

State of New Hampshire

HOUSE RECORD

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

Vol. 30	Concord, NH	Friday, May 9, 2008	No. 36
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Contains: Hearings, Meetings, Notices, Committee of Conference Procedures, Reports and Amendments for May 14.

HOUSE CALENDAR

MEMBERS OF THE HOUSE:

The House will meet at **10:00 a.m.** on Wednesday, **May 14th**. Hopefully all debates will be efficient, but if necessary, all members should hold open Thursday, **May 15th**, the deadline to act on Senate bills.

A photograph of the membership will be taken on Wednesday, **May 14th**, at the lunch break. We will take one photo inside the House chamber, and if the weather cooperates, one in front of the State House as well. Members will be provided with information on how to obtain copies of the photo(s).

The House will also meet at **10:00 a.m.** on Wednesday, **May 21st**, to concur or nonconcur with Senate amendments to House Bills and/or request committees of conference. Committee of conference procedures are printed elsewhere in this Calendar.

The Speaker's Annual Ice Cream Social for members and staff will take place on Wednesday, **May 21st**, in the driveway of the Upham-Walker House, or in case of inclement weather, in the LOB.

The House will also be in session on **June 5th** to vote on all committee of conference reports. The time will be announced in the next Calendar.

Terie Norelli, Speaker

NOTICE

Chairs and Vice-Chairs will meet on Tuesday, **May 13th**, from 8:30-9:45 a.m. in Rooms 210-211 of the LOB.

Terie Norelli, Speaker

NOTICE

There will be a Democratic Caucus on Wednesday, **May 14** at **9:00 a.m.** in Representatives Hall.
Rep. Mary Jane Wallner, Majority Leader

NOTICE

There will be a Republican Caucus on Tuesday, **May 14 at 11:00 a.m.** in Rooms 305-307, LOB and Wednesday, **May 14 at 9:00 a.m.** in Rooms 305-307, LOB.

Rep. David W. Hess, Deputy Republican Leader

NOTICE

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

Karen O. Wadsworth, Clerk of the House

WEDNESDAY, MAY 14 CONSENT CALENDAR

ELECTION LAW

SB 492, relative to persons designated to fill vacancies on the ballot. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Shawn N Jasper for Election Law: SB 492 came to us as bill to insure that if a person is nominated by their party to fill a vacancy and they have already filed for an incompatible office that they would have to withdraw from the office they had originally filed for. We are recommending that the bill be amended to make it clear that the person nominated by a party must accept that nomination. Two further amendments were introduced at the public hearing. The first, designed to save the time it now takes to count the many scattered write in votes at town and school district elections, provides that if a person wishes to have any write-in votes they may have received counted, they must declare their candidacy to the clerk, prior to the closing of the polls. This requirement would be posted at the polling places. Also, because existing law does not require a person receiving write-in votes to declare their candidacy to the clerk, it unfairly discriminates against all other candidates who are required to arrange their work schedule to go down to town hall during business hours, appear before the clerk, complete a declaration of candidacy and pay a filing fee (or, if a candidate who is not a member of a political party, are required to collect numerous signatures to get on the ballot). This amendment would remedy such discrimination, at least for town and school district elections. The final amendment was crafted to address the issue of the secretary of state being required to spend many weeks of his time on recounts, in which the candidate requesting the recount has no hope of overturning the results. There is only one purpose for a recount, under our law, and that is to determine the winner of an election. Precisely because we have a paper trail and an open system, we have been targeted by those individuals who wish to test their every election theory, using the secretary of state's office as their laboratory. What the amendment does is to disallow those who have no chance of overturning election results from holding the secretary of state hostage. In a presidential primary, where there are delegates at stake, a candidate must have received at least 9 percent of the vote to have standing to request a recount. In any other state election a candidate must be within 20 percent of the winning candidate to request a recount. We have also made it clear that the secretary of state may require that the estimated cost of the recount be paid for in advance. **Vote 10-1.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 526, relative to the death benefit for police officers and firefighters killed in the line of duty. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Daniel J. Sullivan for Executive Departments and Administration: This bill establishes the procedures for the awarding of a death benefit for police officers and firefighters killed in the line of duty. "Michael's Law" was signed into law last session in honor of Manchester Police Officer Michael Briggs, who was killed in the line of duty. This bill was necessary to establish committees to determine whether the death of a police officer or firefighter qualifies as a line of duty death and to whom the benefit is awarded. **Vote 15-2.**

FINANCE

SB 338, relative to the Hampton Beach capital improvement fund. **OUGHT TO PASS.**

Rep. Kenneth L Weyler for Finance: There are 1500 parking meters that the state park system maintains along Hampton Beach. Existing law restricts the parking meter revenue to parking area maintenance and sea wall repairs. At least half the money is transferred to the parks fund. This bill would allow some of the surplus going to the capital improvement fund to also be used for capital equipment for beach and lot maintenance. **Vote 21-0.**

SB 507-FN, relative to extended terms of imprisonment for criminal street gang members. **OUGHT TO PASS.**

Rep. Peter R Leishman for Finance: This Senate bill as amended by the House would extend terms of imprisonment for leaders, organizers, or supervisors of certain groups whose primary purpose is to engage in or promote criminal conduct. The committee heard conflicting testimony concerning the amount of gang activity in the state. The testimony confirmed that this issue needs further review, and further legislative correction may be necessary in the next session. **Vote 21-2.**

SB 516-FN-L, relative to aid for county bridges. **OUGHT TO PASS.**

Rep. Robert A Foose for Finance: As reported by Public Works and Highways and passed by the House, this bill authorizes a county to apply for municipal bridge aid for a county owned bridge in the current manner in which all New Hampshire municipalities apply for municipally owned bridges. Currently there exists only one county owned bridge in the state, that being a bridge on the access road into Gunstock Recreational Area in Gilford. If deemed eligible by the department of transportation (DOT), the bridge which is currently on the red list would be placed on the list for municipal bridge aid. **Vote 22-0.**

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SB 425, relative to the data collection practices of health care providers and relative to the development of a comprehensive uninsured health care database. **REFER FOR INTERIM STUDY.**

Rep. Thomas E Donovan for Health, Human Services and Elderly Affairs: This bill was relative to the data collection practices of health care providers and relative to the development of a comprehensive uninsured data base. Although the committee's consensus was that this data is extremely important to collect and analyze for future health services planning, there remained many unanswered questions, such as the cost that providers would have to incur, which providers needed to be enrolled, and how to protect privacy. In light of this, the committee felt that further study would be the best course of action. **Vote 15-0.**

SB 428, establishing a commission to study the funding of vaccines for children who are not covered by private health insurance. **INEXPEDIENT TO LEGISLATE.**

Rep. Thomas E Donovan for Health, Human Services and Elderly Affairs: This bill forms a commission to study funding sources for the childhood vaccine program for children without insurance, in lieu of the assessment on the private insurers. Testimony from the department of health and human services indicated that federal funds cover vaccines for uninsured children, and, with Medicaid also providing for its own patients, the vaccine assessments cover children whose families pay premiums for private insurance coverage. The insurers are also able to purchase the vaccines for their clients at a significant discount. The department of insurance testified further

that the insurers are able to build these assessments into their rates, and, thus, recoup costs. In addition, SB 468 includes government insurance plans and foreign health insurers in the vaccine assessment going forward, thereby reducing the burden on the private insurers. The committee was unanimous in its recommendation that the childhood vaccine program is a “win-win” for all, and that this study bill is unnecessary. **Vote 15-0.**

SB 541, relative to an expedited process for certificate of need review and membership of the health services planning and review board. **REFER FOR INTERIM STUDY.**

Rep. Jennifer Daler for Health, Human Services and Elderly Affairs: This bill would grant rulemaking authority to the Health Services Planning and Review Board (the Certificate of Need Board) in order to expedite the review process for certain building projects and/or medical equipment. This may have merit but should only be considered after further study to better define legislative direction. The board was created by the legislature in 1985 to protect the public interest and keep medical costs down. This was the second bill reviewed by the committee this biennium that sought to change the process. The recommendation of Interim Study would enable the committee to examine the entire process so as to propose necessary changes to the whole statute, rather than in a piecemeal fashion. **Vote 17-0.**

MUNICIPAL AND COUNTY GOVERNMENT

SB 421-L, relative to workforce housing. **INEXPEDIENT TO LEGISLATE.**

Rep. Anthony F Simon for Municipal and County Government: This bill is not necessary in view of the committee’s action regarding SB 342, which incorporated portions of the bill. **Vote 13-0.**

SB 422, adding an energy section to zoning and planning master plans. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Suzanne S Laliberte for Municipal and County Government: This bill adds a section on energy to a town’s master plan. The RSA lists items to be included in the master plan and this now includes a section on energy. The committee had problems with the original bill, but these problems were solved with the amendment. **Vote 15-0.**

SB 508-FN-L, relative to municipal deposits. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Jessie L Osborne for Municipal and County Government: This amended bill allows town treasurers to make certain deposits weekly. In addition, a non-germane amendment legalizes a warrant article allowing the town of Bath to appropriate \$42,000 to replace the boiler at the Bath Village School. **Vote 13-0.**

PUBLIC WORKS AND HIGHWAYS

SB 341, prohibiting digital advertising devices on certain highways. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Dale R Sprague for Public Works and Highways: It is the position of the majority of the committee that the bill, as presented to the committee, would restrict the future technology of digital off -premise signs. The amendment addresses the safety and esthetics concerns brought up in testimony by allowing LED lighting, but prohibits flashing, scrolling, intermittent, moving lights, or animation except in amber alerts or public service information which would be invaluable in the help of rescuing abducted children, or any fugitive FBI warnings. Additionally, the amendment only pertains to off-premise signs located on divided, limited access highways leaving the remaining roads to continue to be governed by the local city/town advertising laws already in place. **Vote 11-5.**

SB 531, relative to the capital appropriation for the Hillsborough north superior court and relative to the venue for criminal cases in Hillsborough county. **OUGHT TO PASS WITH AMENDMENT.**

Rep. David B Campbell for Public Works and Highways: The cost and scope of the asbestos removal from the Hillsborough County Superior Court-North is far in excess of what was previously anticipated. The court will have to be completely closed during the lengthy and expensive asbestos mitigation and renovations. As a result, this bill as amended allows for civil and criminal cases in Hillsborough North to be heard throughout Hillsborough County. The family division will be transferred to the Manchester district court, which will be renovated to accommodate this superior court function. The cost of moving the family division is almost 2.6 million dollars and another 1.3 million dollars is needed for the design and to begin the renovations of the Hillsborough North

courthouse. The funding to pay for the 3.9 million dollars appropriated in this amended bill comes from current capital budget projects that have finished and had a remaining balance, or funds that were appropriated for capital projects and will not be expended before the end of the biennium. **Vote 15-0.**

RESOURCES, RECREATION AND DEVELOPMENT

SB 403, relative to the commission to study issues relative to groundwater withdrawals. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Suzanne H Gottling for Resources, Recreation and Development: The amendment to SB 403 replaces the redundant original bill and serves as a vehicle for correcting an omission found in enrolling, naming the individuals charged with making appointments to the shoreland protection commission. **Vote 16-0.**

SCIENCE, TECHNOLOGY AND ENERGY

SB 412, establishing the office of technology development and telecommunications planning and the position of director of telecommunications in the department of resources and economic development. **REFER FOR INTERIM STUDY.**

Rep. Carol H Friedrich for Science, Technology and Energy: This bill would have established the office of technology development & telecommunications planning and a new position of director of telecommunications in DRED. An interim study would allow the committee to assess the telecommunication consultant reports due this fall. **Vote 11-0.**

SB 419, relative to the duties of the energy planning and advisory board and restructuring policy principles. **INEXPEDIENT TO LEGISLATE.**

Rep. Michael A Kaelin for Science, Technology and Energy: The committee felt that the proposed board duplicates the duties of existing boards and commissions, and is not needed. **Vote 9-0.**

WAYS AND MEANS

SB 410, relative to the conditions for issuance of a cremation certificate and relative to the medical examiner's statute. **OUGHT TO PASS.**

Rep. Catherine Mulholland for Ways and Means: This bill clarifies when a medical examiner's certificate may be issued for a death occurring within the state but the body is being transferred out of state for cremation. It also makes a technical correction to the fee in RSA 611-B:27,I, to conform with the amended fee of \$140 in paragraph II for death investigations involving external examination of the body, which was passed last year. **Vote 17-0.**

SB 490-FN, relative to fees for special number plates for veterans and relative to vehicle registration fees for disabled veterans and former prisoners of war. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Catherine Mulholland for Ways and Means: This bill eliminates the one-time fee for special number plates for veterans and clarifies the disabled exemption from state vehicle registration fees. The amendment removes an exemption for former prisoners of war from the state vehicle registration fee. **Vote 18-0.**

SB 528-FN, relative to a mercury-added thermostat collection program. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Roger G Wells for Ways and Means: This bill as amended addresses the serious issue of removing mercury added thermostats from the environment. It will prevent the installation of new mercury-added thermostats in the state. The bill has an educational component to make our citizens aware of the importance of proper disposal of mercury-added thermostats as they are replaced by newer programmable thermostats. There has been a joint effort by the thermostat manufacturer, the department of environmental services (DES), and the municipal association to place recycling bins in all the communities. Honeywell has even stopped making mercury-added thermostats. The Thermostat Recycling Commission pays for the shipping to a recycling location and properly disposes of the mercury. A mandatory \$5.00 "rebate or bounty" to be paid by the manufacturers that was added to the bill in the House, is a form of, fee on the manufacturers, and was perceived by the committee to punish corporations which have acted very responsibly in trying to solve the problem.

Additionally, DES stated that it would require additional personnel to administer the rebate program. The committee amendment removes the “bounty” and makes this a very good bill to address this serious issue. **Vote 18-0.**

WEDNESDAY, MAY 14

REGULAR CALENDAR

COMMERCE

SB 472, relative to consumer protection from certain practices of payday loan, small loan, and title loan lenders and establishing a commission to study access to consumer credit for people in New Hampshire. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Matthew S Houde for the **Majority** of Commerce: The House has already debated, and adopted, a 36% interest rate cap in HB 267. SB 472 complements that bill by re-defining payday and small loans, as well as payday and small loan lenders, in such a way that enables the department of banking to ensure that such lenders cannot avoid the provisions of the chapter by indirect means of operation. This provision becomes effective January 1, 2009. SB 472 also establishes a commission to study access to consumer credit for people in New Hampshire, including: the varieties of consumer credit currently available to people in the state; non-credit emergency assistance currently available in the state; the impact of irresponsible or abusive lending practices and loan products on the people in the state; the potential for market-based development of new varieties of responsible consumer credit; and possible legislation to improve access to responsible consumer credit. The amendment adds three industry representatives to the commission. This section becomes effective upon passage and the commission is directed to report its findings and any recommendations before November 14, 2008. **Vote 10-6.**

Rep. John B Hunt for the **Minority** of Commerce: This bill is a trailer bill to HB 267 relative to capping interest rates at 36%. The minority supported an amendment to put off the effective date so as to give time for the commission’s recommendations to be put into effect. The minority is very concerned that many New Hampshire citizens will be left in the lurch a week after Christmas. The minority sees no purpose in the commission if its recommendations cannot be put in to place prior to the effective date of the interest caps.

EDUCATION

SB 337-FN, relative to home education of children. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Sharon M Carson for the **Majority** of Education: This bill, as amended, creates four new provisions to New Hampshire’s home school laws. First, it requires that when a parent withdraws a student from a public school with the intention of homeschooling that child, that they notify either the commissioner of the New Hampshire department of education, the resident district superintendent, or the principal of the public school within 5 business days of withdrawal. It also requires parents to notify the commissioner of the New Hampshire department of education, the resident district superintendent, or the principal of the public school by the first scheduled day of the school year that they will be continuing a homeschooling program for their child. Additionally, the amendment creates a study committee that will review New Hampshire’s home school statutes. Finally, it places two members of the House and one member of the Senate on the Home Education Advisory Council. **Vote 9-8.**

Rep. Paul Ingbertson for the **Minority** of Education: This bill, while an improvement over the Senate Bill, still has the earmarks of a duplication of efforts and a solution looking for a problem: 1) duplication of efforts in that most of the members of the commission already meet regularly to assess home schooling issues, and 2) solution looking for a problem since there was no indication the legislation was the result of any problem. As Will Rogers said, "If it ain't broke, fix it til it is."

SB 359, updating the health curriculum requirements for public school students and requiring the state board of education to provide for procedures through which students may be excused from course requirements relating to health and sex education on religious grounds without penalty.

OUGHT TO PASS WITH AMENDMENT.

Rep. Sharon M Carson for Education: This bill adds youth suicide prevention to the required health education curriculum framework and allows parents to opt out of a particular unit of instruction based on a religious exemption. It also requires that a provision for alternative learning be in place that enables the student to meet the state requirements for health education if they opt out of a unit.

Vote 13-3.

SB 374, relative to the process for nonrenewal of teacher contracts. **OUGHT TO PASS WITH AMENDMENT.**

Rep. J. Timothy Dunn for Education: The amended version of this bill does three things: First, it amends RSA 189:14-a,III by deleting a sentence that removes the responsibility of administration to assist a teacher who is having difficulty meeting the standards set by the district. In other words, nothing more is demanded of an administrator than to tell a teacher in writing each month he or she is not practicing up to standards, and at the end of the year that person will be non-renewed. That is not regarded as sound policy in business or industry. That practice is as close to making teachers employees at will as you can get and not say so. The commissioner of education strongly supports this change as best educational practice. Second, it amends RSA 189:14-b, I. The amendment allows a non-renewed teacher who is in a bargaining unit which has won the right to arbitration through collective bargaining, the choice of arbitration or the hearing set forth in current law. Third, it amends RSA 273-A:4 by removing the prohibition against negotiating the right to arbitration in the master agreement. It gives local bargaining groups the right to bargain for arbitration in cases of non-renewal. This allows for local control of negotiated contracts. It is not good policy for the state to determine what is and what is not negotiable. In no other instance does the state rule on what can and cannot be negotiated. Finally, nothing in this amended bill or in current law affects the right to be heard by the New Hampshire Commission for civil rights or the US Equal Employment Opportunity commission. **Vote 9-7.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 210-FN, relative to making various changes to the regulation of plumbers and water treatment technicians by the board of licensing and regulation of plumbers. **INEXPEDIENT TO LEGISLATE.**

Rep. John Reagan for Executive Departments and Administration: This bill came to the committee at the request of the plumbing board in an attempt to make the working of the board more efficient. There was, however, caution on the part of the committee to move forward with legislation that made changes, including fines, when many questions and concerns remained unanswered. **Vote 14-4.**

SB 463, establishing an investment committee and an audit committee in the New Hampshire retirement system. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Patricia M McMahon for the **Majority** of Executive Departments and Administration: This bill, as amended, preserves the intent of HB 1645 which was amended in the Senate this month. By retaining the key elements of HB 1645, we can ensure the strongest possible retirement system for all public employees. The retirement system was established as a defined benefit to provide a pension. It did not guarantee other post employment benefits (OPEB's) such as cost of living adjustments (COLA's) or money for health care (medical subsidies). Over the past 15 years, the New Hampshire Retirement System went from one of the nation's highest funded public pensions to one of the lowest with current unfunded liabilities of \$2.7 billion. The legislature adopted a funding

formula that under-calculated how much money the pension fund needed. As a result, employers paid in too little. At the same time, employee groups used almost \$1 billion dollars out of the pension fund for other post-employment benefits. The investment of the pension monies by the retirement board under performed most of the public pension funds in the country resulting in lost earnings. Without certain technical changes included in the bill, the New Hampshire Retirement System would be at risk of losing its qualified status under the IRS and no longer be eligible as a tax exempt plan. The bill provides for commissions to address health costs and COLA's for current and future employees. If we do nothing, the legislature, in effect, would be raising rates on local property taxpayers by over 50%. **Vote 13-4.**

Rep. Daniel J Sullivan for the **Minority** of Executive Departments and Administration: The minority feels that the concept of this bill as originally drafted was sound, but needed some minor adjustments. The original bill established committees to advise the board of trustees of the New Hampshire Retirement System on investments and auditing. The amended version goes far beyond, making aggressive and, the minority believes, unsound changes to the New Hampshire Retirement System.

FINANCE

CACR 34, relating to funding of public education. Providing that the general court shall define an adequate education and distribute state funds for public education in a manner that alleviates local disparities. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Reps. Marjorie K Smith and Neal Kurk for the **Majority** of Finance: Of the dozens and dozens of amendments that in the last decade have been offered relative to education fundin, not one of them passed. Some have tried to change the level of commitment to providing an education to all New Hampshire students. Others have tried to restrict the role of the courts. At the same time legislators from both parties, as well as individuals and institutions outside the legislature, have come to believe that we need more flexibility in targeting education dollars so that funds can be directed as efficiently and effectively as possible to help those districts most in need. This amendment does just that. While not addressing the court's standard of review, it calls for the legislature to: provide every child the opportunity for a public school education; define the content of an adequate education; determine the total statewide costs of providing that education; raise funds to total the statewide cost; and target the distribution of those funds to address local disparities in educational opportunity and fiscal capacity. In addition, the amendment includes language to insure that every school district shall receive a meaningful share of these funds. **Vote 20-5.**

Rep. Peter R Leishman for the **Minority** of Finance:. The constitution is a blueprint of state government, not a schematic in full detail, and changing it to provide specific legislative initiatives destroys the integrity of it. The existing body of work has been interpreted over many years by the courts and modifying the language will reopen the door to a new round of judicial interpretation.

SB 321, relative to construction or renovation of regional vocational centers, transferring certain positions from the pari-mutuel commission to the department of safety, and requiring certain operating budget reductions. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Marjorie K Smith for Finance: This bill is the result of extensive committee work including three public hearings and a number of work sessions. It addresses a number of disparate issues and the health and human services, executive departments and administration, public works and highways and ways and means committees were invited to participated in hearings relating to topics that might otherwise be heard in their committees. The bill allows certain site work to be eligible for grants for the construction or renovation of regional vocational centers; transfers certain positions from the pari-mutuel racing laboratory to the department of safety urine testing laboratory; directs the judicial and legislative branches to reduce budget appropriations by a specified amount; establishes a commission to study funding of school building aid; establishes discounts for certain liquor licenses; and provides authority to lapse funds from the default bench warrant fund to the general fund in the current fiscal year. It also permits certain state contributions to the retirement system to lapse on June 30, 2008 instead of 2009; increases the tobacco tax contingent on the amount of tobacco tax received during the first three months of the next fiscal year; and makes certain

adjustments to limit county obligations for certain services. The bill permits the judicial council to request the fiscal committee to authorize certain transfers and repeals certain conflicting provisions; permits the liquor commission to use part of a capital budget appropriation to purchase a forklift; removes references to county liability for certain juvenile service costs; and legalizes the proceedings of the Lyme town meeting and budget committee meeting held in the winter of 2008. **Vote 24-0.**

SB 327-FN, relative to compensation for state employees injured in the line of duty. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Bernard L Benn for Finance: This bill specifies that if a state employee is injured in the line of duty and is permanently disabled, the employee shall not be terminated from state service until he or she has applied for disability retirement and a final decision on the application is made and all appeals are finalized. This bill will allow an injured state employee to retire in a financial position that is not worse than if he had retired without the injury. Workman's compensation benefits received can not be counted as base pay for purposes of calculating retirement benefits, therefore the bill ensures that the employee will remain on active payroll at full base salary until his retirement is settled. During this period he is not entitled to receive worker's compensation payments. Testimony was given that the assumptions used in the fiscal note that accompanied the bill were faulty. This legislation would have applied to only one case in the last several years and will increase state expenditures by an indeterminable, de minimis amount. **Vote 16-7.**

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SB 512-FN, relative to emergency management powers. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert G Bridgham for Health, Human Services and Elderly Affairs: This bill will, in the event of a major public health emergency, give the commissioner of health and human services, under the direction of the governor, powers needed to respond effectively to the emergency. In particular, during a declared state of emergency, the commissioner would be enabled to purchase, distribute, and, if necessary, ration medications and vaccines without budgetary constraint; to investigate any incident or threat of disease or health condition that posed a risk of significant numbers of deaths or disabilities, to order individuals to undergo medical care when needed to control the threat of disease; and, when necessary for public health, to organize and compel the safe disposal of corpses. During serious outbreaks of disease, not at the level of a declared state of emergency, the commissioner would be able to distribute medicines without some of the usual labeling and to organize temporary acute care centers to handle the overflow from acute care hospitals. The bill balances these powers with basic due process rights, appropriate deference to religious beliefs and customs, and the requirement of public declaration of the conditions warranting use of exceptional powers and practices. The bill also authorizes a commission to further study the practice and core requirements of responses to major public health emergency situations and to recommend any needed changes in preparation and in law. **Vote 17-0.**

JUDICIARY

SB 460, relative to the definition of surviving issue. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Lucy McV Weber for the **Majority** of Judiciary: This bill was brought on behalf of a woman who conceived a child after her husband died of cancer using her husband's sperm which had been preserved for that express purpose. Because the New Hampshire supreme court has held that a child conceived after the death of a parent has no rights under present New Hampshire law to participate in the intestate estate of that parent, if the parent dies without a will, federal law bars the after-conceived child from receiving Social Security Survivor benefits, even though the deceased parent left clear expression of his intent that this child be treated equally with his other child, born during his lifetime. The bill as drafted arguably addressed the immediate problem, but raised significant questions about how it would apply in other cases with different circumstances. The committee concluded that this is an important area that needs to be addressed, but that more study is needed to insure a comprehensive and consistent policy to insure that all children are treated fairly, no matter how they are conceived. **Vote 14-5.**

Rep. Gregory M Sorg for the **Minority** of Judiciary: This bill would reverse the result reached by the supreme court in *Eng v. Commissioner, Social Security Administration*, 155 NH 798 (2007), which held that a child conceived after the death of a parent by artificial insemination is not “surviving issue” of that parent for purposes of inheriting under New Hampshire’s intestacy statute, RSA 561:1. The minority believes that the decision of the supreme court should be left standing. Under current law, the class of children eligible to take by intestacy is limited to those born before, or in utero at the time of, the decedent’s death; that is, the class closes at the latest within nine months of the parent’s death. The minority believes that no bill recognizing a right of posthumously conceived children to inherit by intestacy can be crafted that would not unnecessarily complicate and delay completion of the administration of intestate estates, because it would create the potential for the birth of heirs-at-law as far in the future as science shall make possible, and any statutory attempt to limit just how far would necessarily be arbitrary and certain to be the subject of litigation on equal protection grounds. The claim that the current intestacy statute leaves posthumously conceived children unprotected and essentially creates two classes of children does not withstand analysis, since RSA 561:1, I(b) distributes the first \$250,000 of a decedent’s estate to the surviving spouse without regard to children - living, in utero or posthumous. Couples who undertake arrangements to conceive children after the death of one of them necessarily engage in a good deal of planning. It would subject them to very little additional inconvenience to require them to include in that planning the making of a will or trust providing for the future security of those children. It should not go unremarked that the purpose of the plaintiff in bringing the case was to establish the eligibility of that child for social security survivor’s benefits, which, under federal law at 42 USC §402(d)(1), is determined by the child’s eligibility to inherit under the decedent’s domiciliary state’s intestacy laws. On this basis, SB 460 is objectionable on numerous additional grounds. First, it is special interest legislation, having been filed on behalf of and for the particular benefit of the unsuccessful plaintiff, whose daughter would become eligible for benefits under the retroactivity provision of the bill’s second section. Second, it would frustrate the core purpose of survivor’s benefits, which is to protect children of an insured wage earner who were dependent on the insured at the time of his death. Third, it would create the potential for the procreation by every individual man and woman domiciled in New Hampshire of a theoretically unlimited class of survivor’s benefits dependents under an already actuarially overburdened social security system. Fourth, it would make social security survivor’s benefits unique among insurance programs by insuring against risks that have already happened, are known to have happened, and were intended by the insured to happen. **SB 465**, relative to the laws regulating trusts and trust companies in New Hampshire.

MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Lucy McV Weber for the **Majority** of Judiciary: The committee received this bill, which continues the initiative of the 2006 Trust Modernization and Competitiveness Act, as a second committee. It has already passed the House on the recommendation of the Commerce Committee. The substantive additions made by the bill provide an increased number of choices for trust vehicles and increased flexibility for trust administration. The committee focused its review on the issues of court involvement in the procedure and on those provisions of the law which limited liability. The committee amendment makes four minor drafting corrections. The one substantive change clarifies that one liability limitation provision applies only to creditors under certain relatively narrow circumstances. The committee was assured by the proponents of the bill that it will not allow existing trusts to be modified in ways that would defeat the intent of the creator of the trust. **Vote 12-5.**

Rep. Peter S Espieffs for the **Minority** of Judiciary: This bill is special interest legislation. Essentially, it will serve the interests of residents of other states who are looking for the best and most compliant no-tax haven and liability escape in which to shelter their wealth. Under present law they already enjoy ample arrangements for promoting and protecting dynastic wealth. We do not have to vie with the Nevadas, Delawares, and South Dakotas for the empty accolade of “number-one wealth-haven” of the nation. In these hard times there is much accompanying speculation about benefits to be gained. This bill does little for our constituents and it should be defeated.

