB 766-FN

Proposed by the Committee on Education - R

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

1 Special Education; Policy and Purpose. Amend RSA 186-C:1 to read as follows:

186-C:1 Policy and Purpose. It is hereby declared to be the policy of the state that:

I. All children in New Hampshire be provided with equal educational opportunities. It is the purpose of this chapter to ensure that ~~[the state board of education and the school districts of the state provide a free and appropriate public education for all educationally disabled children]~~ *all children with disabilities have available to them a free appropriate public education in the least restrictive environment that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.*

II. The rights of children with disabilities and parents of such children are protected.

III. Local school districts, the department of education, and other public agencies or approved programs provide for the education of all children with disabilities.

2 Special Education; Definitions. Amend RSA 186-C:2, I-V to read as follows:

I. “[~~Educationally disabled~~] Child *with a Disability*” means any person 3 years of age or older but less than 21 years of age who has been identified and evaluated by a school district according to ~~[the provisions of RSA 186-C:7]~~ *rules adopted by the state board of education* and determined to be ~~[mentally retarded, hearing impaired, speech or language impaired or both, visually impaired including blindness, seriously emotionally disturbed, orthopedically impaired, otherwise severely health impaired, deaf blind, multi-disabled, traumatic brain injured, autistic, or as having specific learning disabilities, who because of such impairment, needs special education or special education and educationally-related services]~~ *have mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, an emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, acquired brain injury, an other health impairment, a specific learning disability, deaf-blindness, multiple disabilities, or a child at least 3 years of age but less than 10 years of age, experiencing developmental delays, who because of such impairment, needs special education or special education and related services.*

“[~~Educationally disabled~~] Child *with a disability*” shall include a child ages 18 to 21, who was identified as ~~[an educationally disabled]~~ *a child with a disability* and received services in accordance with an individualized education ~~[plan]~~ *program* but who left school prior to his or her incarceration, or was identified as ~~[an educationally disabled]~~ *a child with a disability* but did not have an individualized education ~~[plan]~~ *program* in his or her last educational institution

I-a. “Developmentally delayed child” means a child ~~[between 3 and 9 years of age]~~ *at least 3 years of age or older, but less than 10 years of age*, who, because of impairments in development, needs special education or special education and ~~[educationally]~~ related services, *and* may be identified as being developmentally delayed provided that such a child ~~[must first be determined to have an educationally disabling condition as defined in RSA 186-C:2, I]~~ *meets the criteria established by the state board of education.*

I-b. “Division” means the division of educational improvement, department of education.

II. “Approved program” means a program of special education that has been approved by the state board of education and that is maintained by a school district, regional

special education center, private organization or state institution for the benefit of ~~[educationally disabled]~~ children, **with disabilities** and may include ~~[a home-based program]~~ **home instruction provided by the school district.**

III. "Individualized education ~~[plan]~~ **program**" means a written plan for the education of ~~[an educationally disabled]~~ **a child with a disability** that has been developed by a school district in accordance with rules adopted by the state board of education and that provides necessary special education or special education and educationally related services within an approved program.

IV. "Special education" means instruction specifically designed to meet the unique needs of ~~[an educationally disabled]~~ **a child with a disability.**

V.(a) "~~[Educationally]~~ Related services" means:

(1) **Suitable transportation ~~[and]~~ to all children with disabilities whose individualized education program requires such transportation. The school district may board a child as close to the place where instruction is to be furnished as possible, and shall provide transportation, if required by the child's individualized education program, from the place where the child is boarded to the place of instruction; and**

(2) Such developmental, corrective, and other supportive services as are specifically required by an individualized education ~~[plan]~~ **program** to assist ~~[an educationally disabled]~~ **a child with a disability** to benefit from special education; **and**

(3) **Services necessary for a child with a disability to benefit from special education and when placement in a residential facility has been made by the legally responsible school district in order to comply with RSA 186-C:9 or RSA 186-C:11, or when placement has been ordered by a hearings officer or by a court of competent jurisdiction on appeal, pursuant to rules adopted by the state board of education under RSA 186-C:16, IV.**

(b) "~~[Educationally]~~ Related services" ~~[do]~~ **shall** not include medical services unless such services are necessary for purposes of diagnosis and evaluation.

3 Special Education; Division of Education Improvement. Amend RSA 186-C:3 to read as follows:

186-C:3 Division of Educational Improvement; Special Education; Programs and Services. The department shall ~~[appoint]~~ **hire** and assign such personnel or contract for services ~~[as may be necessary for proper operation of special education programs]~~ **to perform responsibilities required under state or federal special education law, including, but not limited to, monitoring, compliance, and technical assistance and support to school district.** Special education services of the division of educational improvement shall be fully coordinated and integrated with the department's general curriculum and instruction activities.

4 Special Education; Division Duties; Advisory Committee. Amend RSA 186-C:3-a and RSA 186-C:3-b to read as follows:

186-C:3-a Duties.

I. The division shall help school districts meet their responsibilities under this chapter and under federal law regarding the education of ~~[students]~~ **children** with ~~[educational]~~ disabilities. The special education program of the department of education shall develop and analyze information on issues and problems of regional and statewide importance and on assisting school districts in dealing with these issues and problems. The department shall ensure that the regulation and monitoring of school district activities shall not exceed what is necessary for compliance with this chapter and with federal law regarding the education of ~~[students]~~ **children** with ~~[educational]~~ disabilities.

I-a. The special education program of the department of education shall develop and analyze information on issues and problems of regional and statewide importance and on assisting school districts in dealing with these issues and problems. The department shall ensure that the regulation and monitoring of school district activities shall not exceed what

is necessary for compliance with this chapter and with **state and** federal law regarding the education of ~~[students with educational]~~ **children with** disabilities.

II. The ~~[division]~~ **department of education** shall, ~~[subject to available funding, develop, implement and evaluate statewide special education policies, standards and programs. In carrying out this mission, the division shall gather and]~~ collect, **organize, and analyze** data ~~[and organize and analyze instruction]~~ **and information** about programs, conditions, **instruction**, and trends in special education in the state. In addition, the ~~[division]~~ **department** shall be responsible for monitoring and maintaining information about national and regional trends, instructions and issues affecting special education in New Hampshire. The ~~[division]~~ **department** shall make this information available to the districts and use this information to:

(a) Assess the needs of school districts for assistance in carrying out their responsibilities for educating ~~[students with educational]~~ **children with** disabilities;

(b) Identify cost effective **and appropriate** alternative programs ~~[for serving students with educational disabilities]~~ **that meet the needs of children with disabilities;**

(c) Focus resources on students requiring extensive services; ~~[and]~~

(d) Develop cost and service level benchmarks for special education in New Hampshire which may be used as reference points by districts to measure the effectiveness of their programs in meeting ~~[educational]~~ goals and objectives **of the individualized education program; and.**

(e) **Develop and promote evidence-based practices supporting the education of children with disabilities in the least restrictive environment, provided that:**

(1) **If children with disabilities are being placed in out of district programs solely due to a lack of qualified personnel, the department shall develop and implement strategies, in addition to the requirements of RSA 186-C:21, to help address the shortage and increase the capacity of local education agencies to serve children in the schools they would attend if not disabled.**

(2) **The department shall identify disproportionate representation in out-of-district programs and provide focused technical assistance to help the identified school districts serve children with disabilities in the least restrictive environment.**

II-a. (a) In addition to the requirements of paragraph II, the ~~[division]~~ **department of education** shall annually submit a report to the commissioner of the department **and the state board of education** that:

(1) Shows the identification of children with ~~[educational]~~ disabilities analyzed according to the following criteria: age ~~[or]~~ **and** grade level, **and** number ~~[of students in each disability category,]~~ and percentage of the total number of children with educational disabilities in each disability category. ~~[The report shall also]~~

(2) ~~[include]~~ **Includes** expenditures for special education as reported to the department **of education** by school districts and state and federal revenues for special education received by school districts. ~~[The first report shall include data from the 2 preceding school years.]~~

(3) **Shows the annual progress and compliance on the state's performance plan required by 20 U.S.C. section 1416(b), 20 U.S.C. section 1412(a)(15), and 20 U.S.C. section 1416(a)(3).**

(4) **Shows the progress and compliance with the requirements in the No Child Left Behind Act of 2001, 20 U.S.C. section 6311(b), and RSA 193-E:3 and RSA 193:H-2 with respect to children with disabilities.**

(b) These findings shall be reported for the state and for each school district. ~~[The report shall be based on existing special education disability categories, and any other related special education data already collected within the department or the division.]~~ The commissioner shall make this report available upon request to all legislators, school officials

from school districts, school administrative units, cooperative schools, AREA schools, and the general public, **and shall make it available in an easily accessible format on the department of education website.** In preparing such reports, the department of education shall not disclose personally identifiable information.

III. The ~~[division]~~ **department of education** shall provide technical assistance and information to the school districts so that the districts may effectively and efficiently identify, clarify and address their specific responsibilities under state and federal special education laws. This assistance shall include the provision of mediation services to resolve special education disputes and the provision of expertise regarding specific educationally disabling conditions. Whenever technical assistance of a specialized nature, beyond that available in the department, is required, the ~~[division]~~ **department** shall assume a leadership role in identifying sources of such assistance in other state agencies, the federal government, volunteer services or the private sector.

IV. The ~~[division]~~ **department of education** shall administer those federal and state funding programs for special education assigned to it by law. The ~~[division]~~ **department** shall also make recommendations to the state board regarding management systems, standard definitions and procedures in order to provide uniform reporting of special education services and expenditures by school districts and school administrative units.

V. The ~~[division]~~ **department of education** shall monitor the operations of local school districts, **charter schools, and private school programs** regarding compliance with state and federal laws regarding the education of students with ~~[educational]~~ disabilities. The ~~[division's regulatory program]~~ **department's monitoring, regulatory oversight, and program approval** shall be structured and implemented in a prudent manner and shall not place an excessive administrative burden on local districts. The ~~[division]~~ **department** and districts shall approach monitoring and regulation in a constructive, cooperative manner, **while also ensuring accountability for failing to meet standards** ~~[with a goal of improving special education in New Hampshire]~~ **and ensuring the special education needs of children with disabilities are met.**

VI. ~~[Repealed.]~~

VII.(a) **Granite State high school shall submit a plan for department approval to be adopted by November 1, 2009, to meet the special education needs of persons incarcerated in the state prison system.**

(b) **Each county correctional facility shall designate one special education coordinator who shall act as the contact person for outside entities on matters related to special education, and to consolidate and coordinate existing functions associated with providing a free appropriate public education to eligible students, including the assessment of eligibility and educational needs, and who shall participate in hiring or contracting with necessary staff, coordinate with local school district staff or other individuals to provide special education and related services, coordinate evaluations and meetings, and oversee the planning of special education after discharge.**

(c) **County correctional facilities shall be exempt from state board of education rules, except that the standards for the education of students with disabilities and all educational programs shall be set by interagency agreements between the department of education and each county correctional facility.**

(d) **Granite State high school and each county correctional facility shall be subject to the monitoring requirements in RSA 186-C:5, and shall be monitored in 2007, and subject to on-site monitoring at least annually through 2010.**

~~[The division shall, in conjunction with the department of corrections and county governments, prepare and adopt a plan for meeting the special education needs of persons incarcerated in the state prison system and county correctional facilities. Such plan shall be adopted no later than November 1, 1997.]~~

186-C:3-b Advisory Committee; Purpose; Membership; Terms; Duties; Meetings.

I. In accordance with the provisions of 20 U.S.C. section 1413(a)(12) and 34 C.F.R. sections 300.650-300.653, there is established an advisory committee on the education of children/students with disabilities to advise the commissioner of education on issues relating to special education, and to promote communication and cooperation among individuals involved with students with disabilities. In addition, the committee shall review the federal financial participation and the level of state funding to determine their impact on the programs and delivery of services to children/students with disabilities.

II. The committee shall ~~[consist of the following members]~~ ***be composed of individuals involved in, or concerned with, the education of children with disabilities. A majority of the committee membership shall be composed of individuals with disabilities or parents of children with disabilities. The committee membership shall be as follows:***

(a) Individuals with disabilities or parents of children with disabilities.

~~[(a)]~~ ***(b)*** Two members of the house education committee, appointed by the speaker of the house.

~~[(b)]~~ ***(c)*** Two members of the senate education committee, appointed by the president of the senate.

~~[(c)]~~ ***(d)*** One representative of a vocational, community, or business organization concerned with the provision of transition services to children/students with disabilities, appointed by the governor.

~~[(d)]~~ ***(e)*** One state education official, appointed by the governor.

~~[(e)]~~ ***(f)*** One local educational official, who shall be an administrator, appointed by the governor.

~~[(f)]~~ ***(g)*** ~~One~~ ***Two teachers, one of whom shall be a*** special education teacher, appointed by the governor.

~~[(g)]~~ ***(h)*** One representative of the department of health and human services ***involved in the financing or delivery of special education or related services to children with disabilities***, recommended by the commissioner of the department of health and human services, and appointed by the governor.

~~[(h)]~~ ***(i)*** One representative of the Disabilities Rights Center, recommended by the Disabilities Rights Center and appointed by the governor.

~~[(i)]~~ ***(j)*** One representative of the Parent Information Center, recommended by the Parent Information Center and appointed by the governor.

~~[(j)]~~ ***(k)*** Two individuals with disabilities who ***may*** have ~~[benefited from]~~ ***received*** special education services, one of whom may be a high school student, appointed by the governor.

~~[(k)]~~ ***(l)*** One administrator of a public special education program, appointed by the governor.

~~[(l)]~~ ***(m)*** One representative of an institution of higher education that prepares special education and related services personnel, appointed by the governor.

~~[(m)]~~ ***(n)*** One representative of a private school approved for special education, appointed by the governor.

~~[(n)]~~ ***(o)*** One representative of a public charter school, appointed by the governor.

~~[(o)]~~ ~~One representative from the department of health and human services, appointed by the governor.]~~

(p) One individual representing children with disabilities who are home-schooled.

~~[(p)]~~ ~~Parents of children/students with disabilities, appointed by the governor. A simple majority of the members of the committee shall be individuals with disabilities or parents of children/students with disabilities.]~~

(q) One representative from the department of corrections, and one representative from a county correctional facility, both of whom are responsible for

administering the provision of special education or special education and related services, appointed by the governor

(r) ~~[An official who carries out]~~ **State and local educational officials who are responsible for performing** activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. section 11431, et seq.

(s) A representative from the department of health and human services responsible for foster care.

(t) **Two members not affiliated in any way with the membership criteria listed in subparagraphs II(a)-(s), appointed by the governor.**

III.(a) Committee members shall be appointed to ~~[3-year]~~ **staggered 2-year** terms ~~and members may succeed themselves for one additional term~~.

(b) A chairperson shall be selected by a majority of the committee members **on an annual basis**.

IV. The committee shall:

(a) Advise the department of education regarding unmet needs within the state in the education of children/students with disabilities.

(b) Provide an annual report to the governor and the state legislature on the status of education of students with disabilities in New Hampshire.

(c) Comment publicly on the state plan and rules or regulations proposed for issuance by the state regarding the education of children/students with disabilities.

(d) Assist the state in developing and reporting such information and evaluations as may assist the U.S. Secretary of Education in the performance of responsibilities under ~~[section 618]~~ **20 U.S.C. section 1412(a)(21)** of the Individuals with Disabilities Education Act.

(e) Advise the department of education in developing corrective action plans to address findings identified in federal monitoring reports.

(f) Advise the department of education in developing and implementing policies relating to the coordination of services for children/students with disabilities.

V. The committee shall meet at least quarterly or as often as necessary to conduct its business.

VI. The department of education shall provide administrative support for the committee.

5 Special Education; Program Approval, Monitoring, and Corrective Action. Amend RSA 186-C:5 to read as follows:

186-C:5 Program Approval, **Monitoring, and Corrective Action**.

I.(a) The state board of education shall adopt rules establishing **a process and standards for the approval and monitoring** of programs of education that are maintained by school districts, regional special education centers, and private organizations or state institutions for the benefit of ~~[educationally disabled]~~ children **with disabilities**, including **charter schools**, home-based programs **and alternative schools or programs**; except, however, that approval of education programs for the special district established in RSA 194:60 shall be pursuant to the standards set forth in the interagency agreements between the department of corrections and the department of education.

(b) The division of educational improvement of the department of education, through its program approval and monitoring process shall determine if a district is making diligent efforts to resolve personnel shortages that result in children with disabilities being placed out of district.

II. The purpose of program approval and monitoring is to ensure that the programs specified in paragraph I comply with applicable federal and state law, including standards related to improving educational results and functional outcomes.

III. Program approval and monitoring shall utilize professionally recognized program evaluation and other verification methods to ensure reliable

and valid findings and corrective actions. The department shall develop and apply standards and procedures to determine whether each program specified in paragraph I complies with the requirements of applicable federal and state law. Such standards shall give considerable weight to rigorous benchmark or performance outcomes and indicators required by federal and state law most relevant to achieving educational results and functional outcomes. Program approval and monitoring shall also include, but not be limited to the following components and processes:

(a) Reporting of outcome or indicator data by school district and non-district programs to the department in a manner and frequency as the department shall determine.

(b) Development and application of methods to ensure the accuracy of all such data including data as entered in student records and as transmitted to the department, to include necessary on-site verification of data.

(c) Determinations by the department as to whether the reported data complies with such standards.

(d) On-site monitoring to further evaluate noncompliance, verify accuracy of data, assess the adequacy of the corrective action plans and their implementation, or other purposes as the department may determine, which may include:

(1) Regular or periodic monitoring.

(2) Special on-site monitoring required as part of the resolution or remediation of a complaint under 34 C.F.R. sections 300.151-152, or based on reliable information received indicating that there is reason to believe that there is noncompliance with standards.

(3) Random or targeted visits which may be unannounced when the department determines that an unannounced visit is needed.

(e) Program monitoring, including the on-site monitoring components, shall use multiple program evaluation techniques in accordance with professionally recognized standards and to achieve the purposes set forth in paragraphs I-III, including, but not limited to, random sampling stratified as necessary to cover discrete sites or programs such as alternative programs or schools.

(f) Program approval and monitoring personnel or teams, which shall be knowledgeable in research-based education, special education practices, professionally recognized program evaluation practices, the Individuals With Disabilities Education Act, and state special education laws and which shall receive appropriate training to participate in the monitoring process. Such personnel or teams for on-site monitoring shall consist of at least one of each of the following: an educator, an educational administrator, and a parent who shall be compensated. The department may determine that for certain on-site visits less than a full team is necessary. The department directly or by contract shall develop and train a group of parents on the requisites needed to carry out the monitoring duties. Where volunteers or contracted personnel are used for the non-parent team slots, attempts shall be made to use or balance teams with personnel from non-school district sources such as qualified individuals from higher education. Educators and educational administrators that are used (1) may not review schools in school districts in which they are employed or have been employed in the previous 2 years and (2) may not be from schools which in the current or prior 3 years have been the subject of mandatory technical assistance under subparagraph V(a)(2) or any of the interventions in subparagraphs V(a)(3)-(12). The department shall make available sufficient funds for stipends or similar financial remuneration, in addition to expense reimbursements to ensure that teams have a diversity of

perspectives and high quality professional membership The department of education may contract with an individual or organization which has the requisite expertise and skill to perform the monitoring activities, and shall give preference to individuals and organizations in which the majority of membership of the governing structure is composed of parents, community members, or persons with university affiliations, or who are otherwise independent from school district and non-school district programs in New Hampshire. This subparagraph shall not be construed to preclude individuals who may have performed sporadic or occasional contract or volunteer work for school district or non-school district programs.

IV. The department shall issue a report granting full or conditional approval, or denying, suspending, or revoking approval prior to the expiration of the existing program approval which shall include:

(a) Findings detailing exemplary characteristics and strengths of each program and each instance of noncompliance and failure to meet performance outcome or indicator measures in accordance with standards set forth in paragraph III.

(b) Recommendations for actions needed to correct noncompliance or failure to meet performance outcome or indicator measures.

(c) School districts and non-district programs may appeal decisions granting conditional approval or denying, suspending, or revoking approval pursuant to paragraph VI.

(d) The department may issue reports outside of the regular approval process directing school districts or non-school district programs to take any of the actions set forth in paragraph V.

V.(a) The provisions of this paragraph shall be enforced subsequent to the issuance of an order resulting from a complaint investigated, a due process hearing, or a monitoring activity pursuant to rules adopted under RSA 541-A.

(b) At the conclusion of the time limit specified for the school district, public agency, private provider of special education, or other non-school district based program to have completed the corrective action specified in the orders of compliance, the administrator of the bureau of special education of the department of education shall forward to the commissioner of the department of education a written report indicating the extent to which the agency took corrective action to achieve compliance with state and federal law.

(c) In the event the written report shows that the school district, public agency, private provider of special education, or other non-school district based program has not complied with orders issued by the department, the commissioner of the department of education shall give the written notice of the enforcement action to be taken.

(d) When taking enforcement action, the commissioner of the department of education shall consider:

(1) The severity and length of noncompliance.

(2) Whether a good faith effort was made to correct the problem.

(3) The impact on children who are entitled to a free appropriate public education.

(4) Whether the nature of the noncompliance is individual or systemic.

(e) Enforcement action shall include but not be limited to:

(1) Corrective action plan development, implementation, and monitoring.

(2) Voluntary and mandatory technical assistance as determined by the department.

(3) Mandatory targeted professional development as determined by the department.

