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Contains: Amendments for March 4

HOUSE CALENDAR

AMENDMENTS

ALL LEGISLATORS ARE ASKED TO
BRING THIS CALENDAR FOR USE ON
WEDNESDAY, MARCH 4, 2009

WEDNESDAY, MARCH 4

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

2009-0152h

Amendment to HB 42-FN

Proposed by the Committee on Environment and Agriculture - C

Amend RSA 427:3 as inserted by section 1 of the bill by replacing it with the following:

427:3 Meat Inspection Service Established. There is created within the department of agriculture, markets, and food, bureau of animal industry, a meat inspection service which is charged with the enforcement of this subdivision. The state veterinarian shall be the chief of said service. ***The state veterinarian is authorized to employ a meat inspection services administrator. The meat inspection services administrator shall enforce the meat inspection provisions of this chapter.***

2009-0319h

Amendment to HB 55

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

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

AN ACT relative to energy facility siting construction and operation.

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

1 Purpose Statement. RSA 162-H:1 is repealed and reenacted to read as follows:

162-H:1 Declaration of Purpose. The legislature recognizes that the selection of sites for energy facilities, including the routing of high voltage transmission lines and energy transmission pipelines, will have a significant impact upon the welfare of the population, the location and growth of industry, the overall economic growth of the state, the environment of the state, and the use of natural resources. Accordingly, the legislature finds that it is in the public interest to maintain a balance between the environment and the need for new energy facilities in New Hampshire; that undue delay in the construction of needed facilities be avoided and that full and timely consideration of environmental consequences be provided; that all entities planning to construct facilities in the state be required to provide full and complete disclosure to the public of such plans; and that the state ensure that the construction and operation of energy facilities is treated as a significant aspect of land-use planning in which all environmental, economic, and technical issues are resolved in an integrated fashion, all to assure that the state has an adequate and reliable supply of energy in conformance with sound environmental principles. The legislature, therefore, hereby establishes a procedure for the review, approval, monitoring, and enforcement of compliance in the planning, siting, construction, and operation of energy facilities.

2 Definitions. Amend RSA 162-H:2, II-a to read as follows:

II-a. "Certificate" or "certificate of site and facility" means the document issued by the committee, containing such ***terms and*** conditions as the committee deems appropriate, that authorizes the applicant to proceed with the proposed site and facility.

3 Definitions. Amend RSA 162-H:2, VII to read as follows:

VII. "Energy facility" means:

(a) Any industrial structure~~[, other than bulk power supply facilities, as defined in paragraph II,]~~ that may be used substantially to extract, produce, manufacture, transport or refine sources of energy, including ancillary facilities as may be used or useful in transporting, storing or otherwise providing for the raw materials or products of any such industrial structure. This shall include but not be limited to industrial structures such as oil refineries, gas plants, equipment and associated facilities designed to use any, or a

combination of, natural gas, propane gas and liquefied natural gas, which store on site a quantity to provide 7 days of continuous operation at a rate equivalent to the energy requirements of a 30 megawatt electric generating station and its associated facilities, plants for coal conversion ~~[and]~~, onshore and offshore loading and unloading facilities for energy sources~~[- Energy facility shall also include]~~ **and** energy transmission pipelines~~[- storage tanks, or any other facility which the applicant or 2 or more petition categories as defined in RSA 162-H:2, XI request and the committee agrees, or which the committee determines requires a certificate, consistent with the findings and purposes set forth in RSA 162-H:1]~~ **that are not considered part of a local distribution network.**

(b) Electric generating station equipment and associated facilities designed for, or capable of, operation at any capacity of 30 megawatts or more.

(c) An electric transmission line of design rating of 100 kilovolts or more, associated with a generating facility under subparagraph (b), over a route not already occupied by a transmission line or lines.

(d) An electric transmission line of a design rating in excess of 100 kilovolts that is in excess of 10 miles in length, over a route not already occupied by a transmission line.

(e) A new electric transmission line of design rating in excess of 200 kilovolts.

(f) A renewable energy facility.

(g) Any other facility and associated equipment that the committee determines requires a certificate, consistent with the findings and purposes of RSA 162-H:1, either on its own motion or by petition of the applicant or 2 or more petitioners as defined in RSA 162-H:2, XI.

4 Definitions. Amend RSA 162-H:2, XI(c) to read as follows:

(c) A petition endorsed by the ~~[board of selectmen]~~ **governing body** of the host community or 2 or more ~~[boards of selectmen]~~ **governing bodies** of abutting communities.

5 Site Evaluation Committee. Amend RSA 162-H:3 to read as follows:

162-H:3 Site Evaluation Committee. The site evaluation committee shall consist of the commissioner of the department of environmental services or assistant commissioner as designee, the director of the division of water, the commissioner of the department of resources and economic development or the director of the division of economic development as designee, the commissioner of the department of health and human services or one of the 2 most senior administrators within the department responsible for management of public health services as designee, the executive director of the fish and game department, the director of the office of energy and planning or deputy director as designee, the director of the division of parks and recreation, the director of the division of forests and lands, the director of the division of air resources, the commissioner of the department of transportation or assistant commissioner as designee, the commissioners of the public utilities commission, ~~[and]~~ a staff engineer designated by the commissioners of the public utilities commission, **and the commissioner of the department of cultural resources or director of the division of historical resources as designee.** The commissioner of the department of environmental services shall be chairperson of the committee, and the chairperson of the public utilities commission shall be vice-chairperson.

6 Powers of the Committee. Amend RSA 162-H:4, I(a)-(c) to read as follows:

(a) Issue any certificate under this chapter ~~[in the case of]~~ **for** an energy facility~~[- or forward its findings to the commission in the case of a bulk power supply facility].~~

(b) Determine the terms and conditions of any certificate ~~[or findings]~~ issued under this chapter~~[- subject to RSA 162-H:10].~~

(c) Monitor the construction and operation of any energy ~~[or bulk power]~~ facility granted a certificate under this chapter.

7 Powers of the Committee. Amend RSA 162-H:4, IV to read as follows:

IV. In cases where the committee determines that other existing statutes provide adequate protection of the objectives of RSA 162-H:1, the committee may, within 60 days of ~~[filing]~~ **acceptance** of the application, **or filing of a request for exemption with sufficient information to enable the committee to determine whether the proposal meets the requirements set forth below, and after holding a public informational hearing in a county where the energy facility is proposed**, exempt the applicant from the approval and certificate provisions of this chapter, provided that the following requirements are met:

(a) Existing state **or federal** statutes, state **or federal** agency rules or municipal ordinances provide adequate protection of the objectives of RSA 162-H:1;

(b) A review of the application **or request for exemption** reveals that consideration of the ~~[application]~~ **proposal** by only selected agencies represented on the committee is required and that the objectives of RSA 162-H:1 can be met by those agencies without exercising the provisions of RSA 162-H;

(c) Response to the application **or request for exemption** from the general public indicates that the objectives of RSA 162-H:1 are met through the individual review processes of the participating agencies; and

(d) All environmental impacts or effects are adequately regulated by other federal, state, or local statutes, rules, or ordinances.

8 Powers of the Committee. RSA 162-H:4, V is repealed and reenacted to read as follows:

V. Once an energy facility application has been accepted, the chairperson may designate a subcommittee of no fewer than 7 members that shall consider such application. The subcommittee shall include the chairperson or the vice-chairperson of the committee, and at least 3 members selected from among the department of environmental services, the department of resources and economic development, and the fish and game department. With the exception of the chairperson or vice-chairperson, each member of the committee may designate an employee from his or her agency to assume his or her responsibilities as a subcommittee member for the purposes of this paragraph, provided that such designee shall be a senior administrator within the agency, department, or division that the member represents under RSA 162-H:3. The chairperson may designate the assistant commissioner of the department of environmental services to assume his or her responsibilities as a subcommittee member for the purposes of this paragraph. For purposes of statutory interpretation and executing the regulatory functions of this chapter, the subcommittee shall assume the role of and be considered the committee, with all of its associated powers and duties.

9 Prohibitions and Restrictions. Amend RSA 162-H:5, I to read as follows:

I. No person shall commence to construct any ~~[bulk power or]~~ energy facility within the state unless it has obtained a certificate pursuant to this chapter. Such facilities shall be constructed, operated and maintained in accordance with the terms of the certificate. Such certificates are required for sizeable **changes or** additions to existing facilities. Such a certificate shall not be transferred or assigned without approval of the committee.

10 New Paragraph; Time Frames for Review of Renewable Energy Facilities. Amend RSA 162-H:6-a by inserting after paragraph IX the following new paragraph:

X. The provisions of this section shall take precedence over any other provision of this chapter if there is a conflict.

11 Application for Certificate. Amend RSA 162-H:7, II and III to read as follows:

II. All applications for a certificate for an energy facility shall be filed with the chairman of the site evaluation committee. ~~[Applications shall include each individual agency's completed application forms.]~~

III. Upon filing of an application, the committee shall expeditiously conduct a preliminary review to ascertain if the application contains sufficient information ~~[in accordance with this section]~~ **to carry out the purposes of this chapter**. If the application

does not contain such sufficient information, the committee shall, in writing, expeditiously notify the applicant of that fact and specify what information the applicant must supply.

12 Application for Certificate. Amend RSA 162-H:7, VI to read as follows:

VI. The committee shall decide whether or not to accept the application within 60 days of filing. If the committee rejects ~~the~~ *an* application ***because it determines it to be administratively incomplete***, the applicant may choose to file a new and more complete application or cure the defects in the rejected application within 10 days of receipt of notification of rejection.

13 New Paragraphs; Application for Certificate. Amend RSA 162-H:7 by inserting after paragraph VI the following new paragraphs:

VI-a. Within 30 days after acceptance of the application, the committee shall hold at least one public hearing in each county in which the proposed facility is to be located, in accordance with RSA 162-H:10.

VI-b. All participating state agencies shall report their progress to the committee within 5 months of the acceptance of the application, outlining draft permit conditions and specifying additional data requirements necessary to make a final decision.

VI-c. All participating state agencies shall make and submit to the committee a final decision on the parts of the application that relate to its jurisdiction, no later than 8 months after the application has been accepted.

VI-d. Within 9 months of the acceptance of an application, the committee shall issue or deny a certificate for an energy facility.

VI-e. Notwithstanding any other provision of this chapter, the committee shall employ the time frames specified under RSA 162-H:6-a to any proposal for the upgrade of the transmission system considered part of the Coos county loop.

14 Public Hearing; Studies; Rules. Amend RSA 162-H:10 to read as follows:

162-H:10 Public Hearing; Studies; Rules.

I. Within 30 days after acceptance of an application for a certificate of site and facility, pursuant to RSA 162-H:7, the site evaluation committee ~~[and, if a bulk power supply facility application, the commission,]~~ shall hold at least one joint public hearing in each county in which the proposed facility is to be located and shall publish a public notice not less than 14 days before said hearing in one or more newspapers having a regular circulation in the county in which the hearing is to be held, describing the nature and location of the proposed facilities. The public hearings shall be joint hearings, with representatives of the other agencies that have jurisdiction over the subject matter and shall be deemed to satisfy all initial requirements for public hearings under statutes requiring permits relative to environmental impact. The hearings shall be for public information on the proposed facilities with the applicant presenting the information to the site evaluation committee and to the public. Notwithstanding any other provision of law, the hearing shall be a joint hearing with the other state agencies and shall be in lieu of all hearings otherwise required by any of the other state agencies; provided, however, if any of such other state agencies does not otherwise have authority to conduct hearings, it may not join in the hearing under this chapter; provided further, however, the ability or inability of any of the other state agencies to join shall not affect the composition of the committee under RSA 162-H:3 nor the ability of any member of the committee to act in accordance with this chapter.

II. Except for informational hearings, subsequent hearings shall be in the nature of adjudicative proceedings ***under RSA 541-A*** and may be held in the county or one of the counties in which the proposed facility is to be located or in Concord, New Hampshire, as determined by the site evaluation committee. The committee shall give adequate public notice of the time and place of each subsequent session.

III. The site evaluation committee ~~[and, if a bulk power supply facility application, the commission,]~~ shall consider and weigh all evidence presented at public hearings and shall consider and weigh written information and reports submitted to it by members of the public before, during, and subsequent to public hearings. The committee ~~[and the~~

~~commission]~~ shall grant free access to records and reports in its files to members of the public during normal working hours and shall permit copies of such records and reports to be made by interested members of the public at their expense.

IV. The site evaluation committee ~~[and, if a bulk power supply facility application, the commission,]~~ shall require from the applicant whatever information it deems necessary to assist in the conduct of the hearings, and any investigation or studies it may undertake, and in the determination of the terms and conditions of any certificate under consideration.

V. The site evaluation committee and counsel for the public ~~[and, if a bulk power supply facility application, the commission,]~~ shall jointly conduct such reasonable studies and investigations as they deem necessary or appropriate to carry out the purposes of this chapter and may employ a consultant or consultants, legal counsel and other staff in furtherance of the duties imposed by this chapter, the cost of which shall be borne by the applicant in such amount as may be approved by the committee ~~[in the case of an energy facility, or the committee and the commission in the case of a bulk power supply facility].~~ The site evaluation committee~~[-, the commission,]~~ and counsel for the public~~[-, as provided for by RSA 162-H:9,]~~ are further authorized to assess the applicant for all travel and related expenses associated with the processing of an application under this chapter.

VI. The site evaluation committee ~~[and, if a bulk power supply facility application, the commission,]~~ shall ~~[jointly]~~ issue such rules **to administer this chapter**, pursuant to RSA 541-A, after public notice and hearing, as may from time to time be required.

15 New Paragraph; Enforcement. Amend RSA 162-H:12 by inserting after paragraph III the following new paragraph:

IV. Notwithstanding any other provision of this chapter, each of the other state agencies having jurisdiction shall retain all of its powers and duties of enforcement.

16 Temporary Suspension of Deliberations. Amend RSA 162-H:14, I to read as follows:

I. If the site evaluation committee at any time during its deliberations relative to an application for a certificate deems it to be in the public interest, it may temporarily suspend its deliberations and time frame established under RSA 162-H:[6] **7**.

17 Informational Meetings. Amend RSA 162-H:15 to read as follows:

162-H:15 Informational Meetings. Upon request of **the governing body of a** community in which the proposed facility is to be located, or upon request of the committee, the applicant shall provide informational meetings to inform the public of the proposed project.

18 Findings and Certificate Issuance. Amend the section heading of RSA 162-H:16 to read as follows:

162-H:16 Findings **and Certificate Issuance**.

19 Findings and Certificate Issuance. Amend RSA 162-H:16, I to read as follows:

I. The committee shall incorporate in any certificate ~~[or findings issued hereunder]~~ such terms and conditions as may be specified to the committee by any of the other state agencies having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility; provided, however, the committee shall not issue any certificate under this chapter if any of the other state agencies denies authorization for the proposed activity over which it has jurisdiction. The denial of any such authorization shall be based on the record and explained in reasonable detail by the denying agency. ~~[Notwithstanding any other provision of law, each of the other state agencies shall make and submit to the committee a final decision on the parts of the application that relate to its jurisdiction no later than 8 months after acceptance of the application. Notwithstanding any other provision of this section or this chapter, each of the other state agencies shall retain all of its powers and duties of enforcement.]~~

20 Findings. RSA 162-H:16, II is repealed and reenacted to read as follows:

II. Any certificate issued by the site evaluation committee shall be based on the record. The decision to issue a certificate in its final form or to deny an application once it

has been accepted shall be made by a majority of the full membership. A certificate shall be conclusive on all questions of siting, land use, air and water quality.

21 Findings and Certificate Issuance. Amend RSA 162-H:16, III and the introductory paragraph of IV, to read as follows:

III. The committee ~~[and, in the case of a bulk power certificate, the commission]~~ may consult with interested regional agencies and agencies of border states in the consideration of certificates.

IV. ~~[In the case of energy and bulk power facilities,]~~ The site evaluation committee, after having considered available alternatives and fully reviewed the environmental impact of the site or route, and other relevant factors bearing on whether the objectives of this chapter would be best served by the issuance of the certificate, must find that the site and facility:

22 Penalties. Amend RSA 162-H:19, II to read as follows:

II. Any construction or operation of ~~[bulk power supply or]~~ energy facilities in violation of this chapter, or in material violation of the terms **and conditions** of a certificate issued under this chapter, may result in an assessment by the superior court of civil damages not to exceed \$10,000 for each day in violation.

23 Endangered Species Conservation Act; Exemptions and Restrictions. Amend RSA 212-A:13, III to read as follows:

III. The provisions of RSA 212-A or any rule promulgated under this chapter shall not interfere in any way with the siting or construction of any ~~[bulk power supply facility or any]~~ energy facility as defined in RSA 162-H:2.

24 Repeal. The following are repealed:

- I. RSA 162-H:2, II, relative to the definition of bulk power supply facilities.
- II. RSA 162-H:2, IV, relative to the definition of commission.
- III. RSA 162-H:2, X, relative to the definition of public utility or utility.
- IV. RSA 162-H:2, X-a, relative to the definition of petition.
- V. RSA 162-H:5, IV, relative to prohibitions and restrictions.
- VI. RSA 162-H:6, relative to time frames.
- VII. RSA 162-H:7, I, relative to application for certificate.
- VIII. RSA 162-H:14, II, relative to temporary suspension of deliberations.
- IX. RSA 162-H:16, IV(d) and V, relative to findings of the site evaluation committee.
- X. RSA 162-H:17, relative to bulk power facility plans.
- XI. RSA 162-H:18, relative to review; hearing.

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

AMENDED ANALYSIS

This bill removes references to bulk power facilities from the energy facilities to be considered by the site evaluation committee and makes certain modifications to the membership and procedures of the committee.

2009-0101h

Amendment to HB 70

Proposed by the Committee on Judiciary - C

Amend the bill by replacing section 1 with the following:

1 Willful Trespass; Stone. Amend RSA 539:4 to read as follows:

539:4 Stone, etc. Whoever shall willfully and unlawfully dig or carry away any stone, **including stone from a stone wall**, ore, gravel, clay, sand, turf, ~~[or]~~ mold, **or loam** upon or from land holden in common or from the land of another person, or shall aid therein, shall forfeit to the person injured treble damages~~[-, and not more than fifteen dollars]~~ **based on the cost of materials and restoration, and including attorney's fees and costs.**

AMENDED ANALYSIS

This bill amends the law regarding the taking of stone by including stone from a stone wall or loam, and provides for treble damages based on the cost of materials and restoration, including attorney's fees and costs.

2009-0204h

Amendment to HB 81

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

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

AN ACT prohibiting smoking within public playgrounds.

Amend RSA 155:42-a as inserted by section 1 of the bill by replacing it with the following:

155:42-a Smoking Within Public Playgrounds Prohibited.

I. In this subdivision "playground" means any park or recreational area specifically designed to be used by children that has play equipment installed, or any similar facility located on public school grounds, or on city, county, or state park grounds.

II. Smoking is prohibited within a playground.

III. Any person who violates paragraph II of this section shall be guilty of a violation and subject to a fine of not less than \$100.

AMENDED ANALYSIS

This bill prohibits smoking within public playgrounds.

2009-0002h

Amendment to HB 90-FN

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

Amend RSA 115-A:29, II as inserted by section 1 of the bill by replacing it with the following:

II. Emergency responders such as police, firefighters, emergency medical technicians, and 911 operators shall have the holiday preference described in paragraph I so long as there is another qualified emergency responder available.

AMENDED ANALYSIS

This bill allows honorably discharged veterans no longer active in the armed forces to have a preference not to work on Veteran's Day.

This bill also allows emergency responders who are honorably discharged veterans no longer in the armed forces to have a preference not to work on Veteran's day so long as another emergency responder is available.

2009-0312h

Amendment to HB 118

Proposed by the Committee on Judiciary - C

Amend RSA 524:6-a as inserted by section 1 of the bill by replacing it with the following:

524:6-a Periodic Payment of Judgments. Whenever judgment is rendered against any person in this state, the court in which the judgment is rendered shall either at the time of rendition of the judgment inquire of the defendant as to the defendant's ability to pay the judgment in full or, upon petition of the plaintiff after judgment, order the defendant to appear in court for such inquiry. The court may at either time order the defendant to make such periodic payments as the court in its discretion deems appropriate. If the court orders the defendant to make periodic payments at the time of rendition of judgment, the order shall not provide for payments to begin until after the appeal period has expired. Failure to make such periodic payments shall constitute civil contempt of court ***unless the judge, upon inquiry, finds that the failure was the result of a change in circumstances, or the failure was not intentional or in bad faith, or for other good cause.*** The court may order the appropriate agencies to make an investigation and recommendation as to the defendant's ability to pay the judgment. The judgment may be enforced against any property of any kind of the debtor, except such property as is now exempt from attachment or

execution. Unless the parties otherwise agree, after an order for periodic payments has been issued by the court, no writ of execution shall be issued by the court without prior notice to the defendant.

AMENDED ANALYSIS

This bill grants a judge discretion to find that a failure to make periodic payments of a judgment is not civil contempt of court.

2009-0341h

Amendment to HB 148

Proposed by the Committee on Environment and Agriculture - R

Amend the bill by replacing section 3 with the following:

3 Definitions; Transfer of Household Pets. Amend RSA 437:2, I-a - V to read as follows:

I-a. "Commercial kennel" means any person, business, corporation, or other entity that ~~[sells or]~~ transfers 10 or more litters or 50 or more puppies in any 12-month period.

II. "Department" means the state department of agriculture, markets, and food.

III. "Pet shop" means any establishment licensed to keep, maintain, and ~~[sell]~~ **transfer** certain live animals, birds, and fish at retail to the public.

IV. "S.P.C.A." means the Society for the Prevention of Cruelty to Animals.

V. "Broker" means any individual or entity acting as agent or intermediary in negotiating~~[- buying, selling,]~~ or transferring dogs, cats, or ferrets when transfer to the final owner occurs in New Hampshire.

VI. "Transfer" means transfer of ownership of live animals, birds, or fish from any person, firm, corporation, or other entity to a member of the public.

Amend RSA 437:13-a, I as inserted by section 10 of the bill by replacing it with the following:

I. No cat shall be transferred by any person in the state or out of the state for a fee without first being inoculated against infectious diseases using a vaccine approved by the state veterinarian and unless accompanied by an official health certificate issued by a licensed veterinarian within 14 days. Said health certificate shall be in triplicate, of which one copy shall be sent to the state veterinarian **in accordance with RSA 437:8**, one copy shall be kept by the person transferring ownership of said cat for a period of at least 3 years, and one copy shall be given to the new owner.

Amend RSA 466:6-a, I as inserted by section 11 of the bill by replacing it with the following:

I. No dog shall be ~~[sold]~~ **transferred** in the state or out of the state by a breeder without first being inoculated against infectious canine diseases using a vaccine approved by the state veterinarian and unless accompanied by an official health certificate issued by a licensed veterinarian within 14 days. Said certificate shall be in triplicate, one copy of which shall be sent to the state veterinarian, one copy of which shall be kept by the breeder of said dog for a period of at least 3 years and one copy of which shall be given to the purchaser. **If an official health certificate is produced, it shall be prima facie evidence of transfer.**

2009-0280h

Amendment to HB 157

Proposed by the Committee on Judiciary - C

Amend RSA 201-D:11, I as inserted by section 1 of the bill by replacing it with the following:

I. Library records which contain the names or other personal identifying information regarding the users of public or other than public libraries shall be confidential and shall not be disclosed except as provided in paragraph II. Such records include, but are not limited to, library, information system, and archival records related to the circulation and use of library materials or services, **including records of materials that have been viewed or stored in electronic form.**

AMENDED ANALYSIS

This bill extends the confidentiality of library records to materials that have been viewed or stored electronically.