LEGISLATIVE ADMINISTRATION

SB 482, relative to ethical standards for volunteer service in the executive branch. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Elizabeth S Hager for Legislative Administration: Our committee has been working hard for two years on this lobbyist/ethics bill. We believe this version of the bill addresses concerns of the Secretary of State and adds a provision requested by the Legislative Ethics Committee. It is an important change to current problems with the law. **Vote 10-0.**

MUNICIPAL AND COUNTY GOVERNMENT

SB 199, relative to the assessment of property subject to a housing subsidy restriction. **REFER FOR INTERIM STUDY.**

Rep. Betsey L Patten for Municipal and County Government: The Constitution of New Hampshire requires that all property be assessed at market value and RSA 75:1 clarifies that requirement and sets open space" land that is assessed NOT at market value. There are three ways to calculate market value – sales, cost and income. This bill attempts to place property that is subject to "a housing covenant under low-income housing tax credit program" in a category that is NOT market value by defining "income" differently than presently used by assessors. There is a capitalization rate formula in an amendment and the committee would like to be able to understand the concept and the function and if it is any different from other properties that use the income method.

Furthermore, there was no documentation about the impact on the other taxpayers in the municipality and no documentation of any requests for abatement, settlements or property record cards. The committee realizes that there may be a difference in the selling price with the way the government has set up low income housing and the requirements of the state housing authority for 99 year covenant restrictions. The committee has sent at least two assessing issues to the Assessing Standards Board (ASB) for its input prior to implementing changes in the way assessing is done in New Hampshire. The concept of assessing housing subsidies differently is a concept that was broadly presented to the ASB, but not in the detail proposed by the sponsors of this bill. The majority of the committee feels that this is a premature bill and a letter directing the ASB to find a solution and report back to the committee by November 1 has been written. In order to have fair and equitable assessing of the property tax in New Hampshire the committee voted for Interim Study so that the ASB will have the opportunity to address and solve this issue. **Vote 12-3.**

SB 342-FN-L, establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Mary R Cooney for Municipal and County Government: The shortage of workforce housing poses a threat to the state's economic growth. A balanced supply of housing serves the statewide public interest. This bill defines affordable housing, multi-family rental housing and what constitutes opportunities for the development of workforce housing. This bill incorporates the provisions of the earlier House bill passed which codified the court case of Britton vs. Town of Chester but adds a few sections to address concerns of the regional planning commissions. Specifically, the appeal process is more clearly defined to address the concern over what is commonly referred to as "the builder's remedy" or a judgment that allows construction of the proposed development granted by the court. This bill also now addresses the concern that a workforce housing development remain affordable for a certain length of time as negotiated by the municipality and the developer. Other changes involved rewording of phrases to clarify where and what type of housing could be designated in different residential zones. This bill is an improvement on the previous House bill and should be passed. **Vote 11-3.**

SB 381, relative to conservation commissions. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Betsey L Patten for the **Majority** of Municipal and County Government: Conservation commissions currently may receive gifts and acquire property in the name of the town, with the approval of the governing body. This bill addresses the ability of the conservation commissions to expend funds to purchase land outside the boundaries of the municipality and to expend funds to

contribute to “qualified organizations” for the purchase of property interests where the municipality will retain no interest. The authorization for purchasing land outside the municipal boundaries and contributions to “qualified organizations” is not clear in the present statute. The amendment sets up a process whereby the legislative body will vote to authorize the conservation commission to expend funds for both these circumstances, again with the approval of the governing body. The majority of the committee feels that having the check and balance of the governing body’s approval is an appropriate action and mirrors the process for the receiving of gifts and acquiring property that is in place right now. **Vote 11-3.**

Rep. Timothy Butterworth for the **Minority** of Municipal and County Government: At this time some towns are using their conservation organizations for protection of lands that border their town or lie in more than one town. These projects may involve shared ownership or ownership of easements. Other towns have received legal advice that current law doesn’t allow for the latter. This bill clarifies and permits these important activities for protection of lands important for a town. However, by requiring approval of the town governing body in these transactions, the bill as amended becomes a disincentive for individuals who donate money for conservation commission projects but don’t want town government control of their donations, and to landowners who have reasons to make a bargain sale discretely and promptly. For this reason some members felt this bill was a step backwards and the vote should be ITL.

SB 479, relative to the vote required for passage of school bonds. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Betsey L Patten for the **Majority** of Municipal and County Government: Currently a traditional school district meeting requires a two-thirds vote to authorize the issuance of notes or bonds. In a charter school district the vote required for authorizing a bond is also two-thirds. This bill would change the authorization vote from two-thirds to three-fifths with no vote of the local legislative body. The majority of the committee realizes that if a school district or school board wants to have a lower threshold vote for authorizing bonds, then implementing official ballot voting, known as “SB 2,” is an option that is voted on by the legislative body. The committee also noted that changing the percentage vote for bonding could violate the constitution by changing a form of government without approval from the legislative body. **Vote 11-3.**

Rep. Timothy Butterworth for the **Minority** of Municipal and County Government: The committee heard testimony from a school district in a quandary: it had to repair the old school, build a new one, or disperse their students to other schools. Every year of delay raised the cost of any solution. Eight town votes had only produced further gridlock, with neither side gaining a 66% super majority. Our founding fathers were suspicious of democracy, or “mobocracy” as some of them called it, and the rules about super majorities are one way they prevented voters from changing the status quo. The US Senate, in 1975, reduced its cloture rule to 60% for this very reason. Without it, nothing could pass and the country was regularly in log jam. During the recent confirmation hearing for the Supreme Court we heard much dissatisfaction even with this lower super majority, and calls for a simple majority, an “up or down vote.” We haven’t heard this radical demand much since 2006. The minority of our committee endorsed the 60% solution because New Hampshire citizens are more frustrated with governmental gridlock than they are afraid of threatening the status quo. The House members should have a chance to consider a small percentage change and a big concept in our democracy.

SCIENCE, TECHNOLOGY AND ENERGY

SB 383, establishing a commission to develop a plan for the expansion of transmission capacity in the north country. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Carol H Friedrich for Science, Technology and Energy: This bill establishes a commission to develop a plan for the expansion of electric transmission capacity in the North Country. This commission is authorized to complete any engineering or economic studies necessary. The plan will be a beginning step in the timely development of renewable energy generating projects in the North Country and the upgrading or replacement of transmission facilities to bring this energy to the rest of the grid. **Vote 7-2.**

SB 451, authorizing rate recovery for electric public utilities investments in distributed energy resources. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. David A Borden for the **Majority** of Science, Technology and Energy: Distributed energy is electrical power which is generated where such power is used. This bill encourages New Hampshire's electric public utilities to invest in distributed energy, especially clean and renewable electric power under state regulatory oversight. **Vote 8-1.**

Rep. Michael A Kaelin for the **Minority** of Science, Technology and Energy: This bill was originally billed as a "renewable energy" bill, but in reality, it has nothing to do with renewable energy. The bill was written for a utility that is currently in the process of buying a gas utility, and the environmental limits for non-renewable generation were picked such that only gas-powered facilities could meet the limits. As amended, the bill authorizes utilities to build distributed generation equal to 6 percent of total capacity, about 150MW between all the utilities. Costs of building generation ranges from several dollars per watt, up to the high end of around \$10 per watt, which means the total amount of ratepayer money authorized by this bill could range from \$500 million all the way up to \$1.5 billion. There were no economic studies made of the costs to ratepayers. Most of the investments authorized here could be made already under the funds established by the Systems Benefit Charge, the RPS legislation passed last year, and the recently passed RGGI legislation. Finally, this legislation essentially allows re-regulation of the unregulated utilities and expansion of the capacity of PSNH, all without any public comment on the re-regulation issue.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

HR 25, urging Congress to fully implement the Secure Fence Act of 2006. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kris E Roberts for the **Majority** of State-Federal Relations and Veterans Affairs: Much of the attention given to the Secure Fence Act of 2006, the short title for Public Law 109-367; An Act to Establish Operational Control over the International Land and Maritime Borders of the United States, is placed on the illegal immigration portion. The committee spent a great deal of time on the complete law and determined that the law addressed much more than illegal immigration along the southern border. It addressed such issues as controlling illegal drugs. According to DEA, over 80% of the cocaine smuggled from South America into the United States comes across the Mexico-Texas border resulting in Houston emerging as the leading cocaine distribution center in the United States. Over 70% or over 12,000 kilos of cocaine seized each year is seized between the Laredo and Brownsville, Texas ports of entry. A major section or 171 miles of the 700 miles of fence would be constructed between these two cities with the main purpose of stopping illegal drugs coming into the United States. The busiest illegal immigrant corridors are located in Arizona while recent ICE numbers showed less than 2,900 illegal entries during a 45 day period during the end of 2007 along the 171 mile corridor. When it comes to the construction of the fence, Public Law 109-367 replaces sections of the 1996 immigration law so the Secure Fence Act of 2006 doesn't call for an additional 700 miles of fence rather an expansion up to 700 miles. Furthermore Public Law 109-367 directs the Department of Homeland Security to develop non-physical barriers such as more effective use of personnel and technology to enhance and control access to all United State Borders to include the Northern Border and all maritime borders with the goal of decreasing the flow of counterfeit goods such as prescription drugs, counterfeit auto parts, and computer programs and other contraband such as knock off goods which threaten American's health and jobs. Additionally Public Law 109-367 directs the Department of Homeland Security to come up with recommendations to provide the United States Coast Guard with the ability to stop boats and ships that enter United States' waters illegally, refuse to stop when ordered and then attempt to outrun the Coast Guard into international waters. The committee debated HR 25 hard and long with many at first believing that it was an anti-Hispanic-Latin American immigration law. In the end the majority of the committee believed that one of the goals of the law when it came to immigration was controlling all unlawful entries into the United States regardless of country of origin. Also the committee as a whole believed that HR 25 was in fact more directed at overall homeland security than mainly focus of immigration reform or control. **Vote 8-3.**

Rep. Eleanor Glynn Kjellman for the **Minority** of State-Federal Relations and Veterans Affairs: The minority of the committee believes that this resolution, even as amended, while purporting to be a bill about security, is too much focused on building a fence to prevent illegal aliens from entering the country through Mexico. Similar emphasis is not placed on building a fence along the very porous northern border with Canada, in spite of the fact that the 9-11 hijackers entered through Canada and the Millennium Bombers were apprehended in the Seattle area after coming through the Canadian border. Furthermore, since the implementation of the Secure Fence Act, P.L. 109-367, unintended consequences have arisen. American citizens who own homes and land along the border are in court trying to keep the government from taking their homes and land by eminent domain in order to complete this fence. It has become apparent that if a fence is built of almost any height, there is a way to render it useless- possibly with such low tech devices as taller ladders, or tunnels dug under it, or simply going to its end and going around it. Increased Border Patrol personnel, National Guard deployments in states on the border, pressuring the Mexican government to offer economic opportunities to their own people, and discourage them to attempt the journey instead of handing out pamphlets about how to survive the desert are some of the things which might help solve the problem. Those solutions should be part of an immigration bill, not a security bill. The law requires a report on progress this month – May '08. The minority believes it will show that the reason the law has not been fully implemented on schedule is that it has been discovered to be ineffective, and too expensive. It would involve violating the rights of homeowners who should not have to give up their homes for the building of an expensive wall that will not accomplish much more than allowing some to feel they have “done something.”

WAYS AND MEANS

SB 310-FN, relative to changes to games of chance. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.**

Rep. William A Hatch for the **Majority** of Ways and Means: The purpose of this bill is to make some changes to the licensing and application process in addition to creating some penalties for infractions of the pari-mutuel commission's requirements. This bill also establishes a position of internal auditor in the pari-mutuel commission. After several meetings with participation of the Executive Departments and Administration committee, the committee recommended amending the bill so that it includes a better defined range of infractions as well as narrowing the range of fines within each class of violation. With ED&A, we also added penalties to apply to relevant violations, as already passed by the House. The added position of an auditor is required so that the pari-mutuel commission can effectively administer the added requirements, and a member from the Finance Committee joined the sub-committee on this item. This bill is the result of several years of work by House and Senate ED&A and Ways & Means committees and the majority enthusiastically supports its' passage. **Vote 9-4.**

Rep. Steve Vaillancourt for the **Minority** of Ways and Means: This bill is not ready for prime time, therefore the minority believes the issue should be studied and a better draft created before anything is passed. This bill seems to be the consolidation of three bills making the rounds. The purpose of Ways & Means as a second committee is to look at fees, fines, and taxes. However, it is obvious now that this bill came out of EDA prior to policy issues being settled. Therefore, the Ways & Means subcommittee spent much of its time dealing with issues not pertinent to Ways & Means. It would be far better to spend the summer looking at this and to introduce more finely tuned legislation next session. Regarding penalties, the Ways & Means amendment contains a 400 percent and a 250 percent increase in two categories; that is to say, an increase from \$100 to \$250 as the minimum fine for a “moderate violation” and from \$250 to \$1000 as the minimum fine for a “major violation” from what ED&A recommended. (The maximum fine in those two categories were set at \$1500 and \$5000.) The Ways & Means amendment also contains far too specific wording as to what constitutes minor, major and moderate offenses. Such a task should go to ED&A, if any committee, not a Ways & Means subcommittee.

SB 317-FN, relative to the retail sale of tobacco products. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William A Hatch for the **Majority** of Ways and Means: The purpose of this bill is to transfer the licensing for retail tobacco sales from the department of revenue administration (DRA) to the liquor commission. Since the liquor commission administers the enforcement of tobacco sales requirements, it would streamline the function to put the license process under the commission as well. The bill as passed by the Senate would not allow in-state retailers of tobacco products to sell or exchange tobacco products with each other for resale, which under current requirements is allowed. DRA and the liquor commission responded that it was not their intent, so the bill was amended to allow that activity. The bill also increased the fees a considerable amount, but after the subcommittee reviewed those increases with the liquor commission, it was agreed that the fees could be reduced to a slight increase that would pay for the notification requirements. **Vote 10-2.**

Rep. Steve Vaillancourt for the **Minority** of Ways and Means: This bill, as originally recommended by Executive Departments and Administration committee and passed by the House, purportedly only does one thing – transfers licensing for retail tobacco sales from the department of revenue administration (DRA) to the liquor commission. However, upon closer inspection, the committee discovered that fee increases were also included. The committee amendment strips out one particularly egregious increase, a 70 percent hike for tobacco vending machine operators. However, it leaves in a 20 percent increase for businesses which sell tobacco products. It's actually an insignificant amount, from \$5 to \$6. It would raise approximately \$1800. The minority believes that for such a small amount, it is imprudent to go through the work of raising the fee. The liquor commission claimed that money is necessary to print posters, but left it unclear how much money was needed for this, thus bringing into question exactly how vital this money is. The minority believes the \$5 (or \$6) fee is intended for licensing, not printing. Although not particularly in the purview of ways and means, the minority also challenges the wisdom of the liquor commission assuming this task. DRA is the tax collecting branch of state government. It oversees cigarette tax stamping and should retain this less vital function. The minority is not convinced this is a streamlining of state government.

SB 328, relative to civil forfeitures for certain waste disposal violations. **OUGHT TO PASS.**

Rep. Michael G Marsh for Ways and Means: This bill was introduced on behalf of the department of environmental services and the attorney general's office. It changes the maximum fine for serious violations of certain provisions of RSA 485 relating to sewage disposal systems. The committee was informed that major violations of this act can result in serious public health danger as well as environmental harm. The fine would apply in the case of the construction of a building from which wastes will discharge without a septic system, building a subdivision without authorization, failing to abide by a lawfully issued administrative order, or construction of a building or system based on a permit that was issued based on false or misleading information. Currently, the maximum fine for any of these offenses is a one-time \$5000. The agency testified that this penalty is insufficient, as it is less costly to pay the penalty than to correct the problem. The agency related the example of a house built next to a north-country lake with no septic system that discharged sewage directly into the lake. This bill raises the maximum fine to up to \$10,000 per day. While this seems high, it is consistent with the current penalties for other serious violations that relate to state waters, or shoreline and wetlands protection. To prevent unreasonable fines, the bill adds a provision that the fine must be commensurate with the extent of harm done, the persistence of the violation, the impact of the fine on the offender, and other relevant considerations. **Vote 12-5.**

SB 519-FN, imposing a per diem fine on dam owners and operators for failure to repair damage. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Christine C Hamm for Ways and Means: This bill provides the department of environmental services authority to enforce penalties on private dam owners who fail to address necessary repair and maintenance problems that could impose environmental harm or jeopardize public safety. While the fine of \$2,000 per civil violation remains the same as in RSA 482:11, this bill gives teeth to the current statute, requiring enforcement if a dam owner does not respond to the department's notice within 45 days of receipt. To encourage compliance, the bill allows the fines collected to be used to establish a revolving loan fund for private dam owners who need assistance paying for such repairs. **Vote 16-1.**

SB 522-FN, relative to licensing requirements for small quantity biodiesel producers and distributors and prohibiting the sale or delivery of biodiesel not meeting the state ASTM standard. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Michael G Marsh for Ways and Means: This bill is one of three bills that came out of the commission established last year to recommend ways to promote the production and use of biodiesel fuel in the state. This bill makes it easier for producers of bio-diesel to operate here. Currently, we have no formal definition of bio-diesel, and producers fall under the laws that relate to other motor vehicle fuels. These provisions include a requirement that producers post a minimum \$10,000 bond with the department of safety. The bill provides a definition for bio-diesel and establishes technical standards for its production. The bill removes the requirement that producers of less than 10,000 gallons per month of bio-diesel post a bond. To protect buyers of bio-diesel, producers who sell their fuel are required to periodically test it to ensure it meets the technical specification established. Currently distributors are required to pay the road toll on all bio-diesel fuel. The bill makes it possible to claim back that portion of the per gallon road toll that is not used for vehicles operating on public roads. The committee believes this bill is an important step in the production and use of bio-diesel in the state and that this is a laudable goal. **Vote 17-1.**

SB 532, relative to administrative fines under the indoor smoking act. **OUGHT TO PASS WITH AMENDMENT.**

Rep. William A Hatch for Ways and Means: This bill gives the department of health and human services the statutory authority to impose administrative fines for persons violating the indoor smoking act. This corrects the oversight committed when the act was passed without authorizing this ability to do so. It was amended to limit the fine to a maximum of \$200 per day. **Vote 14-2.**

HOUSE DEADLINES

Thursday, May 15, 2008	Last day to act on Senate bills
Wednesday, May 21, 2008	Last day to form Committees of Conference
Friday, May 30, 2008	Last day to sign Committee of Conference reports
Thursday, June 5, 2008	Last day to act on Committee of Conference reports

LAIID ON TABLE

HA 1, for the removal of Patricia C. Coffey, superior court justice, from office.

HB 76-FN, creating an environmental policy for New Hampshire. (Pending question is Ought to Pass.)

HB 174-FN, relative to regulating residential building and remodeling contractors. (Pending question is Ought to Pass.)

HB 585-FN, requiring all animal shelter facilities, pet shops and commercial kennels to collect a neutering deposit when placing a cat or dog that has not been neutered. (Pending question is the committee report of Inexpedient to Legislate.)

HB 620-FN, repealing the statutory provisions regarding small loans, title loans, and payday loans and establishing a general statutory usury rate. (Pending question is Recommit.)

HB 799-FN, establishing a criminal usury rate for interest rates. (Pending question is Ought to Pass.)

HB 1139, relative to party access to voter information. (Pending question is the majority committee amendment.)

HB 1391-FN, prohibiting the investment of state funds in the energy sectors of countries that have

been identified by the United States Department of State as state sponsors of terrorism.
HB 1483, requiring instruction in Internet safety. (Pending question is Ought to Pass with Amendment.)
HB 1593-FN-A-L, establishing a flat rate education income tax and relative to the statewide enhanced education tax and certain other taxes. (Pending question is the majority committee report of Inexpedient to Legislate.)
HB 1612-FN-L, relative to county and state obligations for costs for nursing care and services, and for court orders for children services. (Pending question is the committee report of Inexpedient to legislate.)
HR 24, petitioning Congress to commence impeachment procedures. (Pending question is the adoption of the majority committee report of Inexpedient to Legislate.)
SB 355-FN, relative to room and board scholarships for children of firefighters and police officers killed in the line of duty. (Pending question is the adoption of the majority committee report of Inexpedient to Legislate.)
SB 436, enabling certain persons to vote in primaries prior to turning 18 years of age. (Pending question is on the adoption of the committee report of Refer for Interim Study.)
SB 537, relative to allowing the commissioner of the department of employment security to participate in a joint local employment dynamics program with the United States Census Bureau and the Bureau of Labor Statistics. (Pending question is on the adoption of the minority committee report of Inexpedient to Legislate.)

HOUSE BILLS AMENDED BY THE SENATE

HB 91-FN, relative to lobbyist registration and statements, repealing the restriction on simultaneous employment and public service, and relative to regulation of volunteer public service. (SJ 4/24/08)
HB 159, establishing an interbranch criminal and juvenile justice council. (House Concurred 4/30/08)
HB 233-FN-A, specifying compensation for ballot law commissioners. (SJ 4/17/08)
HB 267, relative to certain small loans. (House Concurred 5/7/08)
HB 285, relative to voting machines. (SJ 4/24/08)
HB 295, relative to fuel quality standards and testing requirements for combustion of biomass and biomass fuel. (House Concurred 4/30/08)
HB 315, relative to criminal background checks of prospective municipal employees through the division of state police. (House Concurred 4/23/08)
HB 351, clarifying that the definition of “overseas business organization” includes all foreign incorporated business organizations and all 80/20 business organizations, and redefining “business activity” for purposes of the business profits tax. (House Concurred 1/30/08)
HB 581-FN, relative to the penalty for purposely mistreating service animals. (House Nonconcurrent; C of C 5/7/08)
HB 589-FN, relative to the calculation of concurrent and consecutive terms of imprisonment. (House Concurred 5/7/08)
HB 678-FN, establishing a committee to study issues related to cochlear implants. (House Concurred 4/30/08)
HB 754-FN, repealing the law relative to the Maine-New Hampshire Interstate Bridge Authority. (House Concurred 1/30/08)
HB 759-FN, relative to administration and enforcement banking laws. (House Concurred 4/30/08)
HB 765-FN, establishing a committee to study the financial liability for placement of a child with a disability. (SJ 5/1/08)
HB 781-FN, relative to the duties of the department of safety. (SJ 5/1/08)
HB 858-FN, relative to discount medical plan organizations. (House Concurred 4/30/08)
HB 1132, creating an exception to the wiretapping statute for a recording device used in conjunction with a TASER or other similar electroshock device. (House Concurred 4/30/08)
HB 1141, establishing a committee to study parking for wheelchair-lift vans. (House Concurred

4/30/08)

HB 1151, relative to reporting dates for the instream flow pilot program. (House Nonconcurrent 5/7/08)

HB 1168, relative to acceptance of property donated to towns and village districts. (House Concurred 4/30/08)

HB 1174, relative to condominium association meetings. (SJ 5/1/08)

HB 1220, establishing a commission to study the taxation of alternative fuel and electric power motor vehicles for the purposes of funding improvements to the state's highways and bridges. (House Nonconcurrent; C of C 4/23/08)

HB 1226, allowing the town of Bristol to establish a capital reserve fund for use of the water works and sewer department. (SJ 5/1/08)

HB 1227, clarifying when persons elected may assume certain offices. (SJ 5/1/08)

HB 1235, relative to motorist duties when approaching highway emergencies. (House Concurred 4/30/08)

HB 1244, relative to auditable basis policies. (House Concurred 4/30/08)

HB 1274, relative to certain securities professional designations and securities administration. (SJ 5/1/08)

HB 1276, establishing a committee to study revisions to the auctioneers' practice act. (House Concurred 5/7/08)

HB 1279, relative to the scope of certain insurance laws. (SJ 5/1/08)

HB 1295, establishing a commission to study issues relating to stormwater. (House Concurred 4/16/08))

HB 1302-FN, relative to enforcement of gambling laws. (SJ 5/1/08)

HB 1303-FN, relative to limiting games of chance. (SJ 5/1/08)

HB 1307, making technical corrections to town audit and reporting requirements. (House Concurred 4/30/08)

HB 1313, relative to voting by the chairman of the retirement system board of trustees. (House Concurred 5/7/08)

HB 1335, establishing a commission to study the effects of post-traumatic stress disorder and traumatic brain injury suffered by New Hampshire soldiers and veterans returning from Iraq and Afghanistan. (House Nonconcurrent; C of C 04/30/08)

HB 1352, relative to the comprehensive state development plan. (SJ 4/24/08)

HB 1367, relative to the conversion to a new state financial accounting and statewide budget system. (House Concurred 4/30/08)

HB 1371, extending certain studies. (House Concurred 5/7/08)

HB 1394-FN, relative to procedures for approvals of nursing education programs. (House Concurred 5/7/08)

HB 1396-FN, relative to requiring prescriptions to be ordered pursuant to a practitioner-patient relationship. (House Concurred 5/7/08)

HB 1412, establishing a commission to study appointing or contracting with a fleet manager for state-owned motor vehicles. (SJ 4/17/08)

HB 1414-FN, increasing the fee for bail commissioners. (House Concurred 5/7/08)

HB 1502-FN, relative to disposal of used needles. (House Nonconcurrent; C of C 5/7/08)

HB 1505-FN, establishing the New Hampshire birth conditions program. (House Concurred 5/7/08)

HB 1513-FN, relative to an evidence-based prescription drug education program. (House Concurred 5/7/08)

HB 1573-FN-L, relative to hazardous and dilapidated buildings. (SJ 5/1/08)

HB 1578-FN, relative to insurance fraud. (SJ 5/1/08)

HB 1584-FN-A, creating a commission to study the recycling and disposal of electronic waste. (House Concurred 4/16/08)

HB 1585-FN, relative to regulation of fuel gas fitters by the state fire marshal. (SJ 5/1/08)

HB 1601-FN-A, relative to funding for certain capital projects of the Pease development authority. (House Concurred 4/30/08)

HB 1607-FN, relative to firefighter services leave for state employees. (House Concurred 4/30/08)

HB 1610-FN, relative to motor carriers. (SJ 5/1/08)

HB 1615-FN-A, establishing the state office of rural health in the department of health and human services and establishing a commission to recommend policies and programs to increase the number of persons in health professions servicing New Hampshire's rural and underserved areas. (SJ 5/1/08)

2008 HOUSE COMMITTEE OF CONFERENCE PROCEDURES

The Chairmen of the policy committees will receive bills amended by the Senate and should check with their committees to determine whether the committee will recommend that the House concur, non-concur, or non-concur and request a Committee of Conference.

When a committee requests that the bill be sent to a Committee of Conference, the Chairman will recommend members for appointment. If the bill has gone to more than one committee, the members may come from the different committees as determined by the Speaker. Chairmen should recommend only those members from their policy committees. The Speaker shall make the final decision of Conference committee members.

The **first named House member shall serve as Chairman of the House Conferees**. For House bills in Committee of Conference, the House Conferee Chairman shall set the time and place of the first meeting and shall chair each meeting of the Committee of Conference. **Each meeting shall be posted in the Clerk's Office and outside the committee room at least 24 hours in advance.** [House Rule 43 (c)]. If a Committee of Conference meeting recesses, the reconvening time shall be posted in the Clerk's office and outside the committee room.

The House and Senate Conferees on a bill shall meet jointly but vote separately while in conference.

The Committee of Conference may not change the title of the bill. The Committee also may not add amendments that are not germane to the subject matter of the bill or contain subject matter that has been indefinitely postponed. A non-germane amendment is one in which the subject matter is not contained in either the House or Senate version of the bill. [House Rule 49 (g)]

The sponsor of a bill that is in Committee of Conference shall, upon request, be provided an opportunity to be heard.

A unanimous vote of both the House and Senate Conferees, voting separately, is necessary for an agreed upon report to be sent to the House and Senate.

Reports of all Committees of Conference **must be filed with the Office of Legislative Services by the deadline adopted by the House in Rule 64 (Friday, May 30, 2008)**. All Committee of Conference members must sign their reports in the Office of Legislative Services.

The **first-named House member on all bills in Committee of Conference must prepare an analysis of the report**. This "blurb" should contain a complete explanation of all changes made to the bill since it was passed by the House and must be submitted to the House Clerk for printing in the calendar.

All Committee of Conference reports shall be distributed in seat pockets to be acted on some subsequent day. [House Rule 49 (f)].

See House Rule 49 for more information

2008 COMMITTEES OF CONFERENCE

HB 581-FN, relative to the penalty for purposely mistreating service animals. (Reps. Pantelakos, Stevens, Nielsen and Movsesian)

HB 1220, establishing a commission to study the taxation of alternative fuel and electric power motor vehicles for the purposes of funding improvements to the state's highways and bridges. (Reps. Cloutier, Lerandean, Sprague and F. Tilton)

HB 1335, establishing a commission to study the effects of post-traumatic stress disorder and traumatic brain injury suffered by New Hampshire soldiers and veterans returning from Iraq and Afghanistan. (Reps. Roberts, Howard, Coughlin and Baldasaro)

HB 1502-FN, relative to disposal of used needles. (Reps. Beaulieu, Sad, Knox and Dingman)

COMMITTEE MEETINGS

MONDAY, MAY 12

BOARD OF MANUFACTURED HOUSING (RSA 205-A:25), Room 201, LOB

1:00 p.m. Complaint hearings.