(4) Directives ordering specific corrective or remedial actions including compensatory education.

(5) Targeting or redirecting the use of federal special education funds in the areas of concern.

(6) Formal referral to the bureau of credentialing in the department of education for review of compliance with professional licensure or certification requirements.

(7) Ordering the cessation of operations of discrete programs operated by a school district, collaborative program, private provider of special education, public academy, or state institution for the benefit of children with disabilities.

(8) A review of programs which may include a desk audit, scheduled on-site reviews, and unannounced on-site reviews, to ensure compliance. The frequency of the program reviews may, at the discretion of the department, take place weekly, monthly, or quarterly.

(9) Require redirection of federal funds to remediate noncompliance of more than one year.

(10) Ceasing payments of state or federal funds to the school district or other public agency until the department of education determines the school district or other public agency is in compliance.

(11) Order, in accordance with a final state audit report, the repayment of misspent or misapplied state and/or federal funds.

(12) In the case of a school district or other public agency, refer the matter to the department of justice for further action.

(13) In the case of a private provider of special education or other non-school district based program, order all school districts with students placed in the private provider of special education to relocate the students for whom each district is responsible to other programs or facilities that are in compliance with state and federal law.

VI. The commissioner shall notify the superintendent and local school board, and post findings and corrective actions recommended on the department Internet website. The commissioner shall also notify the statewide advisory committee of the findings, remedies, and sanctions.

VII. The department shall adopt rules for the school district appeals process for corrective actions imposed under subparagraphs V(a)(5)-(11).

VIII. The commissioner shall employ or contract with a sufficient number of qualified personnel to carry out the activities enumerated in this section, including but not limited to managing, analyzing, and verifying data, coordinating and staffing on site monitoring teams, preparing reports, including findings and corrective actions, and determining, monitoring, or supervising corrective actions and sanctions.

IX. The department, with input from the state advisory committee, shall select and contract with an independent, nationally recognized organization in program evaluation and quality assurance to evaluate in 2010 and decennially thereafter, the effectiveness of the program approval and monitoring system, including whether it is carrying out activities in RSA 186-C:5 in an efficient manner. Such organization shall submit recommendations for any improvements to the commissioner, the state board of education, the governor, and the general court within 90 days of completing the program evaluation.

6 Special Education; Individualized Education Programs. Amend RSA 186-C:7 to read as follows:

186-C:7 ~~[Individual]~~ **Individualized** Education ~~[Plans]~~ **Programs**.

I. The development of an individualized education ~~[plan]~~ **program** for each ~~[educationally disabled]~~ child **with a disability** shall be the responsibility of the school district in which the child resides or of the school district which bears financial responsibility for the child's education.

II. The parents ~~[or legal guardian]~~ of ~~[an educationally disabled]~~ **a child with a disability** have the right to participate in the development of the individualized education ~~[plan]~~ **program** for the child and to appeal decisions of the school district regarding such child's individualized education ~~[plan]~~ **program** as provided in rules adopted in accordance with RSA 541-A by the state board of education.

III. ~~[The division of educational improvement of the department of education shall assist each school district in developing an approved program or programs for educating the educationally disabled children of the district including the setting of approved rates for private providers of special education services pursuant to RSA 21-N:5, I(h).]~~

IV. ~~[Repealed.]~~ **Each child's individualized education program shall include short-term objectives or benchmarks unless the parent agrees that they are not necessary for one or more of the child's annual goals.**

7 Special Education; Interagency Agreement for Special Education. Amend RSA 186-C:7-a to read as follows:

186-C:7-a Interagency Agreement for Special Education.

I. The commissioner of ~~the department of~~ education, ~~[with the approval of]~~, the state board of education, and the commissioner of ~~the department of~~ health and human services shall, **consistent with applicable state and federal law**, enter into ~~[a comprehensive, cooperative special education]~~ **an interagency** agreement ~~[to ensure the provision of necessary services by their agencies to educationally disabled children.]~~ **for the purposes of:**

(a) **Meeting the multi-service agency needs of children with disabilities in an efficient and effective manner and without delays caused by jurisdictional or funding disputes;**

(b) **Providing for continuity and consistency of services across environments in which children function; and**

(c) **Ensuring well-planned, smooth, and effective transitions from early intervention to special education and from special education to postsecondary life.**

II. This agreement shall address programs and services for ~~[each appropriate category of educationally disabled]~~ children **with disabilities, provided, funded, or regulated by the department and local school districts, and the department of health and human services and its local counterparts, the district offices, the area agencies, and the community mental health centers.**

III. ~~[For each category of educationally disabled children,]~~ The agreement shall ~~[include]~~ **address the functions set forth in paragraph I including, but not limited to:**

(a) ~~[A definition of the]~~ **Defining the specific [population] populations** to be served.

(b) ~~[An identification and description of]~~ **Identifying and describing** the services available through each agency.

(c) ~~[A description of]~~ **Describing** the specific programmatic and financial responsibilities of each department, **and its divisions, bureaus, and local counterparts.**

(d) ~~[An estimate of]~~ **Estimating** the costs of, and source of funds for, all services to be provided by each department.

(e) ~~[A method for implementing and administering the agreement which shall include a procedure for settling disputes regarding its administration or the financial and programmatic responsibilities of each department]~~ **Implementing methods to ensure prompt and timely initiation of services, including criteria for determining agency responsibility for service provision and payment, which shall include:**

(1) *A provision permitting a parent or agency, believing that it is not responsible for the services at issue, to request the participation of another potentially responsible agency, provided that in the case of an agency request, the parent or child who has reached majority have been advised of their appeal rights and the parent or child, as applicable, consent to the participation of the other agency; and*

(2) *The procedure and criteria, when more than one agency is involved, for determining who should provide and pay for the needed services, such criteria to include a requirement that the school district is responsible to provide and pay for all special education, related services, supplemental aids and services, and accommodations for children with disabilities, unless:*

(A) *Medicaid is responsible or the department of health and human services or another agency is required to pay; or*

(B) *Another agency agrees to pay voluntarily or pursuant to an agreement; or*

(C) *The service is primarily non-educational in nature, involving only care or custodial activities and serves no educational purpose, and does not pertain to curriculum or individualized skills or behavior change or development aimed at enabling a child to function in the school, workplace, home, and community, and are neither related services, supplementary aides, and services, or as defined by state or federal law.*

(3) *A procedure for dispute resolution, including a provision for binding dispute resolution, which may be initiated by any participating agency, a parent, guardian, educational surrogate, or child who has reached the age of majority to determine whether or not the child is entitled to the services in dispute, when service entitlement by all agencies is in dispute, and which agency is responsible to pay and provide the service, when agency financial and programmatic responsibility is in dispute.*

(4) *When there is a dispute as to financial or programmatic responsibility, a provision that the local school district shall provide the service or otherwise ensure that the service is provided, subject to the local school district's right of reimbursement if another agency is found responsible.*

(f) ~~[A procedure for monitoring the operation of the agreement and for revising it periodically as necessary]~~ *Consistent with federal and state privacy laws, provisions for state and local educational and health and human service agencies to share and exchange necessary child and program specific information and data.*

IV. The commissioners of *the departments of* education and health and human services shall submit a copy of the ~~[initial]~~ interagency agreement for special education, *reflecting changes required under this section*, to the appropriate standing committees of each house of the general court on or before September 1, ~~[1985]~~ *2008*, and shall submit ~~[a revision to the agreement no later than January 1, 1999. Any subsequent proposed]~~ *any subsequent* amendments or revisions to the agreement ~~[shall be submitted]~~ to the appropriate standing committees of the house and senate, *no later than 60 days after adoption of the amendments or revisions. Prior to adopting any revisions or amendments to the agreement, the commissions shall jointly solicit input from relevant advisory committees and the public.*

V. *Nothing in this section shall require:*

(a) *A parent, guardian, or child to pay for services provided by a local school district or other local or state public educational program, if the services are educational in nature or are otherwise required by Individuals with Disabilities Education Act, 20 U.S.C. section 1400 et seq.*

(b) A local school district to provide any educational services beyond those required under the Individuals with Disabilities Education Act, 20 U.S.C. section 1400 et seq., or this chapter.

(c) The department of health and human services to provide services not otherwise required by other state or federal laws.

8 New Section; Special Education; Rate Setting. Amend RSA 186-C by inserting after section 7-b the following new section:

186-C:7-c Rate Setting.

I. The division of educational improvement of the department of education shall ensure that each school district develops approved programs for children with disabilities in the school district.

II. The division of educational improvement of the department of education shall set an approved rate for private providers of special education services pursuant to RSA 21-N:5, I(h).

III. Such rates shall be sufficient to reflect costs and expenses of comparable or similar programs in the region or state and sufficient to provide children with disabilities with a free appropriate public education.

IV. No provider shall charge the department of education or any school district in this state an amount in excess of the rate established by the division of educational improvement of the department of education.

9 Special Education; Collaborative Programs; Education Required. Amend RSA 186-C:8-9 to read as follows:

186-C:8 Collaborative Programs.

I. School districts or school administrative units, or both, may enter into cooperative agreements in order to provide approved programs for educating ~~[educationally-disabled]~~ children **with disabilities** ~~[in regional special education centers]~~. The state board of education, when appropriate because of a low incidence of a disabling condition, high cost of services, or scarcity of trained personnel, shall encourage such cooperative agreements and shall serve as a source of information, advice and guidance to school districts, school administrative units, or both.

II. The state board of education, together with representatives of neighboring states, shall study the feasibility of interstate agreements ~~[or interstate compacts]~~ for the provision of services to ~~[educationally-disabled students]~~ **children with disabilities**.

186-C:9 Education Required. Each child **who is** determined by the local school district, or special school district established under RSA 194:60, as ~~[being educationally-disabled]~~ **having a disability** in accordance with RSA 186-C:2 and in need of special education or special education and ~~[educationally]~~ related services shall be entitled to attend an approved program which can implement the child's individualized education ~~[plan]~~ **program**. Such child shall be entitled to continue in an approved program until such time as the child has acquired a **regular** high school diploma or has attained the age of 21, whichever occurs first, or until the ~~[school district responsible for developing the]~~ child's individualized education ~~[plan]~~ **program team** determines that the child no longer requires special education in accordance with the provisions of this chapter.

10 Special Education; Responsibility of School District. Amend RSA 186-C:10 to read as follows:

186-C:10 Responsibility of School District. A school district shall establish an approved program or programs for ~~[educationally-disabled]~~ children **with disabilities**, or shall enter into cooperative agreements with other districts to provide approved programs for ~~[educationally-disabled]~~ children **with disabilities**, or shall pay tuition to such an approved program maintained by another school district or by a private organization. ~~[Eligibility for participation in an approved program of special education shall be determined by the school board of the school district under rules adopted by the state board of education.]~~

11 Special Education; Federal Assistance. Amend RSA 186-C:12 to read as follows:

186-C:12 Federal Assistance. The state board of education is authorized to cooperate with the federal government or any agency of the federal government in the development of any plan for the education of ~~[educationally disabled]~~ children **with disabilities** and to receive and expend, in accordance with such plan, all funds made available to the state board of education from the federal government or any of its agencies, the state or from other sources. The ~~[several]~~ school districts of the state are authorized to receive, incorporate in their budgets, and expend for the purposes of this chapter such funds as may be made available to them through the state board of education from the federal government or any of its agencies.

12 Special Education; Liability for Expenses. Amend RSA 186-C:13 to read as follows:

186-C:13 Liability for Expenses.

I. All expenses incurred by a school district in administering the law in relation to education for ~~[educationally disabled]~~ children **with disabilities in need of special education and related services** shall be paid by the school district where the child resides, except as follows:

(a) When ~~[an educationally disabled]~~ a child **with a disability in need of special education and related services** is placed in a home for children or health care facility as defined in RSA 193:27, the liability for expenses for such child shall be determined in accordance with RSA 193:29.

(b) When ~~[an educationally disabled]~~ a child **with a disability in need of special education and related services** is placed in a state institution, the liability for expenses for such child shall be determined in accordance with RSA 186-C:19.

II. For the purposes of meeting the financial obligation for expenses incurred under this chapter, a school district may exceed its annual budget to the extent of additional special education aid which the district has actually received from the state after the annual school district budget was approved.

III. No school district shall be required to pay the expenses of the education program of a child adjudicated under RSA 169-B, 169-C, or 169-D except as provided by RSA 186-C. The sending district shall be notified of a court ordered placement of a child adjudicated under the provisions of RSA 169-B, 169-C, or 169-D, and may submit recommendations to the court concerning the financial impact of the placement on the sending district **and the appropriateness of the placement.**

13 Special Education; Surrogate Parents. Amend RSA 186-C:14 to read as follows:

186-C:14 Surrogate Parents.

I. PURPOSE. The purpose of this section is to protect the educational rights of eligible, ~~[educationally disabled]~~ children **with disabilities.**

II. DEFINITIONS. The following words as used in this section shall be construed as follows:

(a) "Surrogate parent" shall mean a person appointed to act as a child's advocate in place of the child's ~~[birth]~~ **biological or adoptive** parents or guardian in the educational decision-making process.

(b) "Educational decision-making process" shall include identification, evaluation, and placement as well as the hearing, mediation, and appeal procedures.

(c) [Repealed.]

(d) [Repealed.]

III. DETERMINING NEED.

(a) When, ~~[in the opinion of the commissioner of education or designee, an educationally disabled child]~~ a child **with a disability**, as defined in RSA 186-C:2, needs special education and the parent or guardian of the child is unknown or after reasonable efforts cannot be located, or the child is ~~[a ward of the state, the commissioner or designee shall]~~ **in the legal custody of the division of children, youth, and families, the commissioner or designee, may** appoint a surrogate parent who shall represent the child in the educational decision-making process, **provided that for a child in the legal**

custody of the division of children, youth, and families, a judge overseeing the child's case pursuant to the Individuals With Disabilities Education Act, 20 U.S.C. section 1415(b)(2)(A)(i), may appoint a surrogate parent.

(b) In the case of a child who is an unaccompanied youth as defined in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. section 11434a (6), the school district shall appoint a surrogate parent pursuant to this section.

IV. APPOINTMENT OF SURROGATE. ~~[Once the commissioner of education or designee determines that a surrogate parent is needed, the commissioner or designee shall appoint a surrogate parent. Such]~~ Appointment **of a surrogate parent under this section** shall be effective until the child reaches 18 years of age, and may be extended by order of the commissioner until the child graduates from high school or reaches 21 years of age, whichever occurs first. If the surrogate parent resigns, dies or is removed, the commissioner of ~~the department of~~ education or designee, **or the court with jurisdiction over the child's case**, may appoint a successor surrogate parent in the same manner as provided in paragraph III.

V. RIGHT OF ACCESS. When a surrogate parent is appointed, the surrogate parent shall have the same right of access as the natural parents or guardian to all records concerning the child. These records shall include, but not be limited to, educational, medical, psychological and ~~[welfare]~~ **health and human service** records.

VI. LIMITED LIABILITY. No surrogate parent appointed pursuant to the provisions of paragraph IV shall be liable to the child entrusted to the surrogate parent or the parents or guardian of such child for any civil damages which result from acts or omissions of such surrogate parent which may arise out of ordinary negligence. This immunity shall not apply to acts or omissions constituting gross, willful, or wanton negligence.

VII. RULES. The state board of education shall adopt rules necessary for the administration of the provisions of this section.

14 Special Education; Foster Parent Representation. Amend the section heading in RSA 186-C:14-a to read as follows:

186-C:14-a Foster Parent Representation of Foster Children With ~~[Educational]~~ Disabilities.

15 Special Education; Foster Parent Representation. Amend RSA 186-C:14-a, I(b)(1) to read as follows:

(1) Is in an ongoing, long-term parental relationship with the child, as determined by the ~~[department of health and human services]~~ **commissioner of the department of education** or the child placing agency;

16 Special Education; Foster Parent Representation. Amend RSA 186-C:14-a, III to read as follows:

III. A foster parent acting as a parent shall have the same right of access as the birth parents or guardians to all records concerning the child. These records shall include, but are not limited to, educational, medical, psychological, and ~~[welfare]~~ **health and human service** records.

17 Special Education; Length of School Year. Amend RSA 186-C:15 to read as follows:

186-C:15 Length of School Year.

I. The length of the school year **and school day** for ~~[an educationally disabled]~~ **a child with a disability** shall be the same as that provided by the local school district for a child ~~[not educationally disabled]~~ **without a disability of the same age or grade**, except that the local school district shall provide an approved program for an extended period when ~~[it can be demonstrated by a preponderance of evidence, in accordance with rules adopted by the state board of education, that interruption of the program of an educationally disabled child would result in severe and substantial harm and regression and would have the effect of negating the benefits of such educationally disabled child's regular special education]~~

program] *the child's individualized education program team determines that such services are necessary to provide the child with a free appropriate public education.*

II. The length of the school year and school day for a preschool child with a disability shall be determined by the child's individualized education program team and shall not be governed by the school district's school calendar. A free appropriate public education shall be provided to a preschool child with a disability as of the child's third birthday and when the child's individualized education program team determines that services are necessary to provide a free appropriate public education to the child.

18 Special Education; Rulemaking. Amend RSA 186-C:16 to read as follows:

186-C:16 Rulemaking. The state board of education shall adopt rules, pursuant to RSA 541-A, *and consistent with the provision of a free appropriate public education*, relative to:

- I. Developing individualized education [plans] **programs**;
- II. Approving *and monitoring* special education programs;
- III. Reporting the number of [educationally disabled] children *with disabilities* in a school district;
- IV. Requesting administrative due process hearings and appealing a final administrative decision;
- V. Determining eligibility for participation in approved programs;
- VI. Appointing surrogate parents;
- VII. Determining the length of the school year for [disabled] children *with disabilities*; and
- VIII. Other matters related to complying with provisions of this chapter.

19 Special Education; Due Process Hearing. Amend RSA 186-C:16-b, III-V to read as follows:

III. Where the parent, legal guardian or surrogate parent has not been given proper written notice of special education rights pursuant to 20 U.S.C. section [1415(b)] **1415(d)**, including notice of the time limitations established in this section, such limitations shall run from the time notice of those rights is properly given. The department of education shall make available a model notice of rights which school districts may use as one means of complying with this paragraph.

IV. An appeal from a final administrative decision in a special education due process hearing to a court of competent jurisdiction pursuant to 20 U.S.C. section [1415(e)] **1415(i)(2)(A)** shall be commenced within 120 days from receipt of the final decision. All such decisions shall be sent certified mail, return receipt requested.

V. An action pursuant to 20 U.S.C. section [1415(e)] **1415(i)(3)** seeking reimbursement for attorney's fees *or seeking reimbursement for expert witness fees* shall be commenced within 120 days from receipt of the final decision in accordance with RSA 186-C:16-b.

(a) The court may award reimbursement to a parent of a child with a disability for expert witness fees incurred as part of a due process complaint at which the parent was the prevailing party and when the court determines that a school has not acted in good faith in developing or implementing a child's individualized education program, including appropriate placement.

(b) The court may deny or reduce reimbursement of expert witness fees if the hearing officer determines:

(1) The expert witness was not a necessary component to the parent's complaint.

(2) The expert witness fee exceeds an amount that is reasonable, given the type and location of the service provided and the skill, reputation, and experience of the expert witness.

(3) The parent, or the parent's attorney, did not provide notice to the school district of their intent to have the expert witness participate in the due process hearing.

20 New Subparagraph; Special Education; Alternative Dispute Resolution. Amend RSA 186-C:23, I by inserting after subparagraph (b) the following new subparagraph:

(c) Facilitated individualized education program meeting.

21 New Paragraph; Special Education; State Aid for Out-of-District Placements. Amend RSA 186-C:18 by inserting after paragraph X the following new paragraph:

XI.(a) The state board of education, through the commissioner of the department of education, shall distribute to school districts the lesser of 3.5 percent or \$1,000,000 in catastrophic aid funds appropriated in the fiscal year, to establish or support school district-based programs for children with disabilities who have been in out-of-district programs in the previous school year. Funds shall be distributed to school districts as reimbursement for the establishment or support of such programs and shall be applied to the greater of the following:

(1) Supplemental costs incurred by the school district for educating the child within a local school district program; or

(2) The amount the school district received to educate the child in an out-of-district program, with the school district receiving in year one, 70 percent of the catastrophic aid the school district received from the previous school year, which would constitute the base year; in year 2, 50 percent of the catastrophic aid the school district received during the base year, and in year 3, 30 percent of the catastrophic aid the school district received during the base year.

(b) The state board of education shall adopt rules, pursuant to RSA 541-A, establishing procedures pursuant to this paragraph for reimbursement to school districts.

22 Special Education; Children with Disabilities in State Institutions. Amend RSA 186-C:19 to read as follows:

186-C:19 ~~[Educationally Disabled]~~ Children **with Disabilities** in **Certain** State ~~[Institutions]~~ **Facilities**.

I. For ~~[an educationally disabled]~~ a child **with a disability** in a state ~~[institution]~~ **facility**, the school district responsible for selecting and funding the child's special education or special education and ~~[educationally]~~ related services shall be as follows:

(a) If such child is in the legal custody of the parent, the school district in which the child's parent resides shall be the liable school district.

(b) If such child is not in the legal custody of the parent, or if the parent resides outside the state, the school district in which the child most recently resided other than in a state ~~[institution]~~ **facility**, home for children or health care facility as defined in RSA 193:27 shall be the liable school district.