2009-0322h

Amendment to HB 174-FN

Proposed by the Committee on Executive Departments and Administration - R

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

1 New Chapter; State Performance Measurement System. Amend RSA by inserting after chapter 21-R the following new chapter:

CHAPTER 21-S

STATE PERFORMANCE MEASUREMENT SYSTEM

21-S:1 Definitions. In this chapter:

I. "End outcome indicators" shall be designed to evaluate an agency's progress toward the achievement of the agency's objectives and the fulfillment of its mission statement. End outcome indicators normally focus on the consequences of program implementation and the effect of the program on those served. Because one program may have several different objectives, several different end outcome indicators may be necessary so that each objective is measured.

II. "Input indicators" measure the amount of resources applied, and, when related to output or outcome information, provide indicators of efficiency and productivity.

III. "Intermediate outcome indicators" are events or results that are expected to lead to the end outcomes, but are not themselves the end result. They may include service quality indicators that refer to citizen satisfaction levels.

IV. "Mission statement" means a succinct definition of purpose to clarify the intended results.

V. "Objectives" further define the mission with specific goal statements and lead naturally to defining outcomes and outcome measurers.

VI. "Output indicators" measure the quantity of work completed by the program. Outputs are expected to lead to desired outcomes, but by themselves do not describe anything about the outcomes.

21-S:2 Pilot Program to Establish Performance Measurement System. There is hereby established in the department of health and human services a pilot program for the development and adoption of a performance measurement system. The performance measures to be developed shall include both process and end outcome indicators. Process indicators shall include, but not be limited to input, intermediate outcome, and output indicators. The performance measurement system shall be developed at the departmental level and shall serve as a model for program level performance measurement. Notwithstanding RSA 21-S:5, the department of health and human services shall develop and adopt a performance measurement system as provided for in this chapter on or before July 1, 2010.

21-S:3 Interim and Final Report. The department of health and human services shall submit an interim and a final report on the development and adoption of a performance measurement system. The interim report shall be filed on or before December 31, 2009, and the final report shall be filed on or before July 1, 2010. The report shall specifically identify the performance measures developed pursuant to RSA 21-S:2 and shall report on those measures to the extent of the available data. Copies of both the interim and the final report shall be forwarded to the speaker of the house of representatives, the president of the senate, the governor, the chairperson of the house executive departments and administration committee, the house clerk, the senate clerk, and the state library.

21-S:4 Development of Performance Measurement System by Agencies. On or before July 1, 2009, each agency, as defined in RSA 21-G:5, III, shall provide to the department of health and human services a contact person within the agency who shall be responsible for providing the department of health and human services with information as to that agency's

readiness to adopt the performance measurement system provided for in RSA 21-S:5. Each such agency shall cooperate with the department of health and human services and shall provide the required information in a timely manner so that the information can be included with the reports submitted pursuant to RSA 21-S:3.

21-S:5 Adoption of Performance Measurement System by Agencies. Beginning December 31, 2010, every agency, as defined in RSA 21-G:5, III, shall adopt a performance measurement system for each of its programs that includes: a mission statement, the outcomes the program seeks to achieve, and the specific outcome indicators that the program intends to use to track performance.

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

AMENDED ANALYSIS

This bill establishes a pilot program for the development of a performance measurement system in the department of health and human services. The bill requires all agencies to develop performance measurement systems by December 21, 2010.

2009-0330h

Amendment to HB 183

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 removal of town officers.

Amend the bill by replacing section 1 with the following:

1 Repeal. RSA 41:12, relative to removal of collector, clerk, or treasurer, is repealed.

AMENDED ANALYSIS

This bill repeals the law authorizing selectmen to remove a collector of taxes, town clerk, or treasurer who the selectmen judge to be insane or otherwise incapacitated.

2009-0265h

Amendment to HB 205-FN-A

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

Amend the bill by replacing section 2 with the following:

2 Lake Restoration and Preservation Fee. Amend RSA 270-E:5, II(a) to read as follows:

(a) ~~[\$5]~~ **\$7.50** for each registration specified in paragraph I. The fees collected under this subparagraph shall be paid into the lake restoration and preservation fund established under RSA 487:25.

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

5 Commercial Vessels; Penalty and License Fees. Amend RSA 270-E:22 and RSA 270-E:23 to read as follows:

270-E:22 Commercial Vessels; Penalty.

I. Any person who shall use any commercial vessel or commercial outboard motor on any public waters in this state without a certificate of inspection, or shall act as captain, master, pilot, engineer or operator on any such boat or launch without having ***passed an examination administered by the department and having*** been ~~examined and~~ certified ***by the department*** in that capacity, or shall so act when his ***or her*** certificate has been revoked or suspended, or who shall violate any rule adopted by the department with reference to the inspection, equipment, or operation of such vessels or launches, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

II. The commissioner, after hearing, may revoke or suspend the certificate of any captain, master, pilot, or engineer of any commercial vessel for violation of RSA 270 or the rules and regulations prescribed thereunder.

III. All licenses to operate a commercial vessel shall expire ~~[the second December 31 following]~~ **5 years from** the date of issuance.

IV. A person who possesses a valid license issued by the federal government shall be deemed to comply with this section.

270-E:23 License Fees. There shall be paid to the commissioner for every ~~[general]~~ certificate of captain, master, pilot, or engineer, ~~[\$4] \$15~~; ~~and for every limited certificate of captain, master, pilot, or engineer, \$2~~. A ~~[general]~~ certificate shall entitle the holder thereof to act in the capacity named on any vessel of the class described in the certificate~~[- a limited certificate shall entitle the holder to act in such capacity only on a particular vessel named in the certificate]~~. Only one certificate shall be required to entitle the holder thereof to act in any or all of the above capacities on any motorized vessel permitted to carry a maximum of 25 persons. ***If a person fails the examination required by RSA 270-E:22, I, the person may retake the examination for a fee of \$10 paid to the commissioner.*** The fees paid ***for re-examinations*** and for certificates issued under this section shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

6 Addition to Boat Fee. Amend RSA 487:25, I to read as follows:

I. The fee of ~~[\$5]~~ ***\$7.50*** collected under the provisions of RSA 270-E:5, II(a) shall be paid to the director of the division of motor vehicles. The director of the division of motor vehicles shall pay over said fee to the state treasurer who shall keep the fee in a special fund to be expended by the department of environmental services. The department shall use \$.50 of the fee for lake restoration and preservation measures, exclusive of exotic aquatic weed control, ~~[\$1.50]~~ ***\$3*** of the fee for the control of exotic aquatic weeds, and ~~[\$3]~~ ***\$4*** of the fee for the milfoil and other exotic aquatic plants prevention program. The department shall deposit the ~~[\$3]~~ ***\$4*** into a special account within the lake restoration and preservation fund which shall be used to administer the milfoil and other exotic aquatic plants prevention program. The special fund shall be nonlapsing. All funds received under this section are continually appropriated to the department for the purposes of this subdivision.

7 Registration Fees. RSA 270-E:5, I is repealed and reenacted to read as follows:

I. The registration fees for commercial, private, and pleasure vessels, including rentals and airboats shall be as follows:

(a) Up to and including 16 feet	\$12
(b) 16.1 feet to 21 feet	\$17
(c) 21.1 feet to 30 feet	\$26
(d) 30.1 feet to 45 feet	\$36
(e) 45.1 feet and over	\$46

8 Effective Date.

I. Section 7 of this act shall take effect July 1, 2015.

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

2009 -0327h

Amendment to HB 206

Proposed by the Committee on Judiciary - C

Amend RSA 91-A:4, III-a as inserted by section 1 of the bill by replacing it with the following:

III-a. Governmental records created or maintained in electronic form shall ~~[remain accessible]~~ ***be kept and maintained*** for the same retention or archival periods as their paper counterparts. ***Governmental records in electronic form kept and maintained beyond the applicable retention or archival period shall remain accessible and available in accordance with RSA 91-A:4, III.*** Methods that may be used to ~~[accomplish this requirement]~~ ***keep and maintain governmental records in electronic form*** may include, but are not limited to, copying to microfilm or paper or to durable electronic media using standard or common file formats.

2009-0220h

Amendment to HB 226-FN

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

Amend the bill by replacing section 3 with the following:

3 Lead Paint Poisoning; Inspections. RSA 130-A:6, I-II are repealed and reenacted to read as follows:

I. The commissioner may, as part of an investigation conducted under RSA 130-A:5, conduct an inspection of any leased or rented dwelling or dwelling unit during business hours, or at a time mutually agreed upon with the owner or the owner's agent, for the purposes of identifying the presence of lead base substances. The commissioner shall provide the findings of the inspection to the occupant and to the owner or the owner's agent. If the leased or rented dwelling has multiple units, and if a lead exposure hazard is determined to exist during an investigation conducted under RSA 130-A:5, the commissioner shall conduct inspections of all other dwelling units of the leased or rented dwelling with the owner or owner's agent for the purposes of identifying the presence of lead base substances. The commissioner shall provide the findings of the inspection to the occupant and the owner or the owner's agent. When a lead exposure hazard is determined to exist per RSA 130-A:1, XVI(a), (b), or (c), the commissioner shall issue an order in accordance with RSA 130-A:7 requiring lead hazard reduction to the owner and, if appropriate, to the owner's agent. When a lead exposure hazard is determined to exist per RSA 130-A:1, XVI(d), the commissioner may issue an order in accordance with RSA 130-A:7 requiring lead hazard reduction to the owner and, if appropriate, to the owner's agent. The commissioner shall provide a copy of the order to the owner or owner's agent and to the occupant of the dwelling unit. The commissioner shall notify all tenants of the dwelling of lead exposure hazard findings in common areas. Upon request, the owner or owner's agent shall provide a copy of the order to the occupants of any dwellings or dwelling units located within the same lot at no charge.

II. The commissioner may, as part of an investigation conducted under RSA 130-A:5, if the lead-poisoned child spends 10 hours or more a week at the facility, and after making reasonable efforts to notify the owner of a child care facility and the license holder, conduct an inspection of a child care facility constructed prior to 1978, during business hours or at a time mutually agreed to, for the purposes of identifying the presence of lead base substances. The findings of the inspection shall be provided to the owner, to the license holder, and to the health authority. When a lead exposure hazard is determined to exist per RSA 130-A:1, XVI(a), (b), or (c), the commissioner shall issue an order in accordance with RSA 130-A:7 requiring lead hazard reduction to the owner and to the license holder. When a lead exposure hazard is determined to exist per RSA 130-A:1, XVI(d), the commissioner may issue an order in accordance with RSA 130-A:7 requiring lead hazard reduction to the owner and to the license holder. The commissioner shall provide a copy of the order to the owner and to the license holder, to the state child care licensing unit, and to the health authority. The owner or license holder shall provide notice of the findings of lead hazard exposure, provided by the commissioner, to the parents or guardians of children who use the child care facility. Amend RSA 130-A:7, V and VI as inserted by section 4 of the bill by replacing them with the following:

V. Interim controls, as defined in this chapter, may be used as an acceptable alternative to lead hazard abatement only with the prior written approval of the commissioner ~~[and for a period not to exceed 2 years. Within that 2 year period the person subject to the order shall either take the steps necessary to eliminate or enclose the lead exposure hazards or remove the dwelling or dwelling unit from the rental market. For orders issued in leased or rented dwellings where no child resides or frequents regularly at the time of inspection and issuance of the order, interim controls may be used for a period exceeding 2 years with the prior written approval of the commissioner if a hardship is claimed by the lessor and approved by the commissioner]~~ and if a lead exposure hazard reduction plan or any other subsequent plan is adopted and in place at the department to address compliance with the intent of this section. ***When interim controls are approved and maintained in response to an order, the person to whom the order was issued, and any other individual or entity that may acquire ownership of the property that is subject to the order, shall submit to the commissioner a certificate of compliance***

for interim controls from a licensed risk assessor annually prior to the expiration of the current certificate. When a certificate of compliance for interim controls is not issued by a licensed risk assessor prior to expiration of the current certificate or when an inspection by the commissioner, or designee, reveals that the property no longer meets the requirements of interim controls, the commissioner shall require submission of a certificate of compliance for abatement. The commissioner shall adopt rules, under RSA 541-A, for the procedures for ~~extensions of~~ interim controls.

VI. Any order issued by the commissioner shall be recorded in the registry of deeds for the county in which the property is situated and, upon recordation, the order shall run with the property.

Amend RSA 130-A:17, II - III as inserted by section 8 of the bill by replacing it with the following:

II. The court hearing shall be held on an expedited basis and as soon as the court's docket permits. The hearing shall be held not less than 7 days but no more than 21 days after the date of service of the petition.

III. Upon request of either party, the court shall hold a consolidated hearing for both temporary and permanent injunctive relief within 21 days after the date of service of the petition.

2009-0193h

Amendment to HB 229

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

Amend RSA 362-F:4, IV(a) as inserted by section 1 of the bill by replacing it with the following:

IV.(a) Class IV (Existing Small Hydroelectric) shall include the production of electricity from hydroelectric energy, provided the ~~[source]~~ ***facility*** began operation prior to January 1, 2006, has a ~~[gross]~~ ***total*** nameplate capacity of 5 MWs or less ***as measured by the sum of the nameplate capacities of all the generators at the facility***, has ***actually*** installed ***both*** upstream and downstream diadromous fish passages ~~[that have been required and approved under the terms of its license or exemption from]~~ ***and such installations have been approved by*** the Federal Energy Regulatory Commission, and when required, has documented applicable state water quality certification pursuant to section 401 of the Clean Water Act for hydroelectric projects.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect January 1, 2010.

2009-0224h

Amendment to HB 251

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

Amend the bill by deleting section 1 and renumbering the original sections 2 and 3 to read as 1 and 2, respectively.

Amend RSA 161-F:49, I as inserted by section 1 of the bill by replacing it with the following:

I. There shall be established a state registry ~~[of abuse, neglect, and exploitation reports]~~ at the department for the purpose of maintaining a record of information on each ~~[case]~~ ***founded report*** of ~~[alleged]~~ abuse, neglect, or exploitation toward an individual by a paid or volunteer caregiver ~~[or a caregiver hired or obtained by an agency, individual, family, or guardian]~~, ***guardian, or agent acting under the authority of a power of attorney or any durable power of attorney.*** ***The registry shall be confidential and subject to rules on access established by the commissioner of the department under RSA 541-A.*** Unfounded ~~[cases]~~ ***reports*** shall not be maintained on the registry. The department shall maintain statistical, non-identifying information on founded ~~[cases]~~ ***reports*** as the department determines is necessary to track and address trends. ~~[This section shall apply in~~

~~each case of abuse, neglect, or exploitation by a paid caregiver toward an individual that is founded by an investigator.] For the purposes of this section:~~

(a) "Individual" means an individual, **18 years of age or older**, found eligible for or receiving services pursuant to RSA 171-A, RSA 135-C:13, RSA 135-C:14, RSA 161-E, RSA 161-I, or programs licensed under RSA 151:2, I(b), (e), or (f) , or who is an incapacitated adult, as defined under RSA 161-F:43, VII.

(b) ~~[The investigators shall be]~~ **"Investigator" means a person** designated or employed by the department, in accordance with a protocol developed by the department to ensure objectivity, thoroughness, timeliness, and uniformity in methodology and format in the conduct of investigations and investigation reports. ~~[The investigators]~~ **An investigator** may include ~~[investigators]~~ **an investigator** employed by ~~an area [agencies]~~ **agency** or **a** community mental health ~~[centers]~~ **center**, if designated by the department.

(c) **"Perpetrator" means a person who, following a protective investigation completed in accordance with RSA 161-F:42 through RSA 161-F:57, is found to have abused, neglected, or exploited an incapacitated adult.**

(d) **"Volunteer" means a person who provides voluntary services through any agency, program, or facility.**

Amend RSA 161-F:49, VIII as inserted by section 1 of the bill by replacing it with the following:

VIII. Any ~~[individual]~~ **person** hiring **or employing a paid or volunteer** caregiver, **consultant, or contractor** directly, or through an authorized representative or fiscal intermediary, to provide personal care services, as defined in RSA 161-E or RSA 161-I, may, with the consent of the **current or** prospective ~~[employee]~~ **caregiver, consultant, contractor, or volunteer**, submit ~~[the prospective employee's]~~ **his or her** name for review against the registry and, if ~~[the prospective employee]~~ **he or she** is on the registry, and with the further permission of the **current or** prospective ~~[employee]~~ **caregiver, consultant, contractor, or volunteer**, obtain information about any founded ~~[case]~~ **report. Any person considering designating another to serve as his or her agent under a power of attorney or any type of durable power of attorney may, with the consent of the proposed agent, submit the proposed agent's name for review against the registry.** The ~~[individual]~~ **person** shall not be required in such situations to obtain a waiver prior to hiring a person on the registry.

VIII-a. It shall be unlawful for any employer other than those specified under this ~~[paragraph]~~ **section** to require as a condition of employment that the employee submit his or her name for review against the registry of founded reports of abuse, neglect, or exploitation and any violation of this provision shall be punishable as a violation.

Amend the bill by replacing section 2 with the following:

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

2009-0249h

Amendment to HB 256

Proposed by the Committee on Executive Departments and Administration - C

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

1 Definitions; Attest. Amend RSA 309-B:3, I to read as follows:

I.(a) "Attest" means providing the following financial statement services:

(1) Any audit or other engagement to be performed in accordance with the American Institute of Certified Public Accountants' ~~[Auditing Standards Board's]~~ Statements on Auditing Standards (SAS).

(2) Any review of a financial statement ~~[or compilation of a financial statement]~~ to be performed in accordance with the American Institute of Certified Public Accountants' ~~[Auditing Standards Board's]~~ Statements on Standards for Accounting and Review Services (SSARS).

(3) Any examination of prospective financial statements to be performed in accordance with the American Institute of Certified Public Accountants' Statements on Standards for Attestation Engagements (SSAE).

(4) Any engagement to be performed in accordance with the Public Company Accounting Oversight Board's Auditing Standards.

(b) The Statements on Standards specified in subparagraph (a) ~~[(1)-(3) above]~~ shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants.

2 New Paragraph; Definition; Compilation. Amend RSA 309-B:3 by inserting after paragraph III the following new paragraph:

III-a. "Compilation" means providing a service to be performed in accordance with the American Institute of Certified Public Accountants' ~~[Auditing Standards Board's]~~ Statements on Standards for Accounting and Review Services (SSARS) that is presenting in the form of financial statements, information that is the representation of management without undertaking to express any assurance on the statements.

Amend the bill by replacing sections 5-8 with the following:

5 Definitions; Substantial Equivalency; Uniform Accountancy Act. Amend RSA 309-B:3, XVIII and XIX to read as follows:

XVIII. "Substantial equivalency" is a determination by the board or its designee that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination, and experience requirements contained in ~~[this chapter and rules relating thereto adopted under RSA 541-A]~~ **the Uniform Accountancy Act**, or that the individual certified public accountant's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in ~~[this chapter and rules relating thereto adopted under RSA 541-A]~~ **the Uniform Accountancy Act. In ascertaining substantial equivalency as used in this statute, the board shall take into account the qualifications without regard to the sequence in which experience, education, or examination requirements were attained.**

XIX. "Uniform Accountancy Act" means the ~~[third]~~ **July 27, 2007** edition of the model legislation developed jointly by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy ~~[as published in 1998]~~.

6 Education Requirements. RSA 309-B:5, III(b) is repealed and reenacted to read as follows:

(b) After January 1, 2005 and until June 30, 2014, at least 120 semester hours of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate; provided however, that candidates for a certificate may sit for the examination described in paragraph IV if they have at least 120 semester hours of college education including a baccalaureate degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate.

(c) On or after July 1, 2014, at least 150 semester hours of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate; provided however, that candidates for a certificate may sit for the examination described in paragraph IV if they have at least 120 semester hours of college education including a baccalaureate degree conferred by a college or university acceptable to the board the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate. The applicant's degree shall include 30 semester hours of accounting courses. The accounting

credits shall include coverage in financial accounting auditing, taxation, and management accounting. In addition, the degree shall include, or be supplemented by, 24 semester hours of business courses other than accounting courses. These business courses may include but not be limited to coverage in the areas of business law, business information systems, finance, professional ethics, business organizations and economics.

7 Examinations. Amend RSA 309-B:5, V to read as follows:

V. An applicant shall be required to pass all sections of the examination provided for in paragraph IV in order to qualify for a certificate. A passing grade for each section shall be 75. The applicant shall pass all sections of the examination within 18 months of the examination at which the first section was passed. ~~[No candidate shall be allowed more than 10 attempts to complete all sections of the examination.]~~

8 Experience Requirements. RSA 309-B:5, IX(a) and (b) is repealed and reenacted to read as follows:

(a) Until June 30, 2014, 2 years for a candidate with a 4-year college degree, or the equivalent, and one year for a candidate holding a master's degree in accounting, taxation, finance, or business administration.

(b) On or after July 1, 2014, one year.

Amend RSA 309-B:6, I as inserted by section 9 of the bill by replacing it with the following:

I. The practice, privilege, and discipline for substantially equivalent individuals shall be governed by the following provisions:

(a) An individual whose principal place of business is not in this state and who holds a valid certificate or license as a certified public accountant from any United States jurisdiction which the board or its designee has verified to be in substantial equivalence with the certified public accountant licensure requirements of the Uniform Accountancy Act shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all rights and privileges of licensees of this state without the need to obtain a certificate under RSA 309-B:7 or a permit under RSA 309-B:8. Notwithstanding any other provision of law, an individual qualifying under this subparagraph may offer or render professional services, whether in person or by mail, telephone, or electronic means, based on a practice privilege, and no notice, fee, or other submission shall be provided by any such individual. Such an individual shall be subject to the requirements in paragraph III.

(b) An individual whose principal place of business is not in this state and who has a valid certificate or license as a certified public accountant from any United States jurisdiction which the board or its designee has not verified to be in substantial equivalence with the certified public accountant licensure requirements of the Uniform Accountancy Act shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all rights and privileges of certificate holders and licensees of this state without the need to obtain a certificate under RSA 309-B:7 or a permit under RSA 309-B:8 if such individual obtains from the board or its designee verification that such individual's certified public accountant qualifications are substantially equivalent to the certified public accountant licensure requirements of the Uniform Accountancy Act. Any individual who has passed the Uniform CPA Examination and holds a valid license issued by any other state prior to July 1, 2014 may be exempt from the education requirements in the Uniform Accountancy Act for purposes of this subparagraph. Notwithstanding any other provision of law, an individual qualifying under this subparagraph may offer or render professional services, whether in person or by mail, telephone, or electronic means, based on a practice privilege, and no notice, fee, or other submission shall be provided by any such individual. Such an individual shall be subject to the requirements in paragraph III.