CITIZENS TRADE POLICY COMMISSION (RSA 19-L), Room 305, LOB

9:00 a.m. Subcommittee meeting.

COUNCIL TO STUDY THE RELATIONSHIP BETWEEN PUBLIC HEALTH AND THE ENVIRONMENT (RSA 125-P), Room 205, LOB

9:30 a.m. Regular meeting.

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

1:00 p.m. Regular meeting.

HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE, (RSA 126-A:13), Room 103, State House

1:00 p.m. Regular meeting.

WORKERS' COMPENSATION ADVISORY COUNCIL (RSA 281-A:62), Room 307, LOB

9:00 a.m. Regular meeting.

TUESDAY, MAY 13

ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION (RSA 282-A:128), Employment Security, 32 South Main Street, Concord

9:00 a.m. Regular meeting.

CRIMINAL JUSTICE AND PUBLIC SAFETY, Room 204, LOB

10:30 a.m. Informational meeting on Interim Study Bills.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

10:00 a.m. Subcommittee work session on solid waste, recycling and alternate technologies.

1:00 p.m. Full committee work session on House Bills amended by the Senate.

EXECUTIVE DEPARTMENTS AND ADMINISTRATION JOINT WITH HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS, Rooms 306-308, LOB

10:00 a.m. Performance audit Board of Medicine.

HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS JOINT WITH EXECUTIVE

DEPARTMENTS AND ADMINISTRATION, Rooms 306-308, LOB

10:00 a.m. Performance audit Board of Medicine.

RULES COMMITTEE, Room 201, LOB

1:30 p.m. Regular meeting on proposed filing deadlines for 2009.
Executive session to follow.

WEDNESDAY, MAY 14

COMMISSION TO STUDY ISSUES RELATIVE TO THE PRACTICE OF LEASING STATE-OWNED REAL ESTATE ON THE SHORES OF PUBLIC WATERS (HB 710, Chapter 254:1, Laws of 2007), Room 201, LOB

3:00 p.m. Leasing policy subcommittee meeting.

THURSDAY, MAY 15

PUBLIC HEALTH IMPROVEMENT SERVICES COUNCIL (HB 491, Chapter 250:2, Laws of 2007), Rooms 110-112, 29 Hazen Drive, Concord

2:00 p.m. Regular meeting.

FRIDAY, MAY 16

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306-308, LOB

9:00 a.m. Regular meeting.

COMMISSION TO STUDY THE FEASIBILITY OF TIDAL POWER GENERATION UNDER THE LITTLE BAY AND GENERAL SULLIVAN BRIDGES IN DOVER (HB 694, Chapter 222:1, Laws of 2007), Department of Environmental Services Field office, Pease International Tradeport

1:00 p.m. Regular meeting.

INTERNATIONAL TRADE ADVISORY COMMITTEE (RSA 12-A:30), International Trade Resource Center, Portsmouth

9:00 a.m. Regular meeting.

NEW HAMPSHIRE RAIL TRANSIT AUTHORITY BOARD OF DIRECTORS (RSA 238-A:4), Rooms 305-307, LOB

10:00 a.m. Regular meeting.

MONDAY, MAY 19

COMMISSION TO DEVELOP A COMPREHENSIVE STATE MENTAL HEALTH PLAN (HB 691-FN-L, Chapter 175:15, Laws of 2005), Room 205, LOB

10:00 a.m. Subcommittee work session on corrections.

ELDERLY AFFAIRS (RSA 17-H:2), Room 205, LOB

1:00 p.m. Regular meeting.

INTERAGENCY COORDINATING COUNCIL FOR WOMEN OFFENDERS (RSA 21-H:14-c), Room 100, State House

9:00 a.m. Regular meeting.

OIL FUND DISBURSEMENT (RSA 146-D:4), Room 306, LOB

9:00 a.m. Regular meeting.

TASK FORCE TO DEVELOP LEGISLATION FOR EXPANDING ACCESS TO AFFORDABLE HEALTH INSURANCE FOR THE 2008 AND 2009 LEGISLATIVE SESSION

(HB 305, Chapter 248:1, Laws of 2007), Room 302, LOB

1:00 p.m. Regular meeting.

TUESDAY, MAY 20

CAPITAL BUDGET OVERVIEW COMMITTEE (RSA 17-J:2), Room 201, LOB

2:00 p.m. Regular meeting.

CHILDREN AND FAMILY LAW, Room 206, LOB

1:15 p.m. Full committee work session on House Bills amended by the Senate.

COMMERCE, Room 302, LOB

1:00 p.m. Full committee work session on House Bills amended by the Senate.

ENVIRONMENT AND AGRICULTURE, Room 303, LOB

10:00 a.m. Subcommittee work session on solid waste and recycling.

FINANCE, Rooms 210-211, LOB

10:00 a.m. Briefing on the memorandum agreement (HB 2, Chapter 263:23, Laws of 2007)

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

3:00 p.m. Interim study subcommittee work session on *HB 1587-FN*, relative to patient health care information.

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

3:00 p.m. Regular meeting.

JUDICIARY, Room 208, LOB

10:00 a.m. Full committee work session on House Bills amended by the Senate.

MUNICIPAL AND COUNTY GOVERNMENT, Room 301, LOB

10:00 a.m. Full committee work session on House Bills amended by the Senate.

WAYS AND MEANS, Room 202, LOB

1:00 p.m. Full committee work session on House Bills amended by the Senate.

FRIDAY, MAY 23

**ASSESSING STANDARDS BOARD (RSA 21-J:14-a), Department of Revenue
Administration Training Room, 57 Regional Drive, Concord**

9:30 a.m. Regular meeting.

TUESDAY, MAY 27

LONG-RANGE CAPITAL PLANNING AND UTILIZATION (RSA 17-M), Room 201, LOB

3:00 p.m. Regular meeting.

THURSDAY, MAY 29

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

9:00 a.m. Regular business.

MONDAY, JUNE 2

**COMMISSION ON THE USE OF RADIO FREQUENCY TECHNOLOGY (HB 203-FN,
Chapter 165:1, Laws of 2006), Room 303, LOB**

10:00 a.m. Regular meeting.

HOUSING AND CONSERVATION PLANNING PROGRAM ADVISORY BOARD (RSA 4-C:29), Office of Energy and Planning, 4 Chenell Drive, Concord

9:30 a.m. Rescheduled regular meeting.

TASK FORCE ON WORK AND FAMILY (HB 306, Chapter 373:2, Laws of 2007), Room 206, LOB

1:15 p.m. Regular meeting.

FRIDAY, JUNE 6

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 306-308, LOB

9:00 a.m. Continued regular meeting.

COMMISSION TO STUDY AUTISM SPECTRUM DISORDERS IN NEW HAMPSHIRE (HB 396, Chapter 171:1, Laws of 2007), Bureau of Developmental Services, Main Building, 105 Pleasant Street, Concord

10:00 a.m. Regular meeting.

CURRENT USE BOARD (RSA 79-A:3), Department of Revenue Administration Training Room, 57 Regional Drive, Concord

9:30 a.m. Regular meeting.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

Belknap County Executive Committee will meet on Monday, **May 13** at 6:00 p.m. at the Belknap County Complex in the multi-purpose room, 34 County Drive, Laconia, to discuss the elected officials wages and other business as necessary.

Rep. Stephen Nedeau, Chairman
Belknap County Executive Committee

COUNTY DELEGATION NOTICE

Hillsborough County Delegation will meet in convention on Tuesday, **May 20** at 6:00 p.m. at the Bouchard Building, 329 Mast Road, Goffstown for the following purpose: 1. Consistent with RSA 23:7 to establish compensation for elected officials. 2. To ratify lease agreement between Hillsborough County and the State of New Hampshire Administrative Services for the purpose of leasing a portion of the 2nd floor of the Bouchard Building with storage space for the Goffstown District Court, noting this agreement has been approved by the Hillsborough County Board of Commissioners on April 29, 2008. 3. To ratify the lease agreement between Hillsborough County and the State of New Hampshire Department of Corrections for the purpose of leasing the building currently used as the Women's Prison in Goffstown, noting this agreement has been approved by the Hillsborough County Board of Commissioners on April 23, 2008. 4. And any other business to come before the Delegation.

Rep. David Essex, Chairman
Hillsborough County Delegation

COUNTY DELEGATION NOTICE

Hillsborough County Executive Committee will meet on the following dates for budget review:

Thursday, **May 29th** from 8:30 a.m. to 4:30 p.m., Friday, **May 30** from 9:00 a.m. to 4:30 p.m. and Monday, **June 2** from 9:00 a.m. to 4:30 p.m. The Executive Committee public hearing will be on Tuesday, **June 17** at 6:00 p.m. at the County Complex, Bouchard Building, Goffstown. The Executive Committee will meet on Wednesday, **June 18** at 9:00 a.m.

Rep. Lori Movsesian, Clerk
Hillsborough County Executive Committee

Hillsborough County Convention will meet on Thursday, **June 19** at 6:00 p.m. at the County Complex, Bouchard Building, Goffstown. There will be a cookout before the meeting at 5:00 p.m.

Rep. Lori Movsesian, Clerk
Hillsborough County Delegation

COUNTY DELEGATION NOTICE

Merrimack County Executive Committee will meet on Friday, **May 16th** at 9:15 a.m. in the Theatre of the new Merrimack County Nursing Home, 325 Daniel Webster Highway, Boscawen, NH. The purpose of the meeting is to review and approve 1st quarter financial report as well as hear and approve a report from the salary study committee.

Rep. Jessie Osborne, Chairman
Merrimack County Executive Committee

Merrimack County Delegation will meet on Friday, **May 16th** at 10:00 a.m. in the Theatre of the new Merrimack County Nursing Home, 325 Daniel Webster Highway, Boscawen, NH. The purpose of the meeting is to act on the Elected Officials Salaries.

Rep. Candace Bouchard, Chairman
Merrimack County Delegation

COUNTY DELEGATION NOTICE

Rockingham County Delegation will meet on Tuesday, **May 20** at 6:00 p.m. in the Hilton Auditorium, Rockingham County Nursing Home, Brentwood, to vote the salaries and benefits for elected officials for the term of office 2009-2010. The Executive Committee will meet at 5:30 p.m. in the Commissioner's Conference Room.

Rep. David A. Welch, Clerk
Rockingham County Delegation

Pursuant to RSA 326-B:10-a,IV, the Joint Health Council will meet at the NH Board of Nursing Office, Walker Building, 21 South Fruit Street, Concord, on Monday, **June 2** at 6:00 p.m.

Karen O. Wadsworth, Clerk of the House

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

Rep. Peter R. Cote, 68 Bowers Street, Nashua, New Hampshire 03060-3927.

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

Karen O. Wadsworth, Clerk of the House

REVISED FISCAL NOTES

The following House and Senate Bills have revised fiscal notes: **HBs.** 91, 172, 173, 185, 211, 233, 285, 315, 352, 359, 369, 399, 415, 432, 436, 502, 523, 563, 581, 584, 594, 666, 678, 679, 686, 690, 692, 754, 765, 766, 794, 837, 841, 877, 901, 1151, 1152, 1168, 1293, 1298, 1307, 1341, 1343, 1348, 1394, 1395, 1396, 1405, 1429, 1434, 1436, 1457, 1459, 1472, 1502, 1505, 1508, 1509, 1545, 1573, 1579, 1580, 1584, 1587, 1590, 1594, 1596, 1598, 1599, 1601, 1602, 1603, 1604, 1605, 1607, 1608, 1614, 1615, 1616, 1619, 1620, 1621, 1622, 1623, 1624, 1626, 1631, 1633, 1635, 1639, 1640, 1642, 1643, 1644, 1645, 1647, 1648, 1649, 1652. **SBs.** 94, 146, 173, 212, 301, 303, 308, 310, 312, 317, 318, 321, 323, 324, 325, 329, 331, 337, 342, 356, 376, 378, 410, 437, 438, 439, 425, 451, 490, 500, 501, 507, 508, 509, 515, 516, 519, 522, 530, 539.

Karen O. Wadsworth, Clerk of the House

MEMBERS' NOTICES

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

Want something new to read? Have a book that you're done with? Head over to the basement of the LOB and help the Order of Women Legislators (OWL's) Scholarship Program. You are sure to find something that appeals to you. Donations accepted.

Rep. Julie Brown

All legislators and their families are invited to the annual Gun Owners of New Hampshire "Legislative Firearms Orientation Day" event at Pelham Fish & Game in Pelham, NH on Monday, **May 12th**, from 9:00 a.m. until 3:00p.m. This annual event is an opportunity to spend time with other New Hampshire legislators, with representatives from New Hampshire-based businesses, and with directors of GO-NH. Lunch is provided, as well as shooting and safety instruction, ammunition, targets, eye and ear protection, and loaner firearms (and bring your own, if you like). This is a fun, relaxing, and informative day, centered around shooting and the shooting sports, which helps to further the goodwill which exists between the gun owners and the legislators of our great state. RSVP by calling (603) 225-4664 or e-mailing ls@pelhamfishandgame.com by Friday, May 2. Be sure to state how many will be in your party.

Rep. Fran Wendelboe

All legislators are invited to come learn more about agriculture in Rockingham County on Monday, **May 12** starting at 9:00- a.m. and finishing around 2:00 p.m. We will meet and greet with coffee at 9:00 a.m., in advance of our farm tours, at Sunny Crest Farm, 59 High Range Road, Londonderry. The farms involved in the tour are Sunny Crest Farm, Londonderry, J & F Farm, Derry and Winding Brook Farm, Derry. Each of these farms is unique in what they do. We hope you can attend as this experience will provide you with insight into a very important part of our constituent responsibilities. Please RSVP by phone or e-mail by May 9th to: Tiffany Briggs, 352-9920 or tbriggs@farmconnect.net.

Rep. Howie Lund

In recognition of your support, the New Hampshire Law Enforcement Officers Memorial Committee cordially invites you to the 16th Annual New Hampshire Law Enforcement Officers Memorial Ceremony. The Ceremony will be held on Monday, **May 12**, 2008, beginning promptly at 10:00 a.m. on the memorial site in front of the Legislative Office Building. The Ceremony will proceed rain or shine. Refreshments will be served immediately following the event. Please do not hesitate to contact either Major Timothy J. Acerno of Fish and Game at 603-271-3129 or Chief Timothy Russell of the Henniker Department at 603-428-3213 if you have any questions.

Terie Norelli, Speaker

Annual Massage Therapy Day has been rescheduled to **May 13**. All members and staff are welcome to free massages from 10:00 a.m. to 2:00 p.m. in Room 209, LOB. Sponsored by the NH Chapter of the National Association of Massage Therapists.

Rep. Benjamin C. Baroody

The Governor's Conference on Volunteerism will be Tuesday, **May 13**, at the NH Technical Institute in Concord. The keynote address by Rebecca Rule will be "The Power of Story." There are over 30 workshops to choose from. The Governor's award for outstanding volunteer manager will be presented. This year there is also a youth track. Breakfast and lunch are included. Special registration fee for legislators is \$30. Registration information and brochure available at volunteernh.org or call 271-7200.

Rep. Carolyn Gargas

Osteoporosis, Education and Prevention Council – The annual education and prevention snack celebration will be held on **May 14** from 11:00 a.m. to 1:00 p.m. Everyone is welcome. Come join the fun in Room 100 of the State House.

Rep. Barbara C. French

All legislators and staff are invited to a lunch on Wednesday, **May 14** (please note date change) for a presentation of the report and recommendations of the New Hampshire Commission on Autism Spectrum Disorders established by HB 396, Chapter 171, 2007. The lunch will be held in Rooms 210-211, LOB at the session break.

Reps. Mary Jane Wallner and David W. Hess

The Seacoast Republican Women's Spring Luncheon will be held on Wednesday, **May 14th** at Abenaki Country Club, Rye. Guest Speaker will be Scott Spradling. Social hour at 11:30 a.m., luncheon at 12:00 noon, cost \$45.00. For more information call Fran Lefavour 659-6133 or email at FPL7@comcast.net

Rep. Nancy Stiles

All legislators and the public are invited to the New Hampshire Women's Lobby 20th Annual Spring Celebs which will be held on Wednesday, **May 14th** at 5:30 p.m. at the Centennial Inn in Concord. Join us for another great evening as we celebrate legislative successes and honor those who make a difference in the lives of NH women and families. Tickets: \$20 members; \$30 - non-members. RSVP: NHWL office 224-9105.

Reps. Elizabeth Hager and Sarah Hutz

All legislators, staff and members of the public are invited to join the American Cancer Society Cancer Action Network for the arrival of the "Fight Back Express" bus. The "Fight Back Express" is traveling the country to call attention to the importance of health care access for all Americans. The bus will stop at the State House on Monday, **May 19** at 10:00 a.m. For more information please visit acscan.org/bus or call Peter Ames at 471-4110.

Rep. John Kelley

In 2007, the Rock n' Race attracted over 5,000 participants to the State House Plaza, raising more than \$230,000 for the programs and services at the Payson Center for Cancer Care at Concord Hospital. The Rock 'n Race is expecting 6,000 participants this year. The event takes place **May 21, 2008**. Please be aware, with the dramatic growth of this event, the City of Concord has approved road closings for North Main Street, Park Street, and Capitol Street beginning at 4:00 p.m. on Wednesday, **May 21, 2008**. Any vehicles parked on N. Main St. between Centre and Pleasant Streets, or the blocks of Park and Capitol Streets, after 4:00 p.m. on the 21st, will be delayed or unable to exit until after 7:30 p.m. Please plan accordingly.

Reps. Mary Jane Wallner and David W. Hess

Members are invited to join Belknap County Republicans on the annual Lincoln Day Dinner-Cruise on the M/V Mount Washington on Friday, **May 30**. Great event, beautiful setting, New Hampshire at its finest. Loading will commence at 5:30 p.m. at Weirs Beach with return at 9:00 p.m. Tickets are \$40 and are available from Rep. Frank Tilton (franktilton@gmail.com, 528-8466) or other Belknap County representatives.

Rep. Franklin T. Tilton

The annual New England School of Addiction Studies Summer Program will be held in NH. Joe Harding of the Office of Alcohol and Drug Policy and 2008 Host State Agency Director is inviting all members of the NH House and Senate to Legislators Day on Wednesday, **June 11th**. Transportation from the LOB to Franklin Pierce University in Rindge will be available through the generosity of New Futures. Choose your course of the day from twenty-one listed. Early arrivals will have time for breakfast, and a special catered luncheon for legislators will be provided. Please join us for this free and very special learning opportunity. If you need a registration form or details about courses, please let one of us know! The registration deadline is May 19th.

Reps. Joy Tilton and William Butynski

The House Republican Alliance will meet every Tuesday at 8:30 a.m. in the Upham Walker House.

Rep. David J. Bettencourt

The Main Street Republicans will meet every Wednesday at 8:30 a.m. at the Upham Walker House.
Rep. David H. Kidder

NOTICE

The 35th Annual Bill White & Junie Blaisdell Ceremonial & Memorial Legislative Golf Tournament for the benefit of the **American Heart Association** is scheduled for **Friday, June 6, 2008** at the Beaver Meadow Golf Club, Concord, NH. The entry fee for this annual tournament is \$40.00 per legislator and legislative staff & \$100 for all others. A continental breakfast and barbeque lunch will be provided, there are prizes for the top place finishers, and a raffle.

Registration is at 7:00 a.m. and the shotgun start is scheduled for 8:00 a.m. The format is "Captain and Crew".

Sign-up as a foursome or sign-up by yourself in order to be placed in a foursome.

Beaver Meadow Golf Course requires advance notice of the number of participants, the deadline will be strictly enforced for planning purposes. Please note that payment must be made upon registration. There will be no exceptions to this rule! Cancellation must occur two weeks prior to the tournament date to receive a full fee refund.

Mail or deliver payment in person to Bob Blaisdell, 72 North Main Street, Suite 301, Concord no later than May 16th. Checks should be made payable to: **NH Legislative Golf Committee.**

Reps. Tara Reardon and John Hunt

!

35th Annual Bill White & Junie Blaisdell Ceremonial & Memorial Golf
Tournament
Beaver Meadow Golf Course
Concord, NH

Name: 1. _____

2. _____

3. _____

4. _____

Telephone: _____ Amount Enclosed: _____

STATE HOUSE VISITATION SCHEDULE

As a convenience to the members of the NH General Court, the Visitors' Center offers the following schedule of schools and other groups visiting the State House in **April & May 2008**. These listings are to ensure all members be notified in a timely manner of visitors from their district. Our schedule is tightly booked for the remainder of the school year and subject to changes. **Please note that if your school is closed or has a delay, that their tour will be rescheduled. Please contact the Visitors' Center concerning school tour booking information.** Thank you for your continued participation with your School Visitation Program.

Virginia J. Drew, Director

Caitlin A. Daniuk, Public Information Administrator

DATE	TIME	GROUP	CLASS/SIZE
May 12	9:45	Dr. Louis Soule School – Salem	4/56
May 12	10:30/12:30 SH/Planet	Mildred C. Lakeway School – Littleton	4/66
May 13	8:45	Concord Christian Academy	4/20
May 13	9:30/11:00 SH/HM	Gossler Park School – Manchester	4/70
May 14	10:00/11:30 SH/HM	Interlakes Elementary School – Meredith	4/80
May 14	10:30	Campton Elementary School – Student Council	(6-8)/12
May 15	9:15	Jennie Blake School – Hill	4/15
May 15	10:30/12:00 SH/HM	Hampstead Central School	4/88
May 16	9:00/10:30 SH/HM	Maple Street School – Contoocook	4/80
May 16	1:00	Holderness Central School	4/25
May 19	9:45	Salem Christian Academy	4/20
May 19	11:00	Good Shepherd School – Barrington	(3&4)/15
May 19	12:30	Pierce Elementary School – Bennington	4/29
May 19	2:00	NARFE	Adult/25
May 20	9:30/11:00 SH/HM	Green Acres School – Manchester	4/105
May 20	12:30	Effingham Elementary School	4/12
May 21	10:00	Newfields Elementary School	4/33
May 21	11:00	Young Professionals Association – North Conway	Adults/15
May 21	12:00	Presentation of Mary Academy – Hudson	4/36
May 22	10:30	Alstead Primary School	4/20
May 22	10:30	Acworth Elementary School	4/7
May 22	11:30/1:00 SH/HM	DJ Bakie School – Kingston	4/80
May 22	1:00	Seminarians	Adult/25
May 23	10:00	Linwood Elementary School – Lincoln	4/40
May 23	11:30	Salisbury-Webster Elementary School	4/40
May 23	1:00	Bethlehem Elementary School	4/32
May 27	10:00	St. Mary's School – Claremont	4/11
May 27	10:00/11:30 SH/HM	Enfield Village School	4/56
May 28	10:30	Mountain Shadow School – Dublin	6/9
May 28	10:30	Nashua Christian Academy	4/11

May 28	12:00	St. Elizabeth of Seton School - Rochester	4/25
May 29	10:30/12:00 SH/HM	Auburn Village School	4/75
May 30	10:00	Ray School – Hanover	4/40
May 30	11:15	Gilmanton Elementary School	4/46
May 30	11:30	Russell School – Rumney	4/18

WEDNESDAY, MAY 14
AMENDMENTS
(LISTED IN NUMERICAL ORDER)

2008-1795h

Amendment to CACR 34

Proposed by the Majority of the Committee on Finance - R

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

RELATING TO: public education.

PROVIDING THAT: the general court shall define the content of an adequate education, determine the total statewide cost of providing such education to all public school students, and raise and distribute such funds in a manner that alleviates local disparities in educational opportunity and fiscal capacity, provided that every school district shall receive a meaningful share of these funds.

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

I. That the second part of the constitution be amended by inserting after article 83 the following new article:

[Art.] 83-a [Public Education.] The legislature shall provide every child the opportunity for a public school education in fulfillment of the legislature's duty with respect to public education provided for in Part II, Article 83. The legislature shall have the responsibility to define the content of an adequate education to prepare the student to become a productive and contributing citizen and to determine the total statewide cost of providing that education to all public school students. The legislature shall have the authority and responsibility to raise the funds that total the statewide cost of this education and to distribute these funds in a manner that alleviates local disparities in educational opportunity and fiscal capacity, provided that every school district shall receive a meaningful share of these funds.

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

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

IV. That the wording of the question put to the qualified voters shall be:
 "Are you in favor of amending the second part of the constitution by inserting after article 83 a new article to read as follows:

[Art.] 83-a [Public Education.] The legislature shall provide every child the opportunity for a public school education in fulfillment of the legislature's duty with respect to public education provided for in Part II, Article 83. The legislature shall have the responsibility to define the content of an adequate education to prepare the student to become a productive and contributing citizen and

to determine the total statewide cost of providing that education to all public school students. The legislature shall have the authority and responsibility to raise the funds that total the statewide cost of this education and to distribute these funds in a manner that alleviates local disparities in educational opportunity and fiscal capacity, provided that every school district shall receive a meaningful share of these funds.”

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

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

AMENDED ANALYSIS

This constitutional amendment concurrent resolution requires the general court to define the content of an adequate education, determine the total statewide cost of providing such education to all public school students, and raise and distribute such funds in a manner that alleviates local disparities in educational opportunity and fiscal capacity, provided that every school district shall receive a meaningful share of these funds.

2008-1076h

Amendment to HR 25

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

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

Whereas, the Secure Fence Act of 2006 received strong bipartition support in the United States House of Representatives and United States Senate; and

Whereas, the Secure Fence Act of 2006 would establish operational control over the international lands and maritime borders of the United States to include territories; and

Whereas, operational control means the prevention of all unlawful entries into the United States, including entries by terrorists, unlawful aliens, instruments of terrorism, narcotics, counterfeit goods, and other contraband; and

Whereas, the Secure Fence Act of 2006 required that the Department of Homeland Security develop a systematic surveillance of the international land and maritime borders of the United States through more effective use of personnel and technology, such as unmanned aerial vehicles, ground-based sensors, satellites, radar coverage, Wi-Fi transmitters, and cameras; and

Whereas, the Secure Fence Act of 2006 requires the Department of Homeland Security develop physical infrastructure enhancements to prevent unlawful entry into the United States and facilitate access to the international land and maritime borders by United States Customs and Border Protection, such as additional checkpoints, all weather access roads, and vehicle barriers; and

Whereas, the Secure Fence Act of 2006 requires the Secretary of Homeland Security to conduct a study on the feasibility of a state-of-the-art infrastructure security system along the northern international land and maritime border of the United States; and

Whereas, the Secure Fence Act of 2006 requires the Secretary of the Department of Homeland Security to evaluate the authority of United States Coast Guard to stop vehicles, boats, and ships that enter the United States illegally and refuse to stop when ordered; and

Whereas, the Secure Fence Act of 2006 is part of comprehensive immigration reform and national security enhancements; now, therefore, be it

Resolved by the House of Representatives:

That the House of Representatives of the state of New Hampshire requests that the Administration immediately and fully comply with the provisions of the Secure Fence Act of 2006, Public Law 109-367, and that the United States Congress provide sufficient funding to allow complete compliance with the legislation; and

That copies of this resolution be sent by the house clerk to the President of the United States and to each member of the New Hampshire congressional delegation.

2008-1774h

Amendment to SB 310-FN

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

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

1 New Paragraph; License Applications. Amend RSA 287-D:2-a by inserting after paragraph IX the following new paragraph:

X. At least 45 days prior to each game date, the charitable organization shall submit the date and location of the game of chance, if this information has not already been submitted to the pari-mutuel commission pursuant to subparagraph II(a).

2 New Paragraph; Games of Chance; Operation. Amend RSA 287-D:2-b by inserting after paragraph VII the following new paragraph:

VII-a. Notwithstanding any other provision of law, a member of the sponsoring charitable organization shall be present and on site at all times during the operation of any game of chance. The sponsoring charitable organization member shall not be employed by the game operator or the employer of the game operator.

3 Operation of Games of Chance. Amend RSA 287-D:2-b, III-IV to read as follows:

III. No one under the age of 18 years shall be admitted to the premises on which games of chance are being conducted, except when the games are being conducted at a carnival. Proof of age shall be produced upon request of the ~~[lottery]~~ **pari-mutuel** commission. When games of chance are conducted at a carnival, persons under the age of 18 years may be admitted to the premises on which the games are being conducted when accompanied and supervised by a parent or legal guardian; but persons under the age of 18 shall not be permitted to play games of chance at a carnival.

IV. No games of chance shall be conducted prior to 11:00 a.m. on a weekday **or Saturday**, prior to noon on a Sunday, or after 1:00 a.m. on any day.

4 Licensing of Game Operators. RSA 287-D:2-c, V is repealed and reenacted to read as follows:

V. The game operator or the game operators employer shall submit a bond for each location where the game operator is conducting games of chance, conditioned upon the game operator running games of chance in conformity with this chapter and with the rules and regulations prescribed by the pari-mutuel commission, in the amount of up to \$300,000 to the pari-mutuel commission with the application form.

5 New Paragraph; Licensing of Game Operators. Amend RSA 287-D:2-c by inserting after paragraph V the following new paragraph:

VI. In addition to the charitable organization, game operators who operate games of chance on behalf of a charitable organization shall also be held responsible for all requirements that the charitable organization is responsible for when they operate the games of chance themselves.