(c) ~~[For the purposes of this chapter, children 18 years of age or older but less than 21 years of age at Laconia developmental services or at the Philbrook center shall be deemed to be in the legal custody of their parents if they were in such legal custody upon reaching the age of 18.]~~

~~(d)~~ For the purposes of this section a parent shall not have legal custody if legal custody has been awarded to some other individual or agency, even if that parent retains residual parental rights. An award of legal custody by a court of competent jurisdiction, in this state or any other state, shall determine legal custody under this section.

II. For ~~[an educationally disabled]~~ a child **with a** disability in a state ~~[institution]~~ **facility**, the responsible school district shall be liable for all expenses incurred in administering the law in relation to ~~[educationally disabled]~~ children **with disabilities** ~~[except as follows: For the 1982 and 1983 fiscal years, the responsible school district's annual financial liability for a child who was enrolled at the Laconia state school and training center as of July 1, 1981, shall not exceed the applicable state average per pupil cost as determined by the state board of education, and the state shall be liable for the balance of such costs,~~

which shall in no case be taken from the \$ 10,000,000 appropriated for state aid under RSA 186-C:18. If more than one school district is liable for such a child during a single fiscal year, the total annual financial liability to the school districts shall not exceed the applicable state average per pupil cost, said liability to be prorated on a per diem basis. For such a child who is enrolled at Laconia developmental services for less than a full year, the liability for such costs shall be prorated on a per diem basis by Laconia developmental services].

III. Nothing in paragraphs I or II of this section shall diminish the responsibility of the financially liable school district as defined in paragraphs I and II to develop and implement an individualized education [plan] **program** or to fulfill its obligations under other sections of this chapter for an [educationally disabled] **a child with a disability** in a state [institution] **facility**, regardless of whether such child was initially placed by a school district, the parent or some other agent.

IV. "State [institution] **facility**" as used in this section means [the Philbrook center for children and youth and Laconia developmental services. If a special education program at a state institution is the least restrictive placement and offers appropriate services for an educationally disabled child, such institution shall be utilized by a local school district for such child, subject to the approval of said institution] **any state operated facility for children and youth with disabilities**.

23 Special Education; Liability for Children with Disabilities in Certain Court Ordered Placements. Amend RSA 186-C:19-b to read as follows:

186-C:19-b Liability for [Educationally Disabled] Children **with Disabilities** in Certain Court Ordered Placements.

I.(a) As used in this section "children in placement for which the department of health and human services has financial responsibility" means all children receiving special education or special education and [educationally] related services whose placements were made pursuant to RSA 169-B, 169-C, or 169-D, except children at the youth development center and children placed at the youth services center maintained by the department of health and human services while awaiting disposition of the court following arraignment pursuant to RSA 169-B:13.

(b) In the case of an out-of-district placement, the appropriate court shall notify the department of education on the date that the court order is signed, stating the initial length of time for which such placement is made. This subparagraph shall apply to the original order and all subsequent modifications of that order.

II. The school district liability for expenses for special education or for special education and [educationally] related services for [an educationally disabled] **a child with a disability** in placement for which the department of health and human services has financial responsibility shall be limited to 3 times the estimated state average expenditure per pupil, for the school year preceding the year of distribution. The liability of a school district under this section shall be prorated if the placement is for less than a full school year and the district shall be liable for only the prorated amount. This section shall not limit a school district's financial liability for children who receive special education or special education and [educationally] related services in a public school or program identified in RSA 186-C:10.

(a) Any costs of special education or special education and [educationally] related services in excess of 3 times the estimated state average expenditure per pupil for the school year preceding the year of distribution shall be the liability of the department of education. Costs for which the department of education is liable under this section shall be paid to education service providers by the department of education. The department of education shall develop a mechanism for allocating the funds appropriated for the purposes of this section.

(b) The department of health and human services shall be liable for all court-ordered costs pursuant to RSA 169-B:40, 169-C:27, and 169-D:29 other than for special education or special education and [educationally] related services.

(c) The department of education shall distribute special education payments under subparagraph II(a) within 60 days of receipt of invoice from the school district. School districts shall submit education service providers costs to the department within 30 days of receipt of such costs. The department shall then verify the cost and distribute the appropriate amounts to the education service provider.

III. The department of education shall by rules adopted under RSA 541-A establish the rates charged by education service providers to the department of education or to school districts for ~~[educationally disabled]~~ children **with disabilities** in placement for which the department of health and human services has financial responsibility.

IV. The department of education is authorized to receive and take appropriate action on complaints regarding the failure to provide necessary special education or special education and ~~[educationally]~~ related services to ~~[educationally disabled]~~ children **with disabilities** in placement for which the department of health and human services has financial responsibility.

V. All appropriations made for the purposes of funding court-ordered placements shall be nonlapsing.

24 Special Education; Special Education Program at the Youth Services Center. Amend RSA 186-C:20, I to read as follows:

I. Notwithstanding the provisions of any other law to the contrary, the expenses for ~~[an educationally disabled child assigned to]~~ **a child with a disability receiving services** at the special education program at the youth services center maintained by the department of health and human services shall be the responsibility of the **liable** school district so assigning the child. Such a school district shall pay the rate established for the special education program of the center.

25 Special Education; Subdivision Heading Amended. Amend the subdivision heading immediately preceding RSA 186-C:25 to read as follows:

Medicaid ~~[Reimbursement]~~ **to Schools** Program

26 Special Education; Medicaid to Schools Program. RSA 186-C:25 is repealed and reenacted to read as follows:

186-C:25 Medicaid to Schools Program Established.

I. There is established within the department of health and human services a Medicaid reimbursement program to be known as the "Medicaid to schools" program providing medical assistance for covered services furnished to children with disabilities. The purpose of the program is to seek Medicaid reimbursement for services provided by local school districts and school administrative units to children with disabilities which are reimbursable under federal law but which were previously fully funded by such districts or administrative units. The program shall be voluntary and is designed to assist children with disabilities by maintaining them in their own homes and communities. This subdivision is intended to provide Medicaid funding for services which, in the absence of such funding, nevertheless qualify as special education or related services under this chapter. It is not the intention of this subdivision to increase school district responsibility or liability beyond what is required by other sections of this chapter.

II. Eligible services may be provided to children with disabilities and may include, but shall not be limited to, the following:

(a) Screening, evaluation, and diagnostic services.

(b) Speech pathology and audiology.

(c) Occupational and physical therapy.

(d) Any other service which qualifies as a special education or related service under RSA 186-C or federal law and which also qualifies for reimbursement under Medicaid as a covered service.

III. Services provided under this subdivision shall:

(a) Offer the least restrictive setting for children receiving the services.

(b) Be provided to children in conformity with any medical criteria necessary for Medicaid reimbursement.

(c) Be in addition to any special education program as defined in the New Hampshire Rules for the Education of Children with Disabilities.

(d) Be provided only after obtaining parental consent each time the services are provided.

IV. The commissioner of the department of health and human services, after consultation with the commissioner of the department of education, shall adopt rules, pursuant to RSA 541-A, relative to:

(a) State plans and reimbursement procedures necessary for local school districts or school administrative units to receive appropriate Medicaid reimbursement for eligible services under paragraph II of this section that are provided or paid for by school districts or school administrative units. Such rules shall recognize the financial obligation of the department of health and human services, and that any disputes between the department of health and human services and a school district or school administrative unit regarding whether such reimbursement is required shall be resolved pursuant to RSA 186-C:7-a.

(b) Monitoring mechanisms to ensure that services provided under this subdivision meet the requirements of paragraph III of this section. Monitoring responsibilities shall be consistent with the jurisdiction of the different departments.

(c) A financial mechanism by which the federal mandatory matching requirement is met through collection, or other means, of 50 percent of the cost of allowable services from local school districts and/or school administrative units.

V. The commissioner of the department of health and human services, after consultation with the commissioner of the department of education, shall adopt rules, pursuant to RSA 541-A, relative to further defining services eligible for Medicaid reimbursement under this subdivision.

VI. New Hampshire local school districts or school administrative units shall be the enrolled Medicaid providers for the purpose of administration and billing.

27 Special Education; Neutral Conference. Amend RSA 186-C:23-b, III(a)(1) to read as follows:

(a)(1) The neutral who presides at a conference shall have experience with ~~[students]~~ **children** with ~~[educational]~~ disabilities and shall have knowledge of special education law, rules, and regulations.

28 Reference Change; Special Education; Alternative Dispute Resolution. Amend RSA 186-C:24, I(b) to read as follows:

(b) Either party may be accompanied and advised at mediation by individuals with special knowledge or training with respect to ~~[educationally disabled pupil]~~ **the needs of children with disabilities**. At least 5 days prior to the mediation conference, the mediator shall contact the parties to determine whether either party will be accompanied by an individual with special knowledge or training and shall notify the other party if such an individual will be in attendance.

29 Reference Changes. Amend the following RSA provisions by replacing the phrases “educationally disabled child” with “child with a disability”: RSA 186-C:2, I; and RSA 186-C:7, I.

30 Reference Changes. Amend the following RSA provisions by replacing the phrase “an educationally disabled child” with “a child with a disability”: RSA 186-C:2, I; RSA 186-C:2, III-V; RSA 186-C:7, II; RSA 186-C:13, I(a)-(b); RSA 186-C:14, III; RSA 186-C:15; RSA 186-C:19; RSA 186-C:19-a; RSA 186-C:19-b, II; RSA 186-C:20, I; and RSA 193:3, III(g).

31 Reference Changes. Amend the following RSA provisions by replacing the phrases “educationally disabled children,” “educationally disabled pupils,” “educationally disabled students,” and “educationally disabled individuals” with “children with disabilities”: RSA 21-N:9, II(i); RSA 35:1-b; RSA 169-B:7, III; RSA 169-C:8, III; RSA 169-D:6, III; RSA 186-C:1; RSA 186-C:2, II; RSA 186-C:5; RSA 186-C:7, III; RSA 186-C:7-a, I-II; RSA 186-C:8, I-II; RSA

186-C:10; RSA 186-C:11; RSA 186-C:12; RSA 186-C:13, I; RSA 186-C:14, I; RSA 186-C:16, III; RSA 186-C:18, III(a); the section heading RSA 186-C:19; RSA 186-C:19, II; the section headings of RSA 186-C:19-a and RSA 186-C:19-b; RSA 186-C:19-b, III-V; RSA 186-C:21, V; RSA 186-C:22, V; RSA 193:3, I; RSA 194-B:3, II(n); the introductory paragraph of RSA 198:40-b; RSA 198:40-b, I(b); the introductory paragraph of RSA 198:40-b, II; RSA 198:40-b, II(a) and RSA 198:42, I.

32 Reference Changes. Amend the following RSA provisions by replacing the phrase “individualized education plan” or “individual education plan” with “individualized education program”: RSA 186-C:7, I-II; RSA 186-C:16-b, VI; RSA 186-C:19, III; RSA 186-C:19-a, I; RSA 186-C:21, V; RSA 186-C:22, V; RSA 193:12, VI(a); and RSA 265:107-a, II.

33 Reference Changes. Amend the following RSA provisions by replacing the phrase “educationally related services” with “related services”: RSA 126-A:40, I(b); RSA 169-B:40, I(b); RSA 169-C:27, I(b); RSA 169-D:29, I(b); RSA 186-C:2, I, I-a, III, and V; RSA 186-C:19, I; RSA 186-C:19-b, I(a), II, II(a)-(b), and IV; and RSA 193:29, I(a).

34 Repeal. The following are repealed:

- I. RSA 186-C:9-a, relative to educationally related services.
- II. RSA 186-C:11 relative to transportation for children receiving special education services.
- III. RSA 186-C:26, relative to eligible services for disabled children.
- IV. RSA 186-C:27, relative to rulemaking for Medicaid reimbursement.
- V. RSA 186-C:28, relative to enrolled Medicaid providers for special education services.

35 Effective Date. This act shall take effect July 1, 2008.

AMENDED ANALYSIS

This bill makes changes to the laws governing special education.

2007-2659h

Amendment to HB 777-FN-A

Proposed by the Committee on Ways and Means - C

Amend RSA 485-A:17-b as inserted by section 2 of the bill by replacing it with the following:

485-A:17-b Site Development Penalty.

I. The landowner shall pay to the department a penalty as described in paragraph II if, within 6 years of filing the notification under RSA 485-A:17-a, II:

- (a) Land use changes from agriculture to any activity other than forestry; or
- (b) Changes described in RSA 485-A:17-a, IV occur.

II. The penalty shall be based on the amount of land on which changes described in paragraph I occur, and the following time periods in which the changes took place calculated from the filing date of the notification, and the associated per acre rates with such acre rates to be prorated:

- (a) Filing to 2 years - \$5,000 per acre;
- (b) 2 to 3 years - \$4,000 per acre;
- (c) 3 to 4 years - \$3,000 per acre;
- (d) 4 to 5 years - \$2,000 per acre; and
- (e) 5 to 6 years - \$1,000 per acre.

III. The proceeds of any civil penalty levied pursuant to this section shall be placed in a nonlapsing fund held by the treasurer under RSA 482-A:14, III.

IV. The penalties provided for in this section shall be in addition to any other penalties, fines, or enforcement provisions or other requirements of law.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect July 1, 2008.

2007-2551h

Amendment to HB 781-FN

Proposed by the Committee on Transportation - C

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

1 Issuance of Reports. Amend RSA 20:7 to read as follows:

20:7 Issuance of Reports. The following agency reports shall be issued annually: secretary of state, state treasurer, bank commissioner, insurance commissioner, division of personnel, commissioner of revenue administration, lottery commission, pari-mutuel commission, liquor commission, department of transportation, department of environmental services, **department of safety**, adult parole board, and the board of trustees of the state colleges and university. All other reports shall be issued biennially. All reports shall cover periods ending on June 30, and be submitted to the governor and council, **the speaker of the house of representatives, and the senate president** by October 1. Biennial reports shall cover periods ending in odd-numbered years.

2 New Subparagraphs; Functions of the Department of Safety. Amend RSA 21-P:2, II by inserting after subparagraph (e) the following new subparagraphs:

- (f) Administration and enforcement of the motor vehicle road toll laws.
- (g) Homeland security and emergency management.
- (h) Statewide enhanced 911 and emergency telecommunications services.
- (i) Operation of the fire academy and firefighter training programs.

3 Division of Safety Services Report and Budget. Amend RSA 21-P:10-b to read as follows:

21-P:10-b Division of Safety Services Report and Budget.

I. The department of safety shall submit ~~[an annual report, beginning on July 1, 2002, to the speaker of the house, president of the senate, and the governor and council which shall include, but not be limited to,]~~ **as part of the annual report required under RSA 20:7, a report on the** training and educational programs offered or contracted by the division of safety services, the revenue generated from safe boater education certificates, and the budget and revenue projections of the division.

II. In ~~[addition to or in]~~ conjunction with the operating budget of the department of safety, the department shall submit a budget for the biennium beginning July 1, 2003, and for each biennium thereafter, which shall include financial responsibility for and the costs of all training and educational programs offered or contracted by the division of safety services, the revenue generated from safe boater education certificates, and all revenues and expenditures of the navigation safety fund established in RSA 270-E:6-a.

4 Fire Standards and Training, Emergency Medical Services, and Fire Safety and Emergency Management Report and Budget. Amend RSA 21-P:12-e to read as follows:

21-P:12-e Fire Standards and Training, Emergency Medical Services, and Fire Safety ~~[and Emergency Management]~~ Report and Budget.

I. The department of safety shall submit ~~[an annual report, by October 1 of each year, to the speaker of the house of representatives, president of the senate, and the governor and council which shall include, but not be limited to,]~~ **as part of the annual report required under RSA 20:7, a report on the** training and educational programs offered or contracted by the division of fire standards and training and emergency medical services and **the activities of** the division of fire safety, the development of the technological advancements in division programs, the revenue generated from the sale of motor vehicle records, the budget and revenue projections of the 2 divisions, the degree of coordination with municipal fire and emergency medical services departments, and the extent of direct aid to municipalities and mutual aid associations.

II. In ~~[addition to or in]~~ conjunction with the operating budget of the department of safety, the department shall submit a budget for the biennium beginning July 1, 2003, and for each biennium thereafter, which shall include financial responsibility for and the costs of all programs offered or contracted by the division of fire standards and training and emergency medical services and the division of fire safety, the development of technological advancements in division programs, the revenue generated from the sale of motor vehicle records, the extent of direct

aid to municipalities and mutual aid associations, and all revenues and expenditures of the dedicated fund established in RSA 21-P:12-d.

5 New Section; Hazardous Materials Transportation Advisory Committee. Amend RSA 21-P by inserting after section 24 the following new section:

21-P:24-a Hazardous Materials Transportation Advisory Committee.

I. There is hereby established a hazardous material transportation advisory committee, that shall serve in an advisory capacity to the commissioner of safety. The committee shall consist of the following members, and shall be chaired by the director of the bureau of homeland security and emergency management or designee:

- (a) A designee of the state fire marshal.
- (b) A designee of the commissioner of transportation.
- (c) A designee of the department of environmental services.
- (d) A designee of the department of safety, appointed by the commissioner of safety.
- (e) A representative of the hazardous material carrier industries for highway, rail, air or water modes of transportation, appointed by the governor.
- (f) Two members of the senate, appointed by the president of the senate.
- (g) Two members of the house of representatives, appointed by the speaker of the house of representatives.
- (h) A local fire chief, nominated by the New Hampshire Association of Fire Chiefs and appointed by the commissioner of safety.
- (i) A local police chief nominated by the New Hampshire Association of Police Chiefs and appointed by the commissioner of safety.
- (j) One public member, nominated by the adjutant general and appointed by the commissioner of safety.

II. Members shall be appointed for renewable, 2-year terms or until their successors are duly appointed and qualified; except that the initial term for members appointed pursuant to subparagraphs I(a), (c), (e), (h), and (j) shall be for one year. The committee shall meet no less than once a year, at the call of the chair, and the chair may designate such subcommittees as he or she deems necessary to carry out the business of the committee.

III. The committee shall have the authority to:

- (a) Review state and federal legislative proposals and regulations, problems with hazardous material transportation, emergency response team action plans, and training and instructional materials on the transportation of hazardous materials.
- (b) Make recommendations regarding the efficacy of controls relative to the transportation of hazardous materials and the best means for applying such controls without duplication of responsibility or regulation.
- (c) Make available upon request, through the bureau of homeland security and emergency management, current regulations and reference materials relative to hazardous materials, promote cooperative efforts at the state, county, local and federal levels on safety regulations and compliance, and notify the advisory council on emergency preparedness and security of any regulations or ordinances that appear to be in conflict.

IV. The committee shall routinely report to the commissioner of safety any concerns regarding air, rail, water, and roadway transportation of hazardous materials, and any necessary legislative recommendations, which the commissioner shall forward to the governor, the speaker of the house of representatives, the senate president, and the minority leaders of each chamber.

6 Division of Emergency Services, Communications and Management; Report. Amend RSA 106-H:6, VI to read as follows:

VI. File ~~[a written report on June 1 of each year to the speaker of the house, president of the senate, and the governor and council which shall include, but not be limited to,]~~ **as part of the annual report of the department of safety required under RSA 20:7**, the status of development of operational standards and training programs, the

development of the data base, revenue generated from telephone subscribers, budget and revenue projections, the degree of coordination with municipalities, the extent of public use of the service and the quality of service rendered.

7 New Paragraph; Division of Emergency Services, Communications and Management; Reporting Requirement Relative to Enhanced 911 System Fund. Amend RSA 106-H:6 by inserting after paragraph VI the following new paragraph:

VII. In conjunction with the operating budget of the department of safety, the department shall submit a budget for each biennium, which shall include financial responsibility for and the costs of all programs offered or contracted by the division of emergency services, communications and management, and all revenues and expenditures of the dedicated fund established in RSA 106-H:9.

8 Commissioner of the Department of Administrative Services; Reference to 911 Services Deleted. Amend RSA 21-I:13, VIII to read as follows:

VIII. Have the authority to temporarily assign and reassign the personnel of the department among the organizational units of the department. ~~[Transfers involving enhanced 911 services shall require the concurrence of the bureau of emergency communications which administers enhanced 911 services.]~~

9 New Section; Enhanced 911 System; Late Fees on Surcharges. Amend RSA 106-H by inserting after section 9 the following new section:

106-H:9-a Late Fees on Surcharges. The commissioner, with concurrence of the commission and in accordance with RSA 541-A, is authorized to establish a late fee consisting of penalty and interest on surcharge receipts that are more than 90 days in arrears.

10 Notification of Exposure to Infectious Disease; Reference Change. Amend RSA 141-G:1, IV to read as follows:

IV. "Emergency response/public safety worker" means firefighters; police officers; employees of any prison, jail, corrections institution, or other detention facility where persons are held pending arraignment, adjudication, or disposition of a criminal charge or in protective custody, as defined in RSA 172-B:1, XIII; emergency care providers licensed under RSA ~~[151-B]~~ **153-A**; persons using wreckers as defined in RSA 259:126 for towing purposes; and other similar care providers, whether paid or volunteer.

11 New Hampshire Motor Vehicle Industry Board. Amend RSA 347-C:12, I(d)-(f) to read as follows:

(d) Appointments shall be for terms of 4 years~~[-and no person shall be eligible to serve more than 2 successive 4-year terms]~~. Vacancies shall be filled by appointment by the governor and council for the unexpired term. ~~[Any person appointed to fill a vacancy may serve 2 additional successive terms.]~~ The members shall be at-large members, and insofar as practical, should reflect fair and equitable statewide representation.