Amend the bill by replacing section 10 with the following:

10 Issuance and Renewal of Certificates. Amend RSA 309-B:7, I and II to read as follows:

I. The board shall grant or renew certificates to persons who make application and demonstrate that their qualifications, including where applicable the qualifications

prescribed by RSA 309-B:5, are in accordance with the requirements of this section, or that they are eligible for licensure under the substantial equivalency standards set out in RSA 309-B:6. The holder of a certificate issued under this section may provide attest services as defined in RSA 309-B:3, I(a), **and compilation services as defined in RSA 309-B:3, III-a**, only in a CPA firm that holds a permit issued under RSA 309-B:8.

II. Certificates shall be initially issued, and renewed, for periods of not more than 3 years. Annual periods shall coincide with the state's fiscal year, beginning on July 1 and ending on the subsequent June 30. Applications for such certificates shall be made in such form, and in the case of applications for renewal, between such dates, as the board shall by rule specify. **The licensee shall have 60 days to renew the certificate. If the renewal forms and fees are not submitted within 60 days after the expiration date of the license, the licensee shall file an application for return to active practice which shall be required to return to active status.** A certificate shall remain valid for the period of time that the board requires to act on the application for renewal, provided that the renewal was submitted in accordance with the rules adopted by the board. The board shall grant or deny any application no later than 90 days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a certificate was mistakenly denied, or where the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional certificate, which shall expire 90 days after its issuance or when the board determines whether or not to issue or renew the certificate for which application was made, whichever shall first occur.

Amend RSA 309-B:8, I(a) as inserted by section 14 of the bill by replacing it with the following:

- (a) The following are required to hold a permit issued under this section:
 - (1) Any firm with an office in this state performing attest services as defined in RSA 309-B:3, I, or compilation services under RSA 309-B:3, III-a;
 - (2) Any firm with an office in this state that uses the designation "CPAs" or "CPA firm"; or
 - (3) Any firm that does not have an office in this state but performs attest services described in RSA 309-B:3, I(a)(1), (3), or (4) for a client having its home office in this state.

Amend RSA 309-B:14 as inserted by section 16 of the bill by deleting paragraph XVII.

Amend the bill by replacing all after section 16 with the following:

17 Repeal. RSA 309-B:5, XI, relative to rulemaking for minimum experience requirements, is repealed.

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

2009-0364h

Amendment to HB 330

Proposed by the Committee on Commerce and Consumer Affairs - C

Amend the bill by replacing section 1 with the following:

1 Insurance; Dependent Children. Amend RSA 415:5, I(3)(a) to read as follows:

(3)(a) It purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, **and** dependent children ~~[or any dependent under age 26]~~. In this section "dependent child" means a subscriber's child by blood or by law, who **is one of the following**:

- ~~[(1) Is less than 26 years of age;~~
- ~~(2) Is unmarried;~~
- ~~(3) Is a resident of New Hampshire or is enrolled as a student at a public or private institution of higher education; and~~

~~(4) Is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. 1395 et seq.]~~

(1) Under age 19.

(2) Under age 25 if the child is a full-time enrolled student at an educational institution.

(3) Under age 26, unmarried, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. sections 1395 et seq.

(4) Mentally or physically incapable of earning his or her own living as of the date on which such dependent's status as a covered family member would otherwise expire because of age. Such dependent shall continue under such policy while such policy remains in force or is replaced by another policy as long as such incapacity continues and as long as such dependent remains chiefly financially dependent on the policyholder or the employee or his or her estate is chargeable for the care of such dependent; provided, that due proof of such incapacity is received by the insurer within 31 days of such expiration date. If such coverage is continued in accordance with this subparagraph, such dependent shall be entitled upon the termination of such incapacity to coverage offered by the New Hampshire high risk pool under RSA 404-G.

Amend the bill by replacing sections 9 and 10 with the following:

9 Health Service Corporations; Dependent Coverage. RSA 420-A:10-a, I is repealed and reenacted to read as follows:

I. A policy may insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, and dependent children. In this section the term "dependent child" means a subscriber's child by blood or by law, who is one of the following:

(a) Under age 19.

(b) Under age 25 if the child is a full-time enrolled student at an education institution.

(c) Under age 26, unmarried, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. sections 1395 et seq.

(d) Mentally or physically incapable of earning his or her own living as of the date on which such dependent's status as a covered family member would otherwise expire because of age. Such dependent shall continue under such policy while such policy remains in force or is replaced by another policy as long as such incapacity continues and as long as such dependent remains chiefly financially dependent on the policyholder or the employee or his or her estate is chargeable for the care of such dependent; provided, that due proof of such incapacity is received by the insurer within 31 days of such expiration date. If such coverage is continued in accordance with this subparagraph, such dependent shall be entitled upon the termination of such incapacity to coverage offered by the New Hampshire high risk pool under RSA 404-G.

10 Health Maintenance Organizations; Dependent Coverage. RSA 420-B:8-aa, I is repealed and reenacted to read as follows:

I. A policy may insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be

deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, and dependent children. In this section the term “dependent child” means a subscriber’s child by blood or by law, who is one of the following:

- (a) Under age 19.
- (b) Under age 25 if the child is a full-time enrolled student at an education institution.
- (c) Under age 26, unmarried, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. sections 1395 et seq.
- (d) Mentally or physically incapable of earning his or her own living as of the date on which such dependent’s status as a covered family member would otherwise expire because of age. Such dependent shall continue under such policy while such policy remains in force or is replaced by another policy as long as such incapacity continues and as long as such dependent remains chiefly financially dependent on the policyholder or the employee or his or her estate is chargeable for the care of such dependent; provided, that due proof of such incapacity is received by the insurer within 31 days of such expiration date. If such coverage is continued in accordance with this subparagraph, such dependent shall be entitled upon the termination of such incapacity to coverage offered by the New Hampshire high risk pool under RSA 404-G.

Amend the bill by replacing sections 12 and 13 with the following:

12 Preferred Provider Agreements; Dependent Coverage. RSA 420-C:4-a, I is repealed and reenacted to read as follows:

I. A policy may insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, and dependent children. In this section the term “dependent child” means a subscriber’s child by blood or by law, who is one of the following:

- (a) Under age 19.
- (b) Under age 25 if the child is a full-time enrolled student at an education institution.
- (c) Under age 26, unmarried, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. sections 1395 et seq.
- (d) Mentally or physically incapable of earning his or her own living as of the date on which such dependent’s status as a covered family member would otherwise expire because of age. Such dependent shall continue under such policy while such policy remains in force or is replaced by another policy as long as such incapacity continues and as long as such dependent remains chiefly financially dependent on the policyholder or the employee or his or her estate is chargeable for the care of such dependent; provided, that due proof of such incapacity is received by the insurer within 31 days of such expiration date. If such coverage is continued in accordance with this subparagraph, such dependent shall be entitled upon the termination of such incapacity to coverage offered by the New Hampshire high risk pool under RSA 404-G.

13 Delta Dental Plan; Dependent Coverage. RSA 420-F:5-a, I is repealed and reenacted to read as follows:

I. A policy may insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband,

wife, and dependent children. In this section the term “dependent child” means a subscriber’s child by blood or by law, who is one of the following:

- (a) Under age 19.
- (b) Under age 25 if the child is a full-time enrolled student at an education institution.
- (c) Under age 26, unmarried, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. sections 1395 et seq.
- (d) Mentally or physically incapable of earning his or her own living as of the date on which such dependent’s status as a covered family member would otherwise expire because of age. Such dependent shall continue under such policy while such policy remains in force or is replaced by another policy as long as such incapacity continues and as long as such dependent remains chiefly financially dependent on the policyholder or the employee or his or her estate is chargeable for the care of such dependent; provided, that due proof of such incapacity is received by the insurer within 31 days of such expiration date. If such coverage is continued in accordance with this subparagraph, such dependent shall be entitled upon the termination of such incapacity to coverage offered by the New Hampshire high risk pool under RSA 404-G.

Amend the bill by replacing section 17 with the following:

17 Managed Care; Dependent Coverage. RSA 420-J:8-d, I is repealed and reenacted to read as follows:

I. A policy may insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, and dependent children. In this section the term “dependent child” means a subscriber’s child by blood or by law, who is one of the following:

- (a) Under age 19.
- (b) Under age 25 if the child is a full-time enrolled student at an education institution.
- (c) Under age 26, unmarried, a resident of New Hampshire, and is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, church plan, or health benefits plan, or entitled to benefits under Title XVIII of the Social Security Act, Public Law 89-97, 42 U.S.C. sections 1395 et seq.
- (d) Mentally or physically incapable of earning his or her own living as of the date on which such dependent’s status as a covered family member would otherwise expire because of age. Such dependent shall continue under such policy while such policy remains in force or is replaced by another policy as long as such incapacity continues and as long as such dependent remains chiefly financially dependent on the policyholder or the employee or his or her estate is chargeable for the care of such dependent; provided, that due proof of such incapacity is received by the insurer within 31 days of such expiration date. If such coverage is continued in accordance with this subparagraph, such dependent shall be entitled upon the termination of such incapacity to coverage offered by the New Hampshire high risk pool under RSA 404-G.

2009-0311h

Amendment to HB 345

Proposed by the Majority of the Committee on Environment and Agriculture - R
Amend RSA 328-A:15-b, I-III as inserted by section 2 of the bill by replacing it with the following:

I. Any physical therapist practicing physical therapy on any animal shall meet the requirements of this section and any additional requirements set by the board of veterinarians pursuant to RSA 332-B:7-a, XIV and shall be certified by the physical therapy board.

II. A physical therapist shall be eligible for animal physical therapy certification if he or she:

(a) Is a graduate of a singular certification program in animal physical therapy or animal rehabilitation affiliated with an AVMA accredited veterinary school with a minimum of 120 course hours.

(b) Provides proof of liability/malpractice insurance coverage for the practice of physical therapy on animals.

(c) Paid the initial fee for certification as set by the board.

III. Physical therapists certified as animal physical therapists are eligible for renewal of their licenses if they:

(a) Have not violated this chapter or RSA 328-F nor demonstrated poor moral character.

(b) Annually complete 7.5 hours of the required bi-annual 30 hours of continuing education directly related to animal rehabilitation and any other continuing competency requirements established by the physical therapy board or the veterinary board in rules adopted pursuant to RSA 541-A.

(c) Pay the annual renewal fee for certification as set by the board.

Certifications shall expire on December 31 of each year. The board may waive the payment of the renewal fee of an animal physical therapist during the period when the person is on active duty with any branch of the armed services of the United States, not to exceed 3 years or the duration of a national emergency, whichever is longer.

2009-0300h

Amendment to HB 391

Proposed by the Committee on Public Works and Highways - R

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

AN ACT authorizing the department of transportation to convey a portion of interstate highways to the bureau of turnpikes, redefining the eastern New Hampshire turnpike, increasing the aggregate amount of bonds the state may issue, and authorizing the department of transportation to install open road tolling.

Amend RSA 237:2, X as inserted by section 4 of the bill by replacing it with the following:

X. Acquire, expand, and make improvements to the eastern New Hampshire turnpike from the northerly expansion joint of the I-95 bridge over the Spaulding Turnpike, U.S. 4 and N.H. 16 (bridge No. 197/22) north to point on the New Hampshire-Maine boundary in the city of Portsmouth, ***such improvements to include the installation of open road tolling for the toll on I-95 in the town of Hampton, NH.***

Amend the bill by inserting after section 4 the following and renumbering the original sections 5 through 12 to read as 6 through 13, respectively:

5 New Subparagraph; Further Authority. Amend RSA 237:5, II by inserting after subparagraph (n) the following new subparagraph:

(o) Install open road tolling for existing tolls on the main lines of the turnpike system.

Amend RSA 237:7, I(k) as inserted by section 7 of the bill by replacing it with the following:

(k) Toll collection equipment. RSA 237:2, VIII, IX. [~~39,000,000~~] **119,000,000**

Amend RSA 237-A:2 as inserted by section 12 of the bill by replacing it with the following:

237-A:2 Issuance of Revenue Bonds. The state may issue bonds under this chapter to be known as "turnpike system revenue bonds." The bonds may be issued from time to time for the purpose of financing the project costs of construction of any turnpike or of paying or refunding any bonds issued pursuant to RSA 237 or interest thereon. Any such bonds issued

to pay or refund bonds issued pursuant to RSA 237 or interest thereon may be issued in sufficient amount to cover items described in RSA 237-A:7. Bonds issued hereunder shall be special obligations of the state and the principal of, premium, if any, and interest on all bonds shall be payable solely from the particular funds provided therefor under this chapter. The bonds shall be issued by the treasurer in such amounts as the governor and council shall determine, not exceeding in the aggregate [~~\$586,050,000~~] **\$766,050,000**. Bonds of each issue shall be dated, shall bear interest at such rate or rates, including rates variable from time to time as determined by such index, banker's loan rate or other method as may be determined by the treasurer, and shall mature at such time or times as may be determined by the treasurer, except that no bond shall mature more than 40 years from the date of its issue. Bonds may be made redeemable before maturity either at the option of the state or at the option of the holder, or on the occurrence of specified events, at such price or prices and under such terms and conditions as may be fixed by the treasurer prior to the issue of bonds. The treasurer shall determine the form and details of bonds. Subject to RSA 93-A, the bonds shall be signed by the treasurer and countersigned by the governor. The bonds may be sold in such manner, either at public or private sale, for such price, at such rate or rates of interest, or at such discount in lieu of interest, as the treasurer may determine.

Amend the bill by replacing section 13 with the following:

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

AMENDED ANALYSIS

This bill:

I. Authorizes the department of transportation to convey a portion of interstate highways to the bureau of turnpikes.

II. Defines certain highways.

III. Redefines the eastern New Hampshire turnpike.

IV. Increases the aggregate amount of bonds the state may issue.

V. Authorizes the department of transportation to install open road tolling.

This bill is a request of the department of transportation.

2009-0181h

Amendment to HB 423-FN-A-LOCAL

Proposed by the Committee on Environment and Agriculture - C

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

AN ACT requiring the department of environmental services to develop an outreach campaign to disseminate information on recycling materials, including electronic waste.

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

1 Solid Waste Management; Definitions. Amend RSA 149-M:4, VIII-a to read as follows:

VIII-a. ***“Electronic waste” includes computer monitors containing a cathode ray tube, laptop computers, liquid crystal display (LCD) computer monitors, plasma and LCD televisions, printers, cell phones, video cassette recorders (VCRs), copiers, fax machines, and DVD players.***

VIII-b. “End-of-life motor vehicle” means a wrecked, worn-out, junk, or other motor vehicle that is no longer intended for use according to its original purpose and is destined for final disposal. The term does not include a motor vehicle that is being kept for repair or restoration, or that is temporarily impounded pending identification of last owner of record or settlement of an insurance claim.

2 New Paragraph; Solid Waste Management; Responsibilities. Amend RSA 149-M:6 by inserting after paragraph VII the following new paragraph:

VII-a. Collect and prepare information regarding opportunities for citizens and businesses to recycle materials, including electronic waste, and develop an outreach campaign to disseminate that information including, as appropriate, information on the department’s website, brochures, posters, mailings and e-mailings, press releases, and other appropriate means of communication.

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

AMENDED ANALYSIS

This bill requires the department of environmental services to develop an outreach campaign to disseminate information on recycling materials, including electronic waste.

2009-0159h

Amendment to HB 450

Proposed by the Committee on Public Works and Highways - C

Amend RSA 240:3 as inserted by section 1 of the bill by replacing it with the following:

240:3 Implementation of Plan.

I. The department of transportation shall be responsive to requests for information relative to the plan.

II. The plan shall include a list of projects intended to be under construction in the next 10 years with dates and costs of construction.

III. Preliminary studies, design, and right of way funding for long term projects that have been approved by the Governor's Advisory Commission on Intermodal Transportation (GACIT) and the department of transportation shall be included in the plan.

IV. The department shall transmit the plan to the general court by January 15 of each even-numbered year. Projects listed in the plan shall be listed by the year the funds are to be expended and the 10 years of the plan shall be financially constrained.

V. Projects listed in the plan, except projects which are solely for infrastructure preservation, shall be prioritized based on a department of transportation methodology that examines the certainty of a project relative to its scope, cost, constructability, permitability, and public support, provided that the project has the following:

- (a) Preliminary design.
- (b) Environmental evaluation.
- (c) A public participation process.
- (d) Available and adequate funding.

VI. The following shall be considered for any project proposed for the plan:

- (a) Safety.
- (b) Multimodalism.
- (c) Land use.
- (d) Infrastructure preservation.
- (e) Overall corridor improvement.

VII. Every 2 years, the department of transportation shall propose to the general court a list of projects to be removed from the 10-year plan if the department determines that any project:

- (a) Has significantly changed in scope; or
- (b) Is no longer financially and environmentally feasible; or
- (c) Lacks the necessary permits; or
- (d) For other reasons is unnecessary or unlikely to proceed.

VIII. Inflation shall be included in the costs calculated in the 10-year plan and shall also be included in calculating the necessary revenues.

IX. The department of transportation shall meet at least semi-annually with the GACIT.

X. The GACIT shall review:

- (a) Department of transportation financial status and issues.
- (b) The status and issues of transportation projects.
- (c) Other ongoing initiatives and issues.

XI. The GACIT shall provide the first statewide review of the plan as drafted by the department of transportation with input from the regional planning commissions.

2009-0128h

Amendment to HB 461-FN-A

Proposed by the Minority of the Committee on Local and Regulated Revenues - R

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

AN ACT relative to games of chance and establishing a gaming oversight authority and video lottery gaming.

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

1 New Chapter; Gaming Oversight Authority and Video Lottery. Amend RSA by inserting after chapter 287-G the following new chapter:

CHAPTER 287-H

GAMING OVERSIGHT AUTHORITY AND VIDEO LOTTERY

287-H:1 Definitions. In this chapter:

I. "Centralized data provider" means a provider of centralized gambling data, selected by the gaming oversight authority.

II. "Currency" means legal tender in the form of coins or paper which is officially issued by the United States Treasury, but it does not include any type of credit or debit card.

III. "Facility applicant" means the entity, which will participate and apply for a facility license, as applicable.

IV. "Facility license" means the license issued by the gaming oversight authority to a facility licensee.

V. "Facility licensee" means an applicant who is issued a license by the gaming oversight authority to provide facilities and support to state operated video lottery locations.

VI. "Gaming oversight authority" means the authority established by RSA 287-H:2.

VII. "Net machine income" means all cash or other consideration utilized to play a video lottery machine, less all cash or other consideration paid to players of video lottery machines as winnings. Non cashable promotional credits shall be excluded from the calculation.

VIII. "Technology provider" means any person or entity which designs, manufactures, installs, distributes, or supplies video lottery machines for lease to the state for conducting video lottery games in accordance with this chapter.

IX. "Token" means the coin, which is not legal tender, sold by a cashier in a face amount equal to the currency paid by a player for the sole purpose of playing a video lottery machine at a licensed facility, which can be exchanged for currency at the same facility where the video lottery machines are located, but it does not include any type of credit or debit card.

X. "Video lottery machines" means an electronic, mechanical, or computerized machine licensed by the gaming oversight authority which, upon the insertion of currency or tokens is available to be played where, by chance or skill, or both, the player may receive currency or tokens. Video lottery machines include, but are not limited to, slot machines, video poker machines, and other similar machines. Video lottery machines shall not include any redemption slot machines and redemption poker machines as defined in RSA 647 or video poker machines or other similar machines used for amusement purposes only.

XI. "Video lottery employee" means a person employed by the state in the operation of a video lottery location, including without limitation, cashiers; floormen; machine mechanics; security personnel or inspectors; and supervisors or managers. Video lottery employees shall be hired, fired, trained, managed, and supervised by the division of gaming enforcement.

XII. "Video lottery location" means a state operated facility, within a location provided by the facility licensee, authorized by the local community that contains video lottery machines operated in accordance with this chapter.

XIII. "Video lottery machines" means an electronic, mechanical, or computerized machine licensed by the lottery commission, which upon the insertion of bills, coins, tokens, or any representative of value is available to be played where, by chance or skill, or both, the player may receive cash, cash equivalents, or tokens. Video lottery machines include, but are

not limited to, slot machines, video poker machines, and other lottery machines. A machine shall be considered a video lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins, or tokens unnecessary. Video lottery machines do not include any redemption slot machines and redemption poker machines as defined in RSA 647 or video poker machines or other similar machines used for amusement purposes only.

287-H:2 Gaming Oversight Authority.

I. There is hereby established the New Hampshire gaming oversight authority. The gaming oversight authority shall consist of the commissioner of the department of safety, the commissioner of the department of resources and economic development, and the commissioner of revenue administration, or their respective designees. The commissioner of the department of safety shall serve as the chairperson of the gaming oversight authority.

II. The gaming oversight authority through delegation to the division of gaming enforcement shall exclusively establish, staff, manage, and operate video lottery locations at facilities licensed under the provisions of this chapter. Facilities provided by the facility licensee shall contain non-gaming resources such as, dining, liquor, hotel, and any other support resource approved by the gaming oversight authority. The facility licensee shall, at a minimum, provide and pay for heat, electricity, water, sewer, maintenance, and security surveillance infrastructure for the video lottery location for which the facility licensee shall receive remuneration pursuant to RSA 287-H:17, III.

287-H:3 Duties of the Gaming Oversight Authority. The gaming oversight authority shall:

I. Issue licenses only after completion of the investigations set forth in this chapter. All license applications shall be approved or denied no later than 150 days from the date of application. No license issued under the provisions of this chapter shall be assigned, transferred or sold, without a complete application and the approval of the gaming oversight authority and payment of a \$150,000 application fee. No person or entity may own or have an interest in more than one facility license.

II. Collect all license fees imposed upon any applicant and all fees imposed by this chapter.

III. Certify net machine income by inspecting records, conducting audits, having its agents on site, or by other reasonable means.

IV. Establish a central computer system at a location of its choosing linking all video lottery machines to a central computer to ensure control over the video lottery machines.

V. Enter into lease agreements with up to 3 technology providers to provide video lottery machines to the state. Lease agreements shall provide that the technology provider supply the quantity and quality of video lottery machines determined by the gaming oversight authority in a timely and efficient manner, and shall be paid with a percentage of the net machine income, as provided in RSA 287-H:17, IV. The technology provider shall provide all maintenance and service of its video lottery machines at no additional charge or fee to the state. Each agreement shall also provide that the technology provider shall be required to replace 30 percent of its video lottery machines on a yearly basis.

VI. Establish technical standards for approval of video lottery machines, including mechanical and electrical reliability and security against tampering, as it may deem necessary to protect the public from fraud or deception and to ensure the integrity of the operation.

VII. Not later than November 1 in each calendar year of this program, provide a report to the legislative fiscal committee regarding the generation of revenue of video lottery machines. Such report shall include any recommendations for legislation and any community concerns.

VIII. Have the authority to issue subpoenas and compel the attendance of witnesses, to administer oaths, and require testimony of witnesses under oath.

IX. Make and keep records of all proceedings of its public meetings. A copy of the transcript shall be made available to any person upon request and payment of the costs of preparing a copy.

