

HOUSE RECORD

Second Year of the 162nd General Court Calendar and Journal of the 2012 Session

Vol. 34 Concord, N.H.

Friday, May 11, 2012

No. 37

Contains: Reports and Amendments for May 15 and May 16, Committee of Conference
Procedures, House Bills Amended by the Senate, Hearings, Meetings and Notices.

HOUSE CALENDAR

MEMBERS OF THE HOUSE:

The House will meet in Session on **Tuesday, May 15, 2012 and Wednesday, May 16, 2012 at 10:00 a.m.** If necessary to complete our work on Senate Bills by the deadline set in House Rules, the House will also meet on Thursday, May 17, 2012. This is the time during Session when the situation can change quickly, so I would ask members to be alert and attentive to the bills coming before us.

In furtherance of our efforts to contain costs in the Legislative Branch, the number of printed copies of the daily House Journals will be reduced. Each daily run costs approximately \$1600 and many do not appear to be used. They will no longer be distributed to every member and will not be mailed. Journals will be available in the House anteroom for those who wish to have one. Any member wishing copies of all daily Journals should notify the House Clerk's Office.

Please remember that Representatives Hall is not to be used for any purpose, whether legislative or non-legislative, without the express permission of the Speaker.

You are reminded that material is not to be placed in members' mailboxes in the anteroom behind the Chamber unless and until it has been approved for such distribution by the House Chief of Staff. Also, material is not to be distributed by members in Representatives Hall while the House is in Session.

Members are requested to review House Rules 9 through 16, 24 and 27 with regard to decorum. As the election draws near, civility in general is obviously becoming strained, but even for those who are not well-grounded in acceptable standards of behavior and discourse, these rules establish a minimum level of expected conduct while the House is in Session. In particular, we need to be attentive to the last sentence of Rule 14, which states, "[W]hile a member is speaking, no one shall pass between that member and the other members of the House, nor shall anyone engage in private conversation."

Chairmen and Vice-Chairmen will meet on Tuesday, May 15, 2012 in LOB 305 – 307 at 8:15 a.m. Please make every effort to attend.

William L. O'Brien, Speaker

NOTICE

There will be a Republican Caucus on Tuesday, **May 15** at **9:30 a.m.** in Representatives Hall.

D.J. Bettencourt, Majority Leader

NOTICE

There will be a Democratic Caucus on Tuesday, **May 15**, Wednesday, **May 16** and Thursday, **May 17** at **9:00 a.m.** in Rooms 302-304, LOB. (Please note room change.)

Terie Norelli, Democratic Leader

NOTICE OF RECONSIDERATION

This day, May 9, 2012 at 2:25 p.m., Rep. Jerry Bergevin, having voted with the prevailing side, served notice of reconsideration on ***SB 270, relative to civil commitment of persons found incompetent to stand trial***, which the House voted Ought to Pass on a roll call vote of 298 – 46.

Karen O. Wadsworth
Clerk of the House

NOTICE

The House calendar closes at **3:00 p.m. on Wednesdays** for scheduling and notices. It closes at **NOON on Thursdays** for Committee Reports. Please be sure to do your scheduling in order to meet that deadline.

CLOSES NOON THURSDAY:

May 17
May 24

AVAILABLE FRIDAY:

May 18
May 25

Karen O. Wadsworth, Clerk of the House

HOUSE DEADLINES FOR 2012 SESSION

Thursday, May 17, 2012	Last day to act on Senate bills.
Thursday, May 24, 2012	Last day to form Committees of Conference.
Thursday, May 31, 2012	Last day to sign Committee of Conference reports.
Thursday, June 7, 2012	Last day to act on Committee of Conference reports.
Monday, September 17, 2012	First day for incumbent members running for reelection to file LSRs for 2013 session.
Wednesday, September 26, 2012	Last day for incumbent members running for reelection to file LSRs for 2013 session prior to the general election.
Friday, November 2, 2012	Last day to file Interim Study reports.

Tuesday, November 13, 2012

First day for all members elected for the 2013 session to file LSRs for the 2013 session.

Friday, December 7, 2012

Last day for all members elected for the 2013 session to file LSRs for the 2013 session.

Last day for a member to declare sponsorship of an LSR filed by an unelected incumbent member.

Friday, January 11, 2013

Last day to sign off all House LSRs, other than petitions involving the election or qualifications of a member to serve in the House.

Friday, February 1, 2013

Last day to introduce House legislation including, but not limited to, House Bills and petitions

Wednesday, February 13, 2013

Last day to amend House Rules by majority vote.