(e) ~~[Terms of the initial board members shall be staggered with 2 members serving a term of 2 years, 2 members serving a term of 3 years, and 2 members serving a term of 4 years.]~~

~~(f)~~ Appointed members of the board may be paid a \$50 per diem for each day actually engaged in the performance of their duties and may be reimbursed their actual and necessary expenses incurred in carrying out their duties as may be authorized by the governor and council.

12 Repeal. The following are repealed:

I. RSA 21-I:13, XII, relative to clerical support by the department of administrative services for the enhanced 911 commission.

II. RSA 21-P:7-a, relative to the deputy director of state police.

III. RSA 21-P:12-f, relative to the division of information technology.

IV. RSA 106-H:6, II, relative to inclusion of the budget for the enhanced 911 system with the department of administrative services budget.

V. RSA 149-H, relative to the hazardous materials transportation advisory board.

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

AMENDED ANALYSIS

This bill:

I. Requires certain agency reports to be filed with the legislature in addition to the governor and council, and requires the department of safety to file its report annually rather than biennially.

II. Clarifies that the department of safety's responsibilities include administration of motor vehicle road toll laws, homeland security and emergency management; enhanced 911 services, and firefighter training.

III. Repeals the hazardous materials transportation safety board and establishes the hazardous materials transportation advisory committee.

IV. Amends references to the department of administrative services in the statutes governing the enhanced 911 system, which is now within the department of safety.

V. Removes term limits for members of the motor vehicle industry board.

VI. Permits the department of safety to establish late fees for non payment of surcharges required for the 911 fund.

2007-2635h

Amendment to HB 794-FN

Proposed by the Committee on Election Law - R

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

AN ACT establishing a commission to study the feasibility of public funding of state election campaigns.

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

1 Commission Established. There is established a commission to study the feasibility of public funding of state election campaigns.

2 Membership.

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

(a) Two members appointed by the president of the senate, no more than one of whom shall be a member of the same political party.

(b) Two members appointed by the speaker of the house of representatives, no more than one of whom shall be a member of the same political party.

(c) Two members appointed by the governor, no more than one of whom shall be a member of the same political party.

(d) One member appointed by the secretary of state.

II.(a) The president of the senate, speaker of the house of representatives, governor, and secretary of state shall seek to appoint members to the commission who have demonstrated support for a system of public funding of election campaigns and have knowledge or expertise in campaign financing or state budget issues.

(b) No commission member may simultaneously serve in an elected state office.

(c) No commission member may be a candidate for state elected office.

(d) No more than 3 members of the commission shall be members of the same party.

III. All appointments to the commission shall be made within 30 days of the effective date of this section. The secretary of state shall defer appointing a member under subparagraph I(d) until after the other members of the commission have been appointed, and shall utilize such appointment to ensure compliance with subparagraph II(d).

3 Duties. The commission shall examine potential revenue sources for public funding of state election campaigns and develop a recommendation to the general court for a plan to fund state election campaigns in a sustainable manner. The commission may not consider revenue from the state general fund in developing its plan, but may consider voluntary contributions, in-kind donations of services, and other means to generate revenue from public and private sources. The commission may also consider the legislative framework for

a system of public funding of state election campaigns developed by the election law committee of the house of representatives, which the election law committee shall file with the secretary of state within 30 days of the effective date of this section.

4 Chairperson; Quorum. The commission shall elect a chairperson and other officers from among the members as necessary to fulfill its duties. The first meeting shall be called by the first-named member appointed by the speaker of the house of representatives. The first meeting of the commission shall be held within 45 days of the effective date of this section. Four members of the commission shall represent a quorum. The commission may seek assistance and staff support from any agency.

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

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

AMENDED ANALYSIS

This bill establishes a commission to study the feasibility of public funding of state election campaigns.

2007-2562h

Amendment to HB 799-FN

Proposed by the Committee on Commerce - R

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

AN ACT relative to title loans.

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

1 New Paragraphs; Provisions Applicable to Title Loan Lenders. Amend RSA 399-A:14 by inserting after paragraph IV the following new paragraphs:

V. A title loan lender shall not:

(a) Make a title loan without regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment; and

(b) Make a title loan without requiring the customer to sign an affidavit which states that:

(1) The customer has provided the licensee with true and correct information concerning the customer's income, obligations, employment and ownership of the vehicle; and

(2) The customer has the ability to repay the title loan.

VI. Charge any interest or fees other than a daily interest rate not to exceed the equivalent of \$22 per \$100 per 30-day period. A title loan lender may charge reimbursement of the fee paid by the lender to record its lien on the borrower's certificate of title.

2 New Sections; Disclosure; Consumer Credit Counseling Fund. Amend RSA 399-A by inserting after section 14 the following new sections:

399-A:14-a Disclosure.

I. A title loan lender shall provide the following notice in a contract, placed conspicuously above the borrower's signature and in at least 14-point type, as follows:

"(a) THIS LOAN IS NOT INTENDED TO MEET LONG TERM FINANCIAL NEEDS.

(b) YOU SHOULD USE THIS LOAN ONLY TO MEET SHORT TERM CASH NEEDS.

(c) THIS IS A HIGH INTEREST LOAN. YOU SHOULD GO TO ANOTHER SOURCE IF YOU HAVE THE ABILITY TO BORROW AT A LOWER RATE OF INTEREST.

(d) YOU ARE PLACING YOUR VEHICLE AT RISK IF YOU DEFAULT ON THIS LOAN.

(e) YOU WILL BE REQUIRED TO PAY ADDITIONAL INTEREST IF YOU RENEW THIS LOAN RATHER THAN PAY THE DEBT IN FULL WHEN DUE.

(f) IF YOU BELIEVE THAT THE TITLE LENDER HAS VIOLATED THE PROVISIONS OF RSA 399-A, YOU HAVE THE RIGHT TO FILE A WRITTEN COMPLAINT WITH THE NEW HAMPSHIRE BANKING DEPARTMENT.

(g) WRITTEN COMPLAINTS SHOULD BE SENT TO THE NEW HAMPSHIRE BANKING DEPARTMENT AT 64B OLD SUNCOOK ROAD, CONCORD, NH 03301. YOU MAY ALSO CALL THE NEW HAMPSHIRE BANKING DEPARTMENT AT 1-800-437-5991."

399-A:14-b Consumer Credit Counseling Education Fund Established. The department shall establish a consumer credit counseling education fund, to be funded through assessments on small loan lenders that provide title loans and payday loans, for the purposes of providing consumer finance education. Funding shall be used for educational purposes by the department and may be made available to New Hampshire based consumer credit counseling agencies in the form of grants. Small loan lenders that provide title loans and payday loans shall be prohibited from including such payment in the charges allowed under this chapter.

3 Title Loan Renewals. Amend RSA 399-A:15 to read as follows:

399-A:15 Title Loan Renewals.

I. A title loan shall be for an original term of no more than one month. A title loan lender may allow such loan to be renewed no more than [11] 10 additional periods each equal to the original term, provided however, that at each such renewal the borrower must pay at least [5] 10 percent of the loan's original principal balance, in addition to any finance charge owed, to reduce the principal balance outstanding. [If the borrower cannot pay this principal reduction at any renewal, the title loan lender may either: (i) declare the borrower in default, or (ii) allow the loan to be renewed, provided that the lender shall reduce the current principal amount of the loan by 5 percent of the original principal amount for the purposes of calculating interest thereafter. This reduction in principal shall continue to be owed by the borrower, but such amount shall not be entitled to accrue interest thereafter.] For the purpose of this section, a renewal is any extension of a title loan entered into within 14 days from the original contract due date or within 14 days from a subsequent contract renewal due date, for an additional period without any change in the terms of the title loan other than a reduction in principal. No accrued interest shall be capitalized or added to the principal of the loan at the time of an initial loan or any renewal. A lender shall not require a borrower to renew a loan, and renewals may not be written into the loan contract so that they occur automatically.

II. No renewal of a title loan shall be allowed if the borrower cannot pay the total interest owed at the end of the initial term of the loan and at the end of a subsequent renewal term of a loan, unless prior to a rollover becoming effective, the lender forgives all outstanding interest in writing.

III. If a borrower wants to renew a loan but cannot pay 10 percent of the principal balance, the lender shall:

- (a) Declare the loan in default; or***
- (b) Reduce the principal amount of the rolled over loan by 10 percent for the purposes of calculating interest; and***
- (c) If at the end of the first rollover period a subsequent rollover of the loan is made, reduce the principal amount of the rolled over loan by another 10 percent for purposes of calculating the interest, resulting in a total 10 percent reduction of the principal upon which interest shall be calculated; and***
- (d) For each subsequent rollover of a loan, reduce by an additional 10 percent the principal amount of the rolled over loan for purposes of calculating the interest; and***
- (e) Be entitled to collect from the borrower the total principal amount of the loan, regardless of the 10 percent principal reduction or reductions made for the purpose of calculating the amount of interest owed in each period; and***

(f) Evidence each renewal by a separate written loan renewal contract signed and dated by the borrower entered into within 14 days from the original contract due date or within 14 days from a subsequent renewal contract due date.

IV. No interest may be added to the principal of a title loan under any condition. A title loan may not be paid off with the proceeds of another title loan.

V. A lender and any affiliate of the lender shall not make a title loan to a person who has previously borrowed from the lender or affiliate until the next business day after the prior loan has been paid off and in no case less than 12 hours from the time of payoff. The lender is responsible to document both the payoff date and the new loan date, if any, in a manner that compliance with this section can be verified by the commissioner. If the time between the payoff and the new loan is less than one full business day, the lender shall record the date and hour of the payoff and the date and hour of the new loan in a manner that compliance with this section can be verified by the commissioner. This cooling-off period shall be calculated from the date and time of the payoff by the borrower of a title loan to the date and time that the borrower executes a new loan contract or is obligated under another title loan, whichever is earlier.

VI. Each new title loan shall have a new application form and require a new signature.

VII.(a) If a borrower and lender do not enter into a title loan renewal contract within 14 days from the original contract due date, and the principal and interest are not paid within 14 days from the original contract due date, the loan shall be immediately declared in default and so recorded on the books of the lender.

(b) If a lender renews a title loan and the borrower cannot pay the interest within 14 days from the renewal contract due date and the lender does not immediately forgive the interest in writing, the loan shall be immediately declared in default and so recorded on the books of the lender.

(c) When a title loan is declared in default, the lender shall reduce the interest to 6 percent.

(d) The licensee may proceed to take possession of the collateral pursuant to a judicial repossession or non-judicial process if the licensee proceeds without breach of the peace.

(e) The lender shall cease the accrual of interest on either the date the motor vehicle is repossessed by the lender, or 90 days from the due date of the final agreed upon loan or renewal period, whichever is sooner.

VIII. The licensee shall maintain an up-to-date record of repossessions, whether judicial, non-judicial, or voluntary release by the debtors and:

(a) A lender shall follow the New Hampshire department of safety rules for repossession, and repossessions of motor vehicles shall be conducted in compliance with RSA 382-A:9 and the following requirements which shall not be waived:

(1) The lender shall immediately notify an account debtor that he or she is in default and when repossession will occur if the default is not cured;

(2) If the motor vehicle is repossessed, the lender shall dispose of the motor vehicle by sale in an arm's-length transaction in a commercially reasonable manner including but not limited to the method, manner, time, and place;

(3) Notification before disposition of the motor vehicle is required; the licensee shall send reasonable authenticated notification of disposition of the motor vehicle to the debtor and any secondary obligors not later than 20 days before the disposition of the motor vehicle stating the time and place the motor vehicle will be sold;

(4) Upon the sale of the motor vehicle the debtor shall be notified by certified mail return receipt requested sent to the debtor's last address of record

that the debtor has 7 days, from receipt of the notice or refusal of the notice, within which to claim his or her personal effects from the licensee at an agreed upon time and location which is reasonably convenient to the parties and the lender shall retain the all of the debtor's personal effects for at least 7 days from the date recorded on the return receipt that indicates receipt, refusal or notice that the mail was undeliverable.

(5) The licensee shall apply the proceeds of an obligation as follows:

(A) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing of the motor vehicle; and then to

(B) The satisfaction of outstanding interest that was accrued on the loan; and then to

(C) The satisfaction of the outstanding principal that was secured by the motor vehicle.

(6) The licensee shall apply the surplus and deficiency of an obligation as follows:

(A) The licensee shall pay over any cash proceeds to the debtor or, if there is a deficiency the licensee shall write off said deficiency and may not attempt to collect the deficiency from the debtor;

(B) Calculation of surplus or deficiency shall be calculated based on the amount of proceeds that would have been realized in a disposition complying with this paragraph; and

(C) The licensee shall provide a written explanation of the calculation of the surplus or deficiency to the debtor within 14 days of receipt of a written request.

(b) A record of all loans in repossession shall be maintained in a repossession record. The repossession record shall be maintained for at least 5 years after the final entry has been made on the loan, be kept current, and include the following information:

(1) Loan number and name and address of the principal borrower;

(2) Description of the motor vehicle attached, repossessed, or surrendered;

(3) A copy of the title, if obtained during the course of the loan;

(4) Date of default, date of repossession, a condition report, book value, a deficiency itemization in connection with repossessions including but not limited to add-ons prior to sale (i.e., re-conditioning, battery, etc.), date of sale of the motor vehicle, the gross cash amount received from the sale of the motor vehicle, the name and address of the purchaser, or auction company, expenses deducted from the sale of the motor vehicle, the amount of money applied to interest, the amount of money applied to the outstanding loan balance, and the amount of and the date cash proceeds were paid to the borrower or the amount of deficiency and date it was written off the lender's books;

(5) All original repossession legal documents and other records including bills for all expenses or copies thereof and copies of all forms required by the department of safety, division of motor vehicles, including but not limited to affidavits of repossession and notices of authorization to repossess collateral;

(6) A purchase receipt from the motor vehicle auction or point of purchase showing the price paid by the motor vehicle purchaser or at point of purchase price of the motor vehicle and its mileage;

(7) Copies of the disbursement checks showing disposition of the sale proceeds; and

(8) In instances where the motor vehicle is offered for private sale, there shall be in the borrower's file not less than 3 bona fide written bids or appraisals in order to establish that the terms of sale were conducted at arm's

length and were fair to the borrower. Where the security is offered for private or public sale, the sale shall be consummated in compliance with the provisions of RSA 382-A:9.

4 New Section; Rulemaking. Amend RSA 399-A by inserting after section 15 the following new section:

399-A:15 Rulemaking. The department shall adopt rules, in accordance with RSA 399-A:16, relative to title loans with regard to:

- I. The rights of the borrower in default;
- II. The rights of the borrower in repossession; and
- III. The establishment, funding, and administration of a credit counseling education fund to be used for consumer finance education.

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

AMENDED ANALYSIS

This bill makes changes to the law regarding title loans.

2007-2582h

Amendment to HB 837

Proposed by the Committee on Environment and Agriculture - C

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

AN ACT relative to easement interests under the land and community heritage investment program.

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

1 Easement Interest; Farm Viability Programs. Amend RSA 227-M:2, IV to read as follows:

IV. "Easement interests" means conservation, historic preservation, or scenic easements, development rights, or any other similar protective interest in real property held in perpetuity, or a term easement ***that is*** held for a specific period of time and not in perpetuity ***as part of a farm viability program.***

2 New Definition; Farm Viability Program. Amend RSA 227-M:2 by inserting after paragraph V the following new paragraph:

V-a. "Farm viability program" means a program overseen by an eligible applicant under RSA 227-M:8, I that preserves farmland:

- (a) By enhancing the long-term viability of farms, principally through assistance in business plan development and implementation; and
- (b) By requiring term easements on farms participating in such a program and receiving assistance funded through this chapter.

3 Public Access; Agricultural Term Easements. Amend the introductory paragraph of RSA 227-M:15 and RSA 227-M:15, I to read as follows:

227-M:15 Public Access; Liability. Lands and interests in lands purchased with funds from this program by any eligible applicant shall be open in perpetuity for passive recreational purposes ~~[except as provided in paragraph I]~~ ***or shall be for the term of any farm viability term easement.*** Language to be used in easement interests secured through the program shall approximate the intent of the following:

I. There is hereby conveyed pedestrian access to, on, and across the property for hunting, fishing, and transitory passive recreational purposes, but not camping, by members of the public. A grantor may reserve the right to post against vehicles, motorized or otherwise and against access to active livestock fields, against access to agricultural cropland during planting and growing season, and against access to forest land during harvesting or establishment of plantations. ~~[Such term easements as described in RSA 227-M:2, IV will be granted where participation in such program fosters farm viability entered into by the authority or the department of agriculture, markets, and food.]~~

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

AMENDED ANALYSIS

This bill restricts term easements used in the land and community heritage investment program to those that are a part of a farm viability program.

2007-2610h

Amendment to HB 841

Proposed by the Committee on Children and Family Law – C

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

AN ACT relative to the appointment of parenting coordinators and establishing the family mediator and parenting coordinator certification board.

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

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

461-A:11-a Appointment of Parenting Coordinator.

I. In this section, “parenting coordinator” means a certified parenting coordinator under RSA 328-C.

II. If both parents agree to the appointment of a parenting coordinator, reasons the court may order that a parenting coordinator be appointed include, but are not limited to:

- (a) Demonstrated pattern of high conflict.
- (b) Re-occurring litigation of certain issues.
- (c) The well-being of a minor child is placed at risk by the parents’ inability to co-parent civilly.
- (d) One or both parents are chemically dependent or mentally ill.

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

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

IV. The court shall specify the authority of the parenting coordinator, including which issues may be arbitrated in a particular case, in the appointment order. The role of the parenting coordinator is to promote the best interests of the child or children by assisting the parents to implement any part of the parenting plan or other duties as designated by the court including:

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

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

VI. The appointment order shall specify the duration of appointment, which shall be for a specified number of hours or a period of time that is one year or less.

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

(a) Termination of parenting plans or court orders.

(b) Changes in the parenting schedule other than minor alterations, as specified in subparagraph IV(b)(1).

(c) Modification of parenting plans other than the issues listed in paragraph IV.

(d) The need for supervised visitation by either parent.

(e) Relocation of the residence of children.

(f) Formal or informal religious training.

(g) Legal residence of a child for school attendance.

(h) The need for psychological or psychiatric treatment for either parent.

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

IX. The parenting coordinator shall have access to nonparties and, if the parties agree to a release, to privileged information, including school officials, physicians, mental health providers, guardians ad litem, other professionals involved with the family, and related court records.

X. The parents shall be responsible for the parenting coordinator's fee in the proportion ordered by the court. The court shall determine the parents' ability to pay as evidenced by financial affidavits as filed with the court. The parties shall sign an agreement with the parenting coordinator as to the fee, hourly rate, and deposit, if any.

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

XII. The court shall remove the parenting coordinator:

(a) On the request and agreement of both parties;

(b) On the motion of a party or by sua sponte, if good cause is shown; or

(c) By request of the parenting coordinator.

2 Family Mediators and Parenting Coordinators. The title of chapter 328-C is repealed and reenacted to read as follows:

CHAPTER 328-C

FAMILY MEDIATORS AND PARENTING COORDINATORS

3 Family Mediators and Parenting Coordinators. RSA 328-C:1 through 328-C:3 are repealed and reenacted to read as follows:

328-C:1 Purpose. The purpose of this chapter is to protect and assist the public by providing standards for the practice of family mediation and parenting coordination, training and continuing education for certified family mediators, certified parenting coordinators, certified family mediator training programs, and parenting coordinator training, and disciplinary procedures for violating ethical rules and requirements.

328-C:2 Definitions. In this chapter:

I. "Board" means the board of family mediator and parenting coordinator certification established by RSA 328-C:4.

II. "Certified family mediator" means a person certified under the provisions of this chapter to act as a family mediator.

III. "Certified family mediator training program" means a program that has been certified under this chapter to provide the instructional training required for certified family mediators.

IV. “Certified parenting coordinator” means a person certified under the provisions of this chapter to act as a parenting coordinator.

V. “Family mediation” means a process by which an impartial third person or persons, with the consent of the parties, assists and enables the parties to a divorce or parenting case to work together to reach a mutually satisfactory settlement of the issues involved.

VI. “Family mediator” means an impartial third person who, with the consent of the parties to a divorce or parenting case, assists and enables the parties to work together to reach a mutually satisfactory settlement of the issues in a dispute.

VII. “Parenting coordination” means a child-focused dispute resolution process in which an impartial parenting coordinator assists high conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, educating parents about children’s needs and how to communicate effectively, and with the prior approval of the parties or of the court, making arbitration decisions within the scope of the court order or appointment contract.

VIII. “Parenting coordinator” means a person who assists the parties in resolving issues related to parenting by educating them about communication skills and children’s needs, by mediating disputes, and, if necessary, by arbitrating disputes.

328-C:3 Misrepresentation. No person or entity shall use the title of certified parenting coordinator, certified family mediator, certified family mediator training program, certified marital mediator, or certified marital mediator training program, or use or advertise any title or description which conveys the impression that the person or entity is so certified, unless the person or program has been certified under this chapter.