X. Keep and maintain a list of all license applicants and a record of all actions taken with respect to each applicant. A file and record of the actions by the gaming oversight authority shall be open to public.

XI. Maintain such other files and records as it deems necessary. All records maintained by the gaming oversight authority may be maintained in digital format or other technology, provided that such information is capable of being produced in written form.

XII. Maintain the confidentiality of all information and data obtained by the gaming oversight authority. Such information shall not be revealed in whole or in part except as otherwise provided by law, upon the lawful order of a court of competent jurisdiction, lawfully executed and served grand jury subpoenas, or with the approval of the attorney general, to a duly authorized law enforcement agency.

XIII. Provide notice of the contents of any information or data released, except to a duly authorized law enforcement agency or grand jury subpoena pursuant to paragraph XII, shall be given to any applicant, registrant, or licensee in a manner prescribed by the rules adopted by the gaming oversight authority.

XIV. If necessary, contract for and procure financial, economic, or security consultants and any other technical and professional services as the authority deem necessary.

XV. Develop and provide an employee training program which shall include, but not be limited to, information on state law, criminal and civil liability, and management practices.

287-H:4 Rulemaking.

I. The gaming oversight authority shall have general responsibility for the implementation of this chapter and shall adopt rules under RSA 541-A relative to:

(a) Hearing and deciding all license applications or recommendations for the suspension or revocation of any license.

(b) Conducting all investigations required with regard to the application, suspension, or revocation of any licensee or applicant.

(c) Conducting hearings pertaining to administrative violations or rules and collecting all penalties assessed under the provisions of this chapter.

(d) Establishing standards and a reasonable fee structure for the licensing and renewal of licenses for technology providers.

(e) Establishing technical standards for approval of video lottery machines, including mechanical and electrical reliability and security against tampering, as it may deem necessary to protect the public from fraud or deception and to ensure the integrity of operation.

(f) Establishing criteria for licensing, suspension, and revocation.

(g) The value of prizes, which may be awarded, and the cost of play for each video lottery game played on a video lottery machine, as recommended by the technology provider.

(h) Establishing employee qualifications, training, and background investigations for prospective employees.

(i) Standards for the management, and operation, of all video lottery locations.

II. Pending the adoption of rules under RSA 541-A, and notwithstanding RSA 541-A:2, the gaming oversight authority shall adopt interim rules including provisions for the publication of public notice of the period of time for the submission of facility license applications and after public hearing and within 60 days of the effective date of this chapter. Such interim rules shall automatically expire upon the adoption of rules under RSA 541-A.

287-H:5 Restrictions. No member or employee of the gaming oversight authority, the department of revenue administration, the department of resources and economic

development, or the department of safety shall have a fiduciary interest in any technology provider, facility licensee, or centralized data provider.

287-H:6 Licensure of Technology Provider and Centralized Data Provider. No technology provider or centralized data provider shall engage in the business of providing, installing, or repairing video lottery machines used in this program without a license issued by the gaming oversight authority.

287-H:7 Restriction on Technology and Centralized Data Provider. No technology provider or centralized data provider or their employees shall be entitled to operate video lottery machines within the state.

287-H:8 Restriction of Minors.

I. No person under the age of 21 shall play a video lottery machine authorized by this chapter.

II. No member or employee of any video lottery location, department of safety, the attorney general's office, or the gaming oversight authority shall knowingly permit a person under the age of 21 to play or participate in any aspect of the playing of a video lottery machine.

III. Each violation of this section shall be punishable by a fine of no more than \$1,000 and shall be payable by such person who violates paragraph I. If such violator is a state employee, then the employee shall also be subject to appropriate sanctions in conformance with the adopted policies and procedures of the division of gaming enforcement, and the department of administrative services, division of personnel.

IV. Each violation of this section shall be punishable by a fine of no more than \$1,000 and shall be payable by the employee or facility licensee that is found to have violated paragraph II.

287-H:9 Person Misrepresenting Age.

I. A person who falsely represents his age for the purpose of playing video lottery machines shall be guilty of a misdemeanor. Any person who violates any of the provisions of this section shall be fined for his or her first offense a minimum of \$250. No portion of this mandatory minimum fine shall be waived, continued for sentencing or suspended by the court. A second or subsequent offense shall carry a \$500 minimum fine.

II. Notwithstanding paragraph I or any other law to the contrary, any person who possesses or uses or displays in any manner a false identification card, document, license or any other document which represents such person's age for the purpose of playing video lottery machines shall be fined a minimum of \$250. No portion of this mandatory minimum fine shall be waived, continued for sentencing, or suspended by the court. The provisions of this paragraph do not reduce the maximum penalty which could be imposed for such an offense pursuant to paragraph I. A second or subsequent offense shall carry a \$500 minimum fine.

III. An identification card issued under the provisions of RSA 260:21 shall be withdrawn for violation of this section for 90 days. In addition, the director of the division of motor vehicles shall withdraw, for 90 days, the identification card of any person who allows his or her card to be used or displayed by another person for the purpose of playing video lottery machines.

287-H:10 Penalty for Tampering or Manipulating. Any person who, with the intent to manipulate the outcome, payoff, or operation of a video lottery machine, manipulates the outcome, payoff, or operation of any video lottery machine by physical, electronic, or mechanical means, shall be guilty of a class A felony.

287-H:11 Video Lottery Machine Requirements.

I. No video lottery machine shall be used to conduct gaming unless it is identical in all electrical, mechanical, and other aspects to a model, which has been specifically tested and licensed for use by the gaming oversight authority.

II. All video lottery machines in operation shall pay out as winnings at least 87 percent on an annual basis.

III. The gaming oversight authority shall establish the days and hours of operation of video lottery locations and shall not be restricted by the facility licensee.

IV. No automatic teller machines shall be located within 150 feet of a video lottery machine.

287-H:12 Licenses; Number of Video Lottery Machines.

I. From the effective date of this chapter, the number of video lottery machines statewide shall be limited to 5,500 to be distributed at the discretion and judgment of the gaming oversight authority, but in no case shall a single location have more than 1,000 machines or fewer than 500 machines.

II. The gaming oversight authority shall issue not more than a total of 6 facility licenses in the state of New Hampshire. Eligibility shall be based on, but not limited to the following:

(a) Evidence provided by the applicant that the applicant has received any required local approval.

(b) Regional location of prospective facility licensee.

(c) A detailed economic plan, filed with the gaming oversight authority, for the municipality and the surrounding region where the prospective facility licensee is located with supporting documentation to explain the following:

(1) Unemployment in the area.

(2) Direct and indirect employment gain.

(3) Effect on tourism-based economy.

(4) Effect on regional economic development.

(5) Tourist trends.

(d) A business plan, filed with the gaming oversight authority, to support video lottery machines.

(e) Qualifications of those persons who own or manage the prospective licensee facility.

(f) Regional population.

(g) Vehicle traffic.

(h) Total square footage of the facility and total acreage of such facility.

(i) Availability of suitable infrastructure.

(j) Availability of adequate parking.

(k) Other information that the gaming oversight authority may require.

287-H:13 Application and License Requirements.

I. A facility licensee applicant shall obtain a facility license from the gaming oversight authority. An applicant shall complete and sign an application on the forms prescribed by the gaming oversight authority. The application shall include the full name, residence, date of birth, and other personal identifying information of the applicant, and if a corporation or other form of business enterprise, the same information shall be provided with respect to each partner, trustee, officer, director, and any shareholder or other holder who owns more than 3 percent of the legal or beneficial interests of such entity. All such business entities shall be registered with the secretary of state.

II. The gaming oversight authority shall refer applications to the attorney general who shall conduct an investigation. The investigation may be conducted through any appropriate state or federal law enforcement system and may seek information as to the applicant's financial, criminal or business background, or any other information which the attorney general, in his or her sole discretion, may deem relevant to the subject's fitness to be associated with the ownership or management of the operation of a facility licensee in New Hampshire, including but not limited to, the subject's character, personal associations, and the extent to which the subject is properly doing business in the manner in which it purports to operate. The attorney general shall report the results of the investigation to the gaming oversight authority within 90 days after the receipt of the application. Notwithstanding any

other law to the contrary, the results of any such investigation shall be confidential and shall not be subject to disclosure or to public inspection.

III. In any investigation conducted pursuant to paragraph II, the attorney general or any duly authorized member of the attorney general's staff may subpoena the attendance of witnesses and require the production of such correspondence, documents, books and papers as deemed advisable, and for purposes of this section, may administer oaths and take the testimony of witnesses.

287-H:14 Licensure Requirements.

I. No facility license shall be issued by the gaming oversight authority unless the applicant has proven to the satisfaction of the gaming oversight authority by clear and convincing evidence:

(a) The financial stability based on audited financial statements, integrity, and responsibility, considering, without limitation, bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers.

(b) The trustworthiness and good reputation of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes and other evidences of indebtedness of the applicant.

(c) The good character, honesty and integrity, considering, without limitation, information pertaining to reputation, criminal record, business activities, and financial affairs covering at least the 10-year period immediately preceding the filing of the application.

(d) In addition, no facility license shall be issued by the gaming oversight authority to any applicant unless the applicant has proven to the satisfaction of the gaming oversight authority by clear and convincing evidence that each director, officer or similar principal employee and each direct or indirect owner satisfies the standards for licensure contained in RSA 287-H:13.

(e) The gaming oversight authority may, in its discretion, waive the qualification requirement for any such person who is not significantly involved in the activities of the applicant, does not have the ability to significantly influence or control the applicant, or for other good cause, only when written justification is provided.

(f) Except as provided in this chapter, no person who owns, directly or indirectly, legally or beneficially, 5 percent or less of the equity securities or 50 percent or less of the outstanding debt securities of a publicly traded holding company of an applicant for a facility license shall be required to be qualified pursuant to the provisions of this section prior to the issuance of such a license to the applicant.

(g) If a facility licensee has 25 or fewer holders of its equity securities, either directly or indirectly, legally or beneficially, then each such holder shall satisfy the standards of this chapter.

II. No technology provider's license shall be issued by the gaming oversight unless the applicant has demonstrated to the satisfaction of the gaming oversight authority by clear and convincing evidence that it satisfies the standards contained in paragraph I of this section. The gaming oversight authority shall establish the form of application that shall be completed by each applicant for a technology provider's license. Each technology provider license applicant shall be subject to the investigation set forth in RSA 287-H:13 except that all investigatory reports shall be provided to the gaming oversight authority.

III. All information and data required by the gaming oversight authority, or the division of gaming enforcement to be furnished pursuant to this chapter, or which may otherwise be obtained by the gaming oversight authority, or the division of gaming enforcement in the performance of their duties under this chapter, except information regarding net machine income, shall be considered to be confidential and shall not be revealed in whole or in part except as otherwise provided by law, or upon the lawful order of

a court of competent jurisdiction, or with the approval of attorney general to a duly authorized law enforcement agency.

IV. No licensee or any individual or entity that is an owner of, or has a financial interest in or with the licensee shall be permitted to make a political contribution as defined by RSA 664:2, VIII.

287-H:15 License and Investigation Fees. A non-refundable license application fee for each class or type of license to be issued under this chapter shall be \$150,000. Renewal fees shall be \$150,000 for each class or type of license. Upon issuance of a license, the facility licensee shall pay a one-time fee of \$2,500 per video lottery machine which will be used by the gaming oversight authority as start-up capital at each location for training and an initial bank.

287-H:16 Term of License. Any facility license or technology provider's license issued pursuant to this chapter and any renewal thereof shall be valid for 5 years unless earlier suspended or revoked by the gaming oversight authority. All licenses issued under this chapter shall be issued as a privilege and not by right. No person or entity may claim any sort of property right to, or in conjunction with, any license issued under this chapter. The gaming oversight authority shall be informed within 10 days of any anticipated change in ownership or stockholders of a licensee that would normally be subject to investigation and licensing requirements in RSA 287-H:15. Failure to inform the gaming oversight authority of said anticipated changes shall result in license revocation.

287-H:17 Distribution of Net Income; Machine Income Fund. There is hereby established a machine income fund in the office of the state treasurer to be administered by the state treasurer. The fund shall be nonlapsing and continually appropriated to the state treasurer for the purposes set forth in this section. The state treasurer shall distribute the funds on the fifth of each month as follows:

I. Sixty percent of the annual net machine income shall be deposited in the general fund.

II. Twelve percent of the net machine income shall be paid to the gaming oversight authority to be used to pay for the establishment, administration, and operation of the division of gaming enforcement.

III. Sixteen percent of the net machine income shall be paid to the facility licensee as a gross lease.

IV. Six percent of the net machine income shall be paid to the technology provider for the leasing and maintenance of the video lottery machines.

V. Two and one half percent of the net machine income shall be equally distributed to the ten counties to help reduce the county tax.

VI. Two percent of the net machine income shall be paid to the centralized data provider to carry out the responsibilities outlined in this chapter.

VII. One percent of the net machine income shall be paid to the city or town where the facility licensee facility is located. Revenue will be distributed based on the number of video lottery machines in that location.

VIII. One half of one percent of the net machine income shall be deposited in the gambling addiction prevention fund established in RSA 287-H:28.

287-H:18 Gaming Oversight.

I. The gaming oversight authority or the division of gaming enforcement shall be present at all facility licensee location at which video lottery machines are operated by the state at all times whether the facility is open to the public or not.

II. The division of gaming enforcement shall be present at all times when a video lottery machine is opened to remove or insert any drop box, hopper, or other mechanism containing money, tokens, or other items of value. The division of gaming enforcement shall be present in the count room at all times that money, tokens or other items of value utilized in video lottery machines are counted.

287-H:19 Hearings; Investigations; False Statement; Enforcement Policy.

I. The gaming oversight authority shall adopt and publish rules pursuant to RSA 541-A, to govern its proceedings and to regulate the mode and manner of all investigations and hearings before it.

(a) All hearings before the gaming oversight authority shall be in accordance with RSA 541-A:31-36. In any such investigation or hearing the gaming oversight authority shall not be bound by the technical rules of evidence.

(b) The gaming oversight authority, or any member, may subpoena witnesses and administer oaths in any proceeding or examination instituted before or conducted by it, and may compel, by subpoena, the production of any accounts, books, contracts, records, documents, memoranda and papers of any kind whatever.

(c) Witnesses summoned before the superior court, and such summons issued by any justice of the peace shall have the same effect as though issued for appearance before such court. Justices of the peace and all other magistrates empowered to issue subpoenas and compel the attendance of witnesses in the courts of this state shall have the same power to compel their attendance and the production of evidence in any proceeding before the gaming oversight authority.

(d) The gaming oversight authority may apply to the superior court, under the provisions of RSA 491:19-20, to have punished for contempt any witness who refuses to obey a subpoena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear.

II. If any false statement is knowingly made in any statement under oath which may be required by the provisions of this title or by the gaming oversight authority, the person making the same shall be deemed guilty of perjury. The making of any such false statement in any such application or in any such accompanying statements, whether made with or without the knowledge or consent of the applicant, shall, in the discretion of the gaming oversight authority, constitute sufficient cause for the revocation of the license.

III.(a) The gaming oversight authority shall adopt by rule under RSA 541-A a formal enforcement policy for licensees under its jurisdiction. This policy shall specify the disciplinary action which the gaming oversight authority shall take for violations of various laws under its jurisdiction. The enforcement policy shall also specify mitigating and aggravating factors which the gaming oversight authority shall consider in determining penalties for specific actions. The gaming oversight authority shall not suspend or revoke a license until the licensee has been provided a hearing under RSA 541-A.

(b) In applying its enforcement policy, the gaming oversight authority shall establish and enforce specific determinate penalties for specific offenses. The gaming oversight authority shall not apply penalties such as license suspensions for indefinite periods of time.

287-H:20 Suspension or Revocation; Administrative Fines.

I. If any licensee violates any of the provisions of law or any of the rules of the gaming oversight authority adopted under this title, the license may be suspended or revoked after notice and hearing, in accordance with RSA 541-A:31-36. Notwithstanding any other provisions of this chapter, the gaming oversight authority, after the appropriate hearing, may impose a fine of a specific sum, which shall not be less than \$1,000 nor more than \$50,000 for any one offense. Such a fine may be imposed instead of, or in addition to, any suspension or revocation of a license by the gaming oversight authority.

II. Notwithstanding any other provision of law, the gaming oversight authority may accept at any time, a petition from the governing body of a city or town who has voted to accept the provisions of RSA 287-H, to revoke a license held by a facility licensee who is located within that community. Any petition filed under this paragraph shall state with particularity all relevant facts and circumstances that sustain the opinion of the petitioner to revoke a license. A licensee against whom a petition is filed shall be entitled to a public hearing before any decision by the gaming oversight authority. All proceedings conducted in conjunction with this paragraph shall conform to the requirements of RSA 541-A.

III. Appeals from a decision of the gaming oversight authority shall be in accordance with RSA 541.

287-H:21 Penalties. Any person who violates any of the provisions of this chapter or any of the rules adopted pursuant to this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. In case of appeal by a licensee, the license of such licensee may be suspended at the discretion of the gaming oversight authority during the pendency of such appeal.

287-H:22 Prosecutions. The gaming oversight authority shall appoint gaming investigators whose primary function shall be the proper prosecution of this chapter. The investigators shall have all the powers of the sheriff in any county, with reference to enforcement of all laws either in cooperation with, or independently of, the officers of any county or town. The gaming oversight authority shall have the primary responsibility for the enforcement of all video lottery gaming. Any person violating the provisions of any law may be prosecuted by the gaming oversight authority or any of its investigators as provided in this section, or by the attorney general, or by county or city attorneys, or by sheriffs or their deputies, or by police officials of towns.

287-H:23 Interference With Gaming Investigators. It shall be unlawful to resist or attempt to resist arrest by a gaming investigator, or to obstruct, or to intimidate or interfere with a gaming investigator in the performance of his or her duty. Any person who violates any of the provisions of this section shall be guilty of a misdemeanor.

287-H:24 Fines.

I. All fines imposed by any court and collected for the violation of the provisions of this chapter shall be paid to the state, county, or town, the officials of which instituted the prosecution.

II. All fines imposed by the gaming oversight authority shall be deposited into the general fund.

287-H:25 Procedures for Adoption by Local Community.

I. Any town or city in which a facility licensee location is situated may adopt the provisions of RSA 287-H, to allow the operation of electronic games of chance, in the following manner:

(a) In a town, the question shall be placed on the warrant of a special or annual town meeting under the procedures set out in RSA 39:3, and shall be voted on a ballot; provided, however, if the question is placed on the warrant at a special town meeting, it shall be the only question at such special town meeting. In a city, the legislative body may vote to place the question on the official ballot for any regular municipal election, or, in the alternative, shall place the question on the official ballot for any regular municipal election upon submission to the legislative body of a petition signed by 5 percent of the registered voters.

(b) The selectmen, aldermen, or city council shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.

(c) The wording of the question shall be substantially as follows: "Shall we adopt the provisions of RSA 287-H, allowing the operation of electronic games of chance at the licensed facility located within the town and operated by the state?"

II. If a majority of those voting on the question vote "Yes," RSA 287-H shall apply within the city or town.

III. If the question is not approved, the question may later be voted upon according to the provisions of paragraph I, provided, however, that the town may consider the question at no more than one special town meeting and the annual town meeting in the same calendar year.

287-H:26 Declaration of Limited Exemption. Pursuant to section 2 of an act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in

interstate and foreign commerce,” approved January 2, 1951, being Chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. sections 1171-1177, the state of New Hampshire, acting by and through the duly elected and qualified members of its legislature, does hereby, in accordance with and in compliance with the provisions of that section 2 of that act of Congress, declare and proclaim that section 2 of that act of Congress shall not apply to any gambling device in this state where the transportation of such a device is specifically authorized by and done in compliance with the provisions of this chapter and any rules adopted pursuant to it, and that any such gambling device transported in compliance with state law and rules shall be exempt from the provisions of that act of Congress.

287-H:27 Legal Shipment of Gaming Devices into New Hampshire. All shipments into this state of gaming devices, the registering, recording and labeling of which has been duly made by the manufacturer or dealer in accordance with sections 3 and 4 of an act of Congress of the United States entitled “An act to prohibit transportation of gambling devices in interstate and foreign commerce,” approved January 2, 1951, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. sections 1171-1172, shall be deemed legal shipments into this state.

287-H:28 Gambling Addiction Prevention Fund.

I. A gambling addiction prevention fund shall be established in the state treasury. The fund shall only be used for gambling addiction prevention projects and expenses relating to the projects and shall be administered by the department of health and human services. The commissioner of the department of health and human services shall adopt rules relative to the use of funds.

II. All fees collected under RSA 287-H:17, IX shall be credited to the fund established in paragraph I.

2 New Subparagraph; Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (276) the following new subparagraph:

(277) Moneys deposited in the gambling addiction prevention fund established in RSA 287-H:28.

3 New Paragraph; Attorney General; Gaming Investigators. Amend RSA 21-M:3 by inserting after paragraph VII the following new paragraph:

VIII. The attorney general may hire investigators or contract for investigatory services to facilitate background investigations required under RSA 287-H, and said investigators shall be paid from licensing fees paid under RSA 287-H:15.

4 New Sections; Division of Gaming Enforcement. Amend RSA 21-P by inserting after section 8 the following new sections:

21-P:8-a Division of Gaming Enforcement.

I. There is hereby established a division of gaming enforcement under the supervision of an unclassified director of gaming enforcement whom shall be responsible for the following functions, in accordance with applicable laws:

(a) Manage and hire employees for the day-to-day operation of all video lottery locations ensuring the integrity of the program. Gaming enforcement employees shall be assigned to all locations and will be present at all times whether the location is open or closed.

(b) Investigate violations of RSA 284 or RSA 287-H and the rules adopted under the provisions of RSA 284 or RSA 287-H.

(c) Report the results of any investigation conducted to the gaming oversight authority.

(d) Participate in any hearing conducted by the gaming oversight authority.

II. The commissioner of safety shall organize the division into such units as the commissioner deems necessary.

21-P:8-b Powers and Duties; Gaming Enforcement. The director of gaming enforcement shall be the chief administrative officer of the division of gaming enforcement and shall have the following powers and duties:

I. The director shall manage all operations of the division of gaming enforcement and the daily operation of video lottery locations and administer and enforce the laws with which the division is charged. The director shall report directly to the gaming oversight authority.

II. The director shall have every power enumerated in the laws, whether granted to the director, the division, or any administrative unit of the division. In accordance with these provisions, the director shall:

(a) Biennially compile a comprehensive program budget which reflects all fiscal matters related to the operation of the division and each program and activity of the division.

(b) Adopt all rules of the division with approval of the gaming oversight authority, pursuant to RSA 541-A.

(c) Exercise general supervisory and appointing authority over all division employees, subject to applicable personnel statutes and rules.

(d) Delegate authority to subordinates as the director deems necessary and appropriate, except that rulemaking authority shall not be delegated. All such delegations shall be made in writing, shall be disseminated, shall clearly delineate the authority delegated and the limitations thereto, and shall be kept on file in the director's office.

(e) Adopt practices which will improve the efficiency of the division and the provision of services to the citizens of the state.