6 New Paragraphs; Games of Chance; Penalty. Amend RSA 287-D:6 by inserting after paragraph III the following new paragraphs:

IV. In addition to the provisions of paragraph I:

(a) Any person who purposely or knowingly makes a false entry in any report required under this chapter which results in a reduction of revenues due to a charitable organization shall be guilty of a class A felony.

(b) Any person who recklessly or negligently makes a false entry on any report required under this chapter which results in a reduction of revenues due to a charitable organization shall be guilty of a class A misdemeanor.

(c) Any game operator employer or game operator who fails to remit to a charitable organization all revenues due under this chapter shall be guilty of a class A felony.

V. Any game operator employer or game operator who fails to pay the charitable organization all moneys required by this chapter shall be guilty of a class B felony for any amount less than \$500, and a class A felony for any amount equal to or greater than \$500.

VI. Any person who violates any provision of RSA 637 in a manner that deprives the charitable organization of any moneys required by this chapter, notwithstanding the penalties set forth in RSA 637:11, shall be guilty of a class B felony for any amount less than \$500, and a class A felony for any amount equal to or greater than \$500.

VII. In addition to any other penalty imposed under this chapter, a charitable organization which suffers a loss caused by the violation of any provision of this chapter may bring a civil action for actual damages suffered. If the court finds that the violation was committed purposefully or knowingly, it shall award enhanced compensatory damages of not less than 2 times the amount of actual damages suffered, and may award up to 3 times the amount of actual damages suffered. In any civil action, the prevailing party shall be awarded court costs and reasonable attorney's fees. No waiver of the provisions of this paragraph shall be enforceable.

VIII. The pari-mutuel commission may issue an order requiring any person or organization to comply with this subdivision or any rule adopted hereunder, and may require such remedial measures as may be necessary.

IX. The pari-mutuel commission may impose an administrative fine scaled to reflect a violator's prior history and the scope and severity of the violation, after notice and hearing, pursuant to rules adopted under RSA 541-A, for any violation of this subdivision, any rule adopted under this subdivision, any license issued pursuant to this chapter, or any order issued pursuant to this subdivision, or upon any person who makes or certifies to a material false statement relative to any application or report required by this subdivision. In determining the amount of a fine, the pari-mutuel commission may take into consideration all relevant circumstances, including: the degree of noncompliance, the extent of harm caused by the violation, the nature and persistence of the violation, the time and cost associated with the investigation by the state, and the economic impact of the violation on the state or the charity conducting or sponsoring the game. Any administrative fine imposed under this paragraph shall not preclude the imposition of other penalties as provided by law. Rehearings and appeals from a decision of the commission under this paragraph shall comply with RSA 541. Fines imposed by the pari-mutuel commission shall be as follows:

(a) The fine for a minor violation shall be not less than \$25 and not more than \$500 per violation. A minor violation shall be one where the pari-mutuel commission determines that the potential for harm to the interests of the state and the charity, as well as the integrity of charitable gaming is minor and may include, but is not limited to, a game operator, a game operator employer, charitable organization, or charitable organization member not:

- (1) Wearing a properly issued badge;
- (2) Posting 2 copies of the laws and rules;
- (3) Having a diagram available for each table where games of chance are being played indicating the type of game being played, the bet amount, the buy-in amount, and the re-buy amounts as applicable; or

- (4) Publicly displaying the name of the charitable organization.

(b) The fine for a moderate violation shall be not less than \$250 and not more than \$1,500 per violation. A moderate violation shall be one where the pari-mutuel commission determines that the potential for harm to the interests of the state and the charity, as well as the integrity of charitable gaming is moderate and may include, but is not limited to, a game operator, game operator employer, charitable organization, or charitable organization member:

- (1) Filing a late financial report;
- (2) Operating a game not specifically listed on the game schedule;
- (3) Operating a game on a different date than licensed without approval of the pari-mutuel commission;

- (4) Committing 3 or more minor violations within 2 years; or
- (5) Knowingly operating a game of chance without a representative of the charitable organization present and on-site.

(c) The fine for a major violation shall be not less than \$1,000 and not more than \$5,000 per violation. A major violation shall be one where the pari-mutuel commission determines that the potential for harm to the interests of the state and the charity, as well as the integrity of charitable

gaming is major and shall include, but is not limited to, a game operator, game operator employer, charitable organization, or charitable organization member:

- (1) Operating a game of chance without a license;
- (2) Operating a game of chance without having the personnel or officials required;
- (3) Purposely operating a game of chance without a representative of the charitable organization present and on-site;
- (4) Operating a game of chance with game operators who are not licensed;
- (5) Failing to establish or maintain a New Hampshire bank account; or
- (6) Committing 5 or more minor violations or 3 or more moderate violations within 2 years.

(d) The pari-mutuel commission may suspend any part of a fine for just cause.

X. All fines imposed by the pari-mutuel commission shall be deposited in the special fund established pursuant to RSA 284:21-j.

7 New Paragraph; Game Operator; Definition. Amend RSA 287-D:1 by inserting after paragraph IV the following new paragraph:

V. "Game operator" means:

(a) "Primary game operator" which means any consultant or any person other than a bona fide member of the charitable organization, involved in conducting, managing, supervising, directing, or running the games of chance; or

(b) "Secondary game operator" which means any person other than a bona fide member of the charitable organization, involved in dealing, running a roulette wheel, or handling chips.

8 License Fees and Specifications. RSA 287-D:2-d, III is repealed and reenacted to read as follows:

III. An applicant for a primary game operator license under RSA 287-D:2-c shall apply to the pari-mutuel commission, and if the applicant meets all other requirements of this chapter and pays the fee established by the pari-mutuel commission in rules adopted pursuant to RSA 541-A, a license shall be issued. A license issued under RSA 287-D:2-c shall expire on December 31. The pari-mutuel commission shall notify the attorney general and police chief of any city or town where games of chance are held of any applications approved. RSA 7:28-c shall not apply to game operator licensees subject to this chapter. An applicant for a secondary game operator license under RSA 287-D:2-c shall apply to the pari-mutuel commission, and if the applicant meets all other requirements of this chapter and pays the fee established by the pari-mutuel commission in rules adopted pursuant to RSA 541-A, which shall not exceed \$45, a license shall be issued.

9 New Paragraphs; Rulemaking; Game Operator Fees. Amend RSA 287-D:1-b by inserting after paragraph XII the following new paragraphs:

XII-a. Administrative orders and fines pursuant to RSA 287-D:6.

XII-b. Badge specifications, requirements, and fees pursuant to RSA 287-D:2-d, VII.

XII-c. Game operator fees pursuant to RSA 287-D:2-d, III.

10 Pari-Mutuel Commission; Position Established. The following position is hereby established in the pari-mutuel commission. This position and costs associated with this position, including current expense, equipment, in-state travel, and out-of-state travel, shall be funded from fees collected pursuant to RSA 287-D:2-d, III:

One internal auditor III, labor grade 23.

11 Repeal. The following are repealed:

I. RSA 287-D:2-b, XIII, relative to submission of information to the pari-mutuel commission.

II. RSA 287-D:2-c, I, definition of game operator.

III. RSA 287-D:2-d, IV, relative to authorization of specific games.

IV. RSA 284:23, V, relative to tax rates for Rockingham Park.

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

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

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

AN ACT relative to the sale of tobacco products and the appeals process concerning the seizure of illegal tobacco products.

Amend the bill by replacing section 5 with the following:

5 Unstamped Tobacco Products. Amend RSA 78:14 to read as follows:

78:14 Unstamped Tobacco Products. No sub-jobber, vending machine operator, or retailer, and no other person who is not licensed under the provisions of this chapter ***or licensed under the provisions of RSA 178***, shall sell, offer for sale, display for sale, ship, store, import, transport, carry, or possess with or without intent to sell, any tobacco products not properly stamped under RSA 78:12 or 78:13, except as provided in RSA 78:12, II. This section shall not prevent any unlicensed person able to purchase unstamped tobacco products by statute from possessing such products for his ***or her*** own use or consumption, ***if the tax otherwise due under this chapter is paid by the unlicensed person to the department directly***. The provisions of this section shall not apply to common carriers transporting unstamped tobacco products. Any person who violates the provisions of this section shall be guilty of a felony.

Amend RSA 178:18, I as inserted by section 15 of the bill by replacing it with the following:

I. Off-premises licenses shall be issued only for grocery and drug stores not holding on-premises licenses. Such licenses shall authorize the licensees to sell fortified wine, table wine, and beverages for consumption only off the premises designated in the licenses and not to other licensees for resale. Such sale shall be made only in the immediate container in which the beverage, wine, or fortified wine was received by the off-premises combination licensee; except that in the case of the holder of a wholesale distributor license, beverages may be sold only in such barrels, bottles, or other containers as the commission may by rule prescribe. ***Off-premises licenses may also authorize the licensee to sell tobacco products.*** There shall be no restriction on the number of combination [~~retail wine and beverage~~] licenses held by any person. The license shall authorize the licensee to transport and deliver beverages, [~~ordered from and sold by the licensee and to transport and deliver~~] ***tobacco products, and*** table or fortified wines ordered from and sold [~~by the commission and sold~~] by the licensee in vehicles operated under the licensee's control or an employee's control.

Amend the bill by replacing section 16 with the following:

16 New Paragraph; Fees; Tobacco Licenses. Amend RSA 178:29 by inserting after paragraph V the following new paragraph:

V-a. Annual tobacco licenses shall be as follows:

- (a) Retail tobacco license, \$6.
- (b) Tobacco vending machine license, \$35, plus \$6 for each machine.
- (c) Tobacco sampling license, \$6.

Amend the bill by replacing all after section 19 with the following:

20 Nature of the Tobacco Tax. Amend RSA 78:7-a to read as follows:

78:7-a Nature of Tax. All taxes upon tobacco products under this chapter are declared to be a direct tax upon the consumer at retail and shall conclusively be presumed to be pre-collected for the purpose of convenience and facility only. ***Accordingly, the commissioner may collect the tax directly from consumers who purchase unstamped tobacco products.***

21 Seizure, Forfeiture, and Destruction of Illegal Tobacco Products; Appeals Procedure. Amend RSA 78:16 to read as follows:

78:16 Seizure, Forfeiture, and Destruction of Illegal Tobacco Products.

I. Unless the tobacco products are subject to the exemption under RSA 78:12, II, tobacco products found at any place in this state without the necessary stamps affixed to them, unless they shall be in the possession of a licensed manufacturer or wholesaler, or unless they shall be in the course of transit by common carrier from a bonded warehouse and consigned to a licensed manufacturer, wholesaler or anyone exempted by statute, shall be declared to be contraband goods and subject to forfeiture to the state.

II. The commissioner, the commissioner's authorized agents, sheriffs, deputy sheriffs, and police officers shall have the power to seize such tobacco products in the manner provided under RSA

617 or by immediately seizing the contraband tobacco products and providing the owner with the opportunity to appeal the seizure through an administrative proceeding before the department. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the seizure and destruction of contraband tobacco products and the ~~appeals~~ **hearings** procedure.

22 New Section; Appeals of License Revocation or Suspension Orders and Tobacco Seizure Orders. Amend RSA 78 by inserting after section 31 the following new section:

78:31-a Appeals of License Revocation or Suspension Orders and Seizure, Forfeiture, or Destruction of Illegal Tobacco Products Orders.

I. This section shall apply only to appeals of final orders regarding license revocation or suspension under RSA 78:6 and final orders regarding seizure, forfeiture, and destruction of illegal tobacco products under RSA 78:16. Proceedings regarding assessments of tax, penalties, and interest and requests for refund of tax, penalties, and interest shall be taken under RSA 21-J:28-b.

II. Within 30 days of the notice of a final order by the commissioner, the owner or licensee, as applicable, may appeal such order by written application to the board of tax and land appeals. The board of tax and land appeals shall hear the appeal de novo.

23 Effective Date.

I. Sections 1-4 and 6-19 of this act shall take effect January 1, 2009.

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

AMENDED ANALYSIS

This bill:

I. Transfers licensing for retail tobacco sales from the department of revenue administration to the liquor commission.

II. Allows the department of revenue administration to collect the tobacco tax directly from consumers who purchase unstamped tobacco products.

III. Clarifies the appeals procedure for illegal tobacco seizure, forfeiture, or destruction orders.

2008-1790h

Amendment to SB 321

Proposed by the Committee on Finance -R

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

AN ACT relative to the operating budget and capital budget for the biennium ending June 30, 2009 and making certain related statutory changes.

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

1 Regional Vocational Centers; Construction or Renovation. Amend RSA 188-E:3, II to read as follows:

II. Upon completion, the constructed or renovated facility shall become the property of the school district. ~~Provisions~~ **Provision** of the site, parking, and other related areas shall be the responsibility of the local community. ***Site work, including but not limited to cut and fill work, compaction, demolition, relocation of utilities, relocation of roadways and sidewalks, and similar work within an area extending to one foot beyond the outside edge of the exterior walls of the building, shall be eligible for grants under paragraph I.*** Nothing shall prohibit the inclusion of the site and related facilities which are not funded as part of construction cost by the state under this chapter from being included in a regular building aid application of the district as provided in RSA 198:15-b.

2 Operating Budget; Judicial Branch. Notwithstanding 2007, 262:1, the appropriations for the judicial branch shall be reduced by \$1,000,000 for the fiscal year ending June 30, 2008, and by \$1,600,000 for the fiscal year ending June 30, 2009. The reductions required by this section shall be in addition to the judicial branch's average historical lapse amount of \$1,100,000 per fiscal year. The director of the administrative office of the courts shall submit to the general court and the commissioner of the department of administrative services an itemization of the reductions in expenditure classes made to implement this section on or before June 15, 2008.

3 Operating Budget; Legislative Branch. Notwithstanding 2007, 262:1, the appropriations for the legislative branch for the fiscal year ending June 30, 2008 shall be reduced by \$1,000,000.

Notwithstanding 2007, 262:1, the appropriations for the legislative branch for the fiscal year ending June 30, 2009 shall be reduced by \$500,000. The legislative budget assistant shall submit to the fiscal committee of the general court an itemization of the reductions in expenditure classes made to implement this section on or before June 15, 2008.

4 Positions Transferred from Pari-Mutuel Commission Racing Laboratory to Department of Safety Urine Testing Laboratory. Effective April 1, 2008, classified positions number 14543, 14545, and 30541 are transferred from the pari-mutuel commission racing laboratory, PAU 02-08-02, to the department of safety urine testing laboratory, PAU 02-15-04-11-02. The legislative budget assistant is authorized to adjust totals in 2007, 262 as made necessary by this section.

5 PAU 02-08-02; Pari-Mutuel Commission Racing Laboratory. Amend 2007, 262:1, PAU 02-08-02 as follows:

	Fiscal Year 2008	Fiscal Year 2009
Strike out:		
10 Personal Services – Permanent	\$280,007	\$285,196
Insert:		
10 Personal Services – Permanent	\$247,525	\$153,362
Strike out:		
60 Benefits	\$139,292	\$141,876
Insert:		
60 Benefits	\$123,603	\$78,200
Strike out:		
Total	\$639,293	\$646,993
Insert:		
Total	\$591,122	\$451,483
Estimated Source of Funds for Racing Laboratory		
Strike out:		
General Fund	\$519,575	\$528,684
Insert:		
General Fund	\$471,404	\$333,174
Strike out:		
Total	\$639,293	\$646,993
Insert:		
Total	\$591,122	\$451,483

6 PAU 02-15-04-11-02; Department of Safety Urine Testing Laboratory. Amend 2007, 262, PAU 02-15-04-11-02 as follows:

	Fiscal Year 2008	Fiscal Year 2009
Strike out:		
10 Personal Services – Permanent	\$140,723	\$146,820
Insert:		
10 Personal Services – Permanent	\$173,205	\$278,654
Strike out:		
60 Benefits	\$73,294	\$76,722
Insert:		
60 Benefits	\$88,983	\$140,398
Strike out:		
Total	\$406,640	\$417,715
Insert:		
Total	\$454,811	\$613,225
Estimated Source of Funds for Urine Testing Laboratory		
Strike out:		
General Fund	\$406,640	\$417,715

Insert:		
General Fund	\$454,811	\$613,225
Strike out:		
Total	\$406,640	\$417,715
Insert:		
Total	\$454,811	\$613,225

7 Commission Established. There is established a commission to study funding of school building aid.

8 Membership.

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

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

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

(c) Two at-large members, appointed by the governor.

(d) One member of the New Hampshire School Boards Association, appointed by said organization.

(e) One member of the New Hampshire School Administrators association, appointed by said organization.

(f) The commissioner of education, or designee.

(g) The treasurer, or designee.

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

9 Chairperson; Quorum. The chairperson shall be designated by the governor. The first meeting of the commission shall be held within 30 days of the effective date of this section. Seven members of the commission shall constitute a quorum.

10 Duties. The commission shall study funding for school building aid, including:

I. Appropriate funding methodology and sources for building aid, including whether building aid should be included in the state's capital plan.

II. Strategies for making it possible for all school districts to engage in necessary construction projects.

III. Standards for determining appropriate costs for state reimbursement and for cost-sharing.

11 Report. The commission shall report its findings and any recommendations 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.

12 Liquor Licenses; Discount and Credit on Sales to Licensees. Amend RSA 178:28, V to read as follows:

V. A schedule of hours and procedures by which fortified wines and table wines may be purchased at the discount price for resale by holders of off-premises retail licenses at percentages of discount to be determined by the commission. ~~[Such]~~ Discounts **for holders of off-premises retail licenses with annual wine purchases under \$350,000** shall be no less than 15 percent less than the regular retail price in the liquor stores and 20 percent less than the regular price F.O.B. at the warehouse.

V-a. For the purpose of this provision, any person holding 2 or more licenses under RSA 178:18 with combined annual wine purchases under \$350,000 shall receive 15 percent less than the regular retail price in the liquor stores and 20 percent less than the regular price F.O.B. at the warehouse. All combined annual wine purchases over \$350,000 shall receive 10 percent less than the regular retail price in the liquor stores and 10 percent less than the regular price F.O.B. at the warehouse.

V-b. The commission, in its discretion, may adjust discounts for on-and-off premises licenses to optimize the profitability of the commission and maintain proper controls;

provided that the commission does not reduce discounts below the percentages stated in paragraphs V or V-a.

13 Default Bench Warrant Fund; Temporary Authority to Lapse. Notwithstanding the provisions of RSA 263:56-d, for the fiscal year ending June 30, 2008, the commissioner of safety shall authorize the state treasurer to lapse \$300,000 from the default bench warrant fund established in RSA 263:56-d and RSA 6:12, I(b)(37) to the general fund.

14 Operating Budget; NH Retirement System. Amend the following Treasury PAU as set forth in 2007, 262:1 as follows:

01, 10, 02

	FISCAL YEAR 2008	FISCAL YEAR 2009
93 Normal Contribution Teachers [F] *	\$30,851,332	\$32,072,981
94 Normal Contribution Police [F] *	\$12,681,862	\$13,193,479
95 Normal Contribution Firefighter [F] *	\$9,773,774	\$10,288,461
*		

The Retirement System Shall Provide Quarterly Reports To The Fiscal Committee Of The General Court By City And Town Of The Amounts Expended From This Appropriation.

15 Tobacco Tax; Rate Increase. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of ~~[\$1.08]~~ **\$1.33** for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

16 Tobacco Tax; Applicability. Section 15 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this section. The tax rate effective on the date of certification from the commissioner of the department of revenue administration that the amount of tobacco tax revenue for the period of July 1, 2008 through September 30, 2008 was below \$50,000,000, shall apply to such inventory. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J. Payment of the additional tax on said inventory shall be due 60 days from the effective date of this section, accompanied by a form prescribed by the department of revenue administration.

17 Contingency; Reporting of Tobacco Revenue. On or before October 15, 2008, the commissioner of the department of revenue administration shall certify to the speaker of the house of representatives, the senate president, and the joint legislative fiscal committee, the amount of tobacco tax revenue received for the period of July 1, 2008 through September 30, 2008, without any material change in cigarette tax stamp inventory. If the commissioner certifies that the amount of tobacco tax revenue received for the period was below \$50,000,000, then sections 15 and 16 of this act shall take effect on the date of certification. If the commissioner certifies that the amount of tobacco tax revenue received for the period was equal to or above \$50,000,000, then sections 15 and 16 of this act shall not take effect.

18 Operating Budget, Department of Health and Human Services; Sources of Funds. Amend 2007, 129:1 to read as follows:

129:1 Operating Budget, Department of Health and Human Services; Sources of Funds. Amend the following department of health and human services PAU as inserted by 2005, 176:1 as follows:

05, 01, 08, 04, 01

FISCAL YEAR 2007

Strike out:

90 Nursing Services* 192,870,528

Insert in place thereof:

90 Nursing Services* *** 192,870,528

Further amend PAU 05,01,08,04,01 by inserting at the end thereof the following:

The appropriation in class 90 for the fiscal year ending June 30, 2007 shall be non-lapsing. Any balance remaining at the end of June 30, 2007 shall be paid to nursing homes as supplemental rates no later than October 1, 2007. The supplemental rates shall be based on the current rate setting methodology. The commissioner shall file a report with the legislative fiscal committee by October 1, 2007 which details the balance carried forward from fiscal year 2007 and the amounts to be paid as supplemental rates. ***If such funds are not expended by June 30, 2009, they shall lapse to the appropriate funds.***

19 County Reimbursement of Funds; Credit. Amend RSA 167:18-a, III(b) to read as follows:

(b) The credit shall be made available as soon as possible after the start of the fiscal year. The department shall adopt county credit criteria in consultation with the county-state finance commission and in accordance with the provisions of RSA 541-A. ~~[The credit under this paragraph shall not reduce total reimbursements due under paragraph II.]~~ ***The total aggregate obligation of the counties shall be reduced by the amount of the credit.***

20 County Obligations. Amend RSA 167:18-a, IV to read as follows:

IV. Notwithstanding the procedures of paragraphs I-III of this section, no county shall be liable for total billings in fiscal year 2009 or fiscal year 2010 in an amount which would be greater than the amount of liability projected for that fiscal year using the methodology for determining county payments in former RSA ***167:18-a, 167:18-b, and 167:18-f*** prior to its repeal ***together with the amount of liability projected for that fiscal year using the repealed methodology for determining county payments in RSA 169-B, 169-C, and 169-D.***

21 Office of Reimbursements; Return of Funds to a County. Amend RSA 126-A:40, I(c) to read as follows:

(c) The state shall have a right of action over for such expenses against the parents or the people chargeable by law for the minor's support and necessities. The court shall require the individual chargeable by law for the minor's support and necessities to assign to the state any insurance coverage that may be available to pay for all or a portion of the services provided and to submit a financial statement to the court upon which the court may make an order as to reimbursement to the state as may be reasonable and just, based on the person's ability to pay. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance coverage available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per month or per week basis and shall continue for a duration of time equal to the duration of time in which expenses are incurred on behalf of the minor by the state. The court's jurisdiction to order reimbursement shall continue until the obligation to reimburse has been fulfilled. ***If the state receives reimbursement for the expenses of a child under this section, the state shall return to the formerly liable county that percentage of the reimbursement equal to the percentage of expenses paid by the county for the child.***

22 Office of Reimbursements; Elimination of Notice to Counties. Amend RSA 126-A:40, II to read as follows:

II. Upon the issuance of an order under paragraph I, the court shall send notice to the state ~~[and relevant county]~~. The state ~~[and relevant county]~~ may, within 30 days from the receipt of notice, request a hearing on the issues of the cost or appropriateness of services, or recovery. At such hearing, the court shall provide all financial information, including names and addresses of persons chargeable by law for the minor's support and necessities, to the state ~~[and relevant county]~~.

23 Repeal. RSA 126-A:40, IV-VII, relative to county liability, are repealed.

24 Indigent Defendants; Neglected or Abused Children. Amend RSA 604-A:1-a to read as follows:

604-A:1-a Neglected or Abused Children. In cases involving a neglected or abused child, when a guardian ad litem is appointed for the child as provided in RSA 169-C:10, the cost of such appointment shall be paid ~~[by the]~~ ***from funds appropriated for indigent defense [and] pursuant to this chapter.***

25 New Section; Indigent Defense; Authorization for Additional Funding. Amend RSA 604-A by

inserting after section 1-a the following new section:

604-A:1-b Additional Funding. In the event that expenditures for indigent defense by the judicial council are greater than amounts appropriated in the operating budget, the judicial council may request, with prior approval of the fiscal committee of the general court, that the governor and council authorize additional funding. For funds requested and approved, the governor is authorized to draw a warrant from any money in the treasury not otherwise appropriated.

26 Repeal. 1997, 351:10, relative to transfer of appropriations by the executive director of the judicial council, is repealed.

27 Capital Improvements; Liquor Commission. Amend 2007; 264:1, XI, B to read as follows:

B. Concord Warehouse Racking *and Forklift* 270,000

28 Ratification of the Lyme Town and Budget Committee Meetings. All acts, notices, and proceedings at the Lyme annual town meeting, held on March 11, 2008, and the budget committee meeting held on February 12, 2008, are hereby legalized, ratified, and confirmed.

29 Effective Date.

I. Sections 12 and 21-23 of this act shall take effect July 1, 2008.

II. Sections 19 and 20 of this act shall take effect July 1, 2008 at 12:01 a.m.

III. Sections 15 and 16 of this act shall take effect as provided in section 17.

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

AMENDED ANALYSIS

This bill:

I. Allows certain site work to be eligible for grants available for the construction or renovation of regional vocational centers.

II. Transfers certain positions from the pari-mutuel racing laboratory to the department of safety urine testing laboratory.

III. Directs the judicial branch and legislative branch to reduce budget appropriations by a specified amount in each year of the biennium ending June 30, 2009.

IV. Establishes a commission to study funding of school building aid.

V. Establishes discounts for certain liquor licensees.

VI. Provides authority to lapse funds from the default bench warrant fund to the general fund for the fiscal year ending June 30, 2008.

VII. Permits certain state contributions to the retirement system to lapse on June 30, 2008 rather than June 30, 2009.

VIII. Increases the tobacco tax, contingent on the amount of tobacco tax revenue received.

IX. Permits a prior appropriation to the department of health and human services for nursing services to lapse on June 30, 2009.

X. Provides that the total county reimbursement obligation shall be reduced by the amount of the credit that the counties receive.

XI. Limits county obligations for certain nursing home and juvenile service costs to the maximum obligation the county would have incurred under the methodology used prior to July 1, 2008.

XII. Permits the judicial council to request that the fiscal committee authorize additional funding when expenditures exceed amounts appropriated in the operating budget.

XIII. Repeals a provision authorizing transfer of appropriations by the executive director of the judicial council.

XIV. Permits the liquor commission to use part of an appropriation in the capital budget for a forklift.

XV. Removes references to county liability for certain juvenile service costs.

XVI. Legalizes the proceedings of the Lyme town meeting held on March 11, 2008 and the budget committee meeting held on February 12, 2008.

2008-1726h

**Amendment to SB 327-FN
Proposed by the Committee on Finance - R**

Amend RSA 21-I:43-a as inserted by section 1 of the bill by replacing it with the following:

21-I:43-a Compensation for State Employees Injured in Line of Duty. Any injury received by any state employee who is injured in the line of duty by a hostile ~~[or overt]~~ act, or **by** an act caused by another during the performance of duties which are considered dangerous in nature, that requires the employee to be hospitalized or renders the employee temporarily unable to perform the duties of his or her position shall not be charged against annual leave or sick leave for the time lost due to the injury. During such time, the employee shall remain on the active payroll. ***In this event, no employee shall be terminated from state service until he or she has applied for disability retirement and a final decision on the application is made by the board of trustees of the New Hampshire retirement system and appeals of such decision, if any, are finalized; provided, that the employee shall make such application within 18 months of the injury contemplated by this section.*** The executive head of the employee's agency shall make the determination as to whether an injury is in the line of duty and due to a hostile or overt act, or an act caused by another during the performance of duties which are considered dangerous in nature, and, after approval by the governor and council, the determination shall be final. ~~[The compensation provided for in this section shall be in addition to any other compensation or remedy available to the employee]~~ ***During the time in which the disabled employee remains on active payroll at full base salary pursuant to this section, he or she shall not be entitled to receive workers' compensation payments.***

2008-1658h

Amendment to SB 337-FN

Proposed by the Majority of the Committee on Education - R

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

AN ACT relative to notification requirements for home education programs, adding legislative members to the home education advisory council, and establishing a commission to examine New Hampshire's home education statutes.

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

1 Home Education; Notification. Amend RSA 193-A:5 to read as follows:

193-A:5 Notification and Other Procedural Requirements. A parent may provide home education to a child or children at home, subject to the following requirements:

I. **(a)** Any parent commencing a home education program for a child, for a child who withdraws from a public school, or for a child who moves into a school district shall notify the commissioner of ***the department of*** education, resident district superintendent, or principal of a nonpublic school of such within ~~[30]~~ ***5 business days of commencing the program.***

(b) A parent planning to continue a home education program shall notify the commissioner of education, resident district superintendent, or principal of a nonpublic school by the first school day according to the school calendar in the child's resident school district.

2 Home Education Advisory Council; Membership Amended. Amend RSA 193-A:10 to read as follows:

193-A:10 Home Education Advisory Council.