4 Board of Family Mediator and Parenting Coordinator Certification. Amend the introductory paragraph of RSA 328-C:4, I to read as follows:

I. There shall be a board of ~~[marital]~~ **family mediator and parenting coordinator** certification consisting of the following 9 members:

5 Duties of the Board of Family Mediator and Parenting Coordinator Certification. Amend RSA 328-C:4-a to read as follows:

328-C:4-a Duties of the Board. The board shall:

I. Compile and maintain a list of certified ~~[marital]~~ **family** mediators, ~~[and]~~ certified ~~[marital]~~ **family** mediator training programs, **and certified parenting coordinators** and make such list available to the general public online through the official Internet site for the state of New Hampshire.

II. Establish procedures and fees for the applications for certification, reinstatement of certification, and renewal of certification of ~~[marital]~~ **family** mediators, ~~[and of marital]~~ **family** mediator training programs, **and parenting coordinators**.

III. Establish eligibility requirements for the certification, renewal certification, and reinstatement certification of ~~[marital]~~ **family** mediators, ~~[and marital]~~ **family** mediator training programs, **and parenting coordinators**.

IV. Establish ~~[marital mediator]~~ training and continuing education requirements **for family mediators and parenting coordinators**.

V. Adopt ethical standards and standards of practice for ~~[marital]~~ **family** mediators **and parenting coordinators**.

VI. Investigate complaints and take necessary disciplinary action as authorized by this chapter.

VII. Establish reporting requirements for certified training programs.

6 Qualifications of Family Mediators. Amend the section heading of RSA 328-C:5 to read as follows:

328-C:5 **Family Mediator** Qualifications.

7 Confidentiality of Information; Reference Added. Amend the introductory paragraph of RSA 328-C:5-a, I to read as follows:

I. Unless waived by the person to whom the information pertains, the following information relative to certified ~~marital~~ **family** mediators **and parenting coordinators**, applicants for certification, and formerly certified **family or marital mediators and parenting coordinators**, which may be in the possession of the board shall be confidential and shall not be subject to disclosure, except as provided in paragraph II, absent an order of the court:

8 Confidentiality of Information; Reference Added. Amend RSA 328-C:5-a, II to read as follows:

II. Notwithstanding paragraph I and RSA 91-A, the board may disclose to any New Hampshire court with the authority to appoint a ~~marital~~ **family** mediator **or parenting coordinator**, or which possesses oversight authority over the professional activities of individuals who may serve as ~~marital~~ **family** mediators **or parenting coordinators**, any records, documents, or information in the possession of the board relating to a certified ~~marital~~ **family** mediator **or parenting coordinator**, an applicant for certification, or a formerly certified **family or marital mediator or parenting coordinator**, except for his or her social security number.

9 Continuing Education for Family Mediators. Amend the section heading of RSA 328-C:6 to read as follows:

328-C:6 **Family Mediator** Continuing Education.

10 New Section; Parenting Coordinator Qualifications, Certification, and Continuing Education. Amend RSA 328-C by inserting after section 6 the following new section:

328-C:6-a Parenting Coordinator Qualifications, Certification, and Continuing Education.

I. To be certified as a parenting coordinator, a person shall:

- (a) Have completed at least 8 hours of training in mediation, and
- (b) Have completed a 3-hour training program in domestic violence, in accordance with board requirements, within the last 3 years; and
- (c) Have completed at least 14 hours of training in parenting coordination. This training shall be approved by the board and shall include topics in child development, family dynamics, parenting coordination skills, and decision-writing; and
- (d)(1) Hold a master of science degree in family studies for at least 3 years with 6 hours of additional training in RSA 458, relative to divorce, and RSA 461-A, relative to parenting law; or

(2) Be a family law attorney for at least 3 years, with 6 hours of additional training in child development and parenting plans; or

(3) Be a mental health practitioner for at least 3 years with 6 hours of additional training in RSA 458, relative to divorce, and RSA 461-A, relative to parenting law.

II. Certification as a parenting coordinator shall be valid for 3 years.

III.(a) To be recertified, an applicant shall complete 12 hours of relevant continuing education, which shall include 3 hours of education in parenting coordination skills and 3 hours of education in domestic violence, in accordance with board requirements.

(b) The continuing education requirements for recertification as a parenting coordinator may include hours also used to meet certified family mediator recertification requirements or other relevant certification or licensing requirements, as permitted by the board.

11 Disciplinary Action; Reference to Parenting Coordinator Added. Amend RSA 328-C:7, II to read as follows:

II. The board shall investigate and resolve complaints against certified ~~marital~~ **family** mediators, ~~and~~ certified ~~marital~~ **family** mediator training programs, **and certified parenting coordinators**. The board shall hold a hearing in compliance with rules adopted under RSA 541-A prior to taking any disciplinary action specified under this section. In the alternative, the board may informally resolve complaints by agreement of the parties.

12 Disciplinary Action; Reference to Parenting Coordinator Added. Amend RSA 328-C:7, IV to read as follows:

IV. The board shall establish disciplinary procedures, penalties, and sanctions for certified ~~marital~~ **family** mediators **and parenting coordinators**, which may include revocation of certification, suspension of certification, written warning, fine, written reprimand, imposition of supplemental training requirements or supervised training requirements, supplemental education, treatment and counseling, including treatment, and counseling for alcohol and substance abuse.

13 New Paragraphs; Rulemaking Relative to Parenting Coordinators. Amend RSA 328-C:8 by inserting after paragraph II the following new paragraph:

III. The board shall adopt rules for parenting coordinators pursuant to RSA 541-A relative to:

- (a) The definitions of “family law practitioner” and “mental health practitioner.”
- (b) The eligibility requirements and application procedures for certification and renewal of certification.
- (c) The content of the training programs in mediation, divorce and parenting law, child development, parenting plans, domestic violence, and parenting coordination required for the eligibility of some applicants to obtain certification or re-certification.
- (d) Continuing education required for eligibility for renewal of certification.
- (e) Disciplinary procedures and sanctions consistent with RSA 328-C:7.
- (f) Fees authorized by this chapter.

IV. The board may adopt rules for parenting coordinators pursuant to RSA 541-A relative to:

- (a) The content of all application forms, which forms may require a notarized affidavit stating that the information provided in the application is complete and accurate.
- (b) The application process, requirements and criteria for temporary renewal of certification, conditional certification and reinstatement of certification.
- (c) Arbitration engaged in by parenting coordinators.
- (d) Ethical standards.
- (e) Procedures for processing complaints against parenting coordinators and for the informal resolution and referral of complaints.

14 Privileged Communications. Amend RSA 328-C:9, II to read as follows:

II. Nothing said by the parties during ~~marital~~ **family** mediation sessions shall be admissible in further divorce **or parenting** proceedings.

15 Administratively Attached to Judicial Council. Amend RSA 328-C:13 to read as follows:

328-C:13 Board of ~~Marital~~ **Family Mediator and Parenting Coordinator** Certification Administratively Attached. The board of ~~marital~~ **family** mediator **and parenting coordinator** certification established under RSA 328-C:4 shall be administratively attached, under RSA 21-G:10, to the judicial council established in RSA 494.

16 Initial Appointment of Parenting Coordinators. Prior to the effective date of rules adopted pursuant to RSA 328-C:8, III, the court may appoint as a parenting coordinator any person who, for at least 3 years, has held a masters of science degree in family studies or who has practiced either family law or family therapy, and has completed 8 hours of mediation training and 14 hours of parenting coordination training.

17 Effect of Name Change from Marital Mediator to Family Mediator. Nothing in this act shall affect a marital mediator or marital mediator training program validly certified as such on the effective date of this act, except that such person or program shall be known as a certified family mediator or certified family mediator training program on or after the effective date of this act.

18 Marital Mediator and Mediation Changed to Family Mediator or Mediation. Amend the following RSA provisions by replacing “marital” with “family”: RSA 328-C:4, I(f); 328-C:5; 328-C:6; 328-C:7; 328-C:8; 328-C:9; 328-C:10; 458:15-c, I; and 461-A:1, III.

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

AMENDED ANALYSIS

This bill:

I. Establishes a procedure for the certification of parenting coordinators and appointment of parenting coordinators in divorce and parenting cases.

II. Changes the name of marital mediators to family mediators.

III. Renames the board of marital mediator certification the board of family mediator and parenting coordinator certification and establishes the board’s authority and duties relative to parenting coordinators.

2007-2538h

Amendment to HB 847

Proposed by the Majority of the Committee on Transportation - R

Amend RSA 270-D:2, X(a) as inserted by section 1 of the bill by replacing it with the following:

X.(a) No person shall operate a vessel on Lake Winnepesaukee at a speed greater than is reasonable and prudent under the existing conditions and without regard for the actual and potential hazards then existing. In all cases, speed shall be controlled so that the operator will be able to avoid endangering or colliding with any person, vessel, object, or shore.

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

2 Repeal. RSA 270-D:2, X-XI, relative to speed limits on Lake Winnepesaukee, is repealed.

3 Effective Date.

I. Section 1 of this act shall take effect January 1, 2009.

II. The remainder of this act shall take effect January 1, 2011.

AMENDED ANALYSIS

This bill establishes speed limitations for vessels traveling on Lake Winnepesaukee. This bill also requires that violations of the general rules for vessels operating on water become a part of the motor vehicle driving record of the person convicted. These provisions are repealed on January 1, 2011.

2007-2469h

Amendment to HB 858-FN

Proposed by the Committee on Commerce - C

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

1 New Chapter; Discount Medical Plan Organization. Amend RSA by inserting after chapter 415-H the following new chapter:

CHAPTER 415-I

DISCOUNT MEDICAL PLAN ORGANIZATION

415-I:1 Title. This chapter shall be known as the Discount Medical Plan Act.

415-I:2 Purpose. The purpose of this chapter is to promote the public interest by establishing standards for discount medical plans to protect consumers from unfair or deceptive marketing, sales, or enrollment practices and to facilitate consumer understanding of the role and function of discount medical plan organizations in providing access to medical or ancillary services.

415-I:3 Definitions. In this chapter:

I. “Ancillary services” includes, but is not limited to, audiology, dental, vision, mental health, substance abuse, chiropractic and podiatry services.

II. “Commissioner” means the insurance commissioner.

III. “Discount medical plan” means a business arrangement or contract in which a person, in exchange for fees, dues, charges, or other consideration, offers access for its members to providers of medical or ancillary services and the right to receive discounts on medical or ancillary services provided under the discount medical plan from those providers. “Discount medical plan” does not include:

(a) Any discount arrangement that involves the transfer of insurance risk from a subscriber to another entity, or arrangement or contract for claim processing functions.

(b) A plan that does not charge a membership or other fee to the member to use the plan’s discount medical card.

(c) A plan that provides a Medicare Part D prescription drug benefit in accordance with the requirements of the federal Medicare Prescription Drug Improvement and Modernization Act of 2003.

IV. “Discount medical plan organization” means an entity that, in exchange for fees, dues, charges, or other consideration, provides access for discount medical plan members to providers of medical or ancillary services and the right to receive medical or ancillary services from those providers at a discount. “Discount medical plan organization” does not include a provider that offers discounts to its own patients without any cost or fee of any kind to the patient.

V. “Health care professional” means a physician, pharmacist, or other health care practitioner who is licensed, accredited, or certified to perform specified medical or ancillary services within the scope of his or her license, accreditation, certification, or other appropriate authority and consistent with state law.

VI. “Health carrier” means an entity subject to the insurance laws and rules of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits, or medical or ancillary services.

VII. “Marketer” means a person or entity that markets, promotes, sells, or distributes a discount medical plan, including a private label entity that places its name on and markets or distributes a discount medical plan pursuant to a marketing agreement with a discount medical plan organization.

VIII. “Medical services” means any service, supply or drug intended for the maintenance care of, or preventive care for, the human body or the care, or treatment of an illness or dysfunction of, or injury to, the human body. “Medical services” includes, but is not limited to, physician care, inpatient care, hospital surgical services, emergency services, ambulance services, laboratory services, pharmaceutical supplies, prescription drugs, and medical equipment and supplies. “Medical services” does not include ancillary services.

IX. “Member” means any individual who pays fees, dues, charges, or other consideration for the right to receive the benefits of a discount medical plan.

X. “Participating provider” means any health care professional or facility that has contracted, directly or indirectly, with a discount medical plan organization to provide medical or ancillary services to members.

XI. “Person” means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

XII. “Provider” means an institution or individual that offers medical or medically-related services in a health care setting.

XIII. “Third party administrator” means a third party administrator as defined by RSA 402-H.

415-I:4 Applicability and Scope.

I. This chapter applies to all discount medical plan organizations doing business in or from this state.

II. This chapter shall not apply to any discount medical plan offered by, or in cooperation with, or pursuant to an agreement with the state of New Hampshire or any political subdivision of the state.

415-I:5 Registration Requirement.

I. Before doing business in or from this state as a medical discount plan organization, a person or entity:

(a) Shall be authorized to transact business in this state under RSA 293-A or RSA 294-A; and

(b) Shall register with the commissioner to operate as a discount medical plan organization on a form prescribed by the commissioner. The registration form shall be filed annually by June 1 of each year.

II. The provisions of subparagraph I(b) shall not apply to any person licensed in this state as a health insurer, hospital service corporation, medical service corporation or fraternal benefit society, or any affiliate owned or controlled by such health insurer, hospital service corporation, medical service corporation or fraternal benefit society, which may offer medical discount plans in this state pursuant to such licensure and in accordance with the provisions of this chapter.

415-I:6 Suspension and Revocation of Registration.

I. The commissioner may suspend or revoke the registration of a discount medical plan organization to operate in the state if the commissioner finds that any of the following conditions exist:

(a) The discount medical plan organization is not operating in compliance with this chapter.

(b) The discount medical plan organization has advertised, merchandised, or attempted to merchandise its services in such a manner as to misrepresent its services or capacity for service or has engaged in a deceptive, misleading, or unfair practice.

(c) The discount medical plan organization is not fulfilling its obligations as a discount medical plan organization.

II. If the commissioner has cause to believe that grounds for the non-renewal, suspension, or revocation of the registration exists, the commissioner shall notify the discount medical plan organization in writing stating the grounds for the action and may pursue a hearing on the matter.

III. When the registration of a discount medical plan organization is suspended or revoked, the discount medical plan organization shall proceed, immediately following the effective date of the order of revocation or, in the case of a non-renewal, the date of expiration of the license, to wind up its affairs transacted. The discount medical plan organization shall not engage in any further advertising, solicitation, collecting of fees, or renewal of contracts.

IV. In lieu of or in addition to revoking a discount medical plan organization's registration under paragraph II, whenever the discount medical plan organization has been found to have violated any provision of this chapter, the commissioner may:

(a) Issue and cause to be served upon the organization charged with the violation a copy of the findings and an order requiring the organization to cease and desist from engaging in the act or practice that constitutes the violation; and

(b) Impose a civil penalty of not more than \$2,500 for each violation.

V. Each registered discount medical plan organization shall notify the commissioner immediately whenever the discount medical plan organization's certificate of registration or other form of authority, to operate as a discount medical plan organization in another state is suspended, revoked, or non-renewed in that state.

415-I:7 Examinations and Investigations.

I. The commissioner may examine or investigate the business and affairs of any discount medical plan organization as necessary to protect the interests of the residents of this state.

II. An examination or investigation conducted as provided in paragraph I shall be performed in accordance with RSA 400-A:37.

III. The commissioner may:

(a) Order any discount medical plan organization or applicant that operates a discount medical plan organization to produce any records, books, files, advertising and solicitation materials or other information; and

(b) Take statements under oath to determine whether the discount medical plan organization or applicant is in violation of the law or is acting contrary to the public interest.

IV. The discount medical plan organization or applicant that is the subject of the examination or investigation shall pay the expenses reasonably incurred in conducting the examination or investigation. Failure by the discount medical plan organization or applicant to pay the expenses is grounds for denial of authority to operate as a discount medical plan organization or revocation of a registration as a discount medical plan organization.

415-I:8 Fees; Refund Requirements; Bundling of Services.

I. A discount medical plan organization may charge a periodic charge as well as a reasonable one-time processing fee for a discount medical plan.

II. If a member cancels his or her membership in the discount medical plan within the first 30 days after the date of receipt of the written document for the discount medical plan described in RSA 415-I:11, IV, the member shall receive a reimbursement of all periodic charges.

(a) Cancellation occurs when notice of cancellation is given to the discount medical plan organization.

(b) Notice of cancellation is deemed given when delivered by hand or deposited in a mailbox, properly addressed and postage prepaid to the mailing address of the discount medical plan organization or e-mailed to the e-mail address of the discount medical plan organization.

III. A discount medical plan organization shall return within 30 days any periodic charge charged or collected after the member has given the discount medical plan organization notice of cancellation.

IV. If the discount medical plan organization cancels a membership for any reason other than nonpayment of fees by the member, the discount medical plan organization shall reimburse within 30 days all periodic charges collected for membership from the date of cancellation to the member.

415-I:9 Provider Agreements; Participating Provider Listing Requirements.

I.(a) A discount medical plan organization shall have a written provider agreement with all participating providers. The written provider agreement shall be entered into directly with the provider or indirectly with a provider network to which the provider belongs.

(b) An agreement between a discount medical plan organization and a participating provider shall include the following:

(1) A list of the medical or ancillary services and products to be provided at a discount;

(2) The amount or amounts of the discounts or, alternatively, a fee schedule that reflects the provider's discounted rates; and

(3) A statement that the provider will not charge members more than the discounted rates.

(c) An agreement between a discount medical plan organization and a provider network shall require that the provider network have written agreements with its providers that:

(1) Contain the provisions described in subparagraph (b);

(2) Authorize the provider network to contract with the discount medical plan organization on behalf of the provider; and

(3) Require the provider network to maintain an up-to-date list of its contracted providers and to provide the list on a monthly basis to the discount medical plan organization.

(d) An agreement between a discount medical plan organization and an entity that contracts with a provider network shall require that the entity, in its contract with the provider network, require the provider network to have written agreements with its providers that comply with subparagraph (c).

(e) The discount medical plan organization shall maintain a copy of each active provider agreement into which it has entered.

II. Each discount medical plan organization shall maintain on an Internet website page an up-to-date list of the names and addresses of the providers with which it has contracted directly or through a provider network. The Internet website address shall be prominently displayed on all of its advertisements, marketing materials, brochures, and discount medical plan cards.

415-I:10 Marketing Requirements.

I. A discount medical plan organization may market directly or contract with other marketers for the distribution of its product.

II. The discount medical plan organization shall have an executed written agreement with a marketer prior to the marketer's marketing, promoting, selling, or distributing the discount medical plan.

III. The agreement between the discount medical plan organization and the marketer shall prohibit the marketer from using advertising, marketing materials, brochures, and discount medical plan cards without the discount medical plan organization's approval in writing.

IV. The discount medical plan organization shall be bound by and responsible for the activities of the marketer that are within the scope of the marketer's agency relationship with the organization.

V. A discount medical plan organization shall approve in writing all advertisements, marketing materials, brochures, and discount cards used by marketers to market, promote, sell, or distribute the discount medical plan prior to their use.

VI. Upon request, a discount medical plan organization shall provide to the commissioner any advertising, marketing materials, and brochures regarding a discount medical plan requested by the commissioner.

415-I:11 Marketing Restrictions and Disclosure Requirement.

I. All advertisements, marketing materials, brochures, discount medical plan cards, and any other communications of a discount medical plan organization provided to prospective members and members shall be truthful and not misleading in fact or in implication.

II. An advertisement, any marketing material, brochure, discount medical plan card, or other communication is misleading in fact or in implication if it has a capacity or tendency to mislead or deceive based on the overall impression that it is reasonably expected to create within the segment of the public to which it is directed.

III. A discount medical plan organization shall not:

(a) Except as a disclaimer of any relationship between discount medical plan benefits and insurance or as a description of an insurance product connected with a discount medical plan, use in its advertisements, marketing material, brochures, and discount medical plan cards the term insurance.

(b) Use in its advertisements, marketing material, brochures, and discount medical plan cards the terms "health plan," "coverage," "copay," "copayments," "deductible," "preexisting conditions," "guaranteed issue," "premium," "PPO," "preferred provider organization," or other terms in a manner that could mislead an individual into believing that the discount medical plan is health insurance.

(c) Use language in its advertisements, marketing material, brochures, and discount medical plan cards with respect to being registered by the state insurance department in a manner that could mislead an individual into believing that the discount medical plan is insurance or has been endorsed by the state.

(d) Make misleading, deceptive, or fraudulent representations regarding the discount or range of discounts offered by the discount medical plan or the access to any range of discounts offered by the discount medical plan.

(e) Have restrictions on access to discount medical plan providers, including, except for hospital services, waiting periods and notification periods.

(f) Pay providers any fees for medical or ancillary services or collect or accept money from a member to pay a provider for medical or ancillary services provided under the discount medical plan unless the discount medical plan organization has an active certificate of authority to act as a health carrier or as a third party administrator in accordance with RSA 402-H:11.

IV.(a) Each discount medical plan organization shall make the following disclosures to prospective members.

(1) That the plan is not insurance.

(2) That the discounts for medical or ancillary services provided under the plan are available only from participating providers and will vary depending on the provider and medical or ancillary service received.

(3) That the discount medical plan organization does not make payments to providers for the medical or ancillary services received under the discount medical plan.

(4) That the plan member is obligated to pay for all medical or ancillary services, but will receive a discount from those providers that have contracted with the discount medical plan organization.

(5) The toll-free telephone number and Internet website address for the licensed discount medical plan organization for prospective members and members to obtain additional information about and assistance on the discount medical plan and up-to-date list of providers participating in the discount medical plan.