(f) Provide cooperation, at the request of the heads of administratively attached agencies in order to:

(1) Minimize or eliminate duplication of services and jurisdictional conflicts;

(2) Coordinate activities and resolve problems of mutual concern; and

(3) Resolve by agreement the manner and extent to which the division shall provide budgeting, recordkeeping and related clerical assistance to administratively attached agencies.

(g) Give bond, and require division directors to give bond, to the state as specified in RSA 93-B.

(h) Where functions of divisions overlap or a function assigned to one division could better be performed by another division, recommend appropriate legislation to the next regular session of the general court.

III. The director shall adopt such reasonable internal practices and procedures, which shall not be considered rules subject to the provisions of RSA 541-A, as may be necessary to carry out the duties of the division and its divisions, consistent with this chapter, including without limitation a comprehensive manual of procedures for the operation of video lottery locations.

IV. The director may not accept, on behalf of the division, any grants of money without first obtaining the express consent of the legislative fiscal committee established by RSA 14:30-a.

V. The director shall have the authority to adopt rules, pursuant to RSA 541-A, necessary to assure the continuation or granting of federal funds or other assistance not otherwise provided for by law.

VI. The director may enter into contracts for services, supplies, or other needs of the division.

VII. The director shall report annually to the gaming oversight authority with respect to the division's operation for the preceding year, and render such other reports as the governor and council, the general court, or the gaming oversight authority shall from time to time request.

VIII. The director shall develop, publish, and periodically revise an annual comprehensive plan for the division which shall indicate, among other things, the division's goals, objectives, resources, current conditions, and needs. The director shall annually submit such comprehensive plan to the gaming oversight authority.

IX. The director, the gaming oversight authority, the commissioner of the department of safety, and if necessary, the sweepstakes commission shall jointly establish procedures for sharing data, background investigation, technology and technology providers, and facilities. These procedures shall not be considered rules subject to RSA 541-A and shall be established so as to ensure compliance with state and federal confidentiality and privacy laws.

X. If this section conflicts with other powers and duties specifically granted by statute to the director, the specific powers and duties shall control. If this section conflicts with other statutes specifically limiting the powers of the director, the specific limitations shall control.

5 Director of Gaming Enforcement; Salary. The salary for the unclassified position authorized in section 4 of this act shall be established as provided in RSA 14:14-c, RSA 17-A:7, and RSA 94:1-d.

6 New Subparagraph; Authorized Video Lottery of Games of Chance Machines Not Prohibited. Amend RSA 647:2, V by inserting after subparagraph (c) the following new subparagraph:

(d) Video lottery machines authorized pursuant to RSA 287-H.

7 New Subparagraph; Application of Receipts; Machine Income Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (276) the following new subparagraph:

(277) Moneys deposited in the machine income fund established under RSA 287-H:17.

8 New Paragraph; Facility Licensee; Cocktail Lounge License. Amend RSA 178:20 by inserting after paragraph V the following new paragraph:

VI. The liquor commission may issue a special license to a person holding a facility license as defined by RSA 287-H:1, V. Such special license shall allow the sale of liquor, wine, and beverages within the facility licensee location, including dining room, function room, gaming room, lounge, or any other area designated by the commission, without regard to whether meals are served therein, but only during the time gaming is being conducted under RSA 287-H. A person licensed under this section shall comply with RSA 179:44.

9 Taxation of Incomes; Rate Lowered. Amend RSA 77:1 to read as follows:

77:1 The annual tax upon incomes shall be levied at the rate of [~~5~~] **2.5** percent.

10 Effective Date.

I. Section 9 of this act shall take effect one year after the effective date of this act.

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

AMENDED ANALYSIS

This bill:

I. Regulates video gaming, establishes the division of gaming enforcement, and establishes the gaming oversight authority.

II. Determines the disbursement of all proceeds of video gambling with 60 percent of the proceeds distributed to the general fund and establishes a new fund for gambling addiction and prevention.

III. Establishes a new fund in the state treasurer's office for machine income.

IV. Allows facility licensees to receive a cocktail lounge license.

V. Lowers the rate of tax on income derived from interest and dividends.

2009-0034h

Amendment to HB 481-FN-A

Proposed by the Majority of the Committee on Fish and Game and Marine Resources - R

Amend RSA 214:9, XVI(b) as inserted by section 2 of the bill by replacing it with the following:

(b) A resident or nonresident owner or operator of a for-hire vessel who wishes to provide recreational saltwater fishing opportunities for persons taking finfish from coastal

and estuarine waters, shall pay a fee according to the schedule in subparagraph (e), and shall thereupon be issued a recreational saltwater license which shall entitle the licensee to operate a for-hire vessel to take, possess, or transport finfish from coastal and estuarine waters, under the restrictions of this title.

2009-0314h

Amendment to HB 490 FN-A-LOCAL

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 maintenance of state-owned dams.

Amend the bill by replacing section 2 with the following:

2 New Section; Funding for Maintenance of State-Owned Dams. Amend RSA 482 by inserting after section 56 the following new section:

482:56-a Funding for Maintenance of State-Owned Dams. The legislature shall adequately appropriate funds for the maintenance of state-owned dams. Funding for such maintenance may be from dedicated funds or from bequests to the dam maintenance fund established under RSA 482:55.

AMENDED ANALYSIS

This bill requires the legislature to appropriate funds for the maintenance of state-owned dams.

2009-0239h

Amendment to HB 538-FN

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

Amend RSA 485-A:15, I as inserted by section 2 of the bill by replacing it with the following:

I. It shall be unlawful for any person to put or place, or cause to be put or placed into a surface water of the state or on the ice over such waters, or on the banks of such waters, any ***solid waste as defined in RSA 149-M or hazardous waste as defined in RSA 147-A, including but not limited to*** bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, tires, old automobiles or parts thereof, trees ***or parts thereof***, or similar litter.

2009-0296h

Amendment to HB 598-FN

Proposed by the Committee on Executive Departments and Administration - R

Amend RSA 311-B:5, II as inserted by section 5 of the bill by replacing it with the following:

II. Submits professional references or recommendations that comply with other standards specified by rule, certifying that the applicant is trustworthy and competent to auction real, personal, and mixed property in such a manner as to safeguard the interests of the public. Each such recommendation shall set forth the writer's name, address, and occupation, the extent of the writer's acquaintanceship with the applicant, the writer's familiarity with the applicant's past business experience and dealings and any additional knowledge of the applicant's background upon which the writer bases the recommendation; Amend RSA 311-B:13, IV and V as inserted by section 12 of the bill by replacing them with the following:

IV. Any individual may, without being licensed, sell his or her own personal property through competitive bidding, using any electronic or non-electronic means.

V. Any individual may, without being licensed, sell the personal property of another through timed competitive bidding, using the internet or any other electronic means and accept an associated fee, provided that such individual does not:

(a) Represent by any verbal statement, sign, letterhead, card, or any other way that they are auctioneers or able to perform auctioneering services; or

(b) Use or otherwise assume in conjunction with the personal name, or advertise any title or description tending to convey the impression that such person is an auctioneer licensed under this chapter.

2009-0352h

Amendment to HB 600-FN

Proposed by the Committee on Ways and Means - C

Amend the introductory paragraph of RSA 6:12-e as inserted by section 8 of the bill by replacing it with the following:

6:12-e Reporting Requirements for Dedicated Funds.

~~[F.]~~ ***The definitions established in RSA 6:12 shall apply to this section.*** The administrator of each fund, account, or trust listed in RSA 6:12, RSA 6:12-b, RSA 6:12-c, and RSA 6:12-d shall complete and file a biennial report with ~~[the state treasurer]~~ ***the commissioner of administrative services*** on or before ~~[January 15, 2004, and every other]~~ ***September 15, 2009, and each odd-numbered*** year thereafter. The ~~[treasurer]~~ ***commissioner of administrative services*** shall forward the reports to the relevant legislative policy committees of the house and senate as indicated on said reports by the administrator of each fund, account, or trust ***by November 15.*** Each biennial report shall include, but not be limited to:

2009-0345h

Amendment to HB 601-FN

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

Amend RSA 21-M:8-h, II as inserted by section 1 of the bill by replacing it with the following:

II. The claimant, guardian ad litem or child advocate, or parent ~~[shall]~~ ***may*** file a claim for compensation within ~~[one year]~~ ***5 years*** of the crime, unless good cause is shown.

Amend RSA 21-M:8-h, V as inserted by section 2 of the bill by replacing it with the following:

V. The claimant may be reimbursed for reasonable out-of-pocket expenses, medical expenses, funeral expenses, counseling expenses, ***rehabilitative expenses, expenses associated with the victim's participation in post-conviction proceedings and victim-offender dialogue programs or other restorative justice programs,*** and lost wages directly resulting from the crime. No reimbursement shall be paid unless the claimant has incurred reimbursable expenses of at least \$100. There shall be a ~~[\$10,000 ceiling on]~~ ***\$30,000 maximum*** recovery per claimant per incident. If expenses paid through the victims' assistance program fund are later covered by insurance settlements, civil suit settlements, or restitution, or through any other source, the claimant shall reimburse the fund for the amount of expenses recovered.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 5:

3 New Paragraph; Claimant Eligibility. Amend RSA 21-M:8-h by inserting after paragraph VII the following new paragraph:

VIII. If the commission makes an award to a crime victim that exceeds the funds available in the victims' assistance fund under RSA 21-M:8-i, the commission shall notify the attorney general and request that the attorney general secure additional funds pursuant to the procedure set forth in RSA 7:12, III, sufficient to make the full award to the crime victim. No funds awarded as grants for the establishment or maintenance of victims' assistance programs under RSA 21-M:8-i, I shall be diverted to provide compensation to victims under RSA 21-M:8-g, III.

4 Attorney General; Assistants. Amend RSA 7:12 to read as follows:

7:12 Assistants; ***Compensation for Crime Victims.***

I. With the approval of the joint legislative fiscal committee and the governor and council, the attorney general may employ counsel, attorneys, detectives, experts, accountants and other assistants in case of reasonable necessity, and may pay them reasonable

compensation, on the warrant of the governor, out of any money in the treasury not otherwise appropriated.

II. With the approval of the joint legislative fiscal committee and the governor and council, the attorney general may expend funds in excess of budgeted amounts to pay witness fees. Such fees may be paid on the warrant of the governor, out of any money in the treasury not otherwise appropriated.

III. In the event the attorney general is notified by the victims' assistance commission that there are insufficient funds to fully compensate a crime victim who has been awarded compensation pursuant to RSA 21-M:8-h, with the approval of the joint legislative fiscal committee and the governor and council, the attorney general may transfer sufficient funds into the victims' assistance fund to meet the amount of compensation awarded to the victim. Such funds may be paid on the warrant of the governor, out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill raises the limit of recovery from the victim's assistance fund to \$30,000, increases the time limit on filing claims for compensation, allows victims to be compensated for expenses associated with participation in post-conviction proceedings, and victim-dialogue programs or other restorative justice programs, and authorizes the attorney general to expend, with the approval of the fiscal committee and the governor and council, additional funds for awards to victims of crime.

2009-0358h

Amendment to HB 610-FN

Proposed by the Committee on Commerce - C

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

1 Findings. The general court finds that:

I. The activities of mortgage lenders, mortgage brokers, and mortgage loan originators (collectively "providers") and the origination or offering of financing for residential real property have a direct, valuable, and immediate impact upon New Hampshire's consumers, New Hampshire's economy, the neighborhoods and communities of New Hampshire, and the housing and real estate industry.

II. Accessibility to mortgage credit is vital to New Hampshire's citizens and it is essential for the protection of the citizens of New Hampshire and the stability of New Hampshire's economy that reasonable standards for licensing and regulation of the business practices of mortgage loan providers be imposed.

III. The obligations of mortgage loan providers to consumers in connection with originating, brokering, or making residential mortgage loans are such as to warrant the regulation of the mortgage lending process.

IV. The purpose of this act is to protect consumers seeking mortgage loans and to ensure that the mortgage lending industry is operating without unfair, deceptive, and fraudulent practices on the part of mortgage loan originators and the mortgage industry.

2 Definitions. Amend RSA 397-A:1, IV to read as follows:

IV. "Branch office" means a location within ***or without*** this state of a person required to be licensed under this chapter that is identified by any means to the public as a location at which a mortgage banker or mortgage broker conducts ***New Hampshire*** mortgage business. Branch office does not include:

(a) A person's principal office location.

(b) A location identified solely in a telephone directory line listing or on a business card or letterhead if:

(1) The listing, card, or letterhead also sets forth the address and telephone number of a New Hampshire ***licensed*** office of the mortgage banker or mortgage broker from which all individuals conducting mortgage business from such identified location are

directly supervised[-], ***provided that such supervisory office is located within 100 miles of the identified location; and***

(2) No more than one agent, employee, originator, or other representative transacts business on behalf of the mortgage banker or broker from such identified location.

(c) Any other location not within the intent of this paragraph as the commissioner may determine.

3 New Paragraphs; Definitions. Amend RSA 397-A:1 by inserting after paragraph VI-a the following new paragraphs:

VI-b. "Depository institution" has the same definition as in section 3 of the Federal Deposit Insurance Act, and includes any insured credit union.

VI-c. "Dwelling" means a residential structure or mobile or manufactured home which contains one to 4 family housing units located in New Hampshire whether or not attached to real property, or individual units of condominiums or cooperatives. The term includes ***manufactured housing***, a mobile home, and ***a*** trailer if it is used or intended to be used as a residence.

VI-d. "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, or the Federal Deposit Insurance Corporation.

VI-e. "Financial services" or "financial services-related" means securities, commodities, banking, insurance, consumer lending, or real estate, including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage broker, ***mortgage servicer***, real estate salesperson or agent, closing agent, title company, or escrow agent.

4 New Paragraphs; Definitions. Amend RSA 397-A:1 by inserting after paragraph VIII-a the following new paragraphs:

VIII-b. "Individual" means a natural person.

VIII-c. "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. "Immediate family member" includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

5 Definitions. Amend RSA 397-A:1, X to read as follows:

X. "Licensee" means a person, whether mortgage banker ~~[or]~~, mortgage broker, ***or mortgage originator***, duly licensed by the commissioner pursuant to the provisions of this chapter.

6 New Paragraphs; Definitions. Amend RSA 397-A:1 by inserting after paragraph XI the following new paragraphs:

XI-a.(a) "Loan processor" or "underwriter" means an individual who performs clerical or support duties as an employee of and at the direction of and subject to the supervision and instruction of a licensed mortgage banker, licensed mortgage broker or registered mortgage servicer.

(b) For purposes of this paragraph, "clerical or support duties" may include subsequent to the receipt of an application:

(1) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(2) Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

(c) An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator.

XI-b. "Management level employee" means any officer of record, assistant vice president or higher, office or branch manager, director of operations, or other position the responsibilities of which provide such employee with the discretion or ability to set policy or manage or direct affairs of the licensee as a whole, or of any division or department or unit of the licensee.

7 New Paragraph; Definitions. Amend RSA 397-A:1 by inserting after paragraph XIII the following new paragraph:

XIII-a. "Mortgage lender" means a mortgage banker.

8 Definitions. Amend RSA 397-A:1, XIV to read as follows:

XIV. "Mortgage loan" **or "residential mortgage loan"** means **any loan, including** a first or second mortgage loan, **primarily for personal, family, or household use** which is secured in whole or in part by a mortgage, **deed of trust, or other equivalent consensual security interest** upon **a dwelling or** any interest in real property ~~[used as a dwelling with accommodations for not more than 4 families]~~ **or in residential real estate.**

9 New Paragraphs; Definitions. Amend RSA 397-A:1 by inserting after paragraph XIV the following new paragraphs:

XIV-a. "Mortgage servicer" means a mortgage servicing company

XIV-b. "Mortgage servicing company" shall have the same meaning as provided in RSA 397-B:1, III.

XIV-c. "Nationwide Mortgage Licensing System and Registry" means a national licensing system and facility developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, or their successors, for the licensing and registration of mortgage loan originators, mortgage lenders, mortgage servicers, and mortgage brokers or any similar system established by the Secretary of the United States Department of Housing and Urban Development.

XIV-d. "Nontraditional mortgage product" means any mortgage product other than a 30-year fixed-rate mortgage.

10 Definitions. Amend RSA 397-A:1 to read as follows:

XVII.(a) "Originator" **or "mortgage loan originator" or "mortgage originator" or "loan originator"** means an individual who ~~[is employed or retained and supervised by a mortgage banker or mortgage broker required to be licensed under RSA 397-A and who,]~~ for **direct or indirect** compensation or gain or in the expectation of **direct or indirect** compensation or gain, **takes a mortgage application or offers,** negotiates, solicits, arranges, or finds a mortgage loan **or who assists a consumer in obtaining or applying to obtain a mortgage loan by, among other things, advising on loan terms (including rates, fees, and other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a mortgage loan or who offers or negotiates terms of a residential mortgage loan.** No individual may act as an originator for more than one ~~[licensee]~~ **mortgage broker, mortgage servicer, or mortgage banker. A sole proprietor licensed as a mortgage broker, mortgage servicer, or mortgage banker shall also obtain a license as a mortgage originator prior to engaging in the activities of a mortgage originator. Mortgage loan originator does not include:**

(1) *An individual engaged solely as a loan processor or underwriter except as otherwise provided in RSA 397-A:3, II-a;*

(2) *A person that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, mortgage servicer, or other mortgage loan originator or by any agent of such lender, mortgage broker, mortgage servicer, or other mortgage loan originator; and*

(3) *A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. section 101(53D).*

(b) For purposes of this paragraph, “takes a mortgage application” means:

(1) Recording the borrower’s application information in any form for use in a credit decision; or

(2) Receiving the borrower’s application information in any form for use in a credit decision.

11 Definitions. Amend RSA 397-A:1, XXI to read as follows:

XXI. “Real property” means **a dwelling or** land and the improvements which are affixed thereon **or are intended to be fixed thereon**, including, but not limited to, single-family homes[,] **and** multifamily dwellings not exceeding 4 units, ~~[manufactured housing as defined in RSA 384:16-d, II, and any single family condominium unit,]~~ wholly or partly used or occupied, or intended to be used or occupied, as the home or residence of one or more persons.

12 New Paragraphs; Definitions. Amend RSA 397-A:1 by inserting after paragraph XXI the following new paragraphs:

XXI-a. “Registered mortgage loan originator” means any individual who

(a) Meets the definition of mortgage loan originator and is an employee of

(1) A depository institution;

(2) A subsidiary that is:

(A) Owned and controlled by a depository institution; and

(B) Regulated by a federal banking agency; or

(3) An institution regulated by the Farm Credit Administration; and

(b) Is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

XXI-b. “Residential real estate” means any real property located in New Hampshire, upon which is constructed or intended to be constructed a dwelling.

XXI-c. “Reverse mortgage” means a mortgage loan generally available to seniors, usually 62 years of age and older, in which a mortgage, deed of trust, or equivalent consensual security interest securing one or more advances is created in the consumer’s dwelling and the payment stream for principal, interest, shared appreciation, or equity is not due and payable until a maturity event or default occurs or any similar debt instrument as the commissioner determines.

13 New Paragraph; Definitions. Amend RSA 397-A:1 by inserting after paragraph XXIII the following new paragraph:

XXIII-a. “Senior manager” means a management level employee.

14 New Paragraphs; Definitions. Amend RSA 397-A:1 by inserting after paragraph XXIV the following new paragraphs:

XXV. “Unique identifier” means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

XXVI. “Yield spread premium” means a cash rebate paid to a mortgage broker or mortgage originator that is based on selling an interest rate to a borrower that is above the wholesale par rate that the borrower qualifies for.

15 Application of Chapter. Amend RSA 397-A:2, I to read as follows:

I. This chapter shall provide for the department’s regulation of persons that engage in the business of **offering, originating, making, funding,** or brokering mortgage loans **from the state of New Hampshire or mortgage loans** secured by real property located in the state of New Hampshire~~[, which is or shall be occupied in whole or in part as a place of residence by the borrower and which consists of not more than 4 living units].~~

16 License Required. Amend RSA 397-A:3, II to read as follows:

II. It is unlawful for any individual to transact business in this state as an originator unless such individual is licensed under this chapter. **An individual shall not engage in the business of a mortgage loan originator with respect to any dwelling without first obtaining and maintaining annually a license under this chapter and each**

licensed mortgage loan originator shall register with and obtain and maintain a valid unique identifier issued by the National Mortgage Licensing System and Registry. Under this chapter, an originator's license is only in effect when such originator is associated with a particular licensed mortgage **banker, servicer, or** broker.

17 New Paragraph; License Required; Loan Processor or Underwriter. Amend RSA 397-A:3 by inserting after paragraph II the following new paragraph:

II-a. A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless such independent contractor loan processor or underwriter obtains and maintains a license. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

18 New Paragraph; License Required; Branch Office Licensee. Amend RSA 397-A:3 by inserting after paragraph III the following new paragraph:

IV. A branch office of a mortgage banker or mortgage broker shall be licensed prior to conducting business at such location.

19 Exemptions. RSA 397-A:4 is repealed and reenacted to read as follows:

397-A:4 Exemptions. The provisions of this chapter shall not apply to:

I. Depository institutions or their subsidiaries that are owned and controlled by a depository institution or an institution regulated by the Farm Credit Administration.

II. Registered mortgage loan originators, when acting for an entity described in paragraph I.

III. Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual.

IV. An individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence.

V. A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, provided that the attorney is not compensated, directly or indirectly, by a lender, a mortgage broker, mortgage servicer, or other mortgage loan originator or by any agent of such lender, mortgage broker, mortgage servicer, or other mortgage loan originator.

20 License Application; Investigation. Amend RSA 397-A:5, I to read as follows:

I. To be considered for mortgage banker or mortgage broker licensing, each person shall complete and file with the department, **through the Nationwide Mortgage Licensing System and Registry**, one verified application prescribed by the commissioner. At a minimum, the application shall state the primary business address of the applicant, the applicant's tax identification number, the address of its principal office and all branch offices [~~located or to be located within the state~~], and a list of the principals of the applicant. Each principal shall provide his or her social security number and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and its principals, and the applicant's financial condition and history. The applicant shall disclose whether the applicant or any of its principals has ever been issued or been the subject of an injunction or administrative order, has ever been convicted of a misdemeanor involving the lending industry or any aspect of the lending business or has ever been convicted of any felony.

21 New Subparagraph; License Application; Investigation. Amend RSA 397-A:5, II by inserting after subparagraph (d) the following new subparagraph:

(e) The department may rely on criminal records checks reported through the Nationwide Mortgage Licensing System and Registry in lieu of subparagraphs (b) and (c).

22 License Application; Bankers and Mortgage Brokers. Amend RSA 397-A:5, III to read as follows:

III.(a) The mortgage banker or mortgage broker license issued for the licensee's principal place of business shall be referred to as a "principal office license." Each additional license issued for **New Hampshire** mortgage lending or brokering activity occurring in a location ~~[in this state]~~ that is separate from the licensee's principal place of business shall be referred to as a "branch office license." ~~[If the applicant or licensee desires to make or broker mortgage loans in more than one location, the commissioner, upon favorable action on the applicant's principal office license, shall issue a branch office license for each location where the business of making or brokering mortgage loans is to be conducted.]~~

(b) Each mortgage banker or mortgage broker license application shall be accompanied by a nonrefundable application fee of \$500 for each separate office location to be licensed. Sums collected under this chapter shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the commissioner, consumer credit administration division.