I. There is established the home education advisory council ~~[comprising 12 members]~~ ***which shall consist of the following members:***

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

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

(c) The following ~~[members of the council]~~ ***individuals who*** shall be appointed by the commissioner of ***the department of*** education from persons named as follows:

~~[(a)]~~ ***(1)*** Six members nominated by home educator associations organized within New Hampshire.

~~[(b)]~~ (2) Two members nominated by the **commissioner of the** department of education, **or designee**.

~~[(c)]~~ (3) One member nominated by the New Hampshire School Administrators Association.

~~[(d)]~~ (4) One member nominated by the New Hampshire School Boards Association.

~~[(e)]~~ (5) One member nominated by the New Hampshire School Principals Association.

~~[(f)]~~ (6) One member nominated by the nonpublic school advisory council established by the **state** board of education pursuant to RSA 21-N:9, II(f).

II. The duties of the council and the terms of office of ~~its~~ **the** members **appointed under subparagraph I(c)** shall be prescribed in accordance with rules proposed by the commissioner of education and adopted by the state board of education pursuant to RSA 541-A. **Legislative members of the council shall serve a term which is coterminous with their elected office.**

III. The chair of the council shall be elected by the council members from the home educator membership on the council **appointed under subparagraph I(c)**. All vacancies on the council shall be filled in the same manner as that of the original appointment.

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

3 Commission Established. There is established a commission to examine New Hampshire's home education statutes.

4 Membership and Compensation.

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

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

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

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

(d) One member from the New Hampshire School Administrators Association, appointed by the association.

(e) One member from the home education advisory council established under RSA 193-A:10, appointed by the chair of the council.

(f) One member from the New Hampshire School Boards Association, appointed by the association.

(g) One member from the New Hampshire Homeschooling Coalition, appointed by the coalition.

(h) One member from the Christian Home Educators Association of New Hampshire, appointed by the association.

(i) One member from the Catholics United for Home Education, appointed by that organization.

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

5 Duties. The commission shall examine New Hampshire's home education statutes.

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

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

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

AMENDED ANALYSIS

This bill amends the notification requirements for commencing or continuing a home education program, adds legislative members to the home education advisory council, and establishes a commission to examine New Hampshire's home education statutes.

2008-1707h

Amendment to SB 341

Proposed by the Committee on Public Works and Highways - C

Amend RSA 236:74, III as inserted by section 1 of the bill by replacing it with the following:

III. Lighting.

(a) Except as provided in subparagraph (b), advertising devices located in federal highway or turnpike adjacent areas may be lighted, subject ~~[only]~~ to such restriction with respect to devices to be erected as may from time to time be prescribed by the commissioner.

(b) Advertising devices which contain, include, or are illuminated by any flashing, scrolling, intermittent, or moving light or lights, or video or animation, are prohibited on divided, limited access highways, except those devices giving emergency alerts or public service information such as time, date, temperature, weather, traffic, road conditions, or similar information. Brightness shall be adjusted in response to changes in light levels so that the signs are not unreasonably bright for the safety of the motoring public.

AMENDED ANALYSIS

This bill prohibits flashing, scrolling, intermittent, or moving lights on advertising devices on certain highways.

2008-1657h

Amendment to SB 342-FN-LOCAL

Proposed by the Committee on Municipal and County Government - R

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

1 Findings and Statement of Purpose.

I. The state of New Hampshire is experiencing a shortage of housing that is affordable to working households. This housing shortage poses a threat to the state's economic growth, presents a barrier to the expansion of the state's labor force, undermines state efforts to foster a productive and self-reliant workforce, and adversely affects the ability of many communities to host new businesses.

II. Achieving a balanced supply of housing, which requires increasing the supply of workforce housing, serves a statewide public interest, and constitutes an urgent and compelling public policy goal.

III. The purpose of this act is to clarify the requirements of *Britton v. Chester* (134 N.H. 439 (1991)) and to provide additional guidance for complying with those requirements to local officials and the public.

IV. Section 2 of this act is intended to provide the maximum feasible flexibility to municipalities in exercising the zoning powers under RSA 674 consistent with their obligation to provide reasonable opportunities for the development of workforce housing, and is not intended to create a system of statewide land use regulation or a statewide zoning process.

2 New Subdivision; Workforce Housing Opportunities. Amend RSA 674 by inserting after section 57 the following new subdivision:
Workforce Housing

674:58 Definitions. In this subdivision:

I. "Affordable" means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income.

II. "Multi-family housing" for the purpose of workforce housing developments, means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household.

III. “Reasonable and realistic opportunities for the development of workforce housing” means opportunities to develop economically viable workforce housing within the framework of a municipality’s ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are reasonable and realistic. If the ordinances and regulations of a municipality make feasible the development of sufficient workforce housing to satisfy the municipality’s obligation under RSA 674:59, and such development is not unduly inhibited by natural features, the municipality shall not be in violation of its obligation under RSA 674:59 by virtue of economic conditions beyond the control of the municipality that affect the economic viability of workforce housing development.

IV. “Workforce housing” means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. “Workforce housing” also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

674:59 Workforce Housing Opportunities.

I. In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing. In order to provide such opportunities, lot size and overall density requirements for workforce housing shall be reasonable. A municipality that adopts land use ordinances and regulations shall allow workforce housing to be located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses within the municipality. Such a municipality shall have the discretion to determine what land areas are appropriate to meet this obligation. This obligation may be satisfied by the adoption of inclusionary zoning as defined in RSA 674:21, IV(a). This paragraph shall not be construed to require a municipality to allow for the development of multifamily housing in a majority of its land zoned to permit residential uses.

II. A municipality shall not fulfill the requirements of this section by adopting voluntary inclusionary zoning provisions that rely on inducements that render workforce housing developments economically unviable.

III. A municipality’s existing housing stock shall be taken into consideration in determining its compliance with this section. If a municipality’s existing housing stock is sufficient to accommodate its fair share of the current and reasonably foreseeable regional need for such housing, the municipality shall be deemed to be in compliance with this subdivision and RSA 672:1, III-e.

IV. Paragraph I shall not be construed to require municipalities to allow workforce housing that does not meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

674:60 Procedure.

I. Any person who applies to a land use board for approval of a development that is intended to qualify as workforce housing under this subdivision shall file a written statement of such intent as part of the application. The failure to file such a statement shall constitute a waiver of the applicant’s rights under RSA 674:61, but shall not preclude an appeal under other applicable laws. In any appeal where the applicant has failed to file the statement required by this paragraph, the applicant shall not be entitled to a judgment on appeal that allows construction of the proposed development, or otherwise permits the proposed workforce housing development to proceed despite its nonconformance with the municipality’s ordinances or regulations.

II. If a land use board approves an application to develop workforce housing subject to

conditions or restrictions, it shall notify the applicant in writing of such conditions and restrictions and give the applicant an opportunity to establish the cost of complying with the conditions and restrictions and the effect of compliance on the economic viability of the proposed development. The board's notice to the applicant of the conditions and restrictions shall constitute a conditional approval solely for the purpose of complying with the requirements of RSA 676:4, I(c)(1). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.

III. Upon receiving notice of conditions and restrictions under paragraph II, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability within the period directed by the board, which shall not be less than 30 days.

(a) Upon receipt of such evidence from the applicant, the board shall allow the applicant to review the evidence at the board's next meeting for which 10 days' notice can be given, and shall give written notice of the meeting to the applicant at least 10 days in advance. At such meeting, the board may also receive and consider evidence from other sources.

(b) The board may affirm, alter, or rescind any or all of the conditions or restrictions of approval after such meeting.

(c) Subject to subparagraph (d), the board shall not issue its final decision on the application before such meeting, unless the applicant fails to submit the required evidence within the period designated by the board, in which case it may issue its final decision any time after the expiration of the period.

(d) If an applicant notifies the board in writing at any time that the applicant accepts the conditions and restrictions of approval, the board may issue its final decision without further action under this paragraph.

674:61 Appeals.

I. Any person who has filed the written notice required by RSA 674:60, and whose application to develop workforce housing is denied or is approved with conditions or restrictions which have a substantial adverse effect on the viability of the proposed workforce housing development may appeal the municipal action to the superior court under RSA 677:4 or RSA 677:15 seeking permission to develop the proposed workforce housing. The petition to the court shall set forth how the denial is due to the municipality's failure to comply with the workforce housing requirements of RSA 674:59 or how the conditions or restrictions of approval otherwise violate such requirements.

II. A hearing on the merits of the appeal shall be held within 6 months of the date on which the action was filed unless counsel for the parties agree to a later date, or the court so orders for good cause. If the court determines that it will be unable to meet this requirement, at the request of either party it shall promptly appoint a referee to hear the appeal within 6 months. Referees shall be impartial, and shall be chosen on the basis of qualifications and experience in planning and zoning law.

III. In the event the decision of the court or referee grants the petitioner a judgment that allows construction of the proposed development or otherwise orders that the proposed development may proceed despite its nonconformance with local regulations, conditions, or restrictions, the court or referee shall direct the parties to negotiate in good faith over assurances that the project will be maintained for the long term as workforce housing. The court or referee shall retain jurisdiction and upon motion of either party affirming that negotiations are deadlocked, the court or referee shall hold a further hearing on the appropriate term and form of use restrictions to be applied to the project.

3 Planning and Zoning; Declaration of Purpose. Amend RSA 672:1, III-e to read as follows:

III-e. All citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the state of New Hampshire, and serves a vital public need. Opportunity for development of such housing[~~including so-called cluster development and the development of multi-~~

~~family structures, should]~~ **shall** not be prohibited or **unreasonably** discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers;

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

2008-1664h

Amendment to SB 359
Proposed by the Committee on Education - R

Amend the bill by replacing section 1 with the following:

1 Duties of State Board of Education. RSA 186:11, IX is repealed and reenacted to read as follows:

IX. INSTRUCTION AS TO CHILD ABUSE PREVENTION, YOUTH SUICIDE
PREVENTION, INTOXICANTS, DRUGS, HIV/AIDS, AND SEXUALLY TRANSMITTED
DISEASES.

(a) Direct the department to develop curriculum frameworks in health, physiology, and hygiene as they relate to the effects of alcohol and other drugs, child abuse, human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS), and sexually transmitted diseases on the human system, and which are designed to help students lead longer, healthier lives.

(b) Provide information about HIV/AIDS to all public and private schools to facilitate the delivery of appropriate courses and programs.

(c) Review HIV/AIDS curriculum materials to assure relevancy in assisting students to become health-literate citizens, and lead longer, healthier lives.

(d) Provide information about youth suicide prevention to all public and private schools to facilitate the delivery of appropriate courses and programs.

Amend RSA 186:11, IX-b as inserted by section 4 of the bill by replacing it with the following:

IX-b. HEALTH AND SEX EDUCATION. Require school districts to adopt a policy allowing an exception to a particular unit of health or sex education instruction based on religious objections. Such policy shall include a provision for alternative learning sufficient to enable the child to meet state requirements for health education.

AMENDED ANALYSIS

This bill updates the health education curriculum to include instruction on the effects of alcohol and other drugs, child abuse, human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS), and sexually transmitted diseases on the human system. The bill also requires a school districts to adopt a policy allowing an exception to a particular unit of health or sex education instruction based on religious objections, provided such policy includes a provision for alternative learning sufficient to enable the child to meet state requirements for health education.

2008-1655h

Amendment to SB 374
Proposed by the Committee on Education - R

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

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

III. In cases of nonrenomination because of unsatisfactory performance, the superintendent of the local school district shall demonstrate, at the school board hearing, by a preponderance of the evidence, that the teacher had received written notice that the teacher's unsatisfactory performance may lead to nonrenomination, that the teacher had a reasonable opportunity to correct such unsatisfactory performance, and that the teacher had failed to correct such unsatisfactory performance. ~~[Nothing in this paragraph shall be construed to require the superintendent or the school board to provide a teacher with remedial assistance to correct any deficiencies that form the basis for such teacher's nonrenomination.]~~

Amendment to SB 381

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 Conservation Commissions; Method of Adoption. Amend RSA 36-A:1 to read as follows:

36-A:1 Method of Adoption. Any city by vote of its city council, and any town at any duly warned meeting, may adopt ***or rescind*** the provisions of this chapter.

2 Conservation Commissions; Powers. RSA 36-A:4 is repealed and reenacted to read as follows:

36-A:4 Powers. Said commission may receive gifts of money, personal property, real property, and water rights, either within or outside the boundaries of the municipality, by gift, grant, bequest, or devise, subject to the approval of the local governing body, such gifts to be managed and controlled by the commission for the purposes of this section. Said commission may acquire in the name of the city or town, subject to the approval of the local governing body, by purchase, the fee in such land or water rights within the boundaries of the municipality, or any lesser interest, development right, easement, covenant, or other contractual right including conveyances with conditions, limitations, or reversions, as may be necessary to acquire, maintain, improve, protect, or limit the future use of or otherwise conserve and properly utilize open spaces and other land and water areas within their city or town, and shall manage and control the same, but the city or town or commission shall not have the right to condemn property for these purposes.

3 New Section; Conservation Commissions; Additional Powers. Amend RSA 36-A by inserting after section 4 the following new section:

36-A:4-a Optional Powers.

I. The legislative body of a city or town may vote at an annual meeting to authorize the conservation commission, with the approval of the governing body, to do one or more of the following:

(a) Expend funds for the purchase of interests in land outside the boundaries of the municipality.

(b) Expend funds for contributions to “qualified organizations,” as defined in section 170(h)(3) of the Internal Revenue Code of 1986, for the purchase of property interests or facilitating transactions relative thereto to be held by the qualified organization, when such purchase carries out the purposes of this chapter. Because such contributions further the protection of the state’s natural resources, they are hereby declared to be a public purpose.

II. A vote under this section may be taken simultaneously with the adoption of this chapter or any time thereafter. If the vote is taken simultaneously with the adoption of this chapter, a separate question shall be placed on the warrant.

(a) The wording of the question under subparagraph I(a) shall be: “Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(a) to authorize the conservation commission to expend funds to purchase interests in land outside the boundaries of our municipality?”

(b) The wording of the question under subparagraph I(b) shall be: “Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(b) to authorize the conservation commission to expend funds for contributions to ‘qualified organizations’ for the purchase of property interests, or facilitating transactions related thereto, where the property interest is to be held by the qualified organization and the town will retain no interest in the property?”

III. The provisions of this section may be rescinded by vote of the legislative body.

4 Appropriations Authorized; Contributions to Qualified Organizations. Amend RSA 36-A:5, II to read as follows:

II. The town treasurer, pursuant to RSA 41:29, shall have custody of all moneys in the conservation fund and shall pay out the same only upon order of the conservation commission. The disbursement of conservation funds shall be authorized by a majority of the conservation commission. Prior to the use of such funds for the purchase of any interest in real property ***or for a contribution to a qualified organization for the purchase of property interests under RSA 36-A:4-a, I(b)***, the conservation commission shall hold a public hearing with notice in accordance with RSA 675:7.

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

AMENDED ANALYSIS

This bill allows conservation commissions to contribute money from the conservation fund to certain qualified organizations for the purchase of property interests to be held by the organization when such purchase carries out the purposes for which conservation commissions are established. This bill also authorizes conservation commissions to purchase interests in land outside the boundaries of the municipality.

2008-1798h

Floor Amendment to SB 381 Proposed by Rep. Butterworth - R

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

1 Conservation Commissions; Method of Adoption. Amend RSA 36-A:1 to read as follows:

36-A:1 Method of Adoption. Any city by vote of its city council, and any town at any duly warned meeting, may adopt *or rescind* the provisions of this chapter.

2 Conservation Commissions; Powers. RSA 36-A:4 is repealed and reenacted to read as follows:

36-A:4 Powers. Said commission may receive gifts of money, personal property, real property, and water rights, either within or outside the boundaries of the municipality, by gift, grant, bequest, or devise, subject to the approval of the local governing body, such gifts to be managed and controlled by the commission for the purposes of this section. Said commission may acquire in the name of the city or town, subject to the approval of the local governing body, by purchase, the fee in such land or water rights within the boundaries of the municipality, or any lesser interest, development right, easement, covenant, or other contractual right including conveyances with conditions, limitations, or reversions, as may be necessary to acquire, maintain, improve, protect, or limit the future use of or otherwise conserve and properly utilize open spaces and other land and water areas within their city or town, and shall manage and control the same, but the city or town or commission shall not have the right to condemn property for these purposes.

3 New Section; Conservation Commissions; Additional Powers. Amend RSA 36-A by inserting after section 4 the following new section:

36-A:4-a Optional Powers.

I. The legislative body of a city or town may vote at an annual meeting to authorize the conservation commission to:

(a) Expend funds for the purchase of interests in land outside the boundaries of the municipality, subject to the approval of the local governing body; and

(b) Expend funds for contributions to “qualified organizations,” as defined in section 170(h)(3) of the Internal Revenue Code of 1986, for the purchase of property interests or facilitating transactions relative thereto to be held by the qualified organization, when such purchase carries out the purposes of this chapter. Because such contributions further the protection of the state’s natural resources, they are hereby declared to be a public purpose.

II. A vote under this section may be taken simultaneously with the adoption of this chapter or any time thereafter. If the vote is taken simultaneously with the adoption of this chapter, a separate question shall be placed on the warrant.

(a) The wording of the question under subparagraph I(a) shall be: “Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(a) to authorize the conservation commission to expend funds to purchase interests in land outside the boundaries of our municipality, subject to the approval of the local governing body?”

(b) The wording of the question under subparagraph I(b) shall be: “Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(b) to authorize the conservation commission to expend funds for contributions to ‘qualified organizations’ for the purchase of property interests, or facilitating transactions related thereto, where the property interest is to be held by the qualified organization and the town will retain no interest in the property?”

III. The provisions of this section may be rescinded by vote of the legislative body.

4 Appropriations Authorized; Contributions to Qualified Organizations. Amend RSA 36-A:5, II to read as follows:

II. The town treasurer, pursuant to RSA 41:29, shall have custody of all moneys in the conservation fund and shall pay out the same only upon order of the conservation commission. The disbursement of conservation funds shall be authorized by a majority of the conservation commission. Prior to the use of such funds for the purchase of any interest in real property ***or for a contribution to a qualified organization for the purchase of property interests under RSA 36-A:4-a, I(b)***, the conservation commission shall hold a public hearing with notice in accordance with RSA 675:7.

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

AMENDED ANALYSIS

This bill allows conservation commissions to contribute money from the conservation fund to certain qualified organizations for the purchase of property interests to be held by the organization when such purchase carries out the purposes for which conservation commissions are established. This bill also authorizes conservation commissions to purchase interests in land outside the boundaries of the municipality.

2008-1787h

Amendment to SB 383

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

Amend subparagraph II(a) as inserted by section 3 of the bill by replacing it with the following:

(a) Representatives of proposed New Hampshire renewable generation projects which either have active applications in the ISO-NE Generator Interconnection Study Queue or are subject to New Hampshire jurisdictional interconnection administration, one member appointed by U.S. Senator Judd Gregg, one member appointed by U.S. Senator John Sununu, one member appointed by U.S. Congressman Paul Hodes, and one member appointed by U.S. Congresswoman Carol Shea Porter.

Amend paragraph I as inserted by section 4 of the bill by replacing it with the following:

I. Shall develop a proposal for the upgrade of the transmission system in the north country no later than December 1, 2008, with the support of the public utilities commission and a consensus of the state's electric distribution providers, electric transmission companies, the consumer advocate, the commission staff and developers of renewable energy projects who have active applications in the ISO-NE Generator Interconnection Study Queue as of the effective date of this act. Consideration in the development of such a plan shall be given to both a regional solution and, for the Coos Loop, a New Hampshire-only solution. As part of the proposal, the commission shall:

(a) Expedite the necessary studies required to achieve transmission expansion.
(b) Determine what the options, process, and timelines would be for pursuing a regional solution.

2008-1604h

Amendment to SB 403

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

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

AN ACT relative to the commission to study issues relating to stormwater.

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

1 Commission to Study Issues Relating to Stormwater; Membership. Amend subparagraph I(g) of section 2 of HB 1295 of the 2008 regular legislative session to read as follows:

(g) An expert on stormwater management or watershed management from the university [system] of New Hampshire, appointed by the university president.

2 Commission to Study Issues Relating to Stormwater; Membership. Amend subparagraph I(m) of section 2 of HB 1295 of the 2008 regular legislative session to read as follows:

(m) A representative of the New Hampshire Public Works Association, who is employed by a municipal separate storm sewer system community, ***appointed by that association.***

3 Contingency. If HB 1295 of the 2008 regular legislative session becomes law, sections 1 and 2 of this act shall take effect at 12:01 a.m. on the day such act takes effect. If HB 1295 of the 2008 regular legislative session does not become law, sections 1 and 2 of this act shall not take effect.

4 Effective Date.

I. Sections 1 and 2 of this act shall take effect as provided in section 3 of this act.

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

AMENDED ANALYSIS

This bill clarifies the membership of the commission to study issues relating to stormwater enacted by HB 1295.

2008-1173h

Amendment to SB 422

Proposed by the Committee on Municipal and County Government - C

Amend RSA 674:2, III (n) as inserted by section 1 of the bill by replacing it with the following:

(n) An energy section, which includes an analysis of energy and fuel resources, needs, scarcities, costs, and problems affecting the municipality and a statement of policy on the conservation of energy.

2008-1727h

Amendment to SB 451

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

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

1 New Chapter; Electric Utility Investment in Distributed Energy Resources. Amend RSA by inserting after chapter 374-F the following new chapter:

CHAPTER 374-G

ELECTRIC UTILITY INVESTMENT

IN DISTRIBUTED ENERGY RESOURCES

374-G:1 Purpose. Distributed energy resources can increase overall energy efficiency and provide energy diversity by eliminating, displacing, or better managing energy deliveries from the centralized bulk power grid, in keeping with the objectives of RSA 362-F:1. It is therefore in the public interest to stimulate investment in distributed energy resources in New Hampshire by encouraging New Hampshire electric public utilities to invest in distributed energy resources including clean and renewable generation benefiting the transmission and distribution system under state regulatory oversight.

374-G:2 Definitions; Exclusions.

I. The following definitions shall apply in this chapter except as otherwise provided:

(a) "Commission" means the public utilities commission.

(b) "Distributed energy resources" means electric generation equipment, including clean and renewable generation, energy storage, energy efficiency, demand response, load reduction or control programs, and technologies or devices located on or inter-connected to the local electric distribution system for purposes including but not limited to reducing line losses, supporting voltage regulation, or peak load shaving, as part of a strategy for minimizing transmission and distribution costs as provided in RSA 374-F:3, III.

II. "Distributed energy resources" in this chapter shall exclude electric generation equipment interconnected with the local electric distribution system at a single point or through a customer's own electrical wiring that is in excess of 5 megawatts.

374-G:3 Electric Generation Equipment Funded by Public Utility; Requirements. Any electric generation equipment funded in part by a public utility under this chapter is subject to the following requirements:

I. The energy produced by electric generation equipment owned by the public utility shall be used as an offset to distribution system losses or the public utility company's own use;

II. The energy produced by electric generation equipment utilizing a non-renewable fuel source that is owned by a customer, or sited on a customer's property shall be used to displace the customer's own use;

III. The energy produced by electric generation equipment utilizing a renewable fuel source that is owned by a customer, or sited on the consumer's premises shall be used to displace the customer's own use; however, if energy is occasionally generated in excess of the customer's energy requirements, it may be credited to the customer's account in a subsequent period.

IV. Any biomass-fueled generation shall meet the emission requirements to qualify as eligible biomass technology under RSA 362-F:2, VIII.

V. Any fossil-fuel fueled generation shall produce combined heat and power with a minimum energy efficiency of 60 percent, measured as usable thermal and electrical output in BTUs divided by fuel input in BTUs, shall be installed as an integrated combined heat and power application, and shall meet the following emission standards (in lbs/MW-H): NO_x - 0.07; CO - 0.10; VOCs - 0.02. A credit to meet the emission standard may be applied at the rate of one MW-H for each 3.4 million BTUs of heat recovered.

VI. These requirements apply in addition to and do not preempt or replace any emission standards or permitting requirements applicable to a given generation facility under any other applicable state or federal law.

374-G:4 Investments in Distributed Energy Resources.

I. Notwithstanding any other provision of law to the contrary, as provided in RSA 374-G:5, a New Hampshire electric public utility may invest in or own distributed energy resources, located on or inter-connected to the local electric distribution system.

II. Distributed electric generation owned by or receiving investments from an electric utility under this section shall be limited to a cumulative maximum in megawatts of 6 percent of the utility's total distribution peak load in megawatts.

III. In addition, once the cumulative generation authorized under this chapter for a given public utility reaches 3 percent of the utility's total distribution peak load in megawatts, then that utility shall not be allowed to add any additional non-renewable generation under this chapter, until the cumulative renewable generation installed pursuant to this chapter, as a percentage of total generation installed pursuant to this chapter, shall equal or exceed twice the sum of the then-applicable percentage requirements for class 1 and class 2 under RSA 362-F:3.

374-G:5 Rate Filing; Authorization.

I. A New Hampshire electric public utility may seek rate recovery for its investments in distributed energy resources from the commission by making an appropriate rate filing. At a minimum, such filing shall include the following:

- (a) A detailed description and economic evaluation of the proposed investment.
- (b) A discussion of the costs, benefits, and risks of the proposal with specific reference to the factors listed in paragraph II, including an analysis of the costs, benefits, and rate implications to the participating customers, to the company's default service customers, and to the utility's distribution customers.
- (c) A description of any equipment or installation specifications, solicitations, and procurements it has or intends to implement.
- (d) A showing that it has made reasonable efforts to involve local businesses in its program.
- (e) Evidence of compliance with any applicable emission limitations.
- (f) A copy of any customer contracts or agreements to be executed as part of the program.

II. Prior to authorizing a utility's recovery of investments made in distributed energy resources, the commission shall determine that the utility's investment and its recovery in rates, as proposed, are in the public interest. Determination of the public interest under this section shall include but not be limited to consideration and balancing of the following factors:

- (a) Whether the expected value of the economic benefits of the investment to the utility's ratepayers over the life of the investment outweigh the economic costs to the utility's ratepayers.

- (b) The efficient and cost-effective realization of the purposes of the renewable portfolio standards of RSA 362-F and the restructuring policy principles of RSA 374-F:3.
- (c) The costs and benefits to any participating customer or customers.
- (d) The costs and benefits to the company's default service customers.
- (e) The energy security benefits of the investment to the state of New Hampshire.
- (f) The environmental benefits of the investment to the state of New Hampshire.
- (g) The economic development benefits and liabilities of the investment to the state of New Hampshire.
- (h) The effect on the reliability, safety, and efficiency of electric service.
- (i) The effect on competition within the region's electricity markets and the state's energy services market.

III. Authorized and prudently incurred investments shall be recovered under this section in a utility's base distribution rates as a component of rate base, and cost recovery shall include the recovery of depreciation, a return on investment, taxes, and other operating and maintenance expenses directly associated with the investment, net of any offsetting revenues received by the utility directly attributable to the investment.

IV. The commission may add an incentive to the return on equity component as it deems appropriate to encourage investments in distributed energy resources.

V. The commission shall approve, disapprove, or approve with conditions a utility rate filing under this section within 90 days of its filing. The commission may extend this deadline to 6 months at its discretion for any filing involving an investment in excess of \$1,000,000. The commission may also extend the deadline at its discretion for failure of the applicant to respond to data requests on an expedited timeline.

374-G:6 Exemption; Rural Electric Cooperatives. The requirements for commission authorization for recovery of investments under RSA 374-G:5 shall not apply to rural electric cooperatives for which a certificate of deregulation is on file with the commission.

374-G:7 Exclusion. Any renewable generating equipment funded in part by a distribution utility under this chapter shall not be included in the calculation of the total rated generating capacity under RSA 362-A:9, I for purposes of limiting net energy metering.

2 Electric Utility Investment in Distributed Energy Resources; Report. The public utilities commission shall prepare a report reviewing and evaluating utility distributed energy resources investments proposed and implemented under RSA 374-G, to be filed on November 1, 2010, with the governor, the president of the senate, the speaker of the house of representatives, and the chairmen of the house science, technology, and energy committee and the senate energy, environment, and economic development committee. The report shall include any recommended changes to RSA 374-G, specifically including recommendations with respect to the definitions in 374-G:2, the limits in 374-G:4, II and the incentive provision in 374-G:5, IV.

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

2008-1702h

Amendment to SB 463

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 administration of the New Hampshire retirement system and benefits for members.