(6) Information that generally describes or summarizes the terms and conditions of the discount medical plan, including any limitations or restrictions on the refund of any processing fees or periodic charges associated with the discount medical plan.

(b) The disclosures required under subparagraph IV(a) shall be in writing in at least 12-point font and shall be provided along with any enrollment forms given to a prospective member and on the first content page of any advertisements, marketing materials, or brochures made available to the public relating to the discount medical plan. If the initial contact with a prospective member is by telephone, the disclosures required under subparagraph IV(a) shall be made orally and included in the initial written materials that describe the benefits under the discount medical plan provided to the prospective or new member.

(c) Each discount medical plan organization shall provide to each new member a written document that contains the terms and conditions of the discount medical plan. This written document shall be clear and include the following information:

(1) The name of the member.

(2) The benefits to be provided under the discount medical plan.

(3) Any processing fees and periodic charges associated with the discount medical plan, including any limitations or restrictions on the refund of any processing fees and periodic charges.

(4) The mode of payment for any processing fees and periodic charges and procedures for changing the mode of payment.

(5) Any limitations, exclusions, or exceptions regarding the receipt of discount medical plan benefits.

(6) Procedures for obtaining discounts under the discount medical plan, such as requiring members to contact the discount medical plan organization to make an appointment with a provider on the member's behalf.

(7) Cancellation procedures, including information on the member's 30-day cancellation rights and refund requirements and procedures for obtaining refunds.

(8) Renewal, termination, and cancellation terms and conditions.

(9) Procedures for adding new members to a family discount medical plan, if applicable.

(10) Procedures for filing complaints under the discount medical plan organization's complaint system and information that, if the member remains dissatisfied after completing the organization's complaint system, the plan member may contact his or her local state insurance department.

(11) The name and mailing address of the licensed discount medical plan organization or other entity where the member can make inquiries about the plan, send cancellation notices, and file complaints.

415-I:12 Notice of Change in Name or Address. Each discount medical plan organization shall provide the commissioner at least 30 days' advance notice of any change in the discount medical plan organization's name, address, principal business address or mailing address, or Internet website address.

415-I:13 Administrative Penalties. In addition to the penalties and other enforcement provisions of this chapter, any person who willfully violates this chapter is subject to administrative penalties of up to \$2,500 per violation.

415-I:14 Injunctions.

I. In addition to the penalties and other enforcement provisions of this chapter, the commissioner may seek both temporary and permanent injunctive relief when:

(a) A discount medical plan is being operated by a person or entity that is not registered pursuant to this chapter; or

(b) Any person, entity, or discount medical plan organization has engaged in an activity prohibited by this chapter or rule adopted pursuant to this chapter.

II. The commissioner's authority to seek injunctive relief is not conditioned on having conducted any proceeding pursuant to the provisions of RSA 400-A:15 or RSA 541-A.

415-I:15 Additional Penalties. Any violation of RSA 415-A:11, I, II, and III shall constitute an unfair or deceptive act or practice within the meaning of RSA 417:4.

415-I:16 Rules. The commissioner may adopt rules, pursuant to RSA 541-A, to carry out the provisions of this chapter.

415-I:17 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 of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

2 New Paragraph; Fees. Amend RSA 400-A:29 by inserting after paragraph XXI the following new paragraph:

XXII. Discount Medical Plan Organizations

(a) Original Application \$300

(b) Renewal \$150

3 Applicability. Any person doing business in or from this state as a discount medical plan organization on or before the effective date of this chapter shall have 6 months following the effective date of this chapter to come into compliance with the requirements of this chapter.

4 Repeal. RSA 358-R, relative to prescription discount cards, is repealed.

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

AMENDED ANALYSIS

This bill establishes registration and operational requirements for discount medical plan organizations.

This bill also repeals the law relative to prescription discount cards.
This bill is a request of the insurance department.

2007-2586h

Amendment to HB 877-FN

Proposed by the Majority of the Committee on Environment and Agriculture - R
Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; State Government Waste Reduction, Recycling, and Recycled Products Purchase. Amend RSA by inserting after chapter 9-B the following new chapter:

CHAPTER 9-C

**STATE GOVERNMENT WASTE REDUCTION,
RECYCLING, AND RECYCLED PRODUCTS PURCHASE**

9-C:1 Purpose. State government has an obligation to put into practice, as part of its own operations, the interdependent principles of waste reduction, recycling, and recycled products purchase. State agencies shall strive to maximize the application of these principles in their normal operations. This chapter shall apply to all state agencies, as defined in RSA 9-C:2, V, whether or not they are required to make purchases through the division of plant and property management.

9-C:2 Definitions. In this chapter:

I. "Committee" means the interagency recycling and product purchase committee established in RSA 9-C:4.

II. "Division" means the division of plant and property management.

III. "Primary state agency" means the highest organizational unit of a given part of state government such as a department.

IV. "Recycled material" means a material or product that has served its intended end-use and is separated from the waste stream and recycled, and does not include those by-products and materials generated and commonly reused within the original manufacturing process.

V. "State agency" or "agency" means any board, department, bureau, office, commission, hospital, sanitarium, home, library, school, college, prison, or other institution, by whatever name, conducted or operated by the state of New Hampshire, and shall include the legislative branch of state government, but not the judicial branch.

9-C:3 State Policy.

I. For the purpose of reducing disposal costs and to conserve and protect natural resources, it shall be the policy of each state agency to:

(a) Minimize the amount of solid and hazardous waste that it generates.

(b) Recycle any generated waste materials for which markets are readily available, with particular attention to waste materials that are not biodegradable.

(c) Purchase materials, supplies, and products that have the highest content of recycled materials and which are recyclable and non-toxic, to the extent feasible, acceptable, and appropriate.

II. Each state agency shall cooperate with and take into account the decisions of the committee when implementing the policy set forth in paragraph I.

III. All agency employees shall comply with this policy and participate in any initiatives within their respective agencies to implement the policy.

9-C:4 Interagency Recycling and Product Purchase Committee.

I. There is hereby established the interagency recycling and product purchase committee. The committee shall be composed of two representatives appointed by the speaker of the house of representatives, one senator appointed by the senate president, the commissioners of each department or designees, and a designee from the office of the governor. The head or governing board of any other primary state agency, or designee, may elect to be a non-voting member. The committee shall have 2 co-chairs. One shall be the

commissioner of environmental services, or designee, and the other shall be the commissioner of administrative services, or designee.

II. The committee shall coordinate and support the efforts of state agencies to comply with this chapter. The committee shall:

(a) Identify waste materials for which recycling markets are readily available to state agencies in various parts of the state.

(b) Identify the materials, supplies, and products for purchase by state agencies that have the highest content of recycled materials and which are recyclable and non-toxic, to the extent feasible, acceptable, and appropriate, which shall include paper purchases specified in RSA 9-C:9.

III. The committee shall prepare a document by January 1, 2009, and continuously update such document which details its determinations under subparagraphs II(a) and (b). A state agency that does not adhere to recycling the waste materials or purchasing the materials, supplies, and products detailed in the document shall be presumed to be in noncompliance with the state policy principles of RSA 9-C:3, I(b) or (c) unless good cause is demonstrated, consistent with the purpose and policy established by this chapter, as part of its certification filing under RSA 9-C:10, I(b).

IV. The committee shall meet at least quarterly, with its first meeting no later than 60 days after the effective date of this act. Legislative members shall receive mileage for attending to the duties of the committee.

V. At least quarterly, the department of administrative services shall report to the committee on the status of the recycling fund under RSA 9-C:6.

VI. The committee shall have the power to issue subpoenas in order to perform its duties under this chapter.

9-C:5 Department of Environmental Services Assistance. The department of environmental services shall assist state agencies, as time and resources permit, to identify waste reduction and recycling opportunities. Such assistance shall include, but not be limited to, the preparation of waste minimization and recycling guidelines and office or site visits. The department shall also be available to the division for consultation relative to the division's duties under this chapter.

9-C:6 Fund Established. There is established in the office of the state treasurer a nonlapsing fund to be known as the state recycling fund to be administered by the director of the division, which shall be kept distinct and separate from all other funds. All moneys in the state recycling fund shall be continually appropriated to the commissioner of administrative services for the purpose of paying division costs in administering this chapter, providing state agencies with needed equipment and supplies for recycling, or to offset any costs associated with providing recycled materials pickup service. The treasurer shall deposit all donations received under paragraph II in the state recycling fund.

9-C:7 Recycled Materials Revenue.

I. All sales revenues for materials recycled by state agencies shall be forwarded quarterly to the state treasurer for deposit into the state recycling fund established in RSA 9-C:6. Any revenues derived from collections made by the Tobey School shall be used first to reimburse the school's cost of collecting and handling the materials. The division may accept gifts, grants, donations or other moneys for deposit into the fund to be used for the same purposes as other monies in the fund.

II. Funds accruing to the liquor commission from the sale of corrugated boxes shall be exempt from the provisions of paragraph I. The liquor commission shall report quarterly to the director of the division on the use of such funds in its recycling program. Excess funds generated by the recycling program of the liquor commission which are not used by June 30 of each year shall lapse to the fund under RSA 9-C:6.

9-C:8 Procurement. The division shall fulfill its responsibility as the state's procurement agency in a manner consistent with and in advancement of the policy principles of RSA 9-C:3. This shall be reflected, in part, in the division's procurement specifications and the

information required from vendors and bidders. The division shall keep all state agencies that make purchases through it informed of the requirements of this chapter and shall work with such agencies and the committee in furtherance of such requirements. The division shall put in place the necessary contracts to facilitate the purchase of those materials, supplies, and products identified by the committee under RSA 9-C:4, II(b), when they are of a type normally procured through the division, as well as other materials, supplies, and products containing recycled materials for which there is a demand. The division, in consultation with the committee, shall also arrange for the pickup of recycled materials, where feasible, at those state agencies that purchase through the division.

9-C:9 Recycled Paper.

I. Uncoated printing and writing paper purchased by or for state agencies shall contain not less than 30 percent recycled material and coated printing paper purchased by or for state agencies shall contain not less than 10 percent recycled material.

II. If compliance with this section is not possible by following current industry standards for any item or items, then such items may be exempted from the requirements of this section, provided:

(a) For items purchased through the division, the division makes a written finding that current industry standards require the exemption; or

(b) For items not purchased through the division, the purchasing agency makes a written finding, as part of its certification filing under RSA 9-C:10, I(b), that current industry standards require the exemption.

9-C:10 Reporting.

I.(a) The committee shall prepare a form, with assistance from the director of the division, that shall be used to report on agency success in complying with this chapter. The head or governing board of each department or other primary state agency shall complete the form to the extent that the information requested is applicable to the agency, and return it to the committee by September 1 of each year beginning in the 2009. Information concerning administratively attached agencies, as identified by the committee, shall be included within the report of the primary state agency. The form shall require the reporting of information in sufficient detail to allow the committee to prepare its annual report under paragraph II. When possible, the committee shall rely upon information already recorded by the division through the procurement process.

(b) The primary state agency shall certify on such form that the agency is in compliance with each policy provision of RSA 9-C:3, I and if not, the reasons for non-compliance and the agency's plan for compliance.

II. The committee shall submit a report on compliance with this chapter by November 1 of each year beginning in 2009 to the governor, the legislative committees of jurisdiction, the department of environmental services, and the state library that shall include, but not be limited to, both detailed and summarized information, as best can be determined, on:

(a) The waste materials that were either recycled or otherwise disposed of by state agencies during the prior fiscal year by type, quantity, disposal cost or sales revenue, and agency.

(b) Purchases made by state agencies during the prior fiscal year of those types of materials, supplies, and products identified by the committee under RSA 9-C:4, II(b) as being available with recycled material content, by type, recycled material content, if any, quantity, cost, and agency. Where possible, the committee shall rely upon information recorded by the division through the procurement process.

(c) The response given by each state agency to the certification requirement under subparagraph I(b) relative to its compliance with each policy principle of RSA 9-C:3, I.

(d) Any recommended changes to state laws, policies or practices that would advance the policy principles of RSA 9-C:3, I, including any offered by state agencies under paragraph I.

(e) The actions taken by the division to fulfill its responsibilities under RSA 9-C:8 as the state's procurement agency.

(f) The activities of the committee during the past year, including a copy of the document prepared by the committee under RSA 9-C:4, III.

III. The legislative branch shall devise its own method of reporting compliance with this chapter and shall not be considered a state agency for purposes of reporting under this section.

2 Division of Plant and Property Management. Amend RSA 21-I:11, I(f) to read as follows:

(f) "Services" shall mean services provided for general agency use including, but not restricted to, the following: credit card agreements, elevator maintenance, hazardous waste testing and removal, janitorial services, laboratory services, rubbish removal, **recycled materials pickup**, security services, snow removal, soil testing, transportation, office machine maintenance, vehicle repair, vehicle rental and leasing, and warehousing. "Services" shall not mean services provided solely to one agency.

3 Purchase of Supplies; Exemptions. Amend RSA 21-I:18, I(c)-(e) to read as follows:

(c) The legislature, secretary of state, and the state reporter are completely exempted from the provisions of this chapter~~[-except for the provisions of RSA 21-I:14-a].~~

(d) This chapter shall not apply to any contracts made or entered into by the director of plant and property management or any agency under the terms of which contractors with the state purchase their own supplies directly.

(e) The purchase of materials, supplies and merchandise by the department of resources and economic development as provided by RSA 219:21 shall not be subject to the provisions of this chapter~~[-except for the provisions of RSA 21-I:14-a].~~

4 New Subparagraph. Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (268) the following new subparagraph:

(269) Moneys deposited in the recycling fund established under RSA 9-C:6.

5 State Agency Notification. The interagency recycling and product purchase committee established under RSA 9-C:4 shall, as expeditiously as possible, notify all state agencies of the requirements of this act.

6 Contracted Services Study. The interagency recycling and product purchase committee established in RSA 9-C:4 shall study the application of the policy principles of waste minimization, recycling and purchasing under RSA 9-C:3 to contracted state services. The committee shall report its findings and any recommendations for legislation to the governor, the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, and the state library by December 1, 2010. The commission shall issue an interim report by December 1, 2009 of any initial findings and recommendations, unless it has already completed its final report by that date.

7 Transfer of Funds. All amounts in any fund established pursuant to RSA 21-I:60, I or RSA 21-I:14-a, II, together with all of the books, papers, records, unexpended appropriations, receivables and payables related to said funds, shall, as of the effective date of this section, be transferred to the special fund established under RSA 9-C:6 and may be utilized for the purposes specified for such fund.

8 Repeal. The following are repealed:

I. RSA 21-I:14-a, relative to recycled materials.

II. Subparagraphs (a) and (b) of RSA 21-I:11, II, relative to the purchase of and reporting on the purchase of recycled products.

III. RSA 21-I:1-a, III, IV and V, relative to the definitions of "post consumer recycled waste material", "recycled materials", and "recycled products".

IV. RSA 21-I:59-65, relative to waste reduction and recycling program.

9 Effective Date. The bill shall take effect 60 days after its passage.

Amendment to HB 894-FN

Proposed by the Minority of the Committee on Commerce - R

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

AN ACT requiring insurance coverage for bariatric surgery and programs for treatment of diabetes.

Amend the bill by replacing sections 1-4 with the following:

1 New Section; Coverage for Bariatric Surgery and Programs for Treatment of Diabetes; Individual. Amend RSA 415 by inserting after section 6-n the following new section:

415:6-o Coverage for Bariatric Surgery and Programs for Treatment of Diabetes; Individual. Each insurer that issues or renews any individual policy, plan, or contract of accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance, who are residents of this state, coverage for bariatric surgery and programs for Type II diabetics, when medically necessary, which programs are offered, including surgery performed at a facility recognized as a center of excellence by the American Society for Metabolic and Bariatric Surgery, and/or the American College of Surgeons certified at level I or II, and/or the insurer in accordance with the patient qualifications and treatment standards set forth by the American Society for Metabolic and Bariatric Surgery or the American College of Surgeons. Such treatment standards may include, but not be limited to, pre-operative psychological screening and counseling, behavior modification, weight loss, exercise regimens, nutritional counseling, and post-operative follow-up, overview, and counseling of dietary, exercise, and lifestyle changes. The covered insured shall be at least 18 years of age. The benefits included in this section shall be subject to the terms and conditions of the policy and shall be no less extensive than coverage provided for similar conditions or illnesses.

2 New Section; Coverage for Bariatric Surgery and Programs for Treatment of Diabetes; Group. Amend RSA 415 by inserting after section 18-s the following new section:

415:18-t Coverage for Bariatric Surgery and Programs for Treatment of Diabetes; Group. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses, shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for bariatric surgery and programs for Type II diabetics, when medically necessary, which programs are offered, including surgery performed at a facility recognized as a center of excellence by the American Society for Metabolic and Bariatric Surgery, and/or the American College of Surgeons certified at level I or II, and/or the insurer in accordance with the patient qualifications and treatment standards set forth by the American Society for Metabolic and Bariatric Surgery or the American College of Surgeons. Such treatment standards may include, but not be limited to, pre-operative psychological screening and counseling, behavior modification, weight loss, exercise regimens, nutritional counseling, and post-operative follow-up, overview, and counseling of dietary, exercise, and lifestyle changes. The covered insured shall be at least 18 years of age. The benefits included in this section shall be subject to the terms and conditions of the policy and shall be no less extensive than coverage provided for similar conditions or illnesses.

3 Coverage for Bariatric Surgery for Treatment of Diabetes. Amend RSA 420-A:2 to read as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, ~~RSA 415:6-o~~, RSA 415:18, V, RSA 415:18, VII(g), RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-j, RSA 415:18-o, RSA 415:18-r, ~~RSA 415:18-t~~, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII wherein such corporations are specifically included. Every health service corporation and its agents shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

4 Coverage for Bariatric Surgery for Treatment of Diabetes. Amend RSA 420-B:20, III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g, RSA 415:6-m, ***RSA 415:6-o***, RSA 415:18, VII(g), RSA 415:18, VII-a, RSA 415:18-j, RSA 415:18-r, ***RSA 415:18-t***, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

AMENDED ANALYSIS

This bill requires insurance coverage for bariatric surgery and programs for treatment of diabetes.

2007-2518h

Amendment to HB 901

Proposed by the Committee on Transportation - C

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

AN ACT relative to nondriver's identification cards.

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

1 Identification Cards; Requirements. Amend RSA 260:21, II to read as follows:

II. The department shall, before issuing a card to an applicant, require the applicant to furnish proof of his *or her name*, age, and residence. ***The department shall accept the following forms of proof unless there is evidence that the item is not genuine:***

(a) *A current United States passport.*

(b) *An armed services identification, or other photo identification issued or authenticated by the United States government, the state of New Hampshire, or a New Hampshire municipality.*

(c) *Two or more of the following:*

(1) *A certified or original birth certificate.*

(2) *A utility bill that is postmarked to the applicant.*

(3) *A lease or deed or a letter from the town or city clerk verifying the applicant's residency in the town or city.*

(4) *A marriage certificate or official court document if the person has changed his or her name.*

(5) *A non-photo identification issued or authenticated by the United States government, the state of New Hampshire, or a New Hampshire municipality.*

(6) *Other documentation recognized by the department for other purposes.*

(d) *A notarized statement mailed to the department by registered mail by the department of health and human services verifying the applicant's name, age, and residence and that the applicant is or has been in the custody of the department of health and human services under RSA 463 or under the custody or legal supervision of the department of health and human services pursuant to a proceeding under RSA 169-B, 169-C, or 169-D. This subparagraph shall only apply to applicants under 21 years of age and over 18 years of age or, in the case of a person found delinquent, over 17 years of age. The department shall also accept such a statement that does not verify residence if the applicant provides a notarized statement verifying residence from a homeless shelter or agency or organization receiving federal or state funding for homeless services on the letterhead of the shelter, agency, or organization.*

2 Identification Cards; Validity. Amend RSA 260:21, IV to read as follows:

IV. The identification card shall be valid for 5 years from the date of issuance; provided, however, that a card issued pursuant to RSA 260:21, I(c) shall be valid for as long as the holder is a resident of the state ***and a card issued pursuant to RSA 260:21, XI shall be valid for 2 years from the date of issuance.***

3 New Paragraph; Identification Cards; Released Inmates. Amend RSA 260:21 by inserting after paragraph X the following new paragraph:

XI. The department shall issue a nondriver's picture identification card to an inmate about to be released pursuant to RSA 651-A:6 IV, without requiring any proof of name, age, or residence. The card need not bear the inmate's new address if it is unknown prior to release.

4 New Paragraph; Terms of Release; Identification Card. Amend RSA 651-A:6 by inserting after paragraph III the following new paragraph:

IV. Prior to the release of any inmate on parole from the state prison, or upon termination of the inmate's sentence to the state prison, the commissioner and the department of safety shall provide a nondriver's picture identification card pursuant to RSA 260:21 to the inmate upon release if the inmate does not already possess a valid driver license or nondriver's picture identification card. The failure of the commissioner and the department of safety to provide the inmate with the required nondriver's picture identification card prior to appearance before the parole board shall not constitute a cause for delaying inmate's release on parole if approved.

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

AMENDED ANALYSIS

This bill specifies materials that the department of safety shall accept in order to issue a nondriver's identification card. This bill also requires the issuance of a nondriver's picture identification card to certain prison inmates upon release.