(c) Each mortgage banker or mortgage broker applicant shall be required to submit to the department detailed financial information sufficient for the commissioner to determine the applicant's ability to conduct the business of a mortgage banker or a mortgage broker with financial integrity. The **mortgage broker's** application shall include a statement of net worth~~[-]~~ **prepared in accordance with the generally accepted accounting principles. The mortgage banker's application shall include a balance sheet, income statement, cash flow statement, statement of owner's equity, and note disclosure, and shall be prepared in accordance with generally accepted accounting principles.** An applicant or licensee shall demonstrate and maintain a **minimum** positive net worth **and an amount of minimum positive net worth shall be set by rule. Minimum net worth shall be maintained in an amount that reflects the dollar amount of loans originated as determined by the commissioner.** Net worth statements provided in connection with a license application under this section shall be subject to review and verification during the course of any examination or investigation conducted under the authority of RSA 397-A:12. Each mortgage banker applicant shall ~~[demonstrate a net worth at all times of at least \$100,000 or increase their posted]~~ **post a** continuous surety bond ~~[to a total]~~ **in the minimum** amount of \$100,000 **to the commissioner that shall be increased under conditions set by rule.** Each mortgage ~~[banker and]~~ broker shall post a continuous surety bond in the **minimum** amount of ~~[\$20,000]~~ **\$50,000** to the commissioner~~[-]~~ **that shall be increased under conditions set by rule. Surety bonds shall provide coverage in an amount that reflects the dollar amount of loans originated by each mortgage loan originator employed by or retained by the mortgage banker or mortgage broker as determined by the commissioner.** Surety bonds shall include a provision requiring the surety to give written notice to the commissioner 20 days in advance of the cancellation or termination of the bond. Every bond shall provide that no recovery may be made against the bond unless the state makes a claim for recovery or the person brings suit naming the licensee within 6 years after the act upon which the recovery or suit is based. **When an action is commenced on a licensee's bond, the licensee shall immediately file a new bond. Immediately upon recovery upon any action on the bond the licensee shall file a new bond.**

(d) No person shall be issued or continue to hold a mortgage banker or mortgage broker license unless at least one person employed full-time in a supervisory capacity at the company's principal office shall have been actively engaged in the mortgage business in a similar supervisory capacity for a minimum of 3 of the preceding 5 years.

23 License Application; Investigation. Amend RSA 397-A:5, IV-a to read as follows:

IV-a. To be considered for originator licensing, the applicant shall complete and file with the department, **through the Nationwide Mortgage Licensing System and Registry**, one verified application prescribed by the commissioner. The application shall be signed under oath by both the originator applicant and ~~[by]~~ the licensed mortgage banker or mortgage broker for whom the individual will originate mortgage loans. **Each licensed**

mortgage originator shall register with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry. At a minimum, the application shall state the primary business address of the applicant and the applicant's social security number and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner ***and the Nationwide Mortgage Licensing System and Registry*** may require including, but not limited to, the applicant's residential and employment history. The applicant shall disclose his or her financial, criminal, regulatory civil, arbitration, civil litigation, and employment termination history, including but not limited to, whether the applicant has ever been issued or been the subject of an injunction or administrative order or has ever been charged with or convicted of a misdemeanor or any felony. Each license application shall be accompanied by a nonrefundable license fee of \$100. A mortgage originator's license may be transferred during a calendar year from one mortgage banker, ***mortgage servicer***, or mortgage broker to another upon payment of a \$50 fee and approval by the commissioner ***provided such application is filed prior to the expiration of the 15-day time frame established by RSA 397-A:3, III.*** Sums collected under this chapter shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the commissioner, consumer credit administration division.

24 New Paragraphs; License Application; Investigation. Amend RSA 397-A:5 by inserting after paragraph IV-a the following new paragraphs:

IV-b. Each mortgage loan originator operating in New Hampshire and each mortgage loan originator making or brokering mortgage loans on New Hampshire real property and each principal of a mortgage banker or mortgage broker shall, in addition to other requirements in New Hampshire law and regulations, prior to licensure:

(a) Furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's or principal's identity, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check; and

(2) Personal history and experience in a form prescribed by the commissioner and the Nationwide Mortgage Licensing System and Registry including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain:

(A) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(B) Information related to any administrative, civil, or criminal findings by any law enforcement entity, court, or governmental jurisdiction; and

(C) Criminal history record information; and

(D) Other background information as may be required by the commissioner.

(b) For the purposes of this paragraph and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for subparagraphs IV-b(a)(1) and IV-b(a)(2)(B), the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.

(c) For the purposes of this paragraph and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subparagraphs IV-b(a)(2)(A) and (B), the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

IV-c.(a) The commissioner shall not issue a mortgage loan originator license unless the commissioner makes at a minimum the following findings that the applicant:

(1) Has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation; and

(2) Has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

(A) During the 7-year period preceding the date of the application for licensing and registration; or

(B) At any time preceding the date of such application if such felony involved an act of fraud, dishonesty, theft, or a breach of trust or money laundering; and

(C) Provided that any pardon of a conviction shall not be a conviction for the purposes of this paragraph; and

(3) Has not ever been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court except that for a felony conviction at a time prior to 10 years preceding the date of such application that did not involve an act of fraud, dishonesty, theft, or a breach of trust or money laundering, the commissioner may allow licensure by rule or order; and

(4) Has not ever been convicted of, or pled guilty or nolo contendere in a domestic, foreign, or military court to, a misdemeanor involving: financial services or a financial services-related business; any fraud, false statements, or omissions; any theft or wrongful taking of property; bribery; perjury; forgery; counterfeiting; extortion; or a conspiracy to commit any of these offenses except that for such a misdemeanor conviction at a time prior to 10 years preceding the date of such application, the commissioner may allow licensure by rule or order; and

(5) Has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this chapter. For purposes of this subparagraph a person has shown that he or she is not financially responsible when he or she has shown a disregard in the management of his or her own financial condition. A determination that an individual has not shown financial responsibility may include, but not be limited to:

(A) Bankruptcies filed within the previous 10 years;

(B) Current outstanding judgments, except judgments solely as a result of medical expenses;

(C) Current outstanding tax liens or other government liens and filings;

(D) Foreclosures within the previous 3 years;

(E) A pattern of serious delinquent accounts within the past 3 years; and

(6) Has completed the pre-licensing education requirement described in subparagraph (b); and

(7) Has passed a written test that meets the test requirement described in subparagraph (c); and

(8) Is covered by a surety bond maintained by the mortgage banker, mortgage servicer, or mortgage broker who employs or retains the originator. The surety bond shall provide coverage for each mortgage loan originator in an amount that reflects the dollar amount of loans originated as determined by the commissioner.

(b)(1) For purposes of subparagraph (a)(6), a person shall complete at least 20 hours of education approved in accordance with subparagraph (c), which shall include at least:

(A) Three hours of federal law and regulations;

(B) Three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) Two hours of training related to lending standards for the nontraditional mortgage product marketplace; and

(2) Pre-licensing education courses shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a pre-licensing education course shall include review and approval of the course provider. Pre-licensing education may be offered either in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry. The pre-licensing education requirements approved by the Nationwide Mortgage Licensing System and Registry for any state shall be accepted as credit towards completion of pre-licensing education requirements in New Hampshire. An individual previously licensed under this chapter subsequent to July 31, 2009 who applies for a new license shall prove that he or she has completed all of the continuing education requirements for the year in which the license was last held.

(c)(1) For purposes of subparagraph (a)(7), an individual shall pass, in accordance with the standards established under this subparagraph, a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards.

(2) A written test shall not be treated as a qualified written test for purposes of this subparagraph unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including but not limited to:

- (A) Ethics.
- (B) Federal law and regulation pertaining to mortgage origination.
- (C) State law and regulation pertaining to mortgage origination.
- (D) Federal and state law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

(3) Nothing in this paragraph shall prohibit a test provider approved by the Nationwide Mortgage Licensing System and Registry from providing a test at the location of the employer of the applicant or the location of any subsidiary or affiliate of the employer of the applicant, or the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

(4) An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions. An individual may retake a test 3 consecutive times with each consecutive taking occurring at least 30 days after the preceding test. After failing 3 consecutive tests, an individual shall wait at least 6 months before taking the test again.

(5) A licensed mortgage originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test, not taking into account any time during which such individual is a registered mortgage loan originator.

IV-d.(a) In addition to other provisions in New Hampshire law and rules in order to be eligible to renew a license, a mortgage originator shall:

(1) Meet and continue to meet the minimum standards for license issuance under paragraph IV-c; and

(2) Satisfy the annual continuing education requirements described in paragraph IV-e; and

(3) Pay the annual originator license renewal fee of \$100.

(b) The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal shall expire. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry. The commissioner may deny or refuse to renew a mortgage loan originator's license for failure to meet minimum standards, for failure to pay outstanding fees or fines, for violation of state or Federal law and regulations, and for other good cause.

(c) Unless the commissioner has refused to renew or has denied a mortgage originator's application for renewal, an originator's license shall remain in force until it has

been surrendered, revoked, or suspended, or terminates or expires in accordance with the provisions of this chapter, including subparagraph (b). Each license shall expire on December 31 of each calendar year.

IV-e.(a) In order to renew a license, an originator shall complete at least 8 hours of education approved in accordance with subparagraph (b), which shall include at least:

- (1) Three hours of federal law and regulations;
- (2) Two hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and
- (3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

(b) For purposes of subparagraph (a), continuing education courses shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider. Continuing education may be offered either in a classroom or online or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

(c) A mortgage originator shall:

- (1) Only receive credit for a continuing education course in the year in which the course is taken; and
- (2) Not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(d) A mortgage originator who is an approved instructor of an approved continuing education course may receive credit for the mortgage originator's own annual continuing education requirement at the rate of 2 hours' credit for every 1 hour taught.

(e) Successful completion of the continuing education requirements approved by the Nationwide Mortgage Licensing System and Registry for any state shall be accepted as credit towards completion of the continuing education requirements in New Hampshire.

(f) A licensed mortgage loan originator who subsequently becomes unlicensed must complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

IV-f.(a) Mortgage originators who hold a valid New Hampshire mortgage originator's license on July 30, 2009 shall complete all the requirements of paragraphs IV-b, IV-c, IV-d, and IV-e prior to renewal of their licenses for the 2010 calendar year.

(b) The commissioner may by order establish interim procedures for licensing and acceptance of applications. For previously registered or licensed individuals, the commissioner may establish expedited review and licensing procedures.

IV-g. In order to fulfill the purposes of this chapter, the commissioner is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

25 New Subparagraph; License Requirements; Investigation. Amend RSA 397-A:5, V by inserting after subparagraph (b) the following new subparagraph:

(c) The applicant's principals shall meet the requirements of 397-A:5, IV-b and 397-A:5, IV-c(a)(1) through (5).

26 License Application; Requirements; Investigation. RSA 397-A:5, VI is repealed and reenacted to read as follows:

VI.(a) In addition to any other duties imposed upon the commissioner by law, the commissioner shall require mortgage bankers, mortgage brokers, mortgage servicers, and mortgage loan originators to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the commissioner is authorized to participate in the Nationwide Mortgage Licensing System and Registry. For

this purpose, the commissioner may establish by rule, order, or otherwise the procedures, requirements, and standards as necessary, including but not limited to:

- (1) Background checks for:
 - (A) Criminal history through fingerprint or other databases;
 - (B) Civil or administrative records;
 - (C) Credit history; and
 - (D) Any other information as deemed necessary by the Nationwide

Mortgage Licensing System and Registry; and

- (2) The payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry; and

- (3) The setting or resetting as necessary of renewal or reporting dates; and

- (4) Requirements for amending or surrendering a license or any other such activities as the commissioner deems necessary for participation in the Nationwide Mortgage Licensing System and Registry.

(b) The commissioner shall establish a process whereby mortgage loan originators may challenge information entered into the Nationwide Mortgage Licensing System and Registry by the commissioner.

27 New Paragraphs; License Application; Requirements; Investigation. Amend RSA 397-A:5 by inserting after paragraph VII the following new paragraphs:

VIII. A license shall not be issued and effective unless the applicant or licensee is licensed or registered in the licensee's or applicant's home state, which in the case of an organization is the state where its principal office is located and in the case of an individual is the state from which the individual primarily conducts mortgage business.

IX. Non-federally insured credit unions which employ loan originators, as defined in the S.A.F.E. Mortgage Licensing Act of 2008, Public Law 110-289, Title V, shall register such employees with the Nationwide Mortgage Licensing System and Registry by furnishing the information concerning the employees' identities set forth in section 1507(a)(2) of Public Law 110-289, Title V.

28 License Grant; Mortgage Bankers and Brokers. Amend RSA 397-A:6, I to read as follows:

I. If the commissioner determines that the applicant meets the requirements of this chapter, then the commissioner shall forthwith issue a license or licenses permitting the applicant to engage in the business of originating, making, or brokering mortgage loans in accordance with the laws of this state. ***The commissioner may, by order, restrict or impose conditions for a license. Licensees shall ensure that the Nationwide Mortgage License System and Registry unique identifier of any person originating a residential mortgage loan shall be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including business cards or websites, and any other documents as established by rule, regulation, or order of the commissioner.*** Licensees shall be responsible for the supervision of their employees, agents, loan originators, and branch offices. Licensees shall conduct background checks, including checking the list of entities issued by the Office of Foreign Assets Control (OFAC) whose assets were frozen by executive order, on all of their loan originators.

29 License Term; Renewal; Mortgage Bankers and Brokers. Amend RSA 397-A:8 to read as follows:

397-A:8 License Term; Renewal.

I. Each ***mortgage banker or mortgage broker*** license shall remain in force until it has been surrendered, revoked, ***or*** suspended, ***or*** terminates or expires in accordance with the provisions of this chapter. Each license shall expire on December 31 of each calendar year.

II. If a person holds a valid ***mortgage banker or mortgage broker*** license under this section and is in compliance with this chapter and the rules thereunder, such licensee may renew the license by paying the required fee to the banking department on or before

December 1 for the ensuing year that begins on January 1. Failure to renew the license shall result in the license terminating on December 31.

III. A mortgage banker or mortgage broker renewal fee of \$500 for the principal office license and each branch office license shall be submitted with the application for license renewal. ~~[An originator renewal fee of \$100 shall be submitted with the application for license renewal.]~~

IV. No application for renewal **of a mortgage banker or mortgage broker license** shall be denied without reasonable cause and the right of appeal pursuant to RSA 541-A and RSA 541.

30 Examination; Mortgage Bankers and Brokers. Amend RSA 397-A:12, V to read as follows:

V. The expense of such examination shall be chargeable to and paid by the licensee. The ~~[procedure for such]~~ payment shall be **calculated by** the same **method** as for payments by institutions for cost of examinations under RSA 383:11, except when the principal office of the licensee or person is located outside of this state and the department has determined that the examination must be conducted at that out-of-state location, the actual cost of travel, lodging, meals, and other expenses of examination personnel making the examination, shall be chargeable to and paid by such licensee or person in addition to the per diem charge for examination personnel set forth in RSA 383:11.

31 New Paragraphs; Examination; Mortgage Bankers and Brokers. Amend RSA 397-A:12 by inserting after paragraph X the following new paragraphs:

XI. Each licensee or person subject to this chapter shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of the chapter including but not limited to:

- (a) Accounting compilations;
- (b) Information lists and data concerning loan transactions in a format prescribed by the commissioner; and
- (c) Such other information deemed necessary to carry out the purposes of the chapter.

XII. In making any examination or investigation authorized by this chapter, the commissioner may control access to any documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of, being altered or destroyed for purposes of concealing a violation of this chapter, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

XIII. The authority of this section shall remain in effect, whether a licensee or person subject to this chapter acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

XIV. The authority of this section shall extend to any person who has custody of or control over documents within the jurisdiction of the commissioner including but not limited to title companies and other settlement providers who shall provide loan documents to the commissioner upon request.

XV. No licensee or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information. Such actions shall be fraud under the chapter.

32 New Section; Confidentiality; Mortgage Bankers and Brokers. Amend RSA 397-A by inserting after section 12 the following new section:

397-A:12-a Confidentiality.

I. In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing and except as otherwise provided in the S.A.F.E. Mortgage Licensing Act of 2008, Public Law 110-289, Title V, section 1512, the requirements under any federal law or RSA 383:10-b, RSA 383:10-c, RSA 397-A:12, X, and RSA 91-A regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. Such information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or RSA 383:10-b, RSA 383:10-c, RSA 397-A:12, X, and RSA 91-A.

II. The commissioner is authorized to enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies.

III. The commissioner shall regularly report violations of this chapter, the rules promulgated under this chapter, and enforcement actions taken under this chapter, and other relevant information, to the Nationwide Mortgage Licensing System and Registry subject to the provisions contained in paragraph I.

IV. Information or material that is subject to a privilege or confidentiality under paragraph I of this section shall not be subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

V. RSA 383:10-b, RSA 383:10-c, RSA 397-A:12, X, and RSA 91-A, relating to the disclosure of confidential supervisory information or any information or material described in paragraph I of this section that is inconsistent with paragraph I shall be superseded by the requirements of this section.

VI. This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

33 New Paragraph; Annual Report; Mortgage Bankers and Brokers. Amend RSA 397-A:13 by inserting after paragraph VI the following new paragraph:

VII. Each licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require.

34 New Paragraph; Lending Practices; Mortgage Bankers and Brokers. Amend RSA 397-A:14 by inserting after paragraph III the following new paragraph:

IV. No person subject to this chapter shall:

(a) Obtain property by fraud or misrepresentation;

(b) Solicit or enter into a contract with a borrower that provides that the person subject to this chapter may earn a fee or commission through “best efforts” to obtain a loan even though no loan is actually obtained for the borrower;

(c) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(d) Conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aide and abet any person in the conduct of business under this chapter without a valid license as required under this chapter;

(e) Fail to make disclosures as required by this chapter and any other applicable state or federal law including rules and regulations thereunder;

(f) Fail to comply with this chapter or rules or orders promulgated under this chapter, or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under this chapter;

(g) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising;

(h) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry or in connection with any investigation conducted by the commissioner or another governmental agency;

(i) Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(j) Collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by this chapter;

(k) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer;

(l) Fail to truthfully account for monies belonging to a party to a residential mortgage loan transaction;

(m) Collect an advance fee for a loan modification; or

(n) Engage in unfair, deceptive, unethical, or fraudulent business practice.

35 New Paragraphs; Borrowers Rights; Mortgage Bankers and Brokers. Amend RSA 397-A:15 by inserting after paragraph VII the following new paragraphs:

VIII. A yield spread premium is prohibited in a reverse mortgage transaction.

IX.(a) Every field on the United States Department of Housing and Urban Development's Good Faith Estimate (GFE) form shall be completed before it is given to a borrower. The mortgage originator shall complete the Tradeoff Table on the instruction page of the GFE where a yield spread premium is to be paid in connection with a mortgage transaction.

(b) At the time the interest rate is locked for a loan the borrower shall be given a completed GFE Tradeoff Table for such loan; the intent is to allow the borrower to clearly see the loan options available to him or her that he or she did not elect.

(c) When completing the GFE Tradeoff Table, if a loan with a lower interest rate is not available to a borrower an entry of "N/A" is acceptable and if a loan with lower settlement charges is not available an entry of "N/A is acceptable.

(d) A copy of each disclosure, including those required by IX(a)-(c), and its method and timing of delivery shall be kept by the mortgage broker and by the mortgage banker.

X. Mortgage bankers and mortgage brokers shall have a documented methodology, approved by a senior manager, that enables its employees, agents, and originators to make a reasonable determination that the borrower can repay a mortgage loan. The methodology shall reflect all relevant factors that have a bearing on the present and future capacity of the borrower to adequately service the debt. A mortgage banker, mortgage broker, and mortgage

originator shall not offer or extend a mortgage loan to a borrower unless a reasonable lender would believe at the time the loan is made that the borrower will be able to make the scheduled payments associated with the loan. The loan file kept by the mortgage banker, mortgage broker, and mortgage originator shall document the analysis used to arrive at that conclusion.

XI. A person, or its affiliate, brokering or funding a reverse mortgage shall not participate in, or be associated with, or employ any party that participates in or is associated with, any other financial or insurance activity and a mortgagor shall not be required, directly or indirectly, as a condition of obtaining a mortgage, to purchase any other financial or insurance product.

36 License Revocation; Suspension; Mortgage Bankers and Brokers. Amend the introductory paragraph of RSA 397-A:17, I to read as follows:

I. The commissioner may issue an order requiring a person to whom any license has been granted or any person under the commissioner's jurisdiction to show cause why the license should not be revoked[,] **or** suspended, or penalties imposed, or both, for violations of this chapter. The order shall give reasonable notice of the opportunity for a hearing and shall state the reasons for the issuance of the order. The commissioner may by order summarily postpone or suspend any license or application pending final determination of any order to show cause, or other order, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the respondent, applicant, or licensee that the order has been entered and of the reasons for the order and that within 10 calendar days after receipt of a written request the matter will be scheduled for hearing. Valid delivery of such order shall be by hand or certified mail at the last known principal office of the licensee, or respondent, to an officer, director, 5 percent or more owner, member, partner, or legal representative of the licensee or respondent. If the person to whom an order to show cause or other order is issued fails to request a hearing within 30 calendar days of receipt or valid delivery of the order and no hearing is ordered by the commissioner, then such person shall be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown. A hearing, if requested shall be scheduled not later than 10 calendar days after the written request for such hearing is received by the commissioner, after which and within 20 calendar days from the date of the hearing the commissioner shall enter an order making such disposition of the matter as the facts require. If the licensee or respondent fails to request a hearing within 30 calendar days of receipt or valid delivery of such order or fails to appear at a hearing after being duly notified, or cannot be located after a reasonable search, such person shall be deemed in default and the proceeding may be decided against the person upon consideration of the order to show cause or other order, the allegations of which may be deemed to be true. The commissioner may by order, upon due notice and opportunity for hearing, assess penalties or deny, suspend, ***decline to renew***, or revoke a license or application ***and bar any person from licensure*** if it is in the public interest and the applicant, respondent, or licensee, any partner, officer, member, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant, respondent, or licensee:

37 License Revocation; Suspension; Mortgage Bankers and Brokers. Amend RSA 397-A:17, I(a) to read as follows:

(a) Has violated any provision of this chapter or rules ***or orders*** thereunder;

38 License Revocation; Suspension; Mortgage Bankers and Brokers. RSA 397-A:17, II-III is repealed and reenacted to read as follows:

II. The commissioner may issue orders or directives under this chapter as follows:

(a) Order or direct persons subject to this chapter to cease and desist from conducting business, including immediate temporary orders to cease and desist.

(b) Order or direct persons subject to this chapter to cease any harmful activities or violations of this chapter, including immediate temporary orders to cease and desist.

(c) Enter immediate temporary orders to cease business under a license if the commissioner has determined that such license was erroneously granted or the licensee is currently in violation of the chapter or rules or orders under the chapter.

(d) Order or direct such other affirmative action as the commissioner deems necessary.