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

1 Definition of Earnable Compensation; Other Compensation. Amend RSA 100-A:1, XVII to read as follows:

XVII. "Earnable compensation" shall mean for all members the full base rate of compensation paid plus any overtime pay, holiday and vacation pay, sick pay, longevity or severance pay, cost of living bonus, additional pay for extracurricular and instructional activities or for other extra or special duty, ~~[and other compensation paid to the member by the employer,]~~ plus the fair

market value of non-cash compensation ***paid to, or on behalf of, the member*** such as meals or living quarters if subject to federal income tax. However, earnable compensation in the final 12 months of creditable service prior to termination of employment shall be limited to 1-1/2 times the higher of the earnable compensation in the 12-month period preceding the final 12 months or the highest compensation year as determined for the purpose of calculating average final compensation, but excluding the final 12 months. Any compensation received in the final 12 months of employment in excess of such limit shall not be subject to member or employer contributions to the retirement system and shall not be considered in the computation of average final compensation. Provided that, the annual compensation limit for members of governmental defined benefit pension plans under section 401(a)(17) of the United States Internal Revenue Code of 1986, as amended, shall apply to earnable compensation for all employees, teachers, permanent firemen, and permanent policemen who first become eligible for membership in the system on or after July 1, 1996. Earnable compensation shall not include compensation in any form paid later than 120 days after the member's termination of employment from a retirement eligible position, with the limited exceptions of disability related severance pay paid to a member or retiree no later than 120 days after a decision by the board of trustees granting the member or retiree disability retirement benefits pursuant to RSA 100-A:6 and of severance pay which a member was entitled to be paid within 120 days after termination but which, without the consent of the member and not through any fault of the member, was paid more than 120 days after the member's termination. The member shall have the burden of proving to the board of trustees that any severance payment paid later than 120 days after the member's termination of employment is earnable compensation and meets the requirements of an asserted exception to the 120-day post-termination payment requirement.

2 Membership. Amend RSA 100-A:3, V to read as follows:

V. A member shall cease to be a member if (a) ~~he or she is absent from service for more than 2 years; (b)~~ he or she withdraws his or her accumulated contributions; or ~~(c)~~ **(b)** he or she becomes a beneficiary or dies. ~~[Notwithstanding the foregoing,]~~ The board of trustees shall continue the membership of a member while in the armed forces of the United States provided such member does not withdraw his or her accumulated contributions.

3 Return of Member Contributions; Group I. Amend RSA 100-A:11, I(a) to read as follows:

(a) If a group I member ceases to be an employee or teacher for reasons other than retirement or death and if he or she has not elected to receive a vested deferred retirement allowance under RSA 100-A:10, the amount of his or her accumulated contributions shall be paid within 3 months after his or her written request therefor, provided that the member may not file a written request for such payment until at least 30 days from the date the member ceases to be an employee or a teacher and provided that the member may not again become a group I member during said 30-day period. If a group I member ceases to be a ***an active*** member because of absence from service for more than ~~2 years, his or her accumulated contributions shall be paid within 3 months after the board is notified to that effect~~ ***180 days, without requesting return of the amount of his or her accumulated contributions, the retirement system shall retain his or her accumulated contributions. The annual return credited on inactive, vested members shall be paid pursuant to RSA 100-A:16, II(g). The board shall hold and invest such accumulated contributions on behalf of the inactive member, provided that the annual return credited on the inactive member's accumulated contributions shall be 2 percentage points less than either the assumed rate of return determined under RSA 100-A:16, II(h) or the actual rate of return, whichever is lower, for the immediately preceding fiscal year as reported in the comprehensive annual financial report (CAFR), provided the rate of return shall not be less than zero. The inactive member's total accumulated contributions shall be paid within 3 months after his or her written request therefor. In the event an inactive member who has not withdrawn his or her contributions under this section returns to become an active member in service, his or her previous service shall count toward that member's creditable service to the extent that his or her accumulated contributions have remained in the retirement system.***

4 Return of Member Contributions; Group II. Amend RSA 100-A:11, II(a) to read as follows:

(a) If a group II member ceases to be a permanent policeman or permanent fireman for reasons other than retirement or death and if he or she has not elected to receive a vested deferred retirement allowance under RSA 100-A:10, the amount of his or her accumulated contributions shall be paid within 3 months after his or her written request therefor. If a group II member ceases to be a ***an active*** member because of absence from service for more than ~~[2 years, his or her accumulated contributions shall be paid within 3 months after the board is notified to that effect]~~ ***180 days, without requesting return of the amount of his or her accumulated contributions, the retirement system shall retain his or her accumulated contributions. The annual return credited on inactive, vested members shall be paid pursuant to RSA 100-A:16, II(g). The board shall hold and invest such accumulated contributions on behalf of the inactive member, provided that the annual return credited on the inactive member's accumulated contributions shall be 2 percentage points less than either the assumed rate of return determined under RSA 100-A:16, II(h) or the actual rate of return, whichever is lower, for the immediately preceding fiscal year as reported in the comprehensive annual financial report (CAFR), provided the rate of return shall not be less than zero. The inactive member's total accumulated contributions shall be paid within 3 months after his or her written request therefor. In the event an inactive member who has not withdrawn his or her contributions under this section returns to become an active member in service, his or her previous service shall count toward that member's creditable service to the extent that his or her accumulated contributions have remained in the retirement system.***

5 Medical Benefits; Group II; Payment by Retirement System; 8 Percent Increase. Amend RSA 100-A:52, II to read as follows:

II. However, for the fiscal year beginning July 1, 1990, the maximum amount payable by the retirement system under this subdivision on account of each person qualified under paragraph I who is not entitled to Medicare benefits, shall be \$101.50 per month, and on account of each person qualified under paragraph I who is entitled to Medicare benefits, shall be \$64 per month. As of July 1, 1991, and on each July 1 ~~[thereafter]~~ ***until and including July 1, 2008***, the maximum amount payable by the retirement system as provided in this paragraph shall be increased by 8 percent, compounded on previous increases. ***After July 1, 2008, the rate payable under this paragraph may be increased only by the passage of appropriate legislation.***

6 Medical Benefits; Group I Teachers and Political Subdivision Employees; Payment by Retirement System; 8 Percent Increase Removed. Amend RSA 100-A:52-a, II to read as follows:

II. ~~[However,]~~ For ~~[the]~~ ***each*** fiscal year beginning ***on or after*** July 1, ~~[2000]~~ ***2008***, the maximum amount payable by the retirement system under this subdivision on account of each person qualified under paragraph I who is not entitled to Medicare benefits, and on account of each person qualified under paragraph I who is entitled to Medicare benefits, shall be the same as the amount provided in RSA 100-A:52, II for group II retirees. ~~[As of July 1, 2000 and on each July 1 thereafter, the maximum amount payable by the retirement system as provided in this paragraph shall be increased by 8 percent, compounded on previous increases.]~~

7 Medical Benefits; Group I Employees; Payment by Retirement System; 8 Percent Increase Removed. Amend RSA 100-A:52-b, III to read as follows:

III. ~~[However,]~~ For ~~[the]~~ ***each*** fiscal year beginning ***on or after*** July 1, ~~[2000]~~ ***2008***, the maximum amount payable by the retirement system under this subdivision on account of each person qualified under paragraph I who is not entitled to Medicare benefits, and on account of each person qualified under paragraph I who is entitled to Medicare benefits, shall be the same as the amount provided in RSA 100-A:52, II for group II retirees. ~~[As of July 1, 2000 and on each July 1 thereafter, the maximum amount payable by the retirement system as provided in this paragraph shall be increased by 8 percent, compounded on previous increases.]~~

8 New Paragraph; Board of Trustees; Administration; Review of Medical Benefit Subsidy Rates; Biennial Report. Amend RSA 100-A:14 by inserting after paragraph XV the following new paragraph:

XVI. The board of trustees shall review the medical benefit subsidy amount in effect under RSA 100-A:52, II, RSA 100-A:52-a, II, and RSA 100-A:52-b, III to make a prudent determination

whether the amount may be increased, including consideration of different rates of growth to the medical subsidy for each subgroup, if those rates are actuarially supported. The board shall, on or before the December 1 preceding each biennial session of the legislature, commencing on or before December 1, 2010, report to the governor, the speaker of the house of representatives, the senate president, and the chairpersons of the house and senate finance and executive departments and administration committees on its review and determination under this paragraph.

9 New Subparagraph; Method of Financing; Transfer from Special Account. Amend RSA 100-A:16, II by inserting after subparagraph (i) the following new subparagraph:

(j) Notwithstanding RSA 100-A:16, II(h)(5) and (7), there shall be a one-time transfer of \$250,000,000 not later than June 30, 2008 from the special account to the state annuity accumulation fund, provided however that if the employers' obligation to fund the 401(h) subtrust under RSA 100-A:53, RSA 100-A:53-b, RSA 100-A:53-c, and RSA 100-A:53-d ceases as a result of a final court order, the transfer of \$250,000,000 plus any interest accrued shall be returned to the special account. The sum transferred shall be credited proportionally to each member subgroup based on the proportion of the funds transferred into each special account subgroup from the special medical account, as identified by the retirement system, on June 30, 2007.

10 Medical Benefits; Method of Financing; Group II. Amend RSA 100-A:53, I to read as follows:

I. The benefits provided under RSA 100-A:52 shall be provided by a 401(h) subtrust of the New Hampshire retirement system. ***Beginning July 1, 2009***, the 401(h) subtrust shall be funded by allocating ***to the subtrust the lesser of:***

(a) 25 percent of ~~[future]~~ group II employer contributions made for group II ~~[in accordance with RSA 100-A:16 to the subtrust until such time as the benefits are fully funded. Thereafter the subtrust shall receive only that portion of each year's contribution as is necessary to keep the benefits fully funded.]; or~~

(b) The percentage of group II employer contributions made for group II determined by the actuary to be the minimum rate necessary to maintain the benefits provided under RSA 100-A:52.

11 Medical Benefits; Method of Financing; Group I Teachers. Amend RSA 100-A:53-b, I to read as follows:

I. The benefits provided under RSA 100-A:52-a shall be provided by a 401(h) subtrust of the New Hampshire retirement system. ***Beginning July 1, 2009***, the 401(h) subtrust shall be funded by allocating ***to the subtrust the lesser of:***

(a) 25 percent of ~~[future]~~ group I teacher employer contributions made for group I teachers ~~[in accordance with RSA 100-A:16 to the subtrust until such time as the benefits are fully funded. Thereafter the subtrust shall receive only that portion of each year's contribution as is necessary to keep the benefits fully funded.]; or~~

(b) The percentage of group I employer contributions made for group I teachers determined by the actuary to be the minimum rate necessary to maintain the benefits provided under RSA 100-A:52-a.

12 Medical Benefits; Method of Financing; Group I Political Subdivision Employees. Amend RSA 100-A:53-c, I to read as follows:

I. The benefits provided under RSA 100-A:52-a shall be provided by a 401(h) subtrust of the New Hampshire retirement system. ***Beginning July 1, 2009***, the 401(h) subtrust shall be funded by allocating ***to the subtrust the lesser of:***

(a) 25 percent of ~~[future]~~ group I employer contributions made for group I political subdivision employees ~~[in accordance with RSA 100-A:16 to the subtrust until such time as the benefits are fully funded. Thereafter the subtrust shall receive only that portion of each year's contribution as is necessary to keep the benefits fully funded.]; or~~

(b) The percentage of group I employer contributions made for group I political subdivision employees determined by the actuary to be the minimum rate necessary to maintain the benefits provided under RSA 100-A:52-a.

13 Medical Benefits; Method of Financing; Group I State Employees. Amend RSA 100-A:53-d, I to read as follows:

I. The benefits provided under RSA 100-A:52-b shall be provided by a 401(h) subtrust of the New Hampshire retirement system. ***Beginning July 1, 2009***, the 401(h) subtrust shall be funded by allocating ***to the subtrust the lesser of:***

(a) 25 percent of [future] group I employer contributions made for group I state employees ~~[in accordance with RSA 100-A:16 to the subtrust until such time as the benefits are fully funded. Thereafter the subtrust shall receive only that portion of each year's contribution as is necessary to keep the benefits fully funded.]; or~~

(b) ***The percentage of group I employer contributions made for group I state employees determined by the actuary to be the minimum rate necessary to maintain the benefits provided under RSA 100-A:52-b.***

14 Commission on Retiree Health Care Benefits Funding Model. There is established a commission to propose a retiree health care benefits funding model.

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

(a) Three members of the house of representatives, one of whom shall be from the executive departments and administration committee and one of whom shall be from the finance committee, appointed by the speaker of the house of representatives.

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

(c) The chairperson of the New Hampshire retirement system board of trustees, or designee.

(d) Two representatives of group I of the retirement system, appointed by the governor.

(e) Two representatives of group II of the retirement system, appointed by the governor.

(f) Two representatives of municipal and school employers in the retirement system, appointed by the governor.

(g) Six public members with recognized expertise in finance, financial management, health care finance, health care delivery, or the governance and oversight of large endowments or public funds, appointed by the governor.

(h) One retired member of the retirement system currently receiving benefits, appointed jointly by the speaker of the house of representatives and the president of the senate.

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

III. The commission shall study and recommend to the general court by December 1, 2008, the detailed design for a preferential tax vehicle for employees who do not qualify for the existing medical subsidy, to make contributions that would provide funds for post-employment medical expenses. Among the duties, the commission shall:

(a) Analyze the models in use by other states.

(b) Collect information from experts in the field.

(c) Consider different vehicles for such a plan including governmental trusts, Voluntary Employee Benefit Associations (VEBAs), 401(h), trusts, and Health Savings Accounts.

(d) Consider the following principles, in designing a recommended plan that:

(1) Allows for member and employer contributions.

(2) Utilizes tax advantaged contributions, earnings, and benefit distributions.

(3) Includes pre-funding for cost-effectiveness, security, and to satisfy the Governmental Accounting Standards Board and the Internal Revenue Service.

(4) Permits employer contributions through negotiated matches for currently active members.

(5) Permits additional voluntary member contributions.

(6) Is administratively efficient.

(7) Is available and integrated with other benefits.

(8) Allows unused sick and vacation leave to be contributed toward the medical subsidy.

(9) Is viable long term.

(e) Additionally, in designing a recommended plan, consider the following possibilities:

(1) Bonding to assist in the establishment of the trust and/or the transfer of medical subsidy eligible active members and/or retirees to the new health care funding model.

(2) Integrating the new trust with the existing subsidy-eligible state employees and the benefits provided by RSA 21-I:30.

(3) Moving all subsidy-eligible retirees into the new plan, bringing the current 401(h) subtrust funding with them, if permitted.

(4) Analyzing alternative retiree health care insurance programs for political subdivision retirees and Medicare retirees that would reduce the overall costs of medical care.

(f) Seek technical assistance as necessary from the New Hampshire retirement system and from other independent financial, investment, actuarial, and retirement experts.

IV. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 30 days of the effective date of this section. Ten members of the commission shall constitute a quorum.

V. The commission shall report its findings and its initial recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the chairpersons of the house and senate executive departments and administration and finance committees, the governor, and the state library on or before December 1, 2008. The commission shall issue a final report of its findings and recommendations for additional legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the chairpersons of the house and senate executive departments and administration and finance committees, the governor, and the state library on or before December 1, 2009.

VI. The commission is authorized to accept and expend private sector grants, gifts, or donations of any kind for the purpose of the duties required in this section. Any moneys collected shall be continually appropriated to the commission for the purposes of this section.

15 Maximum Retirement Benefit. Amend RSA 100-A:6-a to read as follows:

100-A:6-a Maximum Retirement Benefit. Notwithstanding any other provision of this chapter to the contrary, ~~any~~ **for members who commenced service before July 1, 2009, a** member's initial calculation of the retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed 100 percent of the member's highest year of earnable compensation. **For members who commenced service on or after July 1, 2009 a member's initial calculation of the retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed 100 percent of the member's highest year full base rate of compensation.** This provision shall not limit the application of supplemental allowances under RSA 100-A:41-a.

16 Administration; Board Members. Amend RSA 100-A:14, I to read as follows:

I. The administration of this system is vested in a board of ~~[14]~~ **12** trustees. The state treasurer shall be an ex officio voting member of the board. The governor and council shall appoint ~~[2]~~ **4** trustees, to be known as non-member trustees, who shall be qualified persons with ~~[business]~~ **investment and/or financial** experience and not be members of the system, and who shall serve for a term of 2 years and until their successors are appointed and qualified~~[except that]~~. The original appointment of one of the non-member trustees shall be for a term of one year. The remaining ~~[11]~~ **7** members of the board shall consist of ~~[2 employees, 2 teachers, 2 permanent policemen, 2 permanent firemen]~~ **one employee, one teacher, one permanent police member, one permanent firefighter**, one member of the senate who shall be appointed annually by the senate president, one member of the house of representatives who serves on the executive departments and administration committee and who shall be appointed annually by the speaker of the house, and one person representing management in local government. Whenever a vacancy occurs, the senate president or the speaker of the house shall fill the vacancy in the same manner by appointing a senate or a house member who shall serve for the unexpired term. The New Hampshire state employees' association, the New Hampshire education association, the New Hampshire police association, the New Hampshire state permanent firemen's association, and the New Hampshire Local Government Center shall each annually nominate from their members a

panel of 5 persons, all of whom except for the panel of the Local Government Center shall be active members of the retirement system, or one of the 4 predecessor systems, no later than May 31 of each year, and the panels so named shall be filed with the secretary of state no later than June 10 of each year. From each of the above named panels the governor and council shall appoint one person ~~[annually]~~ **biennially** to the board~~[-, except for the panel of the Local Government Center, which shall have one person appointed every 2 years]~~. Members appointed to the board in the manner aforesaid shall serve for a term of 2 years. Each member so appointed shall hold office until his or her successor shall be appointed and qualified. Whenever a vacancy occurs, the governor and council shall fill the vacancy by appointing a member who shall serve for the unexpired term from the same panel from which the former member was appointed. The governor shall designate one of the non-member trustees to serve as chairman of said board of trustees.

17 Application; Board of Trustees Membership. Members of the board of trustees for the retirement system on the effective date of this section shall serve for the remainder of their terms. In order to conform to RSA 100-A:14, I as amended by this act, the 4 employee, teacher, permanent policeman, and permanent fireman member positions whose trustees' terms are the first to expire after the effective date of this section shall not be appointed, and those positions shall be eliminated from the board of trustees.

18 Board of Trustees; Voting by Chairperson. Amend RSA 100-A:14, IV to read as follows:

IV. Each trustee shall be entitled to one vote in the board of trustees~~[-, provided, however, that the chairman shall be non-voting except in the event of a tie vote]~~. Seven trustees shall constitute a quorum for the transaction of any business. Seven votes shall be necessary for any resolution or action by the board at any meeting.

19 New Section; Committees of the Board of Trustees. Amend RSA 100-A by inserting after section 14 the following new section:

100-A:14-a Committees of the Board of Trustees.

I. The board of trustees shall establish committees to include but not be limited to the following standing committees:

- (a) Investment.
- (b) Audit.
- (c) Benefits.
- (d) Legislative.
- (e) Personnel.

II. Each committee shall consist of members of the board of trustees. A majority of members of the investment committee shall have experience in the field of institutional investment or finance other than their experience as trustees of the New Hampshire retirement system. At least one member of the audit committee shall be experienced in the field of public accounting.

III. Except as otherwise provided in this chapter, each committee shall make its recommendations to the full board for final approval.

IV. The investment committee shall recommend an investment policy and investment consultants to the full board for approval. The investment committee shall review investment performance, choose fund managers, and make investments and deposits on behalf of the board. The investment committee shall establish an advisory committee to advise the investment committee in its investment decisions. The advisory committee shall consist of non-board members who have experience as investment or finance professionals or those with experience in the oversight of pension funds similar to the retirement system funds.

V. The audit committee shall assist the board to undertake the audit and reporting requirements required by RSA 100-A:15, VI. The audit committee may establish an advisory committee to assist it in its auditing functions. The advisory committee shall consist of non-board members who are certified public accountants and others working in public accounting.

VI. The benefits committee shall be responsible for reviewing member and beneficiary recommendations from the hearings examiner.

VII. The legislative committee shall assess the impact on the retirement system of proposed legislation and assist in the development of proposed legislation involving the New Hampshire retirement system.

VIII. The personnel committee shall consider personnel and compensation issues and recommend policies to the board.

IX. Committee members shall be appointed by majority vote of the board of trustees. At all times, the investment committee shall have a majority of members who are qualified as having experience in investment or finance, other than their role as trustees of the New Hampshire retirement system.

20 Management of Funds. Amend RSA 100-A:15 to read as follows:

100-A:15 Management of Funds.

I. The members of the board of trustees shall be the trustees of the several funds created hereby and ***shall set all policies relative to investment of those funds. The trustees shall appoint and oversee an investment committee that shall*** have full power to invest and reinvest such funds ~~[-and] ***in accordance with the policies set by the board.***~~ The board of trustees shall have the powers, privileges, and immunities of a corporation. ~~[The members of the board of trustees shall also have the power to invest and reinvest such funds in participation units in the public deposit investment pool established pursuant to RSA 383:22.]~~ Said ~~[trustees]~~ ***investment committee*** shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created hereby have been invested, as well as the proceeds of such investments ***in accordance with the policies set by the board.*** All of the assets and proceeds, and income therefrom, of the New Hampshire retirement system, and all contributions and payments made thereto, shall be held, invested or disbursed in trust ~~[solely in the interest of the members and beneficiaries of the system for the exclusive purpose of providing those benefits and defraying those reasonable administrative expenses provided for under this chapter. In the management, investment, and reinvestment of system assets so held in trust hereunder, the system's board of trustees shall exercise the judgment and care under the circumstances then prevailing, which persons of prudence, discretion, and intelligence, acting in a like capacity and familiar with such matters, would use in the conduct of a pension plan of like character and with like aims as the system, and by diversifying investments of the system so as to minimize the risk of large losses to the trust fund].~~

I-a.(a) A trustee or other fiduciary shall discharge duties with respect to the retirement system:

- (1) Solely in the interest of the participants and beneficiaries;***
- (2) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the system;***
- (3) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;***
- (4) Impartially, taking into account any differing interests of participants and beneficiaries;***
- (5) Incurring only costs that are appropriate and reasonable; and***
- (6) In accordance with a good-faith interpretation of the law governing the retirement system.***

(b) In investing and managing assets of the retirement system pursuant to subparagraph (a), a trustee with authority to invest and manage assets:

- (1) Shall consider among other circumstances:***
 - (A) General economic conditions;***
 - (B) The possible effect of inflation or deflation;***
 - (C) The role that each investment or course of action plays within the overall portfolio of the retirement system;***
 - (D) The expected total return from income and the appreciation of capital;***

(E) Needs for liquidity, regularity of income, and preservation or appreciation of capital; and

(F) The adequacy of funding for the system based on reasonable actuarial factors;

(2) Shall diversify the investments of the retirement system unless the trustee or investment committee member reasonably determines that, because of special circumstances, it is clearly prudent not to do so;

(3) Shall make a reasonable effort to verify facts relevant to the investment and management of assets of a retirement system; and

(4) May invest in any kind of property or type of investment consistent with this section.

(c) The board of trustees shall adopt a statement of investment objectives and policies for the retirement system as provided in subparagraph VII(c).

I-b. Paragraph I-a shall apply to all board members and other fiduciaries, as well as staff and vendors to the extent they exercise any discretionary authority or discretionary control respecting management of the retirement system or exercise any authority or control respecting management or disposition of its assets, or they render investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of the retirement system, or have any authority or responsibility to do so, or they have any discretionary authority or discretionary responsibility in the administration of the retirement system.

I-c. The fiduciary obligations of the members of the board of trustees are paramount to any other interest a trustee may have arising from another role or position that he or she holds, including the position which qualified the person for appointment to the board of trustees.

II. The board of trustees shall:

(a) ~~[Have the authority to empower an investment committee of its members to make investments and deposits between meetings of the board.] Have the authority to hire actuarial services. The compensation for actuarial services required by the board of trustees shall be a charge upon the funds of the New Hampshire retirement system.~~

(b) Have the full power and authority to delegate to any agent providing services to the New Hampshire retirement system, within or without the state, the power and discretion to make any necessary decisions and to take any action necessary to effect decisions with the same legal effect as if performed by the board of trustees. The payment for these services shall be a charge upon the funds of the New Hampshire retirement system.

*(c) Have the ~~[further]~~ authority to hire investment ~~[counsel]~~ **consultants**. The compensation for investment ~~[counsel]~~ **consultant** services ~~[and the compensation for actuarial services required by the board of trustees in performing the duties required by RSA 100 A:14]~~ shall be a charge upon the funds of the New Hampshire retirement system.*

II-a. The investment committee shall:

*~~[(e)]~~ (a) Appoint and employ a custodian of the several funds of the retirement system, and such custodian, as an agent of the ~~[board]~~ **investment committee**, shall be compensated and such compensation shall be a charge upon the funds of the retirement system.*

*~~[(d)]~~ (b) Have the full power and authority to delegate to any agent, within or without the state, ~~[who may or may not be the custodian of stocks and securities,]~~ the power and discretion to make any necessary decisions with regard to the purchase or sale of any legal object of investment and to take any action necessary to effect decisions by or on behalf of the New Hampshire retirement system with the same legal effect as if performed by the ~~[board of trustees of the New Hampshire retirement system]~~ **investment committee**. The ~~[board of trustees]~~ **investment committee** shall have the power to authorize the payment of compensation to an agent or agents for **investment** management services.*

(c) Report to the board of trustees at least quarterly on the management, investment, and reinvestment activities of the investment committee.

III. Except as otherwise provided in this section, no trustee, ***no advisory committee member***, and no employee of the board of trustees shall have any personal interest in the gains or profits of any investment made by the board; nor shall any trustee, ***advisory committee member***, or employee of the board, directly or indirectly, for himself ***or herself*** or as an agent, in any manner use the same except to make such current and necessary payments as are authorized by the board; nor shall any trustee, ***advisory committee member***, or employee of the board become an endorser or surety, or in any manner an obligor, for money loaned to or borrowed from the board.

IV. The board of trustees is authorized to engage the services of legal counsel [~~for special investment, federal, and tax matters, and to engage outside counsel for other matters~~]. The payment for services provided in this paragraph shall be a charge upon the funds of the New Hampshire retirement system.

V. The board of trustees shall adopt rules pursuant to RSA 541-A relative to procedures to be followed in establishing and modifying investment objectives and guidelines[~~and in selecting investment managers, investment products and investment participations~~]. ***The investment policies shall not be subject to rulemaking under RSA 541-A.***

VI.***(a)*** The funds of the New Hampshire retirement system shall be audited annually[~~The board of trustees shall complete, not later than 120 days after the close of the fiscal year, unless the fiscal committee and the governor and council for good cause shall extend such period, a comprehensive annual financial report concerning the preceding fiscal year that details the financial condition and operation of the system during that period in a manner consistent with generally accepted accounting principles~~] ***and said audit shall be conducted in accordance with prevailing standards and practices of governmental auditing specified by authoritative national standard setting bodies. The audit committee shall prepare for board review and approval a comprehensive annual financial report concerning the preceding fiscal year that details the financial condition and operation of the system during that period in a manner consistent with generally accepted accounting principles. The board shall approve the comprehensive annual financial report not later than 120 days after the close of the fiscal year. The fiscal committee and the governor and council for good cause may extend such period.*** Said report subsequently shall be audited by the legislative budget assistant who may designate a certified public accountant not employed in the state service to conduct the annual audit and may accept the findings and report of the certified public accountant as fulfilling the provisions of this paragraph, provided that in either case said audit shall be conducted in accordance with prevailing standards and practices of governmental auditing specified by authoritative national standard setting bodies. [~~The cost of such audit shall be a charge upon the funds of the New Hampshire retirement system.~~]

(b) The audit committee shall cause a performance audit not less frequently than every 3 years.

(c) Copies of all audits and reports shall be forwarded to the governor, the senate president, and the speaker of the house of representatives. The cost of all audits and reports shall be a charge upon the funds of the New Hampshire retirement system.

VII. The [~~board of trustees shall complete a comprehensive annual investment report at the same time that the annual financial report under paragraph VI is completed.~~] ***investment committee shall prepare for board review and approval a comprehensive annual investment report. The board shall approve the comprehensive annual investment report at the same time that it approves the annual financial report under paragraph VI.*** The investment report shall be submitted to the president of the senate, the speaker of the house, and the governor. The report shall include, but shall not be limited to:

(a) A description of the [~~board's~~] ***investment committee's*** philosophy for investing the assets of the system, including an analysis of any significant changes in philosophy which have occurred from the prior annual report.

(b) An analysis of the return on investment, by investment category.

(c) ~~[Anticipated future uses of and approaches to the management, investment, and reinvestment of system assets under the principles of paragraph I.]~~ ***An annual investment policy statement which shall incorporate the following:***

(1) A clear statement of investment objectives including the adoption of a reasonable and sound average annual rate of return the retirement system is attempting to earn. The rate of return utilized for the statement of investment objectives shall be same as the assumed rate of return set by the trustees for the biennial actuarial calculation.

(2) A detailed breakdown of the asset structure most likely to enable the fund to reach its long range objective within appropriate risk parameters. The details should include all relevant subcategories among equities, debt, and alternative investments and identify the appropriate benchmarks for each performance analysis. The policy should establish an acceptable range for each allocation as well as a specific target allocation.

(3) Identification of how outcomes are measured and benchmarks are developed and who is responsible for the various decision levels in the investment process between the board of trustees, the investment committee, the retirement system's staff, investment consultants, and portfolio managers. The policy statement should specify the minimum frequency to review outcomes and responsibilities, in order to determine whether decisions as to asset mix and manager selection added value to the fund. Investment managers should be under constant review by the investment committee and the retirement system.

(d) Any suggested changes in legislation which the board may seek in order to better serve the members of the system. This is not intended to preclude the board of trustees from seeking additional legislation as needs arise between annual reports.

VIII. The management, investment, and reinvestment practices for the assets held in trust by the board pursuant to this section shall be subject to review by the legislature.