2007-2583h

Amendment to HB 924-FN

Proposed by the Majority of the Committee on Environment and Agriculture - R
Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Definitions; Deconstruction. Amend RSA 149-M:4 by inserting after paragraph IV the following new paragraph:

IV-a. "Deconstruction" means the process of intentionally demolishing, or taking apart, a structure or man-made impediment with the primary goal of preserving the value of all useful building materials, so that they may be recycled or reused.

2 New Sections; Deconstruction of Structures. Amend RSA 149-M by inserting after section 2 the following new sections:

149-M:2-a Reuse and Recycling. For any demolition of a building, road, bridge, or other man-made structure funded in whole or in part by state funds, a minimum reuse plus recycling rate of no less than 75 percent, by weight or volume, of materials with recognized outlets for reuse or established markets for recycling, shall be achieved and documented. Such reuse plus recycling rate shall be approved by the project's clerk of the works. Reuse and recycling may include the recovery for reuse of fixed and movable assets, deconstruction of structures, and recovery of materials for recycling as source-separated or co-mingled materials.

149-M:2-b Demolition During Emergency. Demolition mandated during times of emergency are excluded from the requirements of RSA 149-M:2-a, as long as every reasonable effort is expended to divert materials from being landfilled.

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

2007-2501h

Amendment to SB 32-FN

Proposed by the Majority of the Committee on Judiciary - R
Amend the title of the bill by replacing it with the following:

AN ACT increasing the maximum amount of debt or damages for small claims actions and requiring mediation for small claims actions exceeding \$5,000 and establishing a fee for the cost of such mediation.

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

2 New Paragraph; Mediation Required. Amend RSA 503:1 by inserting after paragraph III the following new paragraph:

IV. When the amount of debt or damages exceeds \$5,000 and no claim is made for trial by jury under paragraph III, the parties to the action shall be required to participate in a mediation program in the district courts approved by the office of mediation and arbitration established under RSA 490-E. If mediation of such action does not result in resolution of the action, the case shall be presented to the judge under oath.

3 Small Claims Exceeding \$5,000; Mediation Fee. RSA 503:4, II is repealed and reenacted to read as follows:

II. The sum of \$5 shall be added to each entry fee collected in the district courts for small claims actions in which the amount of debt or damages is \$5000 or less and the sum of \$60 shall be added to each entry fee collected in the district courts for small claims actions in which the amount of debt or damages exceeds \$5000. Such sums shall be deposited in the mediation and arbitration fund established under RSA 490-E:4.

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

AMENDED ANALYSIS

This bill increases the maximum amount of debt or damages for small claims actions. The bill also requires mediation for small claims actions exceeding \$5,000 and establishes a fee for the cost of such mediation.

2007-2619h

Amendment to SB 63

Proposed by the Committee on Ways and Means - C

Amend RSA 21-J:46 as inserted by section 1 of the bill by replacing it with the following:

21-J:46 Extension of Tax Filing Deadlines for Members of the Armed Forces and National Guard.

I. The commissioner of revenue administration may extend the deadline for a member of the armed forces or national guard to file tax returns and make associated tax payments up to 180 days after return from service in a qualifying duty location, provided such person is filing as an individual, a sole proprietor, or as the member on behalf of a single member limited liability corporation.

II. For the purpose of this section, a "qualifying duty location" means:

- (a) A hazardous duty area, as recognized by the Internal Revenue Service; or
- (b) A combat zone, as designated by Presidential Executive Order.

III. This section shall apply only to tax returns and associated payments under RSA 77, RSA 77-A, and RSA 77-E.

AMENDED ANALYSIS

This bill authorizes the commissioner of revenue administration to extend tax filing deadlines for the interest and dividends tax, the business profits tax, and the business enterprise tax for members of the armed forces serving in qualifying duty locations or combat zones.

2007-2642h

Amendment to SB 84

Proposed by the Committee on Public Works and Highways - R

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

AN ACT establishing procedural requirements to improve implementation of a 6-year transportation improvement plan.

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

1 State Transportation Improvement Plan. RSA 240 is repealed and reenacted to read as follows:

CHAPTER 240

STATE 6-YEAR TRANSPORTATION IMPROVEMENT PROGRAM

240:1 Legislative Intent. The plan is intended to serve as the guideline for transportation projects in the state for the next 6 years.

240:2 Project Priority. To the extent practicable the projects shall be implemented in the order shown in the report.

240:3 Implementation of Plan.

I. The department of transportation shall be responsive to requests for information relative to the plan.

II. The plan shall include a list of projects intended to be under construction in the next 6 years with dates and costs of construction. However, preliminary studies, design, and right of way funding for long term projects that have been approved by the Governor's Advisory Commission on Intermodal Transportation (GACIT) and the department of transportation shall be included in the plan.

III. Projects listed in the plan shall be listed by the year the funds are to be expended and the 6 years of the plan shall be financially constrained.

IV. Projects listed in the plan, except projects which are solely for infrastructure preservation, shall be prioritized based on a department of transportation methodology that examines the certainty of a project relative to its scope, cost, constructability, permitability, and public support, provided that the project has the following:

- (a) Preliminary design.
- (b) Environmental evaluation.
- (c) A public participation process.
- (d) Available and adequate funding.

V. The following shall be considered for any project proposed for the plan:

- (a) Safety.
- (b) Multimodalism.
- (c) Land use.
- (d) Infrastructure preservation.
- (e) Overall corridor improvement.

VI. Every 2 years, the department of transportation shall propose to the general court a list of projects to be removed from the 6-year plan if the department determines that any project:

- (a) Has significantly changed in scope; or
- (b) Is no longer financially and environmentally feasible; or
- (c) Lacks the necessary permits; or
- (d) For other reasons is unnecessary or unlikely to proceed.

VII. Inflation shall be included in the costs calculated in the 6-year plan and shall also be included in calculating the necessary revenues.

VIII. The department of transportation shall meet quarterly with GACIT which shall consist of 11 members including the governor or appointee, 5 executive councilors, the chairperson of the senate finance committee or designee, the chairperson of the house finance committee, or designee, the chairperson of the public works and highways committee, or designee, the chairperson of the transportation and interstate cooperation committee, or designee, and the commissioner of the department of transportation, or designee.

IX. GACIT shall review:

- (a) Department of transportation financial status and issues.
- (b) The status and issues of transportation projects.
- (c) Other ongoing initiatives and issues.

X. GACIT shall provide the first statewide review of the plan as drafted by the department of transportation with input from the regional planning commissions.

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

AMENDED ANALYSIS

This bill establishes procedural requirements to improve implementation of a 6-year transportation improvement plan.

2007-2409h

Amendment to SB 85

Proposed by the Committee on Municipal and County Government - R

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

1 Property Taxation; Exemption for the Disabled. Amend RSA 72:37-b, I-a to read as follows:

I-a. Upon the adoption of this paragraph by a city or town as provided in RSA 72:27-a, a person *who is* eligible under Title II or Title XVI of the federal Social Security Act on his or her sixty-fifth birthday shall remain eligible for a yearly exemption either in the amount of the exemption applicable under paragraph I or the amount of the elderly exemption granted to the person under RSA 72:39-b, whichever is greater.

I-b. Upon the adoption of this paragraph by a city or town as provided in RSA 72:27-a, any person who at any time previously was eligible under Title II or Title XVI of the federal Social Security Act for benefits to the disabled, but who is no longer eligible for such federal benefits due to reasons other than the status of that person's disability, shall be eligible for the exemption under paragraph I or I-a, or both as may be applicable, provided that the person submits an affidavit from a physician licensed in New Hampshire that attests to the fact that the person continues to meet the criteria for disability that are used under Title II or Title XVI of the federal Social Security Act.

2 Effective Date. This act shall take effect April 1, 2008.

2007-2651h

Amendment to SB 94

Proposed by the Committee on Executive Departments and Administration - R

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

AN ACT establishing the department of information technology, relative to positions in the department of information technology, and the membership of the information technology council.

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

1 New Chapter; Department of Information Technology. Amend RSA by inserting after chapter 21-Q the following new chapter:

CHAPTER 21-R

DEPARTMENT OF INFORMATION TECHNOLOGY

21-R:1 Definitions. In this chapter:

I. "Assistant commissioner" means the assistant commissioner of the department of information technology.

II. "Commissioner" means the commissioner of the department of information technology.

III. "Department" means the department of information technology.

21-R:2 Department of Information Technology Established. There is established the department of information technology, an agency of the state, under the executive direction of a commissioner of the department of information technology, who shall also be known as the chief information officer. The department of information technology, through its officials, shall be responsible for managing and coordinating all technology resources in the executive branch of government, developing and implementing strategies to enhance state services, and creating statewide efficiencies through the use of information and other technologies.

21-R:3 Commissioner; Assistant Commissioner; Directors; Compensation.

I. The commissioner of the department of information technology shall be appointed by the governor, with the advice and consent of the council, and shall serve for a term of 4

years. The commissioner shall be academically and technically qualified to hold the position, and shall be known as the chief information officer of the department. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

II. The commissioner may nominate an assistant commissioner of the department of information technology for appointment by the governor, with the consent of the council. The assistant commissioner shall serve a term of 4 years, coterminous with that of the commissioner. The assistant commissioner shall be academically and technically qualified to hold the position. A vacancy may be filled for the remainder of the unexpired term in the same manner as the original appointment.

III.(a) The commissioner shall nominate the following division directors for appointment by the governor, with the consent of the council:

- (1) The director of operations.
- (2) The director of technical support services.
- (3) The director of web support.
- (4) The director of agency software.

(b) Division directors shall serve for a term of 4 years and shall be qualified by reason of professional competence, education, and experience.

IV. The salaries of the commissioner, the assistant commissioner, and division directors shall be as specified in RSA 94:1-a.

21-R:4 Duties of the Commissioner. In addition to the powers, duties, and functions otherwise vested in the commissioner pursuant to RSA 21-G:9, the commissioner shall be responsible for the following:

I. Providing technical information technology consultation to all executive branch agencies and to any other agency that requests it, including technical advice during the development or acquisition of information systems.

II. Monitoring technological trends and informing all state employees and officials about state-of-the-art information systems and management techniques.

III. Developing a formal information technology planning process for approving agency information technology plans.

IV. Preparing and maintaining a statewide information technology plan based upon agency information technology plans.

V. Reviewing, assessing, and approving the feasibility of agency information technology plans, including cost estimates and effects on other agencies and political subdivisions of the state.

VI. Developing standards and processes for collaborative stakeholder involvement to assure that hardware, software, and telecommunications systems acquired or developed by the state are as compatible among themselves and with other systems of the state and political subdivisions as are necessary and practical.

VII. Providing training and educational programs to technicians and managers.

VIII. Monitoring and reporting to the governor and general court on the effectiveness of the use of information technology resources and on statewide progress in implementing information technology plans.

IX. Coordinating information technology development efforts that affect multiple agencies.

X. Developing a data center consideration plan, which establishes strategic data centers throughout the state for data processing operations and service responsibilities for all executive branch agencies.

XI. Developing, in concert with the commissioner of administrative services and the budget director, the capital and operating budget requests for implementing each agency's information technology plan, including, but not limited to, appropriate standards for the uniform presentation of the general budget requests.

XII. Developing, in concert with the director of plant and property management,

specifications for the procurement of computer equipment and software.

XIII. Developing a strategy to increase efficiency and effectiveness in all areas of state government by using information technology to its fullest potential.

XIV. Developing and implementing a strategy to consolidate statewide shared information technology services.

XV. Developing an information technology satisfaction measurement program to ensure information technology resources and strategic plans are meeting the needs of each agency.

21-R:5 Divisions Established. The following divisions, each of which shall be under the supervision of a division director appointed pursuant to RSA 21-R:3, are established within the department of information technology:

- I. The division of operations.
- II. The division of technical support services.
- III. The division of web support.
- IV. The division of agency software.

21-R:6 Information Technology Council.

I. There is hereby established the information technology council. The council shall advise the commissioner on the following:

(a) Statewide strategic technology plans.

(b) Outsourcing relationships, including the purchase of technology equipment and contracts with technology vendors.

(c) Computer systems consolidation.

(d) Implementation of centralized services.

(e) Information technology resource changes, including changes in quantity of resources allocated to executive branch agencies, location of information technology resources, and allocation of information technology personnel.

- (f) Statewide information technology policies and standards.
- (g) Information technology budgeting and resource allocation.

II. The information technology council shall consist of the following members:

(a) The commissioner of administrative services, or designee.

(b) The commissioner of transportation, or designee.

(c) The commissioner of health and human services, or designee.

(d) The commissioner of safety, or designee.

(e) The commissioner of revenue administration, or designee.

(f) Two heads of departments, appointed by the governor.

(g) One state senator, appointed by the president of the senate for the duration of his or her legislative term.

(h) One state representative, appointed by the speaker of the house of representatives for the duration of his or her legislative term.

(i) One representative of municipal government, appointed by the governor for a 3-year term.

(j) One representative of county government, nominated by the New Hampshire Association of Counties and appointed by the governor for a 3-year term.

(k) One person appointed by the governor for a 3-year term, who shall serve as the chairperson of the council.

III. Six members of the council shall constitute a quorum. Qualified members who have served one or more terms shall be eligible for reappointment to the council.

21-R:7 Technical Committees. The commissioner may establish technical committees to advise him or her on technical issues. Each technical committee shall include personnel from all 3 branches of government who have experience in the specific issue that is the focus of the committee. These issues may include but are not limited to:

- I. Hardware, software, and telecommunications standards.
- II. Information technology planning process.

- III. Development of statewide policies and procedures.
- IV. Emerging Internet and "intranet," or limited network, technologies.
- V. E-government strategy and deployment.
- VI. Wide area network efficiencies.

21-R:8 Agency Satisfaction Metrics. The commissioner shall use a system of agency satisfaction metrics, a measurement and communication system to track the satisfaction of delivery of information technology solutions. The department of information technology may use surveys, web tools, and special processes to ensure that vehicles exist for agency heads to get the quality of information technology solutions they require to operate their agencies. The commissioner shall set satisfaction benchmarks to meet or exceed expectations.

21-R:9 Legislative Oversight Committee.

I. There is hereby established a joint legislative information technology oversight committee.

II. The committee shall consist of 6 members, 3 of whom shall be members of the house of representatives, with one such member from the house finance committee and one from the house executive departments and administration committee, appointed by the speaker of the house of representatives, and 3 of whom shall be senators, appointed by the president of the senate. Members shall be appointed for their term of office. All members shall be eligible for reappointment so long as they are qualified under this section. Members shall be appointed no later than December 30 of the year of their election to the general court, except that vacancies shall be filled for an unexpired term within 30 days of the creation of such vacancy, and the initial appointments under this section shall be made within 30 days of the effective date of this section. The members shall choose from their number a chairperson, provided that the chair shall rotate biennially between the house and senate members.

III. The commissioner shall report quarterly to the committee on the activities of the department, including the status of the state information technology plan, the organizational structure of information technology employees among state agencies, and financial budget tracking related to information technology.

IV. Members of the committee shall serve without compensation but shall receive mileage at the legislative rate when attending to the duties of the committee.

2 Transfer of Authority from Office of Information Technology to Department of Information Technology. The office of information technology within the office of the governor is hereby abolished and all of the functions, powers, duties, and responsibilities of the office and the officials within that office are transferred to and vested in the department of information technology pursuant to this act. The transfer provided in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations or other funds, actions, and other property or obligations of any kind of the office of information technology.

3 Department of Information Technology; New Classified Positions.

I. The department of health and human services and the department of information technology shall convert the following unclassified positions created pursuant to RSA 126-A:9 to classified positions in the department of information technology at the classification and labor grade indicated:

Position Number	Position	Labor Grade	Classification	Labor Grade
(a) 9U467	senior systems analyst	EE	business systems analyst II	30
(b) 9U475	service specialist (HHS)	BB	information technology manager IV	32
(c) 9U384	MVS systems programmer	EE	information technology manager IV	32
(d) 9U507	director of systems operations	FF	information technology manager V	34

(e) 9U383 network specialist	EE	information technology manager V	34
(f) 9U447 director of MMIS	FF	information technology manager V	34
(g) 9U451 director of applications and development	FF	information technology manager IV	32
(h) 9U385 database administrator	DD	information technology IV	32

II. Any employee whose position was changed from one salary group to a lower paying salary group shall continue to receive the salary and scheduled raises of the higher paying group so long as the employee is employed in that position.

4 "Office of Information Technology" Renamed "Department of Information Technology." Amend the following RSA provisions by replacing "office of information technology" with "department of information technology": 5-C:16, 21-I:6, VIII, and 106-K:5, I(e).

5 Administrative Services; Reference Change. Amend RSA 21-I:14-b to read as follows:
21-I:14-b Prohibition on Future Employment.

I. No commissioner, financial data manager, accounting director, **or** director of plant and property management of the department of administrative services~~[- or director of the office of information technology management]~~ shall accept any employment, including work as a consultant or lobbyist, with any vendor of goods or services holding a valid contract with the department, in excess of \$10,000 over the previous 2 years, until one year after he shall become separated from the department.

II. No vendor of goods or services holding a valid contract with the department, in excess of \$10,000 over the previous 2 years, shall employ any commissioner, financial data manager, accounting director, **or** director of plant and property management of the department~~[- or director of the office of information technology management]~~ until one year after such employee has become separated from the department. Any such vendor who violates the provisions of this paragraph shall be barred from bidding on any future contract with the department for 5 years after such violation.

6 Regional Community Technical Colleges; Reference Change. Amend RSA 188-F:14-b, IX to read as follows:

IX. Notwithstanding the provisions of RSA ~~[4-D]~~ **21-R**, enter into contracts for the purchase and maintenance of information technology equipment, software, and any related products the commissioner deems necessary for the proper support and benefit of the regional community-technical colleges.

7 Repeal. The following are repealed:

I. RSA 4-D, relative to the office of information technology.

II. RSA 21-P:12-f, relative to the department of safety, division of information technology.

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

AMENDED ANALYSIS

This bill:

I. Eliminates the office of information technology and establishes the department of information technology as an independent agency, under the direction of a commissioner, assistant commissioner, and division directors.

II. Transfers certain information technology positions from the department of health and human services to the department of information technology.

III. Adds an additional member, appointed by the governor, to the information technology council.

IV. Eliminates the division of information technology in the department of safety.

2007-2394h

Amendment to SB 102-FN

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

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

1 Communicable Disease; Closure and Decontamination. Amend RSA 141-C:16-a to read as follows:

141-C:16-a **Closure**; Decontamination.

I. The commissioner, with the written approval of the governor, may close, direct, and compel the evacuation [of or decontamination of any facility where there is reasonable cause to believe that there is a danger to the public health. The commissioner may also decontaminate, or cause to be decontaminated, or destroy any material of which there is reasonable cause to believe may present imminent danger to the public health] and decontamination of any building located within the state that is accessible to the public, such as businesses, primary and secondary schools, and universities, regardless of whether publicly or privately owned, when there is reasonable cause to believe the building may present an imminent danger to the public health. The commissioner may also cause any material located within or on the grounds of a building to be decontaminated or destroyed when there is reasonable cause to believe that the material may present imminent danger to the public health. Destruction of any material under this chapter shall be considered a taking of private property and shall be subject to the compensation provisions of RSA 4:46.

II. Notice shall be made by posting notice on all means of ingress or egress of the building and, within 24 hours of posting, mailing the notice, return receipt requested, to the owner of record. The notice shall state the reason for the action and its anticipated duration.

III. Orders issued pursuant to this section shall be effective immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. Any person who is aggrieved by an order pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden of proof shall be on the commissioner to prove by clear and convincing evidence that the action taken is reasonably necessary to protect the health of the public.

IV. Orders issued under this section shall be subject to the due process provisions of RSA 141-C:14-a.

2 New Section; Communicable Disease; Cancellation of Events. Amend RSA 141-C by inserting after section 16-a the following new section:

141-C:16-b Cancellation of Events. The commissioner, with the written approval of the governor, may order the cancellation of public gatherings and events within the state, or in specific geographic areas of the state, as is deemed necessary to prevent an imminent danger to the public health. Notice of any order canceling a public gathering or event shall be made in writing, shall specify the reason for the cancellation, and shall be delivered to the organizer of the event or owner of the venue where the event was to occur in a manner that will give as much notice prior to the cancellation as is reasonably possible. Notice shall also be given to the public in a manner that is reasonably likely to be available to the members of the public affected by the order. Such order shall be effective immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. Any person who is aggrieved by an order pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden of proof shall be on the commissioner to prove by clear and convincing evidence that cancellation of the public gathering or event is reasonably necessary to protect the health of the public.

3 New Sections; Communicable Disease; Custody; Rationing; Cost of Items. Amend RSA 141-C by inserting after section 17-a the following new sections:

141-C:17-b Custody; Rationing. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, or mechanical equipment, and such shortage poses a serious threat to the public health, the commissioner, with the written approval of the governor, may control, restrict, and ration the use, sale, dispensing, distribution, or transportation of such agents as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner may determine the preference and priority for distribution of such agents, such as giving preference to health care providers and emergency response personnel. The commissioner, with the written approval of the governor, shall have the discretion to take custody of all supplies of specific anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, or mechanical equipment, existing within the state to ensure that such agents are distributed and utilized appropriately. Notice of an order issued pursuant to this section shall be given in writing to the owner of the personal property, or, if the owner cannot be readily determined, to the person in charge of the location where the personal property is located. The notice shall specify the reason for the action and its expected duration. Such order shall be effectively immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. The owner of any property subject to an order issued pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden shall be on the commissioner to prove by clear and convincing evidence that the order is reasonably necessary to protect the health, safety, and welfare of the public. Multiple requests for hearings under this section may be consolidated into one hearing if the underlying facts are similar, the court deems such consolidation to be appropriate, and the court determines that such consolidation will adequately satisfy the due process rights of the persons who requested a hearing.