(e) Remove or ban from office or employment, including license revocation, any person conducting business under this chapter:

(1) For a violation of this chapter or orders or rules promulgated under this chapter; or

(2) For a violation of federal laws, rules, or regulations; or

(3) If the commissioner determines that such person has been convicted of a felony or misdemeanor that would preclude licensing under this chapter; or

(4) If by a preponderance of evidence the commissioner determines that the person no longer demonstrates the financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the person subject to the chapter will operate honestly, fairly, and efficiently within the purposes of the chapter.

(f) Deny, suspend, revoke, condition, or decline to renew a license if an applicant or licensee fails at any time to meet the requirements of RSA 397-A:5, IV-c or 397-A:5, IV-d, or withholds information or makes a material misstatement in an application for a license or renewal of a license.

III. If the commissioner finds that protection of consumers, lenders, or investors requires emergency action and incorporates a finding to that effect in his or her order, immediate suspension of a license may be ordered pending an adjudicative proceeding. The adjudicative proceeding shall be commenced not later than 10 business days after the date of the order suspending the license. Unless expressly waived by the licensee, the commissioner's failure to commence an adjudicative proceeding within 10 business days shall mean that the suspension order is automatically vacated. The commissioner shall not again suspend the license for the same conduct which formed the basis of the vacated suspension without granting the licensee prior notice and an opportunity for an adjudicative proceeding.

39 New Paragraphs; License Revocation; Suspension. Amend RSA 397-A:17 by inserting after paragraph VII the following new paragraphs:

VIII. After notice and opportunity for hearing, the commissioner may enter an order of rescission, restitution, or disgorgement of profits directed to a person who has violated this chapter, or a rule or order under this chapter. Rescission, restitution or disgorgement of profits shall be in addition to any other penalty provided for under this chapter or RSA 383:10-d.

IX. In addition to any other penalty provided for under this chapter, after notice and opportunity for hearing, the commissioner may assess fines and penalties against a mortgage loan originator in an amount not to exceed \$25,000 if the commissioner finds that such loan originator has violated or failed to comply with any requirement of the S.A.F.E. Mortgage Licensing Act of 2008, Public Law 110-289, Title V or any regulation or order issued thereunder. Each of the acts specified shall constitute a separate violation.

X. An action to enforce any provision of this chapter shall be commenced within 6 years after the date on which the violation occurred.

40 New Paragraph; Administration by Commissioner; Rulemaking. Amend RSA 397-A:20 by inserting after paragraph VII the following new paragraph:

VIII. The commissioner may share information with state and federal law enforcement agencies for the purposes of criminal investigations.

41 Records and Filings; Mortgage Bankers and Brokers. Amend RSA 397-A:22, I to read as follows:

I. A document is filed when it is received by the commissioner. If any filing deadline date falls on a weekend or on a New Hampshire state or federal legal holiday, the due date shall be automatically extended to the next business day following such weekend or holiday. ***Examination expenses, fines, penalties, and other moneys obliged to be paid to the department shall be due and payable within 14 days of receipt of notice by the licensee or other person or at such later time determined by the commissioner.***

42 Severability; Mortgage Bankers and Brokers. Amend RSA 397-A:23 to read as follows:

397-A:23 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the ~~[invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or application]~~ ***remainder of the chapter or the application of the provision to other persons or circumstances is not affected*** and to this end the provisions of this chapter are severable.

43 New Paragraph; Definitions; Control. Amend RSA 397-A:1 by inserting after paragraph V the following new paragraph:

V-a. "Control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any person is presumed to control a company that:

- (a) Is a director, general partner, or executive officer;
- (b) Directly or indirectly has the right to vote 10 percent or more of a class of a voting security or membership interest, or has the power to sell or direct the sale of 10 percent or more of a class of voting securities or membership interest;
- (c) In the case of a limited liability company, is a managing member; or
- (d) In the case of a partnership, has the right to receive upon dissolution, or has contributed, 10 percent or more of the capital.

44 New Paragraph; Definitions; Real Estate Brokerage Activity. Amend RSA 397-A:1 by inserting after paragraph XX-a the following new paragraph:

XX-b. "Real estate brokerage activity" means, for purposes of this chapter only, any activity that involves offering or providing real estate brokerage services to the public, including:

- (a) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;
- (b) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;
- (c) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property other than in connection with providing financing with respect to any such transaction;
- (d) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and
- (e) Offering to engage in any activity, or act in any capacity, described in subparagraphs (a), (b), (c), or (d)

45 License Posting. Amend RSA 397-A:9 to read as follows:

397-A:9 License Posting. It shall be unlawful to engage in the business of ~~[making or brokering mortgage loans]~~ ***a mortgage banker or mortgage broker*** without a conspicuously posted license in the licensee's principal place of business within this state and in each of the licensee's ***licensed*** branch offices ~~[within this state]~~.

46 License Surrender. Amend RSA 397-A:10-a to read as follows:

397-A:10-a License Surrender.

I.(a) A licensee who ceases to engage in the business of a mortgage banker, mortgage broker, or originator, at any time during a license year for any cause, including, but not limited to, bankruptcy, license revocation, or voluntary dissolution, shall surrender, ***by***

notice to the commissioner or by return of such paper license, **if a paper license was issued**, in person, **through the Nationwide Mortgage Licensing System and registered**, or by registered or certified mail to the commissioner within 15 calendar days of such cessation, and mortgage banker and mortgage broker licensees shall cause to be published in a newspaper of general circulation in the licensee's market area a notice to such effect. The commissioner shall adopt rules, in accordance with RSA 541-A, relative to such notice and final reports to the commissioner.

(b) Withdrawal of the surrendered license becomes effective ~~[30 days after]~~ **upon** receipt by the commissioner of the **notice of** license ~~[or within such shorter period of time as the commissioner may determine]~~, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 397-A:17 within one year after withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.

II. Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications and the imposition of penalties under RSA 397-A:21.

47 Administration by the Commissioner; Rulemaking. Amend RSA 397-A:20, V to read as follows:

V. The commissioner may, for good cause shown, abate all or a portion of **fees or** delinquency penalties assessed under this chapter.

48 New Paragraphs; Definitions. Amend RSA 397-B:1 by inserting after paragraph IV the following new paragraphs:

IV-a. "Mortgage loan" shall have the same meaning as provided in RSA 397-A:1, XIV.

IV-b. "Nationwide Mortgage Licensing System and Registry" shall have the same meaning as provided in RSA 397-A:1, XIV-a.

IV-c. "Originator" and "mortgage loan originator" shall have the same meaning as provided in RSA 397-A:1, XVII.

49 New Paragraph; Mortgage Servicing Companies. Amend RSA 397-B:4 by inserting after paragraph IV the following new paragraph:

V. A mortgage servicing company shall:

(a) File its initial and renewal application through the Nationwide Mortgage Licensing System and Registry and shall post a surety bond in the amount and terms for mortgage brokers under RSA 397-A:5, III and the rules adopted thereunder; and

(b) Supervise mortgage loan originators that it employs or retains; and

(c) License its mortgage loan originators through the Nationwide Mortgage Licensing System and Registry in accordance with all of the licensing provisions of RSA 397-A; and

(d) Follow the provisions of RSA 397-A as they pertain to originators and to the reporting requirements of the National Mortgage Licensing System and Registry.

50 Banking Department; Positions Established. The following classified positions are hereby established in the banking department:

I. Two bank examiner III, labor grade 27.

II. One hearings examiner, labor grade 31.

III. One paralegal II, labor grade 19.

51 Effective Date. This act shall take effect July 31, 2009.

Amendment to HB 612

Proposed by the Committee on Fish and Game and Marine Resources - C

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

AN ACT relative to the suspension or revocation of fish and game licenses.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 5:

2 Lobster and Crab Licenses; Revocation and Suspension. Amend RSA 211:21 to read as follows:

211:21 Revocation; Suspension. ~~[Persons convicted for violation of the provisions pertaining to taking lobsters and crabs shall forfeit their license for not more than one year.]~~

The executive director may revoke or suspend the lobster and crab license of any person who has been found guilty in any court of a violation of any provision of this chapter or any rule adopted under this chapter by the executive director. If an appeal is taken the license shall be suspended pending the disposition of said case and for not more than one year thereafter from date of conviction by the higher court. The executive director shall revoke ***or suspend*** the license of any person who has been found guilty in any court a second time within 5 years of the first finding of guilt, of a violation of any such laws or regulations, for a period of not less than one, nor more than 3 years from the date of such finding or conviction. The executive director may order any license to be suspended or revoked, after due hearing, for any cause that he may deem sufficient. Any person whose license has been revoked or suspended shall not accompany any licensed fisherman or assist him in any way while he is engaged in taking or transporting lobsters or crabs.

3 Oysters, Clams; Penalty; Suspension Added. Amend RSA 211:64, IV to read as follows:

IV. In addition to any other penalty provided, the executive director in his ***or her*** discretion may also revoke ***or suspend*** for a period not exceeding one year any license or permit issued to any person, firm, or corporation who violates this title. Any person, firm, or corporation who continues to violate any provision of rules adopted under RSA 211:62 or any provisions of RSA 211:62-a while under revocation ***or suspension*** shall be guilty of a misdemeanor, and the executive director in his ***or her*** discretion may revoke any rights for a license or a permit for up to 5 years.

4 Licenses; Revocation or Suspension. Amend RSA 214:19 to read as follows:

214:19 Revocation ***or Suspension*** for Conviction. The executive director ~~[shall]~~ ***may*** revoke ***or suspend*** the license of any person who has been found guilty in any court of a violation of any provision of this title or any rule or regulation of the executive director, or who has been found guilty in a municipal or district court of a violation of RSA 163-B~~[, RSA 236:26, RSA 265:102]~~ or RSA 635:2. Such revocation ***or suspension*** shall not continue for more than one year from the date thereof, except for a conviction under RSA 208:8, in which case the revocation ***or suspension*** may be for a period not to exceed 5 years, or except for a conviction under RSA 208:1-a, in which case the revocation ***or suspension*** may be for a period not to exceed 2 years. The executive director shall revoke ***or suspend*** the license of any person who has been found guilty in any court a second time within 5 years of the first finding of guilt, of a violation of any such laws or regulations, for a period of not less than one, nor more than 3 years from the date of such finding or conviction.

AMENDED ANALYSIS

This bill expands the authority for the fish and game department to suspend, revoke, or declare invalid licenses for violations in this state or for licenses suspended or revoked in another jurisdiction.

2009-0353h

Amendment to HB 614

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

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

AN ACT relative to domicile for voting purposes.

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Voters and Checklists; Eligibility; Domicile. Amend RSA 654:1 by inserting after paragraph I the following new paragraph:

I-a. A claim of domicile by a student enrolled at any institution of learning or by any other person who may entertain an intention to change his or her domicile at some indefinite future time, including, but not limited to, active duty military personnel, homeless persons, hospital interns or residents, and workers on a time-limited assignment, shall be accepted by the supervisors of the checklist if such person's claim otherwise meets the requirements of RSA 654:1, I.

AMENDED ANALYSIS

This bill authorizes students and certain other persons to claim domicile for voting purposes in a town or city that the person may have an intention to leave at an indefinite future time.

2009-0368h

Amendment to HB 623

Proposed by the Committee on Election Law - C

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

1 Election Manual. Amend RSA 652:22 to read as follows:

652:22 Authority; Format; Distribution. The secretary of state, with the advice and approval of the attorney general, shall prepare or cause to be prepared ~~[by June 1]~~ preceding each state general election an up-to-date manual on the New Hampshire election laws and procedures for conducting elections. The manual shall be written in nontechnical language. The manual shall be distributed free of charge to each moderator, board of selectmen, city council, **and** board of supervisors of the checklist and to each town, city, and ward clerk. ***The secretary of state may distribute the manual in either electronic or printed format.*** The secretary of state may distribute said manual to any other person who requests it.

2 Overseas Absentee Registration Affidavit. Amend RSA 654:20 to read as follows:

654:20 ***Overseas Absentee Registration*** Affidavit. Any person qualified to vote as an overseas voter in a city or town as provided in RSA 654:3, because he or she is domiciled outside the United States, may apply to the city or town clerk or to the secretary of state for an overseas citizens federal election absentee registration affidavit. Such affidavit shall be prepared by the secretary of state and shall be in substantially the following form:

Overseas Absentee Registration Affidavit

I, _____, do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That I am a United States citizen; ***Place of Birth: City:*** _____
State: _____ ***Country:*** _____;

2) That I have been domiciled in Canada or Mexico or any other country outside the continental United States since _____;
(month) (year)

3) That I hold a valid passport or card of identity with Registration No. _____ issued by the United States Secretary of State;

4) That, immediately prior to my departure from the United States, I was legally domiciled in the state of New Hampshire at the following address:

Street and Number or Rural Route, etc.

City or Town

5) That I will be of the age of 18 years or older on election day, have complied with all applicable qualifications and requirements of the state of New Hampshire, and am entitled

to vote in the next subsequent federal election to be held in said state; ***Date of Birth:***
____(mm)/____(dd)/____(yyyy);

6) That I do NOT maintain a domicile, am NOT registered to vote, and am NOT voting in any other state, territory, or possession of the United States, or election district thereof;

7) That my party affiliation (if any) is _____

8) That my permanent address outside the continental United States is:

Street or Route Number

City, Province, County

9) That I hereby make application for the addition of my name to the checklist of _____, New Hampshire, as an overseas citizen living outside the continental United States entitled to vote in any federal election held therein.

Signature of Applicant

Date

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

Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

3 Personal Filing. Amend RSA 655:16 to read as follows:

655:16 Personal Filing. Except for those who must file with a town or city clerk, any person who files [~~for a primary~~] on the last day of the filing period must do so in person before the secretary of state; provided, however, that this requirement shall not apply to the filling of vacancies by party committees.

4 Disqualification or Death of Candidate. Amend RSA 655:38 and RSA 655:39 to read as follows:

655:38 Disqualification of Candidate. If a candidate to be voted for at the general election shall make oath between the date of the candidate's nomination and the day of the election that he or she does not qualify for the public office which he or she seeks because of age, domicile, or incapacitating physical disability acquired subsequent to the primary, the secretary of state may remove said person's name from the ballot. A new candidate may be substituted by the appropriate party committee by submitting the name of the new candidate to the secretary of state within [~~5~~] **3** days of the notice of disqualification. The name of the substitute candidate shall be placed on the ballots as provided in RSA 656:21.

655:39 Death of Candidate. If any candidate to be voted for at the general election shall die between the date of nomination and the day of election, a new candidate may be substituted by the appropriate party committee by submitting the name of the new candidate to the secretary of state within [~~5~~] **3** days of the notice of death. The name of the substitute candidate shall be placed on the ballots as provided in RSA 656:21.

5 Nomination Papers; General Provisions. Amend RSA 655:40 to read as follows:

655:40 General Provisions. As an alternative to nomination by party primary, a candidate may have his or her name placed on the ballot for the state general election by submitting the requisite number of nomination papers. Such papers shall contain the name and domicile of the candidate, the office for which the candidate is nominated, and the political organization or principles the candidate represents. Nomination papers shall be signed by such persons only as are registered to vote at the state general election. No voter shall sign more than one nomination paper for each office to be voted for, and no nomination paper shall contain the names of more candidates than there are offices to be filled. Each voter shall sign ***and date*** an individual nomination paper. ***Nomination papers shall be dated in the year of the election.***

6 Number of Nomination Papers. Amend RSA 655:42, I-II to read as follows:

I. It shall require the names of 3,000 registered voters, 1,500 from each United States congressional district in the state, to nominate by nomination papers a candidate for president, ~~[vice president,]~~ United States senator, or governor.

II. It shall require the names of 1,500 ~~[registered]~~ voters **registered in the district** to nominate by nomination papers a candidate for United States representative; 750 to nominate a candidate for councilor or state senator; and 150 to nominate a candidate for state representative or county officer.

7 Filing Deadline. Amend RSA 655:43, II to read as follows:

II. No candidate who intends to run for any state or federal office in the state general election by means of nomination papers shall have his or her name placed on the ballot unless the candidate files a declaration of intent, as provided in RSA 655:17-a or 655:17-b, within the filing deadline required by RSA 655:14-a. ***Any person who files on the last day of the filing period must do so in person before the secretary of state.***

8 Voting on Questions. Amend RSA 659:19 to read as follows:

659:19 Voting on Questions. A voter shall vote on questions submitted to voters by making ~~[a cross (X) in the square]~~ ***an appropriate mark as instructed on the ballot*** next to the answer he ***or she*** desires to give.

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

2009-0329h

Amendment to HB 629-FN-A

Proposed by the Committee on Transportation - C

Amend the bill by deleting sections 6 and 7 and renumbering the original sections 8-10 to read as 6-8, respectively.

AMENDED ANALYSIS

This bill:

- I. Directs uniform carrier registration fees to the highway fund.
- II. Establishes penalties for uniform carrier registration requirements.
- III. Requires an identifying plate or decal for certain implements of husbandry.
- IV. Authorizes the use of alternate flashing headlamps by certain department of transportation vehicles.

This bill was requested by the department of safety.

2009-0415h

Amendment to HB 644-FN-A-LOCAL

Proposed by the Committee on Public Works and Highways - R

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

AN ACT increasing the rate of the road toll, establishing the New Hampshire road and bridge account, limiting the uses of road toll revenues, and establishing a commission to study revenue sources for funding improvements to highways and bridges.

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

1 New Subparagraph; Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (276) the following new subparagraph:

(277) Moneys deposited in the New Hampshire road and bridge account established under RSA 260:32-a.

2 Levy of Tolls and Exemptions. Amend the introductory paragraph of RSA 260:32 to read as follows:

260:32 Levy of Tolls and Exemptions. There is hereby imposed a road toll of \$.18 per gallon upon the sale of each gallon of motor fuel sold by distributors thereof. ***The road toll on gasoline shall increase to \$.23 per gallon beginning July 1, 2009; to \$.28 per gallon beginning April 1, 2010; and to \$.33 per gallon beginning April 1, 2011. The road toll on special fuel (diesel) shall increase to \$.23 per gallon beginning July 1, 2009; to \$.28 per gallon beginning July 1, 2011; and to \$.33 per gallon beginning***

July 1, 2013. The road toll shall be collected by the distributor from the purchaser and remitted to the state in the manner hereinafter set forth. ***All amounts collected in excess of \$.18 per gallon shall be apportioned as follows: \$.04 of each \$.05 increase shall be deposited on a monthly basis into the New Hampshire road and bridge account established in RSA 260:32-a, and \$.01 of each such increase shall be deposited on a monthly basis into the highway and bridge betterment account established in RSA 235:23-a, II.*** Provided, that the road toll shall not apply to:

3 New Sections; Account Established; Apportionment. Amend RSA 260 by inserting after section 32 the following new sections:

260:32-a Account Established. There is established a separate account in the highway fund called the New Hampshire road and bridge account to be used exclusively for the construction, reconstruction, and maintenance of state and municipal roads and bridges in the state. The account shall consist of \$.04 of each \$.05 of the funds attributable to all road toll revenue collected in excess of \$.18 per gallon. The amount deposited into the New Hampshire road and bridge account is hereby exclusively and continually appropriated to the department of transportation and shall be nonlapsing.

260:32-b Apportionment. In each fiscal year, the commissioner shall allocate an amount equal to 12 percent of the total road toll revenue collected in the preceding fiscal year to be distributed to cities and towns in accordance with the formula in RSA 235:23, I and shall be in addition to any amounts allocated under that paragraph. The remaining 88 percent in the New Hampshire road and bridge account shall be allocated to the department of transportation exclusively for the construction, reconstruction, and maintenance of state roads and bridges.

4 Use of Road Tolls. Amend RSA 260:35 to read as follows:

260:35 Use of Road Tolls. The road tolls shall be used initially to pay the interest and principal due on any bonds and notes issued pertaining to highway purposes, and the remainder shall be paid into the highway fund. ***The allocation limitations established under RSA 9:9-b shall apply only to the funds attributable to the first \$.18 per gallon of road toll revenue. Four cents of each \$.05 collected in excess of \$.18 per gallon shall be deposited into the New Hampshire road and bridge account established in RSA 260:32-a and apportioned in accordance with RSA 260:32-b.***

5 Motor Fuel and Petroleum Products Transporter. Amend RSA 260:42, I to read as follows:

I. Every person not registered as a distributor who transports motor fuel or products subject to the fees stipulated in RSA 146-A, ***to a point or points outside the state from a point or points within the state,*** to a point or points within the state from a point or points outside the state, ***or to a point or points within the state from a point or points within the state,*** every common carrier or contract carrier who transports motor fuel or petroleum products, and every licensed distributor who transports motor fuel or petroleum products exclusive of the carrier's own product shall be licensed with the commissioner as a motor fuel and petroleum products transporter.

6 Motor Fuel and Petroleum Products Transporter. Amend RSA 260:42, V to read as follows:

V. The transporter shall report to the commissioner on forms prescribed by the commissioner, not later than the twentieth of the succeeding calendar month, subject to prosecution for unsworn falsification, all deliveries of motor fuel and petroleum products made to ***or from*** points within the state during the previous calendar month. Such reports shall contain sufficient information to identify the quantities delivered, the consignor, the consignee and such additional information as the commissioner may require. A report shall be filed for any month in which no activity occurs. Information required pursuant to this paragraph which has been deemed confidential or as to which a request for confidential treatment is pending shall not be shown to or reviewed by any person other than the employees of the department who have a legitimate need to know the information for the

purposes of enforcement of this subdivision, or fuel tax officials of another state as required by RSA 260:56, I, in which case the officials shall be required by the commissioner to agree to a similar limitation on disclosure before such information is furnished.

7 Commission Established. There is established a commission to study future sustainable revenue sources for funding improvements to state and municipal highways and bridges.

8 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) One member of the senate, appointed by the president of the senate.

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

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

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

(f) The commissioner of the department of environmental services, or designee.

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

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

9 Duties. The commission shall study revenue sources that are fair and adequate to meet the funding needs of state and municipal highways and bridges based on the new technology in electric, hybrid, and other alternative fuel automobiles.

10 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.

11 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, 2010.

12 Effective Date.

I. Section 7 through 11 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 2009.

AMENDED ANALYSIS

This bill:

I. Increases the road toll.

II. Establishes a fund,

III. Limits the uses of road toll revenues.

IV. Establishes a commission to study revenue sources for funding improvements to highways and bridges.

2009-0434h

Amendment to HB 651-FN

Proposed by the Committee on Executive Departments and Administration - R

Amend the bill by replacing all after section 2 with the following:

3 Exclusions. Amend RSA 106-F:2, IV-V to read as follows:

IV. Any unarmed security ~~guard~~ **employee** who is ~~an~~ **a direct** employee of a business which is not a security guard agency and who is employed by that business to secure its premises while so employed, **including but not limited to store detective and watchmen.**

V. Towing or wrecking companies engaged in the repossession of vehicles.

VI. Firefighters employed by the state or any political subdivision providing fire watch or fire protection services at public events.

VII. Persons engaged solely in collecting or acquiring data for the purpose of motor vehicle or other accident or occurrence reconstruction or scientific analysis.