IX. Not later than January 1, 2010, the board of trustees shall report to the governor, the senate president, and the speaker of the house of representatives on the operation of the audit, investment, and other committees.

21 Supplemental Allowances. RSA 100-A:41-a is repealed and reenacted to read as follows:
100-A:41-a Supplemental Allowances.

I. Any retired member of the New Hampshire retirement system or any of its predecessor systems, who has been retired for at least 12 months, or any beneficiary of such member who is receiving an allowance, shall be entitled to receive supplemental allowances on the retired member's latest anniversary date.

II. No later than May 31 of each year, the board of trustees shall determine the amount of a supplemental allowance to be issued as a separate payment to eligible members or their beneficiaries on or after the July 1 thereafter. Supplemental allowances under this paragraph shall not become a permanent addition to the base retirement allowance. The actuary shall certify the amount of the supplemental allowance which may be granted to each member classification subgroup based on the funds available in the special account for each member classification subgroup. No supplemental allowance shall be granted for any year for which the funds available in the special account are insufficient to pay for the cost of the supplemental allowance. The supplemental allowance shall be determined as follows:

(a) The minimum allowance shall be \$500 for the fiscal year ending June 30, 2009, and shall be adjusted each July 1 thereafter by the change in the Consumer Price Index-Urban for the year prior to the year in which the allowance is granted.

(b) The amount of the supplemental allowance shall be 2.5 percent of the member's or beneficiary's current base retirement allowance. The supplemental allowance shall not exceed 2.5 percent of the prior year's median retirement allowance for all members or their beneficiaries within each member classification subgroup as determined by the actuary.

III. No supplemental allowance shall be granted or increased if such grant or increase would reduce the funds in the respective component of the special account to an amount less than zero.

22 Commission Established. There is established a commission to study the feasibility of authorizing, and the depletion schedules for, future COLAs to be issued at different rates to or within each subgroup within the special account.

23 Membership and Compensation.

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

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

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

(c) The chairperson of the New Hampshire retirement system, or designee.

(d) Three persons with relevant knowledge, appointed by the governor.

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

24 Duties. The commission shall study the feasibility of authorizing, and the depletion schedules for, future COLAs to be issued at different rates to or within each subgroup within the special account. The commission shall consider proposals for defined benefit and defined contribution plans for COLAs. The study shall examine the possibility of issuing COLAs, funded from the special account, beginning 2012 with such COLAs becoming permanent additions to the beneficiary's base retirement allowance. The commission may request assistance from the retirement system and the actuary to aid in its study.

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

26 Report. The commission shall report its findings and its initial recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the chairpersons of the house and senate finance and executive departments and administration committees, the governor, and the state library on or before December 1, 2008. The commission shall issue a final report of its findings and recommendations for additional legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the chairpersons of the house and senate finance and executive departments and administration committees, the governor, and the state library on or before December 1, 2009.

27 New Section; Temporary Contribution Amounts and Ratification. Amend RSA 100-A by inserting after section 53-d the following new section:

100-A:53-e Temporary Contribution Amounts and Ratification.

I. Notwithstanding the provisions of RSA 100-A:53, 100-A:53-b, 100-A:53-c, and 100-A:53-d, for the period beginning July 1, 2000, and ending June 30, 2007, 33-1/3 percent of group II employer contributions, group I teacher contributions, group I employer contributions, and group I state employer contributions shall be allocated to the 401(h) subtrust of the New Hampshire retirement system in order to pay for the benefits provided under RSA 100-A:52, 100-A:52-a, and 100-A:52-b, subject to applicable limits under the Internal Revenue Code.

II. At the end of each fiscal year specified in paragraph I, the state annuity accumulation fund of the New Hampshire retirement system shall be reimbursed from the special account established in RSA 100-A:16, II(h) for the amount of funds allocated to the 401(h) subtrust for that year.

III. Actions taken by the New Hampshire retirement system in accordance with this section are hereby ratified.

28 Medical Benefits Financing; Group II. Amend RSA 100-A:53, II-IV to read as follows:

II. The special account established in RSA 100-A:16, II(h), for group II members, shall be augmented as of July 1, 1988, by \$23,700,000 resulting from a one-time write-up of the valuation assets as of June 30, 1987. At the end of each fiscal year beginning with the year ending June 30, 1989, **and ending with the fiscal year ending June 30, 2007**, the state annuity accumulation fund of the New Hampshire retirement system shall be reimbursed from the special

account established in RSA 100-A:16, II(h) for the amount of funds allocated to the 401(h) subtrust for that year, and such reimbursement shall continue until the benefits provided through the subtrust are fully funded or until the total accumulated reimbursement equals the sum of:

- (a) The initial special account amount as of June 30, 1988, of \$52,800,000;
- (b) The additional special account amount as of June 30, 1993, which shall be determined by the actuary as an amount which shall be sufficient to provide benefits under RSA 100-A:52 for persons who meet the requirements of RSA 100-A:52, I(f);
- (c) The additional special account amount as of June 30, 1993, of \$1,200,000 to provide benefits under RSA 100-A:52 for persons who meet the requirements of RSA 100-A:52, I(g); and
- (d) Future accumulated interest per year on the balance of the reimbursement funds remaining in the special account.

III. Except as provided in RSA 100-A:54, II, all contributions made to the retirement system to provide medical benefits under RSA 100-A:52 shall be maintained in a separate account, the 401(h) subtrust, and such funds shall not be used for or diverted to any purpose other than to provide said medical benefits. Similarly, none of the funds accumulated to provide the retirement benefits set forth in this chapter, ***including the special account established under RSA 100-A:16, II(h)***, may be used or diverted to provide medical benefits under RSA 100-A:52. The funds, if any, accumulated to provide medical benefits under RSA 100-A:52 may be invested pursuant to the provisions of RSA 100-A:15.

~~[IV. A separate account shall be established and maintained for each retired member who is a key employee, as defined under section 416(i) of the Internal Revenue Code, at any time during the plan year or any previous plan year during which contributions are made hereunder on behalf of such member for the purposes of RSA 100-A:52.]~~

29 Medical Benefits Financing; Group I Teachers. Amend RSA 100-A:53-b, II to read as follows:

II. All contributions made to the retirement system to provide medical benefits under RSA 100-A:52-a shall be maintained in a separate account, the 401(h) subtrust. All funds and accumulated interest shall not be used for or diverted to any purpose other than to provide said medical benefits. Similarly, none of the funds accumulated to provide the retirement benefits set forth in this chapter, ***including the special account established under RSA 100-A:16, II(h)***, may be used or diverted to provide medical benefits under RSA 100-A:52-a. The funds, if any, providing medical benefits under RSA 100-A:52-a may be invested pursuant to the provisions of RSA 100-A:15.

30 Medical Benefits Financing; Group I Political Subdivision Employees. Amend RSA 100-A:53-c, II to read as follows:

II. All contributions made to the retirement system to provide medical benefits under RSA 100-A:52-a shall be maintained in a separate account, the 401(h) subtrust. All funds and accumulated interest shall not be used for or diverted to any purpose other than to provide said medical benefits. Similarly, none of the funds accumulated to provide the retirement benefits set forth in this chapter, ***including the special account established under RSA 100-A:16, II(h)***, may be used or diverted to provide medical benefits under RSA 100-A:52-a. The funds, if any, providing medical benefits under RSA 100-A:52-a may be invested pursuant to the provisions of RSA 100-A:15.

31 Medical Benefits Financing; Group I State Employees. Amend RSA 100-A:53-d, II to read as follows:

II. All contributions made to the retirement system to provide medical benefits under RSA 100-A:52-b shall be maintained in a separate account, the 401(h) subtrust. All funds and accumulated interest shall not be used for or diverted to any purpose other than to provide said medical benefits. Similarly, none of the funds accumulated to provide the retirement benefits set forth in this chapter, ***including the special account established under RSA 100-A:16, II(h)***, may be used or diverted to provide medical benefits under RSA 100-A:52-a. The funds, if any, providing medical benefits under RSA 100-A:52-b may be invested pursuant to the provisions of RSA 100-A:15.

32 New Paragraph; Application; Transfers. Amend RSA 100-A:55 by inserting after paragraph II the following new paragraph:

III. No transfers shall be made from the special account established under RSA 100-A:16, II(h) to the 401(h) subtrust for the purpose of funding the provisions of RSA 100-A:52-b or for any other purpose.

33 Service Retirement; Group II. Amend RSA 100-A:5, II to read as follows:

II. Group II Members.

(a) Any group II member in service, ***who commenced service before July 1, 2009***, who has attained age 45 and completed 20 years of creditable service, or who has attained age 60 regardless of the number of years of creditable service, ***and a group II member who commenced service on or after July 1, 2009, who has attained age 50 and completed 25 years of creditable service, or who has attained age 60 regardless of the number of years of creditable service***, may retire on a service retirement allowance upon written application to the board of trustees setting forth at what time not less than 30 days nor more than 90 days subsequent to the filing thereof the member desires to be retired, notwithstanding that during such period of notification the member may have separated from service.

(b) Upon service retirement, a group II member shall receive a service retirement allowance which shall consist of:

(1) A member annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and

(2) ***For members who commenced service before July 1, 2009***, a state annuity which, together with his ***or her*** member annuity, shall be equal to 2-1/2 percent of his ***or her*** average final compensation multiplied by the number of years of his ***or her*** creditable service not in excess of 40 years, ***or for members who commenced service on or after July 1, 2009, a state annuity which, together with his or her member annuity, shall be equal to 2 percent of his or her average final compensation multiplied by the number of years of his or her creditable service not in excess of 50 years.***

(c)(1) Notwithstanding any provision of RSA 100-A to the contrary, any group II member who ***commenced service before July 1, 2009 and*** has retired on or after the effective date of this subparagraph after attaining the age of 45 with at least 20 years of creditable service, ***and any group II member who commenced service on or after July 1, 2009 and has retired on or after the effective date of this subparagraph after attaining the age of 50 with at least 25 years of creditable service***, shall receive a minimum annual service retirement allowance of \$10,000. If such group II member has elected to convert the retirement allowance into an optional allowance for the surviving spouse under RSA 100-A:13, the surviving spouse shall be entitled to a proportional share of the \$10,000.

(2) [Repealed.]

(3) [Repealed.]

34 Ordinary Disability Retirement; Group II. Amend RSA 100-A:6, II(b) to read as follows:

(b) Upon ordinary disability retirement, the group II member shall receive an ordinary disability retirement allowance which shall consist of: a member annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his ***or her*** ordinary disability retirement; and a state annuity which, together with his ***or her*** member annuity, ***for members who commenced service before July 1, 2009***, shall be equal to 2-1/2 percent of his ***or her*** average final compensation at the time of ~~his~~ ordinary disability retirement multiplied by the number of years of his ***or her*** creditable service not in excess of 40 at the time of ~~his~~ ordinary disability retirement, ***or for members who commenced service on or after July 1, 2009, shall be equal to 2 percent of his or her average final compensation at the time of ordinary disability retirement multiplied by the number of years of his or her creditable service not in excess of 50 at the time of ordinary disability retirement***, provided, however, that such allowance shall not be less than 25 percent of the member's final compensation at the time of his ***or her*** disability retirement.

35 Accidental Disability Retirement; Group II. Amend RSA 100-A:6, II(d) to read as follows:

(d) Upon accidental disability retirement, the group II member shall receive an accidental disability retirement allowance equal to 2/3 of his **or her** average final compensation at the time of ~~his~~ disability retirement.

(1) For members who commenced service before July 1, 2009, any group II member who has more than 26-2/3 years of service, a supplemental disability retirement allowance shall be paid. Such supplement shall be equal to 2-1/2 percent of his **or her** average final compensation multiplied by the number of years of his **or her** creditable service in excess of 26-2/3 but not in excess of 40 years.

(2) For members who commenced service on or after July 1, 2009, any group II member who has more than 33-1/3 years of service, a supplemental disability retirement allowance shall be paid. Such supplement shall be equal to 2 percent of his or her average final compensation multiplied by the number of years of his or her creditable service in excess of 33-1/3 but not in excess of 50 years.

(3) An accidental disability retirement allowance together with a supplemental disability retirement allowance, as provided in this subparagraph, shall not exceed 100 percent of the disability retiree's average final compensation.

36 Vested Deferred Retirement; Group II. Amend RSA 100-A:10, II(b) to read as follows:

(b) **For members who commenced service before July 1, 2009**, upon the member's attainment of age 45, provided the member would then have completed 20 years of creditable service, otherwise the subsequent date on which such 20 years would have been completed, **or for members who commenced service on or after July 1, 2009, upon the member's attainment of age 50, provided the member would then have completed 25 years of creditable service, otherwise the subsequent date on which such 25 years would have been completed**, or at any time after age 60, a group II member who meets the requirement of subparagraph (a) may make application on a form prescribed by the board of trustees and receive a vested deferred retirement allowance which shall consist of: (1) A member annuity which shall be the actuarial equivalent of accumulated contributions on the date the member's retirement allowance commences; and (2) A state annuity which, together with the member annuity, shall be equal to a service retirement allowance based on the member's average final compensation and creditable service at the time the member's service is terminated.

37 Split Benefits; Minimum Age. Amend RSA 100-A:19-b, II to read as follows:

II. For a member **who commenced service before July 1, 2009 and**, who has completed 20 or more years of combined creditable service, one year shall be deducted from age 60 for each year of creditable group II service, provided that the age shall not be less than 45 years. **For a member who commenced service on or after July 1, 2009 and, who has completed 25 or more years of combined creditable service, one year shall be deducted from age 60 for each year of creditable group II service, provided that the age shall not be less than 50 years.**

38 Split Benefits; Reduced Early Retirement; Minimum Age. Amend RSA 100-A:19-d to read as follows:

100-A:19-d Reduced Early Retirement. Notwithstanding any other provision of law, any retirement system member who has creditable service in both group I and group II with at least 10 years combined creditable service, and who has attained an age which is at least 45 **for members who commenced group II service prior to July 1, 2009 or at least 50 for members who commenced group II service on or after July 1, 2009** and is within 10 years of the minimum age set forth in RSA 100-A:19-b, may elect to retire and have benefits commence immediately as a reduced split-benefit service retirement allowance. Application shall be as provided in RSA 100-A:5, I(c). The allowance shall be determined as a split-benefit service retirement allowance in accordance with RSA 100-A:19-c, and the total combined split-benefit service allowance shall be reduced by the percentages shown in RSA 100-A:5, I(c), based on the total combined length of creditable service, for each month by which the date on which benefits commence precedes the month after which the member attains the minimum age set forth in RSA 100-A:19-b.

39 Financing; Group II Member Payroll Deduction. Amend RSA 100-A:16, I(a) to read as follows:

(a) The member annuity savings fund shall be a fund in which shall be accumulated the contributions deducted from the compensation of members to provide for their member annuities together with any amounts transferred thereto from a similar fund under one or more of the predecessor systems. Such contribution shall be, for each member, dependent upon the member's employment classification at the rate determined in accordance with the following table:

Employees 5.00

Teachers 5.00

Permanent Policemen 9.30

Permanent Firemen 9.30

The board of trustees shall certify to the proper authority or officer responsible for making up the payroll of each employer, and such authority or officer shall cause to be deducted from the compensation of each member, except group II members *who commenced service before July 1, 2009* with creditable service in excess of 40 years, *or group II members who commenced service on or after July 1, 2009 with creditable service in excess of 50 years*, as provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), on each and every payroll of such employer for each and every payroll period, the percentage of earnable compensation applicable to such member. No deduction from earnable compensation under this paragraph shall apply to any group II member *who commenced service before July 1, 2009* with creditable service in excess of 40 years, *or group II member who commenced service on or after July 1, 2009 with creditable service in excess of 50 years*, as provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), and this provision for such members shall not affect the method of determining average final compensation as provided in RSA 100-A:1, XVIII. ~~[In determining the amount earnable by a member in a payroll period, the board may consider the rate of compensation payable to such member on the first day of a payroll period as continuing throughout the payroll period and it may omit deduction from compensation for any period less than a full payroll period if such person was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed 1/10 of one percent of the annual earnable compensation upon the basis of which such deduction is made.]~~ The amounts deducted shall be reported to the board of trustees. Each of such amounts, when deducted, shall be paid to the retirement system at such times as may be designated by the board of trustees and credited to the individual account, in the member annuity savings fund, of the member from whose compensation the deduction was made.

40 New Section; Decennial Retirement Commission. Amend RSA 100-A by inserting after section 56 the following new section:

100-A:57 Decennial Retirement Commission.

I. There shall be established decennially on or about July 1, beginning in 2017, a commission to make recommendations to ensure the long-term viability of the New Hampshire retirement system.

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

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

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

(c) The chairman of the New Hampshire retirement system board of trustees, or designee.

(d) Two representatives of group I of the retirement system, appointed by the governor.

(e) Two representatives of group II of the retirement system, appointed by the governor.

(f) Two representatives of municipal and school employers in the retirement system, appointed by the governor.

(g) Four public members with recognized expertise in finance, financial management, or the governance and oversight of large endowments or public funds, appointed by the governor.

(h) One retired member of the retirement system receiving benefits at the time of appointment, appointed jointly by the speaker of the house of representatives and the president of the senate.

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

IV. The commission shall:

- (a) Study the previous decade's history of funding, benefits, and investment results of the New Hampshire retirement system.
- (b) Review the structure and governance of the New Hampshire retirement system.
- (c) Analyze the financial status of the retirement system, and the challenges facing the system in the upcoming decade.
- (d) Assess any changes to general accounting standards and their potential effect on the retirement system.
- (e) Make recommendations for ensuring the long-term viability of the retirement system, including an appropriate funding methodology.
- (f) Monitor the sustainability and affordability of cost of living increases for plan participants.
- (g) Study other matters deemed necessary by the commission.
- (h) Seek technical assistance as necessary from the New Hampshire retirement system and from other independent financial, investment, actuarial, and retirement experts. Subject to available appropriations, the commission may employ support staff for the purposes of its duties.

V. The governor, in consultation with the president of the senate and the speaker of the house of representatives, shall designate a chairperson from among the members. The first meeting of the commission shall be called by the chairperson. The first meeting of the commission shall be held within 45 days of the designation of the chairperson.

VI. 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 the December 1 next following.

41 New Paragraph; Employer Contributions; Funding of Retirement Allowance. Amend RSA 100-A:16 by inserting after paragraph III the following new paragraph:

III-a. Upon the retirement of a member, the retirement system shall:

(a) Calculate for the member the retirement allowance which would result from the sum of the following amounts:

- (1) The total of the employer contributions attributable to the member.
- (2) The total of the member's contribution to the retirement system.
- (3) The earnings on the contributions under subparagraphs (1) and (2), and anticipated post-retirement earnings.

(b) Determine the difference from the allowance determined under subparagraph (a) compared to the actual retirement allowance payable to the member, and determine the cost of terminally funding the difference.

(c) Certify the cost determined in subparagraph (b) to the employer and assess upon the employer such cost for payment to the retirement system at such times and in such manner as the board of trustees may prescribe. Each such employer is hereby authorized to appropriate the sums necessary for the payment of such assessments.

42 Effective Date.

- I. Sections 8, 10-13, 15, 33-39, and 41 of this act shall take effect July 1, 2009.
- II. Sections 19, 20, and 40 of this act shall take effect 60 days after its passage.
- III. Sections 16 and 17 of this act shall take effect June 30, 2009.
- IV. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

- I. Establishes a procedure for supplemental allowances paid from the special account.
- II. Eliminates the 8 percent annual increase on the medical subsidy.
- III. Makes various other changes to the administration of the retirement system, eligibility and funding of benefits, and investment of retirement system assets.

IV. Implements various recommendations of the commission to make recommendations to ensure the long-term viability of the New Hampshire retirement system established in 2007, 355 (HB 876-FN-LOCAL).

2008-1698h

Amendment to SB 465

Proposed by the Majority of the Committee on Judiciary - R

Amend RSA 564-B:4-418(c)(1)(C) as inserted by section 9 of the bill by replacing it with the following:

(C) such trustee's discretion to make or participate in making distributions to himself or herself is exercisable only with the consent of a cotrustee or another person holding an adverse interest; while under the terms of the second trust, such trustee's discretion to make or participate in making distributions to himself or herself is not limited by an ascertainable standard and is exercisable without the consent of a cotrustee or another person holding an adverse interest; or

Amend RSA 564-D:2, IV as inserted by section 27 of the bill by replacing it with the following:

IV. A disposition by a trustee that is not a qualified trustee to a trustee that is a qualified trustee may not be treated as other than a qualified disposition solely because the trust instrument fails to meet the requirements of subparagraph I(a).

Amend RSA 564-D:4, II as inserted by section 27 of the bill by replacing it with the following:

II. Trust advisors who have authority under the terms of the trust instrument to direct, consent to, or disapprove distribution from the trust. For purposes of this section, the term trust advisor includes a trust advisor as described in RSA 564-B:1-103(27), a trust protector as described in RSA 564-B:1-103(28), or any other person who, in addition to a qualified trustee, holds one or more trust powers.

Amend RSA 564-D:11 as inserted by section 27 of the bill by replacing it with the following:

564-D:11 Qualified Disposition Made by Transferor Who is Trustee. A qualified disposition that is made by means of a disposition by a transferor who is a trustee is deemed to have been made as of the time, whether before, on, or after the effective date of this chapter, the property that is the subject of the qualified disposition was originally transferred to the transferor (or any predecessor trustee), in a form that meets the requirements of RSA 564-D:2, I(b), I(c), and II.

Amend RSA 564-D:13 as inserted by section 27 of the bill by replacing it with the following:

564-D:13 Actions Against Trustee of Trust That is the Subject of a Qualified Disposition Barred. Notwithstanding any other provision of law, no action of any kind, including an action to enforce a judgment entered by a court or other body having adjudicative authority, may be brought at law or in equity by a creditor against the trustee, or advisor described in RSA 564-D:4, of a trust that is the subject of a qualified disposition, or against any person involved in the counseling, drafting, preparation, execution, or funding of a trust that is the subject of a qualified disposition, if, as of the date such action is brought, an action by a creditor with respect to such qualified disposition would be barred under RSA 564-D:9 to RSA 564-D:12, inclusive.

2008-1541h

Amendment to SB 472

Proposed by the Majority of the Committee on Commerce - R

Amend paragraph I of section 10 of the bill by inserting after subparagraph (m) the following new paragraphs:

(n) A representative of the Community Financial Services Association of America, appointed by the northeastern regional office of that organization.

(o) Two representatives of the title loan industry, appointed by the governor.

2008-1703h

Amendment to SB 472

Proposed by the Minority of the Committee on Commerce - R

Amend the bill by replacing all after section 13 with the following:

14 Effective Date Change; HB 267. Amend Section 4 of HB 267 of the 2008 session to read as follows:

4 Effective Date. This act shall take effect [~~January~~] **July** 1, 2009.

15 Contingency. If HB 267 of the 2008 session becomes law, section 14 of this act shall take effect upon its passage. If HB 267 of the 2008 session does not become law, section 14 of this act shall not take effect.

16 Effective Date.

I. Sections 1, 9-13, and 15 of this act shall take effect upon its passage.

II. Section 14 of this act shall take effect as provided in section 15 of this act.

III. The remainder of this act shall take effect January 1, 2009.

2008-1725h

Amendment to SB 482

Proposed by the Committee on Legislative Administration - R

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

AN ACT relative to lobbyist registration, executive branch ethics, volunteer public service, and legislative financial disclosure forms.

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; and

(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.

(b) Each person described in subparagraphs (a)(1) and (2) shall register prior to engaging in the activities specified in paragraph II. 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 [4] **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.

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.

III. The filing of a financial disclosure form by an elected member of the house of representatives or senate pursuant to the guidelines enforced by the legislative ethics committee under RSA 14-B, shall satisfy the requirement for filing of a statement of financial interest pursuant to this chapter.

11 New Paragraph; Legislative Ethics; Filing of Forms. Amend RSA 14-B:3 by inserting after paragraph III the following new paragraph:

IV. The committee shall review all financial disclosure forms required by ethics guidelines and shall place the completed forms on file in the office of the secretary of state for purposes of the requirements of RSA 15-A, in accordance with the filing deadline established under this chapter.

12 Executive Branch Ethics Committee; Appointments. Amend RSA 21-G:29, VI to read as follows:

VI. Committee members shall serve terms of 3 years and until their successors are appointed and qualified. However, initially, the governor shall nominate one member for a one-year term, one member for a 2-year term and one member for a 3-year term; the secretary of state shall nominate one member for a 2-year term, and one member for a 3-year term; the treasurer shall nominate one member for a one-year term and one member for a 2-year term. Initial nominations to the committee shall be made no later than 90 days after the effective date of this section. The initial appointments shall begin on July 1, 2006 and end on June 30 of the appropriate year. Vacancies shall be filled for the remainder of any unexpired term. During their term of appointment, members may not hold or campaign for elective office, serve as an officer of any political party or political committee, permit their names to be used in support of or in opposition to any **state or county** candidate or proposition, participate in any way in any **state or county** election campaign, make a contribution as defined in RSA 664:2 to any **state or county** candidate for office or political committee, or act as or assist a lobbyist required to be registered under RSA 15:1.

13 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.

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

AMENDED ANALYSIS

This bill

I. Changes the registration requirements for lobbyists and the frequency and content of the statements required to be filed.

II. Repeals the restriction on simultaneous employment and public service.

III. Exempts certain appointed and volunteer service from the financial disclosure requirements.

IV. Establishes an executive branch public register of volunteers.

V. Changes the appointment criteria for the executive branch ethics committee.

VI. Allows legislative financial disclosure forms to satisfy requirements of RSA 15-A.

2008-1791h

Floor Amendment to SB 482

Proposed by Reps. Hager, M. Rollo, Hammond, McKinney and Hutchinson

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

AN ACT relative to lobbyist registration, executive branch ethics, volunteer public service, and legislative financial disclosure forms.

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

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

IV. All registrations required under this section shall expire on December [4] **31**.

2 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 subcommittee;
- (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 media 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.

3 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.

4 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.]~~

5 Gifts; Exclusion From Definition. Amend RSA 15-B:2, V(b)(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.

6 New Subparagraph; Definition of Gift; Exclusion Added. Amend RSA 15-B:2, V(b) 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.

7 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.

8 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.

9 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.

III. The filing of a financial disclosure form by an elected member of the house of representatives or senate pursuant to the guidelines enforced by the legislative ethics committee under RSA 14-B, shall satisfy the requirement for filing of a statement of financial interest pursuant to this chapter.

10 New Paragraph; Legislative Ethics; Filing of Forms. Amend RSA 14-B:3 by inserting after paragraph III the following new paragraph:

IV. The committee shall review all financial disclosure forms required by ethics guidelines and shall place the completed forms on file in the office of the secretary of state for purposes of the requirements of RSA 15-A, in accordance with the filing deadline established under this chapter.

11 Executive Branch Ethics Committee; Appointments. Amend RSA 21-G:29, VI to read as follows:

VI. Committee members shall serve terms of 3 years and until their successors are appointed and qualified. However, initially, the governor shall nominate one member for a one-year term, one member for a 2-year term and one member for a 3-year term; the secretary of state shall nominate one member for a 2-year term, and one member for a 3-year term; the treasurer shall nominate one member for a one-year term and one member for a 2-year term. Initial nominations to the committee shall be made no later than 90 days after the effective date of this section. The initial appointments shall begin on July 1, 2006 and end on June 30 of the appropriate year. Vacancies shall be filled for the remainder of any unexpired term. During their term of appointment, members may not hold or campaign for elective office, serve as an officer of any political party or political committee, permit their names to be used in support of or in opposition to any **state or county** candidate or proposition, participate in any way in any **state or county** election campaign, make a contribution as defined in RSA 664:2 to any **state or county** candidate for office or political committee, or act as or assist a lobbyist required to be registered under RSA 15:1.

12 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.

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

AMENDED ANALYSIS

This bill:

- I. Changes the frequency and content of the statements required to be filed by lobbyists.
- II. Repeals the restriction on simultaneous employment and public service.
- III. Exempts certain appointed and volunteer service from the financial disclosure requirements.
- IV. Establishes an executive branch public register of volunteers.
- V. Changes restrictions on members of the executive branch ethics committee.
- VI. Allows legislative financial disclosure forms to satisfy requirements of RSA 15-A.

2008-1672h

Amendment to SB 490-FN

Proposed by the Committee on Ways and Means - C

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

AN ACT relative to fees for special number plates for veterans and relative to vehicle registration fees for disabled veterans.

Amend RSA 261:141, VIII as inserted by section 3 of the bill by deleting subparagraph (c).

AMENDED ANALYSIS

This bill:

- I. Eliminates the one time fee for special number plates for veterans.
- II. Clarifies the disabled veteran exemption from state vehicle registration fees.

2008-1223h

Amendment to SB 492

Proposed by the Committee on Election Law - C

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

AN ACT relative to persons designated to fill vacancies on the ballot, relative to write-in candidates, and relative to recount requests by candidates.