141-C:17-c Compensation and Expenditures. Items taken by the commissioner pursuant to the provisions of this chapter shall be subject to the compensation provisions of RSA 4:46, but in no event shall the owner thereof be entitled to more than the Medicaid rate for the item that was in effect at the time of the taking. Notwithstanding the provisions of RSA 9:19-9:21, the commissioner may make such expenditures as necessary to carry out the provisions of this chapter; provided, that expenditures are made from funds appropriated to the department that the commissioner determines to be available for this purpose and information regarding the expenditures is promptly submitted to the fiscal committee of the general court and the governor and council.

4 New Sections; Communicable Disease; Ethics Committee Established. Amend RSA 141-C by inserting after section 25 the following new sections:

141-C:26 Ethics Committee.

I. There is hereby established an ethics committee to offer advice to the commissioner relative to the ethical issues that may be identified in the course of planning for, and responding to, outbreaks of communicable disease that threaten to become epidemic or pandemic.

II. The committee shall consider the ethical implications of any of the powers that may be exercised by the commissioner under the provisions of this chapter including, but not limited to, the confiscation, distribution, and rationing of anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, and mechanical equipment; the issuance and enforcement of orders of isolation, quarantine, medical examination, and medical treatment; issues relative to information sharing and confidentiality; and the provisions for due process for orders issued pursuant to this chapter.

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

- (a) The director of the division of public health services.
- (b) The state epidemiologist.
- (c) The attorney general, or designee.
- (d) A representative of a public health network, appointed by the commissioner.
- (e) A representative from a college or university public health program, appointed by the commissioner.
- (f) A chief of police or a police officer of a local police department, appointed by the New Hampshire Association of Chiefs of Police.
- (g) A chief of a local fire department, appointed by the New Hampshire Association of Fire Chiefs.
- (h) A physician, licensed under RSA 329, appointed by the New Hampshire Medical Society.
- (i) The commissioner of the department of safety, or designee.
- (j) A member of a fire department with a minimum of EMT-B certification, appointed by the Professional Firefighters of New Hampshire.
- (k) A representative of a hospital, appointed by the New Hampshire Hospital Association.
- (l) A county representative, appointed by the New Hampshire Association of Counties.

IV. The commissioner shall appoint a member of the committee to act as chairperson. The committee shall meet initially within 30 days of the effective date of this section and then as regularly as the chairperson shall direct.

V. The commissioner may at any time direct questions to the committee or request guidance on ethical issues.

VI. The committee shall be solely advisory in nature and any guidance, guidelines, or protocols issued by the committee shall not be binding on the commissioner.

141:27 No Conflict With Emergency Management Powers. Nothing in this chapter shall be construed to limit or restrict the exercise of the governor's emergency management powers under RSA 4:45 – RSA 4:47.

5 New Paragraph; Volunteers for Government Agencies; Emergency Management Function. Amend RSA 508:17-a by inserting after paragraph II the following new paragraph:

II-a. For purposes of immunity and exemption, any declared public health or public safety incident shall be considered an emergency management function under RSA 21-P:41, I-II.

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

2007-2493h

**Amendment to SB 117-FN
Proposed by the Committee on Finance - R**

Amend the bill by replacing all after section 4 with the following:

5 New Section; Special Effects Permit. Amend RSA 153 by inserting after section 5-b the following new section:

153:5-c Special Effects Permit. The commissioner of safety, in consultation with the state fire marshal, shall adopt rules, under RSA 541-A, for issuance of a permit to use flame, pyrotechnics, or other means of special effects for entertainment, exhibition, demonstration, or simulation before a proximate audience as regulated by the state fire code adopted under RSA 153:5. The rules shall establish permit criteria and procedures, and shall include a \$250 or \$400 permit fee based on the complexity of the approval process. All permit fees collected under this section shall be deposited in the fire standards and training and emergency medical services fund, established in RSA 21-P:12-d.

6 Fireworks Inspector; Transfers Among Accounts. Notwithstanding the provisions of RSA 9:17-a or any other provision of law to the contrary, for the biennium ending June 30, 2009, the department of safety may transfer funds within and among all PAU's within the division of fire safety in order to implement and fund the fireworks inspection program in RSA 160-C.

7 Fee for the Sale of Permissible Fireworks. Amend RSA 160-C:3, VII to read as follows:

VII. The fee for a license for each location shall be \$1,500 per year, payable annually to the department of safety for deposit into the ~~[general fund]~~ **fire standards and training and emergency medical services fund established in RSA 21-P:12-d for the purpose of funding the fireworks inspection program.**

8 Explosives and Explosive Substances; License to Purchase, Store and Transport. Amend RSA 158:9-c, I to read as follows:

I. The fee for licenses issued under RSA 158:9-b, I shall be ~~[\$40]~~ **100.**

9 Explosives and Explosive Substances; License to Purchase, Store and Transport. Amend RSA 158:9-c, VI to read as follows:

VI. There shall be a fee of ~~[\$40]~~ **100** for any competency examination or renewal certificate given by the director of state police for any examination or certificate given under this subdivision.

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

AMENDED ANALYSIS

This bill:

I. Requires that a fireworks display permit be submitted to the department of safety at least 48 hours prior to the display.

II. Makes the position of fireworks inspector a full-time, rather than seasonal, position, responsible for permissible and display fireworks, and funded by the fire standards and training and emergency medical services fund.

III. Increases fees for special effects licenses, permissible fireworks licenses, and the purchase, storage, and transport of explosive substances.

IV. Directs the department of safety to adopt rules for the issuance of special effects permits.

2007-2458h

Amendment to SB 131

Proposed by the Majority of the Committee on Commerce - R

Amend the bill by replacing sections 1-4 with the following:

1 Services Performed by Certified Midwives. Amend RSA 415:6-l to read as follows:

415:6-l Coverage for Certified Midwives; Individual. Each insurer that issues or renews any individual policy, plan, or contract of accident or health insurance providing maternity benefits, shall also provide to certificate holders of such insurance, who are residents of this state, coverage consistent with the terms and conditions of the policy for services rendered by a midwife certified under RSA 326-D. Such coverage shall be subject to each insurer's standards and mechanisms for credentialing and contracting pursuant to RSA 420-J:4 and RSA 420-J:8 respectively, where applicable, and contingent upon services being provided in a licensed health care facility **or at home** and within the scope of practice of a certified midwife. Benefits provided shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

2 Coverage for Certified Midwives; Group. Amend RSA 415:18-q to read as follows:

415:18-q Coverage for Certified Midwives. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing maternity benefits shall also provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage consistent with the terms and conditions of the policy for services rendered by a midwife certified under RSA 326-D. Such coverage shall be subject to each insurer's standards and mechanisms for credentialing and

contracting pursuant to RSA 420-J:4 and RSA 420-J:8 respectively, where applicable, and contingent upon services being provided in a licensed health care facility **or at home** and within the scope of practice of a certified midwife. Benefits provided shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

3 Coverage for Certified Midwives; Health Service Corporations. Amend RSA 420-A:17-f to read as follows:

420-A:17-f Coverage for Certified Midwives. Every health service corporation and every other similar corporation licensed under the laws of another state that issues or renews any policy of group or blanket accident or health insurance providing maternity benefits shall also provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage consistent with the terms and conditions of the policy for services rendered by a midwife certified under RSA 326-D. Such coverage shall be subject to each insurer's standards and mechanisms for credentialing and contracting pursuant to RSA 420-J:4 and RSA 420-J:8 respectively, where applicable, and contingent upon services being provided in a licensed health care facility **or at home** and within the scope of practice of a certified midwife. Benefits provided shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

4 Services for Certified Midwives; Health Maintenance Organizations. Amend RSA 420-B:8-p to read as follows:

420-B:8-p Coverage for Certified Midwives. Every health maintenance organization and every similar corporation licensed under the laws of another state that issues or renews any policy, plan, or contract of individual or group or blanket health insurance providing maternity benefits shall also provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage consistent with the terms and conditions of the policy for services rendered by a midwife certified under RSA 326-D. Such coverage shall be subject to each insurer's standards and mechanisms for credentialing and contracting pursuant to RSA 420-J:4 and RSA 420-J:8 respectively, where applicable, and contingent upon services being provided in a licensed health care facility **or at home** and within the scope of practice of a certified midwife. Benefits provided shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

AMENDED ANALYSIS

This bill clarifies where services rendered by certified midwives may be performed for insurance coverage purposes.

2007-2641h

Amendment to SB 166-FN

Proposed by the Committee on Executive Departments and Administration - C
Amend the bill by replacing all after the enacting clause with the following:

1 Division of Ports and Harbors; Powers and Duties; Moorings; Hearing. Amend RSA 12-G:42, VI-VII to read as follows:

VI. Administer and enforce permit programs for the placement and use of moorings, **including temporary seasonal moorings**, and state-owned slips in state tidal waters, including waiting lists for such permits.

VII. Set and collect fees for mooring and state-owned slip permits and waiting lists for such permits. The authority shall establish fees for state-owned slips in ports, harbors, and state tidal waters. Fees shall not be charged for state-owned slips in ports, harbors, or state tidal waters securing vessels discharging cargo that is subject to the federal Harbor Maintenance Tax imposed pursuant to 26 U.S.C. sections 4461-4462. The fees for state-owned slips shall be paid into the harbor dredging and pier maintenance fund established under RSA 12-G:46. ***If a mooring holder fails to submit a complete mooring***

application by the annual deadline, including any applicable late application filing period, and a mooring permit is not issued, then following reconsideration by the division director, said applicant may file an appeal with the board. The authority shall establish in rules the timeframe and standards for consideration of such an appeal.

2 Division of Ports and Harbors; Rules. Amend RSA 12-G:42, XI(c) to read as follows:

(c) Fees relating to the mooring permits, **including temporary seasonal moorings**, and mooring wait lists shall be designed to recover all of the budget expenses associated with implementation of the mooring permit and wait list system as well as a reasonable portion of the budget expenses consistent with the purposes of RSA 12-G:42, III, VI, and VII; RSA 12-G:43, I(a) and (c); and RSA 12-G:50.

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

AMENDED ANALYSIS

This bill:

I. Allows a person to appeal when mooring permit is not issued because the application is submitted after the annual deadline.

II. Authorizes temporary seasonal moorings.

2007-2652h

Amendment to SB 173

Proposed by the Committee on Education - C

Amend the bill by replacing section 1 with the following:

188-D:2 Postsecondary Education Commission. There is hereby established a postsecondary education commission ~~[of 22 members]~~ with the following membership:

I. The president of the university of New Hampshire; the president of Keene state college; the president of Plymouth state university; the chancellor of the university system **of New Hampshire**; a president of one of the institutions of the community college system of New Hampshire, to be chosen by the board of trustees of the community college system;

II. Two members to be appointed by the trustees of the university system of New Hampshire, one of whom shall be a full-time undergraduate student who is a resident of the state, and whose term shall ~~[ease]~~ **expire** upon graduation ~~[or change of status as such undergraduate]~~ **or when the member is no longer a full-time student**;

III. The commissioner of **the department of** education and the chancellor of the community college system of New Hampshire;

IV. One ~~[member]~~ **full-time student** to be appointed by the board of trustees of the ~~[department of regional community technical colleges]~~ **community college system of New Hampshire** who shall be a representative of the ~~[regional community technical institute and colleges]~~ **community college system of New Hampshire** who shall be a ~~[full-time student at one of these institutions and a]~~ resident of the state and whose term shall expire upon graduation or when the member is no longer a full-time student;

V. Six representatives of the private 4-year colleges in New Hampshire appointed by the governor and council on recommendation by the New Hampshire College and University Council, with no more than one representative from any one college;

VI. One full-time undergraduate student of a private 4 year college in the state of New Hampshire, to be appointed by the governor and council ~~[from a list of at least 5 students submitted]~~ **on recommendation** by the New Hampshire College and University Council, who shall be a resident of New Hampshire and whose term shall expire upon graduation or change of status from a full-time student;

VII. One member to be appointed by the governor and council as a representative from ~~[the following type of college or school: junior college, proprietary school, junior or senior college and community college]~~ **a for-profit college or university** not a member of the New Hampshire College and University Council;

VIII. Four members to be appointed by the governor and council who shall be residents of the state and of the lay public, having no official connection with any ~~[postsecondary educational institution]~~ **college, university, or private postsecondary career school** as an employee, trustee or member on a board of directors ~~[of any educational institution]~~.

IX. One member to be appointed by the governor and council on recommendation by the New Hampshire Council for Professional Education, who shall be a resident of the state and a representative of a private postsecondary career school. The terms of appointed members, except as indicated above, shall be for 5 years and until a successor is appointed and qualified. Vacancies shall be filled for the unexpired term. ***Twelve members of the commission shall constitute a quorum.*** Amend RSA 188-D:19, I(g) as inserted by section 2 of the bill by replacing it with the following:

(g) "Physical presence" means any physical location ~~[or]~~, place of contact, ~~[including a New Hampshire]~~ telephone exchange, or ~~[a New Hampshire]~~ mail drop ***in this state***, and if an individual is conducting one or more of the following activities within this state:

- (1) Advertising.
- (2) Solicitation of potential students.
- (3) Enrollment of students.
- (4) Providing student services.
- (5) Student mentoring.
- (6) Instruction of students.

Amend RSA 188-D:19, II as inserted by section 2 of the bill by inserting after subparagraph (k) the following new subparagraphs:

(l) Entities offering training in the trades that have been approved by a state agency with appropriate jurisdiction, including but not limited to the plumbers' board, the electricians' board, and the office of the state fire marshal.

(m) Computer technology vendors that offer fee based training on courses of instruction in the use of hardware or software if the course is offered to purchasers of such hardware or software, or to the purchaser's employees, by a person who manufactures and sells, develops and sells, or supports the hardware or software, and if the seller is not primarily engaged in the business of providing courses of instruction in the use of the hardware or software.

Amend RSA 188-D:20 as inserted by section 3 of the bill by replacing it with the following:
188-D:20 Licenses and Fees.

I. Prior to registering or renewing a business or trade name, or soliciting students for enrollment, an entity maintaining a physical presence in this state shall be reviewed by the ~~[postsecondary education commission]~~ ***executive director*** to determine if the entity requires a license. The executive director, in consultation with the postsecondary education commission, shall establish procedures to accomplish this review.

II. ~~[If the postsecondary education commission determines that a license is required,]~~ A private postsecondary career school maintaining a physical presence in this state shall register to obtain a license or license renewal from the postsecondary education commission. The license shall be issued or renewed pursuant to rules, adopted under RSA 541-A, by the executive director, in consultation with the postsecondary education commission. The rules shall establish minimum criteria, including but not limited to, financial stability, educational program, administrative and staff qualifications, business procedures, facilities, equipment, and ethical practices to be met by licensees, ***and criteria for rejecting a licensing applicant and for suspending or revoking a license.*** ~~[In no case shall a license or license renewal be issued to any school, which has not met the requirements of RSA 188-D:20-a or RSA 188-D:20-b.]~~

III. [The executive director, in consultation with the postsecondary education commission, may establish reasonable fees for administration of this subdivision, including fees for licenses, renewals, penalties, reimbursement for consultants, complaint investigation, and enforcement.] ***A school that is not required to obtain a license may apply for a license and, upon issuance of the license, shall be subject to the provisions of RSA 188-D:19 through RSA 188-D:28. Such school may voluntarily surrender its license and revert to its original status.***

IV. ***The executive director, in consultation with the postsecondary education commission, shall adopt rules pursuant to RSA 541-A to establish reasonable fines, reimbursement rates for consultants, and procedures for complaint investigations and enforcement actions, which are necessary for the administration of this subdivision.***

V. ***A private postsecondary career school which the executive director has determined requires a license shall, prior to the issuance of a license, comply with RSA 188-D:20, RSA 188-D:20-a, and RSA 188-D:20-b.***

Amend RSA 188-D:20-b as inserted by section 5 of the bill by replacing it with the following:

188-D:20-b Student Tuition Guaranty Fund.

I.(a) A student tuition guaranty fund is hereby established within the postsecondary education commission and shall be administered by the ***executive director*** [~~postsecondary education commission. In lieu of the surety bond required in 188-D:20-a, the executive director, in consultation with the postsecondary education commission, may require a private postsecondary career school seeking the issuance or renewal of a license to participate in the student tuition guaranty fund.~~]

(b) The fund shall be funded from an annual fee to be established by the [~~postsecondary education commission~~] ***executive director and*** assessed against each school duly licensed by the postsecondary education commission and all applicants for a license under RSA 188-D:20.

(c) ***The funds shall be placed in an interest-bearing account in the office of the state treasurer and the state treasurer shall deposit all interest earned on the funds into the account.***

(d) The fund shall be used to reimburse students when a school has failed to faithfully perform its contractual obligations for tuition and instructional fees in the event of a school closing, and the expense of investigating and processing the claims. ***The owner of a school which fails to perform its contractual obligations shall be personally liable to reimburse the fund for the difference between the per student amount paid into the fund by the school and the amount paid out of the fund to a student to settle a claim made against the school.***

II. The executive director, in consultation with the postsecondary education commission, shall adopt rules, pursuant to RSA 541-A, relative to the administration and maintenance of the fund.

Amend RSA 188-D:26 as inserted by section 7 of the bill by replacing it with the following:

188-D:26 Rulemaking Authority. The ***executive director in consultation with the postsecondary education*** commission shall adopt such rules, ***pursuant to RSA 541-A***, as may be necessary in order to carry out the provisions of this subdivision.

Amend RSA 292:8-kk, I as inserted by section 9 of the bill by replacing it with the following:

I. When any institution of higher learning ceases the regular conduct of instruction, either temporarily or permanently, whether or not the corporation is dissolved, the ***original written*** academic record, or a legible, certified copy thereof ***as defined by the institution***, of each student who has been registered for instruction at the institution shall be forwarded to the postsecondary education commission together with an explanation of the institution's credit and grading system. The postsecondary education commission shall preserve these records and upon request of the individual concerned, shall furnish a certified copy, or reasonable number of such copies, of the individual's record. The fee for each record so

furnished to be paid to the commission shall be ~~[a reasonable fee based on average fees collected by United States institutions]~~ **sufficient to cover related costs.**

Amend the bill by inserting after section 9 the following and renumbering the original section 10 to read as 11:

10 Private Postsecondary Career Schools; Fees for Licenses. The executive director, in consultation with the postsecondary education commission, shall develop a new fee schedule for licenses and license renewals for private postsecondary career schools as required under RSA 188-D:20, and shall submit such fee schedule to the house and senate education committees and the house and senate ways and means committees no later than September 1, 2008. Such fees shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses for the previous fiscal year.

2007-2408h

Amendment to SB 236

Proposed by the Committee on Municipal and County Government - C

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

1 Police Mutual Aid Extended Authority. Amend RSA 105:13 to read as follows:

105:13 Extended Authority.

I. The authority of any duly authorized police officer, constable or watchman of any town **or city** shall extend to any other city or town in the state, provided that the chief law enforcement officer of the requesting town or city has executed with the chief law enforcement officer of the responding town **or city** a written agreement which sets forth the terms and conditions under which such assistance may be requested or rendered. The executed agreement shall constitute authorization for every request for assistance, and for any assistance rendered in accordance with the terms and conditions of the written agreement, regardless of whether the responding police officer, constable, or watchman is named in the agreement. In an emergency situation, the ranking on-duty law enforcement official of a town or city is authorized to make an oral request for assistance to the ranking on-duty law enforcement official in the responding town, subject to the terms and conditions of such written agreement, and the authority of the responding police officer, constable, or watchman shall extend to the requesting town. The written agreement shall remain in full force and effect until terminated by the mutual consent of the chief law enforcement officers of each town or city, or until 10 days after the chief law enforcement officer of one town or city has received notification from the chief law enforcement officer of the other town or city of his **or her** intention to terminate.

II. Where no written agreement exists or no officer is available, any duly authorized police officer, constable, or watchman shall have temporary police authority in another jurisdiction in the state, when requested by a law enforcement officer from such jurisdiction in the state to render assistance to such officer under such officer's direction in an emergency for the purposes of making an arrest or effecting custody of a detainee, conducting a search, quelling a disturbance, providing traffic or crowd control, or securing a crime scene, until relieved by the requesting officer or otherwise directed by the ranking on-duty officer of the requesting jurisdiction.

III. Where no written agreement exists or no officer is available, any duly authorized police officer, constable, or watchman from a nearby town or city may exercise temporary police authority as necessary to respond to a crime in progress, traffic accident, natural or human-caused disaster, disturbance in progress, or other emergency, if requested by a public safety dispatch center authorized to dispatch for the jurisdiction where the event is occurring, because there is no local officer or state trooper available for immediate response and in the judgment of the dispatch center the public safety requires an immediate response. Such officer's authority shall terminate when relieved by an officer with authority in the

jurisdiction receiving the assistance, unless the officer with authority requests assistance pursuant to paragraph II.

IV. When providing assistance under this section the officer shall remain an employee of his or her respective department.

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

AMENDED ANALYSIS

This bill expands the circumstances under which police officers of a municipality may render assistance to police officers in another municipality.