VIII. Persons engaged in reporting or providing information to an accredited news publication, media, or news outlet.

IX. Persons employed or contracted by a commercial or legal entity to provide, for internal use or dissemination, gross population data or information relating to patterns of general population behavior, criminal or societal activity, or other information that does not include the collection of personally identifiable information, including but not limited to voter preference polls, demographic surveys, business or academic research.

X. Persons serving subpoenas or summonses for attorneys as provided by statute.

XI. Persons conducting management studies or performance evaluations of municipal, county, or state government agencies or providing recruitment and hiring services for such agencies under contract to governing bodies of those agencies.

XII. Attorneys, and employees of their law firms acting as their agents, exercising legal rights to investigate on behalf of their clients.

XIII. A certified public accountant who holds an active permit issued by any state or a public accounting firm registered in any state, and the employees of such certified public accountant or firm.

XIV. The employees of any nationally or state chartered financial institution, as defined in RSA 161-C:2, VI-b, and any company controlled by, or under common control with, or hired by, the bank with respect to the investigation of the identity, identifying information, financial condition and background of customers, employees or service providers to comply with, or to audit or evaluate its performance under, the requirements of federal and state laws and regulations.

Provided, however, that nothing in this section shall preclude a person otherwise qualified from licensure under this chapter.

4 Prohibition. Amend RSA 106-F:2-a to read as follows:

106-F:2-a Prohibition. No person who is a sworn law enforcement officer employed by the state of New Hampshire ~~[or]~~, any of its political subdivisions, **any other state or its political subdivisions, or the federal government** shall be issued or hold a private ~~[detective's]~~ **investigator's license or agency license**, under this chapter.

5 Rulemaking; Enforcement. Amend RSA 106-F:3 to read as follows:

106-F:3 Rulemaking; Enforcement.

I. The commissioner of safety shall adopt rules, pursuant to RSA 541-A, relative to **the:**

(a) Form of **original and renewal** licenses and applications therefor;
(b) Examination procedures for license applications;
(c) Requisite standards of **applicant and licensee** integrity and reputation for honesty;

(d) Use of fees for administration and enforcement of this chapter; and
(e) Revocation of licenses.

(f) Creation of an advisory board to review complaints and licensing issues.

II. The commissioner of safety shall have the authority to enforce the provisions of this chapter, which authority shall not be restricted by RSA 106-B:15.

6 Definitions. RSA 106-F:4 is repealed and reenacted to read as follows:

106-F:4 Definitions. In this chapter:

I. "Applicant" means any person who makes application to engage in any activity regulated under this chapter.

II. “Armed” security guard or private investigator means a person or entity who offers to perform or performs, in association with the services provided, physical protection to persons or property through the use of firearms. Nothing in this chapter shall prohibit a licensee holding a valid license to carry a pistol or revolver pursuant to RSA 159:6 from possessing or carrying a firearm for their personal protection as otherwise provided by law, except as subject to the provisions of RSA 106-F:8-a.

III. “Bail enforcement agent” means any person engaging for pay or reward in the business of the location or recovery of escaped persons who have defaulted on bail bond.

IV. “Commissioner” means the commissioner of the department of safety.

V. “Doing business” means advertising in New Hampshire or soliciting work, clients, or customers in or from New Hampshire.

VI. “Employee” means an individual employed by a private investigative agency or an individual employed by a security guard service or bail recovery service performing the duties of a private investigator or a security guard for the said private investigative agency, bail recovery service or security guard service.

VII. “Full-time” means engaged in the business of security or private detective as the primary occupation.

VIII. “Individual” means an individual licensed as a private investigator or security guard who is not an employee and who has no employees.

IX. “Licensee” means a licensed private investigative agency or security guard service.

X. “License holder” means an employee of a licensee.

XI. “Private investigator” means a person not excluded by RSA 106-F:2 engaged in conducting investigations, including but not limited to:

- (a) Unsolved crimes.
- (b) Insurance claims or matters for attorneys in anticipation of civil litigation.
- (c) Clandestine surveillance.
- (d) Locating missing persons.
- (e) Locating lost, concealed, or stolen property.
- (f) Locating escaped felons or wanted persons subject to reward for capture.
- (g) Having contractual rights not otherwise granted to the general public or non-

licensed persons and under the provisions of such contracts and applicable statutes, is granted access to certain records held by the state or its political subdivisions for limited purpose of legal need and use only as provided in applicable statutes.

XII. “Private investigative agency” means the business, within or from the state of New Hampshire, of offering or providing by legal means, for a fee or other compensation, to other persons or businesses, the service of collecting information on the identity, character and characteristics, reputation, conduct, background history, movements, whereabouts, affiliations, or transactions of any other living person or any business or legal entity or organization, for a fee, hire, or reward information on the identity, conduct, movements, whereabouts, affiliations, transactions, reputation, or character of any person, or otherwise making inquiries or collecting evidence, for a private rather than a public interest. This shall not preclude a licensee under this chapter from pursuing investigation of matters arising in this state in, another state, or political subdivision except as provided by the law of the other state or political subdivision.

XIII. “Security guard” means any person contracted to any entity for the purpose of providing protection of individuals or their property or assets from injury or theft and includes but is not limited to crowd control, fire watch, access control, the safe transport of money or valuable documents, personal protection or body guard services, but shall not require the licensing of persons from other states temporarily accompanying national political candidates on visits to the state or persons providing temporary security to entertainers at live performances.

XIV. "Security guard service" means any business entity, except as provided in RSA 106-F:2, that furnishes or employs security guards or other persons for the protection of individuals or their property from injury or theft and includes, but is not limited to, services providing for the safe transport of money or valuable documents and security patrols of homes, businesses or industrial plants. Such service may use the term "security," "safety," "control" or like terms leading to public to look to the individual as a person of authority. A person engaged in so-called "executive protection" or providing body guard services shall be classified as a security guard.

7 License Required; Registration of Foreign Corporations. Amend RSA 106-F:5, I-II to read as follows:

I. No person shall engage in the business of a private ~~[detective]~~ **investigative agency, security guard agency, or bail enforcement agency** without obtaining a private ~~[detective]~~ **investigative, security guard, or bail enforcement** agency license from the commissioner of safety and no person shall engage in the business of a security guard service **or bail enforcement service** without obtaining a security guard service **or bail enforcement service** license from the commissioner of safety.

II. No person shall become an employee of a private ~~[detective]~~ **investigative agency** ~~or~~; a security guard agency, **a bail enforcement agency** without first obtaining a license to do so from the commissioner of safety.

8 Application for License; Confidentiality. Amend RSA 106-F:6 to read as follows:

106-F:6 Application for License; Confidentiality. All information provided by an applicant for ~~[a]~~ **an original or renewal** license under this chapter, other than the application date and the ~~[business]~~ **mailing** address of the applicant, shall be kept confidential, unless such information is requested by a law enforcement agent engaged in the performance of his **or her** authorized duties. An applicant for any license issued under this chapter shall include the following in his **or her** application:

I. The name and address of the firm applying for a license, or the name and address **and date and place of birth** of the applicant if an individual, and all partners, officers, and major stockholders.

II. The name, **residence, mailing address, and date and place of birth** of the person primarily responsible for managing and conducting the business in this state.

III. ~~[The name]~~ **For an original license, the names** of at least 3 unrelated persons to whom inquiry can be made concerning the applicant's character as to integrity and reputation for honesty.

IV. **For an original or renewal license** the applicant's record of felony convictions and misdemeanor convictions **in this or any other state or nation that have not been pardoned or annulled, information as to whether any prior or similar licenses were ever revoked or suspended in this or any other state or Canadian province, and disclosure of any claim or lawsuit regarding conduct as a licensee, or any domestic violence protective order.**

V. ~~[Information as to whether any prior or similar licenses have ever been issued to the applicant and if so, whether such licenses were ever revoked or suspended, in this or any other state.~~

~~VI.]~~ In the case of an applicant for an armed security guard or armed private ~~[detective]~~ **investigator or bail enforcement agent** license, 2 sets of the applicant's fingerprints taken at state police headquarters.

~~[VII.]~~ VI. Two photographs of the applicant taken at state police headquarters to be used for a photo license card issued by the commissioner of safety identifying the private ~~[detective]~~ **investigator, bail enforcement agent,** or security guard ~~[holder]~~ and by whom he **or she** is employed.

~~[VIII.]~~ VII. In addition to the requirements of paragraphs ~~[I-VII]~~ **I-VI**, applicants for private ~~[detective]~~ **investigator or bail enforcement agent** licenses shall meet the following qualifications:

- (a) Be a resident of the United States.
- (b) Be at least 18 years of age.
- (c) Have no record of ~~[violent misdemeanors, or theft, fraud, or felony convictions]~~ ***felony convictions of any type or conviction of a misdemeanor associated with theft, honesty, fraud, use or sale of controlled substances, misdemeanor crimes of violence that in the judgment of the commissioner of safety would cast doubt on the applicant's future good behavior, domestic violence, abuse of any type, or an active domestic violence protective order in New Hampshire or any other jurisdiction in the United States, its possessions, or territories.***
- (d) Except for employees, possess:
 - (1) A minimum of 4 years' experience as a full-time law enforcement officer with a federal, state, county, ***college or university***, or municipal police department, ***director of security or senior officer of a company or corporation, or licensed security service, full-time adjuster, risk manger, or claims investigator for an insurance carrier or adjusting company***; or
 - (2) An associate of science degree or bachelor of science degree in criminal justice or fire service from an accredited college or university, ***certification from the American Society of Industrial Security as a certified professional investigator, or certification from the National Association of Legal Investigators as a certified legal investigator*** and employment as a full-time investigator for a private ~~[detective]~~ ***investigative*** agency for at least 2 years; or
 - (3) A minimum of 4 years' employment as a full-time investigator for a licensed private ~~[detective]~~ ***investigator*** or private ~~[detective]~~ ***investigative*** agency; or
 - (4) A minimum of 4 years' experience as a full-time firefighter and certification by the International Association of Arson Investigators[-]; ***or***
 - (5) ***Be certified by the American Society of Industrial Security in security operations, and 2 years experience providing such services, or***
 - (6) ***Be certified by the American Society of Industrial Security in executive protection, and 2 years experience providing such services, and***
- (e) Provide verifiable documentation of his ***or her*** qualifications at the time of application for a license.

9 Issuance of License; Identification Card. Amend RSA 106-F:7, I to read as follows:

I. Following review of the application, the applicant's references, and investigation into the character, competency and integrity of the applicant, the commissioner shall as soon as practicable issue a license or renewal license in the form prescribed by ~~[him]~~ ***the commissioner*** to the applicant, or notify the applicant of denial of the application. Prior to approval of any armed ~~[detective]~~ ***private investigator, bail enforcement,*** or security license issued under this chapter, the applicant shall submit to a fingerprint examination conducted by the Federal Bureau of Investigation, and the department of safety shall be authorized to use the records of the Federal Bureau of Investigation in the screening of applicants. The applicant shall be responsible for the cost of any background investigation or criminal records check required under this section.

10 License Application and Renewal Fees. Amend RSA 106-F:8 to read as follows:

106-F:8 License Application and Renewal Fees.

I. The fee for a private ~~[detective]~~ ***investigative*** agency license or a security guard service license shall be ~~[\$100]~~ ***\$150*** for an agency or service employing one person licensed under this chapter and ~~[\$400]~~ ***\$500*** for an agency or service employing more than one such person. A person may hold one or more types of license at any given time, provided that a separate fee shall be paid for each license so held. Licenses shall be valid for 2 years after the date of issue and shall be renewed every 2 years thereafter, upon application and payment of the fee and submission of certified evidence that the surety bond remains in force. The application for renewal shall be submitted at least 15 days before the expiration of the previously granted license.

II. ~~[There shall be a nonrefundable fee of \$5 for a license issued by the commissioner of safety to an employee as defined in RSA 106-F:4, IV.]~~ ***The commissioner of safety shall set a reasonable fee, not exceeding \$50, which the commissioner shall adopt by rule under RSA 541-A, to cover the expenses of licensing individuals under this chapter.*** Such fee shall be paid by the service or agency employing such employee and shall be paid before the license is issued. Such licenses shall be valid for 2 years after the date of issue and shall be renewed upon the completion and filing of an application for renewal which meets the requirements of this chapter submitted at least 15 days before the expiration of the previously granted license.

III. The commissioner of safety shall set a reasonable fee, which he ***or she*** shall adopt by rule under RSA 541-A, to cover the expenses of the record check and investigation provided in RSA 106-F:7. The fee shall be charged to the applicant.

11 Firearm Proficiency. Amend RSA 106-F:8-a to read as follows:

106-F:8-a Firearm Proficiency.

I. All armed security guards ~~[and]~~, armed private ~~[detectives]~~ ***investigators, and armed bail enforcement agents*** shall meet minimum requirements in the proficiency in the use of firearms at least once per year. The requirements shall be as follows:

(a) The practical police course or the tactical revolver course, with a minimum qualification score of 75 percent.

(b) Shotgun familiarization course required for all security officers ***and bail enforcement agents*** whose employers issue, or have as part of their equipment, shotguns.

(c) Four hours of instruction, to include firearms techniques and safety, laws on the use of deadly force, and the moral and ethical use of force. Only qualified firearms instructors shall be used to certify the successful completion of the requirements.

II. Individuals shall be considered for qualification if they successfully complete one of the following courses:

(a) ***Police standards and training*** council firearms instructor school;

(b) F.B.I. firearms instructor school;

(c) Smith & Wesson ***or SIG sauer*** firearms instructor school;

(d) National Rifle Association police firearms instructor course;

(e) Equivalent courses as determined by the commissioner of safety on an individual basis.

III. Nothing in this section shall preclude a private detective from carrying a weapon that he or she is otherwise legally permitted to carry for personal defense.

12 Employees. Amend RSA 106-F:11, I to read as follows:

I. A person licensed under this chapter may employ agents or guards as ~~[he]~~ ***such licensee*** deems necessary. The licensee shall be responsible for the conduct of any such employees who shall be covered under the licensee's surety bond.

13 New Paragraph; Notice of Change. Amend RSA 106-F:12 by inserting after paragraph II the following new paragraph:

III. Any license holder who is arrested and charged with any felony or misdemeanor or becomes subject to a domestic violence protective order shall within 10 days of becoming aware of such, notify the commissioner of safety in writing of the charge and the circumstances.

14 Restrictions. Amend RSA 106-F:13 to read as follows:

106-F:13 Restrictions; ***Penalty.***

I. No trade name or designation shall be used which implies any association with any municipal, county, state or federal government or agency thereof. No licensee shall use a badge of any kind for identification purposes, except a security guard, who, if he ***or she*** wears any type of badge, shall wear one badge on the left breast of his uniform and one on his cap while on duty as a security guard. The word "police" shall not be used in any way, on any seal, card, badge or advertisement by the licensee.

II. No person shall:

(a) Provide any service requiring licensure under this chapter who is not licensed under this chapter.

(b) Falsely represent that a person holds a valid license issued under this chapter.

(c) Possess a license or identification card issued to another person under this chapter.

(d) Engage in advertising or the use of any seal or card which, in the opinion of the commissioner, may tend to mislead the public.

III. Violation of this section shall be a misdemeanor if a natural person and a felony if any other person.

15 Obligation to Report Certain Criminal Violations. Amend RSA 106-F:13-a to read as follows:

106-F:13-a Obligation to Report Certain Criminal Violations.

I. All felonies observed or ~~[discovered by]~~ **revealed by or to** persons licensed under this chapter shall be immediately reported to the New Hampshire state police ~~[or to the local police department in the municipality in which the felony occurred]~~.

II. A licensee who reports criminal activity to state or local police or county sheriff shall be immune from civil liability for making a report or information available to law enforcement provided it is made in good faith and with reasonable belief in its veracity and is in compliance with this chapter.

III. Nothing in this section shall require a licensee while employed as a legal assistant for a licensed attorney to make a report that would violate attorney-client privilege or attorney work product, which shall be subject to the reporting obligations of the attorney.

16 New Section; Other Provisions. Amend RSA 106-F by inserting after section 13-a the following new section:

106-F:13-b Other Provisions.

I. Except as permitted under RSA 173-B:5-a and RSA 633:3-a, III(d), no licensee or license holder shall engage in activity or stand in the stead or as agent or representative of a person or legal entity that is judicially or statutorily prohibited from making inquiry, having contact, or otherwise legally barred from the activity requested of or performed by the licensee or license holder. A representation made by the engaging person or legal entity, taken in good faith, that no such prohibition exists shall be an affirmative defense regarding a violation of this section. A licensee who becomes aware of a prohibition shall immediately desist from further prohibited activity; shall not provide information gained through the prohibited activity to another person; and if such information has been provided, shall have a duty to notify any aggrieved person.

II. No person licensed under this chapter shall be required to reveal other than by judicial order information on the subject, nature, or substance of an investigation or work product to any other person if by doing this he or she would violate the rights and interests of a person engaging the services of the licensee, except to the limited extent that may be needed to dispel the suspicions of a law enforcement officer investigating a report of loitering, prowling, or other suspicious activity pursuant to RSA 644:6, and except to the commissioner of safety or authorized agent when required in an investigation of improper or illegal conduct by the licensee.

17 Suspension or Revocation; Cessation of Operation. Amend RSA 106-F:14 to read as follows:

106-F:14 Suspension or Revocation; Cessation of Operation.

I. The commissioner of safety may revoke or suspend a license issued under this chapter, after a hearing, if the licensee:

(a) Violates any provision of this chapter or any rules adopted under this chapter.

(b) Is convicted of fraud, deceit or misrepresentation, ***or a felony of any type, or a misdemeanor associated with theft, honesty, physical assault, violation of a protective order, abuse of any type, use of or sale of illegal drugs in New Hampshire or any other jurisdiction in the United States, its possessions, or territories.***

(c) ***Suffers from any diagnosable mental illness to an extent that would cast doubt on the licensee's ability to carry out his or her essential job functions in a manner not dangerous to himself or herself or the public, or to faithfully comply with the provisions of this chapter.***

~~(e)~~(d) Makes a material misstatement in a license application or application for license renewal.

II. Unless a license revocation or suspension issued under this section is appealed, the licensee shall immediately cease operations for the time period ordered in the suspension notice, or permanently if his license has been revoked. The licensee shall immediately notify all its clients of such revocation or suspension. The licensee shall forward a copy of each such notification to the commissioner, and keep a copy of each such notification in its business records.

III. Any license suspended or revoked under this section shall be surrendered to the commissioner within 72 hours of receipt of the notice of suspension or revocation by the licensee, subject to the provisions of RSA 106-F:15.

IV. A licensee or individual licensed under this chapter who is found to have violated a contract, agreement, or statutory provision granting access to certain records, as provided under RSA 106-F:4, in addition to any penalty provided by such contract, agreement, or statute, may be subject to an administrative fine of up to \$500 for a first violation, and up to \$1,000 for a second violation and \$1,000 for a third or subsequent violation to be assessed by the commissioner.

18 Penalty. Amend RSA 106-F:16 to read as follows:

106-F:16 Penalty. Any ~~individual or~~ person who engages in business as a private ~~detective~~ ***investigative agency, bail enforcement agency,*** without first having obtained a license therefor or who violates any other provisions of this chapter shall be guilty of a misdemeanor ***for a natural person and a felony for any other person.***

19 Effective Date. This act shall take effect January 1, 2010.

2009-0047h

Amendment to HB 654-FN

Proposed by the Committee on Local and Regulated Revenues - C

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

AN ACT relative to the dam maintenance revolving fund.

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

AMENDED ANALYSIS

This bill describes the revenues which are to be deposited in the dam maintenance revolving fund.

2009-0354h

Amendment to HB 667-FN

Proposed by the Committee on Election Law - C

Amend the bill by replacing section 1 with the following:

1 New Section; Misrepresenting Origin of Campaign Call. Amend RSA 664 by inserting after section 14-a the following new section:

664:14-b Misrepresenting Origin of Campaign Call. No person shall misrepresent the origin of a telephone call which expressly advocates the success or defeat of any party, measure, or person at any election. Such misrepresentation shall include, but shall not be limited to, causing caller identification information, as defined in RSA 359-E:1, I-a, to

indicate that a telephone call originates from a number or person other than the number or person originating the call.

2009-0418h

Amendment to HB 670-FN

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

Amend the bill by replacing section 1 with the following:

1 Toll Criteria. Amend RSA 237:11, V to read as follows:

V. Notwithstanding any other provision of law to the contrary, the discount on the established tolls on any of the turnpikes in the system for vehicles using the regional electronic toll collection system shall be ~~[30]~~ **15** percent for passenger vehicles, including motorcycles, and 10 percent for commercial vehicles; ***provided that no account for passenger vehicles, including motorcycles, shall be charged more than 33 toll plaza transactions per month per transponder.***

AMENDED ANALYSIS

This bill modifies the discount on tolls for vehicles using the regional electronic toll collection system.

2009-0302h

Amendment to HB 671-FN

Proposed by the Committee on Public Works and Highways - R

Amend RSA 230:49, II as inserted by section 1 of the bill by replacing it with the following:

II. Signs permitted under paragraph I may be rented for a fee established by rules adopted by the commissioner of transportation pursuant to RSA 541-A. The amount of the fee charged to any participant shall be reasonable and equitable and not exceed a fair portion ~~[of the cost of implementing and maintaining the motorist service signing program. The sum of fees collected shall be sufficient to ensure the motorist service sign program is self-supporting. The fees collected shall not be used to generate revenue beyond the reasonably related costs, less any federal funds or other revenue reasonably related thereto, of administering and maintaining the motorist service sign program]~~ ***of the full cost of administering the motorist service signing program, including labor, equipment, maintenance, and material costs for state and contract services. The sum of the fees collected shall be sufficient to ensure the motorist service sign program is self-supporting.***

AMENDED ANALYSIS

This bill amends the motorist service signing program to allow the department of transportation to charge a fee for attraction signs.

2009-0307h

Amendment to HB 685-FN

Proposed by the Committee on Executive Departments and Administration - C

Amend RSA 100-A:52-a, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Any person who for reasons other than retirement or death ceases to be a group I teacher or political subdivision employee prior to attaining the age of 60, and who ~~[7]~~ ***was eligible to retire*** as of July 1, 2008 ~~[, receives]~~ ***and retired on or before July 1, 2009 with*** a vested deferred retirement allowance, and who has completed no less than 20 years of group I creditable service ***by July 1, 2008*** and ~~[subsequently]~~ ***is 60 years of age, or subsequent to July 1, 2008*** attains the age of 60, or who has completed no less than 30 years of group I creditable service ***by July 1, 2008*** and ~~[subsequently]~~ ***is 55 years of age, or subsequent to July 1, 2008*** attains the age of 55.

2009-0437h

Amendment to SB 96

Proposed by the Committee on Public Works and Highways - R

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

AN ACT naming a bridge in Webster in honor of Sgt. William J. Tracy.

Amend the bill by replacing section 1 with the following:

1 The Sgt. William J. Tracy Memorial Bridge. Pursuant to RSA 4:43, the bridge which spans the Blackwater River on route 127 in Webster is hereby named the Sgt. William J. Tracy Memorial Bridge in honor of Sgt. William J. Tracy. Appropriate signage may be placed at the bridge.

AMENDED ANALYSIS

This bill names the bridge which spans the Blackwater River on route 127 in Webster in honor of Sgt. William J. Tracy.