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

1 Vacancies Among Primary Candidates; No Declaration Filed; Incompatible Offices. Amend RSA 655:32, I to read as follows:

I. In case no declaration shall be filed by a candidate for any nomination to be voted for at a primary, the nomination may be made by the appropriate party committee as provided in this section. The appropriate party committee shall notify the secretary of state in writing of a person ~~[they designate]~~ **it designates** to fill the vacancy. The person so designated ~~[shall]~~ **may accept the nomination by**, on or before the Wednesday following the expiration of the period for filing declarations of candidacy as provided in RSA 655:14 ~~[file]~~, **filing** with the secretary of state a declaration of candidacy as provided in RSA 655:17. **Any candidate accepting a nomination under this paragraph who has already filed for an incompatible office as defined in RSA 655:10 shall withdraw the prior filing. Any vacancy created by the withdrawal of a filing may be filled pursuant to this section.** If the candidate is designated for the office of governor, councilor, state senator, or state representative, he **or she** shall also file on or before the Wednesday following the period for filing declarations of candidacy the appropriate affidavit as provided in RSA 655:29. Any candidate so designated by a party committee who has not filed all the forms required by this section within the required period of time shall not have his **or her** name printed on the state primary election ballot for that office.

2 Pre-Election Procedure; Statutes Posted. Amend RSA 658:29 to read as follows:

658:29 Statutes Posted. The secretary of state shall prepare and distribute copies of the following RSA sections which the selectmen shall post or cause to be posted outside the guardrail in the polling place at all elections: RSA 654:7-a, RSA 654:7-b; RSA 659:27, RSA 659:30, RSA 659:31, RSA 659:32, RSA 659:34, RSA 659:35, RSA 659:37, RSA 659:38, RSA 659:40, RSA 659:41, **RSA 659:60-a**, RSA 659:103; RSA 666:4, RSA 666:5, RSA 666:8. In addition, the secretary of state shall include any other statutes or regulations that are required to be posted by state or federal law. The secretary of state may also include statutes or regulations that, in the secretary of state's judgment, would aid a voter in casting a vote or in contacting the appropriate official if the voter believes that his or her voting rights are being violated.

3 New Section; Counting of Votes; Write-In Candidates. Amend RSA 659 by inserting after section 60 the following new section:

659:60-a Write-In Candidates.

I. A person running for a municipal or school district office as a write-in candidate shall notify in writing the town, city, or district clerk of his or her candidacy prior to the closing of the polls on election day.

II. Write-in votes cast for persons who have provided notice of their candidacy under paragraph I shall be counted and totaled in the same manner as votes cast for candidates listed on the ballot. For write-in votes cast for persons who have not provided notice under paragraph I, the moderator shall count and total all such write-in votes cast for each office and announce the total as "total write-in votes," "other write-in votes," or "miscellaneous write-in votes" for that office.

4 State General Election Recounts; Eligibility. Amend RSA 660:1 to read as follows:

660:1 Application. Any candidate for whom a vote was cast for any office at a state general election may apply for a recount, ***provided that the difference between the votes cast for the applying candidate and a candidate declared elected is less than 20 percent of the total votes cast in the towns which comprise the office to be recounted.*** The application shall be made in writing to the secretary of state and shall be submitted no later than the Friday following the election. Each candidate requesting a recount shall pay the secretary of state fees as provided in RSA 660:2.

5 State General Election Recounts; Fees. Amend RSA 660:2, IV to read as follows:

IV. If the difference between the vote cast for the applying candidate and a candidate declared elected shall be greater than 3 percent of the total votes cast in the towns which comprise the office to be recounted, the candidate shall pay the fees as provided in RSA 660:2, III and shall agree in writing with the secretary of state to pay any additional costs of the recount. ***The secretary of state may require that the applying candidate pay the estimated additional costs of the recount prior to commencing the recount.***

6 Number of Recounts. Amend RSA 660:3 to read as follows:

660:3 Number of Recounts. Any candidate for whom a vote was cast for any office at a state general election, ***provided that the difference between the votes cast for the applying candidate and a candidate declared elected is less than 20 percent of the total votes cast in the towns which comprise the office to be recounted,*** shall be entitled to apply for only one recount under this chapter, and the declaration made by the secretary of state under RSA 660:6 shall be final, subject to a change in the result following an appeal to the ballot law commission, as provided in RSA 665:8, II. If more than one candidate for the same office in the same district applies for a recount under this chapter, and a recount is completed, such applications shall not result in a second recount.

7 Primary Recounts; Eligibility. Amend RSA 660:7 to read as follows:

660:7 Application. Any person for whom a vote was cast for any nomination of any party at a state ~~or presidential~~ primary may apply for a recount, ***provided that the difference between the votes cast for the applying candidate and a candidate of that party declared nominated is less than 20 percent of the total votes cast for candidates of that party in the towns which comprise the office to be recounted. Any person receiving at least 9 percent of the votes cast in any party's presidential primary may apply for a recount.*** The application shall be made in writing to the secretary of state and shall be submitted no later than the Friday after the primary for a recount of all ballots cast for such nomination. Each candidate requesting a recount shall pay the secretary of state fees as provided in RSA 660:2.

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

AMENDED ANALYSIS

This bill:

I. Requires that a person accepting the designation by a party to fill a vacancy who has already filed for an incompatible office withdraw the prior filing.

II. Requires the moderator to count total write-in votes for an office, rather than votes for every person written in, unless a person has provided notice of a write-in candidacy.

III. Limits the ability of candidates to request recounts.

IV. Authorizes the secretary of state to require advance payment of certain additional recount costs.

2008-1588h

Floor Amendment to SB 492

Proposed by Rep. Winters

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

AN ACT relative to persons designated to fill vacancies on the ballot and relative to recount requests by candidates.

Amend the bill by deleting sections 2-3 and renumbering the original sections 4-8 to read as 2-6, respectively.

AMENDED ANALYSIS

This bill:

- I. Requires that a person accepting the designation by a party to fill a vacancy who has already filed for an incompatible office withdraw the prior filing.
- II. Limits the ability of candidates to request recounts.
- III. Authorizes the secretary of state to require advance payment of certain additional recount costs.

2008-1652h

Amendment to SB 508-FN-LOCAL

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 municipal deposits and recertifying certain proceedings of the Bath school district.

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

- 1 Municipal Deposits. Amend RSA 41:29, VII to read as follows:

VII. The treasurer shall ensure that all moneys remitted shall be deposited at least on a weekly basis, or daily whenever funds remitted from all departments collectively totals [~~\$500~~]**\$1,500** or more. Such deposit function may be delegated pursuant to paragraph VI. However, failure to ensure that funds are being deposited on a timely basis as required by this paragraph shall be cause for immediate removal from office pursuant to RSA 41:26-d. ***In any municipality where there is no bank or other depository institution within the municipality, the treasurer shall make deposits consisting of funds remitted from all departments at least on a weekly basis, or more frequently as directed by the board of selectmen in the investment policy adopted pursuant to RSA 41:9, VII.***

2 Bath School District; Annual Meeting; Ratification. All acts, notices and proceedings of the Bath school district relating to warrant article 7 at the March 13, 2008 annual meeting, to raise and appropriate the sum of \$42,000 to replace the boiler at Bath Village School, are hereby legalized, ratified, and confirmed.

AMENDED ANALYSIS

This bill allows town treasurers to make certain deposits weekly.

This bill also ratifies certain proceedings of the Bath school district annual meeting.

2008-1536h

Amendment to SB 512-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 New Subdivision; Public Health Powers and Duties; Safe Disposal of Corpses; Oversight Committee. Amend RSA 21-P by inserting after section 52 the following new subdivision:
Public Health Emergency Management Powers

21-P:53 Public Health Powers and Duties. During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

I. The commissioner shall have the responsibility and authority to carry out all public health activities within the state in cooperation and collaboration with the division of homeland security and emergency management.

II. The commissioner may without the approval of the governor's council or the legislative fiscal committee, and notwithstanding the provisions of RSA 4:45, 9:13-d, and 9:19 and any other law to the contrary, purchase and distribute anti-toxins, serums, vaccines, immunizing agents,

antibiotics, and other pharmaceutical agents that the commissioner deems to be in the interest of public health.

III. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, the commissioner may control, restrict, and ration the use, sale, dispensing, distribution, or transportation of such products 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 shall determine high risk or critical need groups that shall receive priority for such products.

IV. The commissioner may investigate any incident or imminent threat of any disease or health condition that may be caused by a natural disaster, radiation or chemical exposure, or the release of any microorganism, infectious substance, or naturally occurring or manufactured biological product, that poses a risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such investigations may include requiring information from any health care provider or other person affected by or having information related to the incident or threat, inspections of buildings and conveyances and their contents, laboratory analysis of samples collected during the course of such inspections, and requiring a physical examination and the provision of specimens of body secretions, excretions, fluids, and discharges for laboratory examination of any person having a disease or health condition that necessitates an investigation under this paragraph.

V. The commissioner may order a person to undergo such medical care as may be necessary to treat or prevent an incident or threat of disease or other health condition prompting an investigation pursuant to paragraph IV. Such care may include immunization of individuals as necessary to prevent the spread of contagious disease, except that an individual may refuse treatment or immunization pursuant to the provisions of RSA 141-C:15, VI.

VI. Any order compelling an investigation, physical examination, the provision of specimens, medical treatment or care, or immunization, and any other order of the commissioner under this chapter, shall be subject to the due process requirements of RSA 141-C:14-a.

VII. The department of health and human services shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this section. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other microorganisms therein. Personally identifiable information shall not be acquired or retained unless necessary for the department to carry out its responsibilities under this section, RSA 141-C, or any other provision of law. Such information shall not be retained beyond the duration of the state of emergency without the approval of the governor and executive council, which information shall be subject to the confidentiality provisions of RSA 141-C:10.

21-P:54 Safe Disposal of Corpses. During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

(a) Adopt and enforce such measures to provide for the safe disposal of corpses as may be necessary for the health and welfare of the community;

(b) Take possession and control of any corpse and direct the embalming, burial, cremation, interment, disinterment, transportation, and disposal of corpses;

(c) Compel any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of corpses under the laws of this state to accept any corpse or provide the use of its business or facility if such actions are necessary for emergency response;

(d) Compel any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of corpses under the laws of this state to clearly label any corpse with all available information necessary to identify the decedent and the apparent cause of death;

(e) Compel any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of corpses under the laws of this state having custody of a corpse of a person known or believed to have had an infectious disease to clearly label the corpse with a tag indicating that the corpse is so infected and indicating, if known, the infectious disease; and

(f) Compel every person in charge of disposing of any corpse to maintain a written record of each corpse and all available information to identify the decedent.

II. In carrying out the foregoing actions, the department, to the extent feasible under the circumstances, shall adhere to the religious practices and preferences of the decedents where known.

III. The costs of embalming, cremation, burial or other disposal of a corpse pursuant to this section shall be a cost to the estate of the decedent and shall be a necessary expense of the funeral and burial of the decedent pursuant to RSA 554:19, II.

IV. Any taking of real or personal property in this section shall be subject to the provisions of RSA 4:46.

2 Due Process; Communicable Disease; Emergency Powers. Amend RSA 141-C:14-a, I to read as follows:

I. Any person subject to an order ~~[to submit]~~ **for submission of** a specimen ~~[under RSA 141-C]~~, or for examination, immunization, treatment, isolation, ~~[or]~~ quarantine, **provision of information, inspection of a building or conveyance**, or any other order of the commissioner under this chapter **or RSA 21-P:53**, may request a hearing in the superior court to contest such order. The commissioner shall provide, or cause to be provided, to the person both oral and written notice of the right to contest the order and the form for making the request, which form shall require no more than the person's name, address, and signature and the time and date of the signature.

3 Due Process; Communicable Disease; Emergency Powers. Amend RSA 141-C:14-a, V to read as follows:

V. At the hearing the burden of proof shall be on the commissioner to prove by clear and convincing evidence that the person poses a threat to public health, **or that the information to be produced or inspection of a building or conveyance is necessary to protect against a serious threat to the public health**, and the order issued by the commissioner is thereby warranted to alleviate such threat.

4 Purchase and Distribution of Pharmaceutical Agents. Amend RSA 141-C:17 to read as follows:

141-C:17 Purchase; Distribution. The commissioner may purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics and other pharmaceutical agents which the commissioner deems advisable ~~[in the interest of health. The commissioner shall adopt rules relative to the distribution of these pharmaceutical agents]~~ **to prevent, prepare for, or respond to an outbreak of communicable disease or other serious threat to the public health. Any medications distributed in the event of an outbreak of communicable disease or other serious threat to the public health shall be exempt from labeling in accordance with RSA 318:47-b. State employees and other persons acting under the authority and direction of the commissioner may carry out the activities authorized under this section.**

5 New Section; Communicable Disease; Acute Care Centers. Amend RSA 141-C by inserting after section 25 the following new section:

141-C:26 Acute Care Centers. The commissioner, with the written approval of the governor, may establish, operate, or authorize the operation of temporary acute care centers for the purpose of the delivery of acute medical services to persons who would normally require admission to an acute care hospital, when there is a public health incident as defined in RSA 508:17-a, II(c) and when the acute care hospitals in the area do not have the physical and human resources necessary to meet the demand or anticipated demand for medical care. Any such facility so established or designated shall be exempt from the provisions of RSA 151 and RSA 151-C. The commissioner shall adopt rules, pursuant to RSA 541-A, regarding the facility and staffing requirements, screening and admission criteria, payment and reimbursements, clinical standards, recordkeeping, and discharge criteria for acute care centers. In adopting such rules, the commissioner shall take into consideration, to the extent feasible, the rights and responsibilities of patients set forth in RSA 151:21. For purposes of

immunity, actions taken pursuant to this section shall be considered an emergency management function under RSA 21-P:41, I.

6 Health Facility Licensing; Acute Care Center Exemption. Amend RSA 151:2, II(h) to read as follows:

(h) ***Acute care centers established, operated, or designated by the department pursuant to RSA 141-C:26.***

(i) Any other facility exempted by rules adopted under this chapter.

7 Certificate of Need; Exemption. Amend RSA 151-C:13, I(h) to read as follows:

(h) Notwithstanding any other provision of this chapter, a skilled nursing facility distinct part unit established by Androscoggin Valley Hospital or Franklin Regional Hospital in order to qualify as a critical access hospital under 42 U.S.C. Section 1395i-4 and 42 CFR Part 485, Subpart F; provided, that the number of beds in the skilled nursing facility distinct part unit shall not exceed the hospital's existing skilled nursing patient capacity. For purposes of this subparagraph, the term "existing skilled nursing patient capacity" means with respect to each month, the number of skilled nursing patient days for such month divided by the number of days in such month, and shall be the highest such number from the 12-month period ending immediately prior to the filing of the federal request for approval of the distinct part unit; provided, however, that the number determined under this subparagraph shall not exceed 10 beds; **and**

(i) ***Acute care centers established, operated, or designated by the department pursuant to RSA 141-C:26.***

8 Pharmacy; Labeling Exemption. Amend RSA 318:47-b to read as follows:

318:47-b Labeling Exemption. Labeling requirements as specified in 318:47-a are exempted when medication is dispensed to institutionalized patients ***and as provided for under RSA 141-C:17.***

9 Commission Established. There is established a commission to study the authority to practice or provide health and medical care in the event of the declaration of a state of emergency pursuant to RSA 4:45 or a public health or safety incident as defined in RSA 508:17-a, II(c).

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

(a) Two members of the senate, one of whom shall be a member of the joint legislative oversight committee on the emergency management system, appointed by the president of the senate.

(b) Two members of the house of representatives, one of whom shall be a member of the joint legislative oversight committee on the emergency management system, appointed by the speaker of the house of representatives.

(c) The commissioner of the department of health and human services, or designee.

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

(e) The director of homeland security and emergency management, or designee.

(f) The attorney general, or designee.

(g) The state epidemiologist.

(h) An emergency medical care provider, appointed by the commissioner of the department of safety.

(i) A physician, appointed by the board of medicine.

(j) A registered nurse, appointed by the board of nursing.

(k) A dentist, appointed by the board of dental examiners.

(l) A veterinarian, appointed by the board of veterinary medicine.

(m) A representative of the New Hampshire hospital association, appointed by such association.

(n) Two specialists in public health, one appointed by Dartmouth medical school and one appointed by the university of New Hampshire school of public health.

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

10 Duties. The commission shall study the need for revisions to or expansion of the authority to practice or provide health and medical care to safeguard the public health in the event of a state of emergency declared pursuant to RSA 4:45 or in the event of a public health incident as defined in RSA 508:17-a, II(c). The commission shall review the immunity and exemption provisions set forth

in RSA 21-P:41 and shall consider the demands that might be posed by a mass casualty event or communicable disease epidemic or pandemic or other public health incident. The commission shall make recommendations, including recommendations for proposed legislation, that the commission determines are essential to protecting and preserving the public health.

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

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

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

2008-1687h

Amendment to SB 519-FN

Proposed by the Committee on Ways and Means - R

Amend RSA 482:89, V as inserted by section 3 of the bill by replacing it with the following:

V. The commissioner, after notice and hearing pursuant to RSA 541-A, may impose upon any person who violates any provision of this chapter, as specified in paragraph I an administrative fine not to exceed \$2,000 for each violation in addition to other remedies and penalties provided under this chapter. The department shall commence a proceeding under this paragraph against any person who does not respond within 45 days of receipt of a written order, directive, or any notice of needed maintenance, repair, or reconstruction issued by the department. Rehearings and appeals under this paragraph shall be in accordance with RSA 541. The commissioner shall adopt rules, under RSA 541-A, relative to:

(a) A schedule of administrative fines which may be imposed under this paragraph for violation of this chapter as specified in paragraph I; and

(b) Procedures for notice and hearing prior to the imposition of an administrative fine.

Amend RSA 482:89, VI as inserted by section 3 of the bill by replacing it with the following:

VI. The proceeds of any penalties levied pursuant to paragraphs III through V shall be deposited into the dam maintenance revolving loan fund established in RSA 482:55-a.

Amend RSA 482:89, VIII as inserted by section 3 of the bill by replacing it with the following:

VIII. In determining penalties, the department shall and the superior court may take into consideration all relevant circumstances, including the degree of noncompliance, the extent of harm caused by the violation, the nature and persistence of the violation, the time and cost associated with the investigation by the state, and the economic impact of the penalty on the liable person.

2008-1543h

Amendment to SB 522-FN

Proposed by the Committee on Ways and Means - R

Amend RSA 260:36-d, V as inserted by section 1 of the bill by replacing it with the following:

V. The license shall be unassignable and shall remain in full force and effect on a fiscal year basis from July 1 through June 30 unless cancelled, suspended, or revoked. The license shall be renewable upon completion of an application renewal form, provided that the distributor is in good standing with the division. The department shall furnish each licensee, monthly, a list of current licenses issued under this section.

Amend RSA 260:43-b as inserted by section 4 of the bill by replacing it with the following:

260:43-b Additional Recordkeeping Requirements for Biodiesel Distributors. In addition to the retention of records pursuant to RSA 260:43, biodiesel distributors shall maintain and keep for a period of 4 years records sufficient to demonstrate that all biodiesel sold within the state meets the applicable ASTM fuel quality standard for biodiesel, D6751. Failure to maintain appropriate records or failure to demonstrate compliance with the applicable ASTM standard may result in loss of license issued pursuant to RSA 260:36 and RSA 260:36-d.

Amendment to SB 526

Proposed by the Committee on Executive Departments and Administration - C

Amend the bill by replacing section 1 with the following:

1 Death Benefit for Police Officer or Firefighter Killed in Line of Duty. RSA 21-I:29-a is repealed and reenacted to read as follows:

21-I:29-a Death Benefit for Police Officer or Firefighter Killed in Line of Duty.

I. In this section:

(a) "Family" means the surviving spouse of the police officer or firefighter, or if there is no surviving spouse, the surviving dependent child or dependent children, of such police officer or firefighter or, if there is no surviving dependent child, a surviving person qualifying as a common-law spouse pursuant to RSA 457:39, or if there is no surviving common-law spouse, the surviving adult child or adult children, or if there is no surviving adult child or adult children, the surviving parent or parents of such police officer or firefighter. A surviving dependent child shall include a dependent step-child whose expenses of daily living were substantially paid for by the decedent at the time of the death.

(b) "Firefighter" means any firefighter, including auxiliary, intermittent, special, part-time, volunteer, call, or reserve firefighters who are employed by a city, town, village district, or precinct within the state of New Hampshire, any firefighter employed by the state of New Hampshire, or any firefighter who is a volunteer for or employed by a non-profit corporation which is the primary provider of fire protection for all or part of a New Hampshire municipality.

(c) "Killed in the line of duty" means a death of a police officer or firefighter while in the performance of his or her duties as a result of incident, accident, or violence causing death or injuries which are the direct or proximate cause of death. "Incident" shall include any death that is determined to be occupationally related by the worker's compensation insurance carrier, a self-insured worker's compensation plan, or by the labor commissioner for workers' compensation purposes pursuant to RSA 281-A.

(d) "Police officer" means any law enforcement officer with the power of arrest, including auxiliary, intermittent, special, part-time, or reserve police officers, or sheriffs and their deputies who are employed by a city, town, village district, county, or precinct within the state of New Hampshire, police officers employed by the university system of New Hampshire, and any state law enforcement officer employed by the state of New Hampshire who has power of arrest as determined by state law.

II. In addition to any other benefits provided under this chapter, the state treasurer shall pay a \$100,000 death benefit to the family of a police officer or firefighter killed in the line of duty. Payment to a dependent child shall be made to the child's trustee for the benefit of the child. The governor, with the consent of the executive council, is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

III. The commissioner of safety, upon notice from the family or chief of department of any firefighter or police officer who may be entitled to a line-of-duty death benefit or upon the commissioner's own initiative, shall obtain the available records related to the circumstances, cause, and manner of such death and the decedent's status as a firefighter or police officer, may cause further inquiry to be made, and shall make a determination of whether the death qualifies as a line-of-duty death. The determination shall be made within 30 days of the determination of the cause and manner of death by the office of the chief medical examiner. For deaths that are not reviewed by the office of the chief medical examiner, the determination shall be made within 30 days of a determination that the decedent qualifies for a workers' compensation death benefit by a worker's compensation carrier, self-insured worker's compensation plan, or the labor commissioner pursuant to RSA 281-A.

(a) Solely for the purposes of making this determination and notwithstanding any other law to the contrary, the commissioner of safety may obtain any records regarding the circumstances, cause, or manner of the death held by any state or municipal official.

(b) The commissioner of safety may consult with the office of the chief medical examiner and the labor commissioner, and may disclose to either any information or records obtained in the course of his or her inquiry.

(c) Any records held by the commissioner of safety pursuant to this section shall not be subject to the right-to-know law, RSA 91-A and shall not be subject to disclosure in any civil action. Upon request of the decedent's family any medical records or other records which otherwise are non-public may be destroyed following the vote by the governor and executive council to authorize payment of a line-of-duty death benefit or, in the case of a denial, following the expiration of the appeal period.

(d) If the commissioner of safety determines that the death is not a qualified line-of-duty death, he or she shall cause the decedent's family to be notified. The family may appeal the determination within 180 days of the date of the notification by notifying the commissioner of safety in writing. In the event of an appeal for a firefighter, the attorney general shall appoint an appeal hearing panel consisting of one medical doctor, one member appointed by the New Hampshire Association of Fire Chiefs, one member appointed by the professional association that the decedent belonged to, and 2 citizens who are not associated with the professions of police officer or firefighter, at least one of whom is a attorney admitted to practice in New Hampshire. In the event of an appeal for a law enforcement officer, the attorney general shall appoint an appeal hearing panel consisting of one medical doctor, one member appointed by the appropriate professional association for management of the decedent's branch of law enforcement, one member appointed by the appropriate professional association for the decedent's branch of law enforcement, and 2 citizens who are not associated with the professions of law enforcement or firefighter, at least one of whom is an attorney admitted to practice in New Hampshire. Where no professional association exists for the branch for which the decedent worked, the attorney general shall select the panel member from among the management or members of the branch for which the decedent worked as is necessary to fill either the professional association management or member position on the panel. The commissioner of safety shall forward to the appeal panel all the information that he or she considered in reaching the determination. Upon request of the family, the appeal hearing shall be exempt from the right-to-know law, RSA 91-A. Hearings shall be conducted in conformance with RSA 541-A and the department of justice Jus 800 administrative procedural rules. The appeal hearing panel shall review the evidence de novo, may receive additional evidence from the family or others, and shall determine by a preponderance of the evidence whether the decedent's death was a qualified line-of-duty death.

(e) If the commissioner of safety or the appeal hearing panel determines by a preponderance of the evidence that the death is a qualified line-of-duty death, the commissioner shall submit an item to the governor seeking approval of payment of the benefit.

IV. This section shall be known as "Michael's Law," in honor of Manchester Police Officer Michael Briggs who was shot while on duty.

2008-1522h

Amendment to SB 528-FN

Proposed by the Committee on Ways and Means - C

Amend RSA 149-M:59 as inserted by section 1 of the bill by deleting subparagraphs III(a)(3)-(4).

2008-1715h

Amendment to SB 531

Proposed by the Committee on Public Works and Highways - C

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

AN ACT relative to making capital appropriations for the Hillsborough north superior court and the Manchester district court family division and lapsing certain prior capital appropriations, and relative to the venue for civil and criminal cases in Hillsborough county.

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

1 Capital Appropriation; Department of Administrative Services, Bureau of Court Facilities; Manchester District Court - Family Division.

I. The sum of \$2,565,000 is hereby appropriated to the department of administrative services, bureau of court facilities, for the purpose of the renovation, construction, and design of the Manchester district court - family division.

II. The sum of \$1,342,000 is hereby appropriated to the department of administrative services, bureau of court facilities, for the purpose of the renovation and design of the Hillsborough County superior court - north.

III. To provide funds for the appropriations made in paragraphs I and II, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$3,907,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the general fund of the state.

IV. All contracts and projects and plans and specifications therefor for the projects authorized in this section shall be awarded in accordance with the provisions of RSA 21-I.

V. The appropriations in paragraphs I and II of this section shall not lapse until July 1, 2011.

2 Lapse of Prior Capital Project Balances.

I. The sum of \$19,619 from the unencumbered balance of the appropriation to the department of administrative services in 2003, 240:1, II, B, 12 as extended by 2005, 259:25, XIV and 2007, 264:29, XII, for Site and Design Parking Garage - Executive/Legislative, shall lapse on the effective date of this section.

II. The sum of \$38,055 from the unencumbered balance of the appropriation to the department of administrative services in 2005, 259:1, II, B, 4, as extended by 2007, 264:29, XV, for All State Owned Facilities - Emergency Repairs, shall lapse on the effective date of this section.

III. The sum of \$47,260 from the unencumbered balance of the appropriation to the department of administrative services in 2005, 259:1, II, B, 10, as extended by 2007, 264:29, XVII, for Legislative Office Building - Replace Chiller, shall lapse on the effective date of this section.

IV. The sum of \$545,310 from the unencumbered balance of the appropriation to the department of health and human services in 2005, 259:1, VII, C, as extended by 2007, 264:29, LIV, for State Office Park South - Electrical System Upgrade, shall lapse on the effective date of this section.

V. The sum of \$1,356,756 from the unencumbered balance of the appropriation to the university system of New Hampshire in 2005, 259:2, III, as amended by 2007, 264:25, for the renovation of the stadium and athletic complex on the UNH campus shall lapse on the effective date of this section.

VI. The sum of \$1,900,000 from the unencumbered balance of the appropriation to the department of administrative services in 2007, 264:1, II, A, 1, for Hillsborough County North - Asbestos Abatement, shall lapse on the effective date of this section.

3 New Paragraphs; Venue and Jury Selection for Criminal and Civil Cases; Hillsborough County. Amend RSA 496:1 by inserting after paragraph II the following new paragraphs:

III. For offenses committed on or after the effective date of this paragraph in the county of Hillsborough, where the trial is scheduled at a time when the courthouse for the northern judicial district of the county of Hillsborough is closed for renovations, the judicial district for purposes of part I, article 17 of the New Hampshire Constitution, as well as for jury selection pursuant to RSA 500-A:2, shall be the entire county of Hillsborough.

IV. For civil jury trials in the county of Hillsborough, where the trial is scheduled at a time when the courthouse for the northern judicial district of the county of Hillsborough is closed for renovations, the judicial district for purposes of jury selection pursuant to RSA 500-A:2, shall be the entire county of Hillsborough.

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

AMENDED ANALYSIS

The bill makes capital appropriations for the renovation, construction, and design of the Manchester district court - family division and the renovation and design of the Hillsborough County north superior court. The bill also lapses certain unencumbered balances from prior capital appropriations.

The bill also extends the venue for civil and criminal cases where trials are scheduled at Hillsborough north superior court to the entire county of Hillsborough, when the Hillsborough north superior court is closed for renovations.

2008-1512h

Amendment to SB 532

Proposed by the Committee on Ways and Means - R

Amend RSA 155:78 as inserted by section 4 of the bill by replacing it with the following:

155:78 Administrative Fines. The commissioner, after notice, pursuant to rules adopted under RSA 541-A, may impose an administrative fine of not more than \$100 per day for a first offense and not more than \$200 per day for each subsequent offense upon any person who violates any provision of this subdivision or rules adopted under this subdivision. Appeals from a decision of the commissioner shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties or administrative actions under this subdivision. The sums obtained from the levying of administrative fines under this section shall be forwarded to the state treasurer to be deposited into the general fund.