All deadlines are subject to the close of business at 5:00 p.m. each day, except amending House Rules, which shall be the ending of the last House session day on or prior to February 13, 2013.

TUESDAY, MAY 15

CONSENT CALENDAR

COMMERCE AND CONSUMER AFFAIRS

SB 247-FN-L, relative to certifying municipal culvert installers. **OUGHT TO PASS.**

Rep. Jennifer R Coffey for Commerce and Consumer Affairs: This bill authorizes the department of environmental services to develop a certification program for municipal culvert installers. The intent is to allow those municipalities who have the staff and the capability to enroll in the program so that they may expeditiously install an unintended culvert replacement. The city or town still must plan ahead and use the usual process when planning to repair a road, but this legislation would enable a city or town to replace an unplanned culvert repair if it were to arise in the middle of the construction. **Vote 15-0.**

SB 284, establishing a certified public health dental hygienist in New Hampshire. **OUGHT TO PASS.**

Rep. Chris F Nevins for Commerce and Consumer Affairs: This bill was the result of stakeholders in oral health, including members of the NH dental society, NH dental hygienists, the oral health coalition and the board of dental examiners to present a coordinated bill, which expands the current scope of practice for these providers to include new duties such as placing temporary restorations without excavation, nutritional counseling and certain x-ray/imaging. The committee concurred that the expanded duties given public health dental hygienists are safe and beneficial for patients as they do not result in irremediable alteration of the oral anatomy but rather yield positive impacts on oral health of our New Hampshire population. **Vote 16-0.**

SB 288, relative to the exchange of public health information through a health information exchange. **OUGHT TO PASS WITH AMENDMENT.**

Rep. James M Sullivan for Commerce and Consumer Affairs: This bill makes it possible for a health care provider, in the course of patient treatment, to transmit required public health care information incidental to that treatment directly to public health through the health information organization system. This would simplify the alternative use of paper copies, faxes or other forms of messaging, making the record keeping efficient and secure. **Vote 17-0.**

SB 350-FN, relative to the sale of portable electronics insurance. **OUGHT TO PASS.**

Rep. Matt J Quandt for Commerce and Consumer Affairs: This bill is an important and business friendly clarification to the existing law relating to the licensing of entities and individuals selling insurance that covers cell phones, Blackberries and other portable electronic devices. Current law is unclear regarding the licensing obligations of the wireless carriers and sales associates who currently sell this insurance. The uncertainty creates unnecessary burdens on companies when they undertake to comply with New Hampshire law. Consistent with laws adopted in at least 22 other states, this bill clarifies and simplifies compliance by allowing the retailer itself to hold a limited license under which it and its employees may sell this type of insurance. It provides consumer protection by requiring disclosures to consumers through brochures and training for the sales associates. The bill meets the approval of the insurance department. It is supported by wireless carriers and insurers. **Vote 14-0.**

EDUCATION

SB 272-FN, relative to truancy. **INEXPEDIENT TO LEGISLATE.**

Rep. Laura M Jones for Education: This bill was voted ITL by the committee because concerns were raised during the public hearing on the bill. One concern is that the impact of costs isn't adequately clarified. Another concern is whether the language is sufficient to give parents standing to participate in the court proceedings. Since this issue will be studied in conjunction with another bill, the committee recommends ITL. **Vote 14-1.**

SB 300, relative to special education services in chartered public schools. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Kathleen A Lauer-Rago for Education: This bill clarifies and establishes a procedure for a local education agency (LEA) to provide special education services as identified in an individualized education program (IEP) for a special education student who attends a public chartered school. It also clarifies the well established law that special education students attending a charter school will be provided the transportation services specified in their IEP by the resident school district. It also establishes in law what have been best practices regarding a resident district and the services provided at a charter school, as well as requiring the charter school to provide due process in the provision of special education and related services to children with disabilities. **Vote 14-1.**

ELECTION LAW

SB 232, relative to the date for the state primary election. **INEXPEDIENT TO LEGISLATE.**

Rep. Alfred P Baldasaro for Election Law: Although the sponsors intended to give a greater period of time between the primaries and the general elections, the committee was concerned that holding the primaries in August would adversely affect voter turn out. Also the secretary of state showed that there is a 55 day window after each primary to the general election for the next 20 years. Not only do the 55 days allow for printing ballots and holding recounts but it ensures that we comply with the Federal Voting Assistance Program (FVAP) which protects uniformed personnel and overseas citizens voting rights. Under the Federal MOVE Act the states have 45 days to ensure compliance with the FVAP **Vote 20-0.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 177, relative to training of directors and officers of nonprofit corporations. **REFER FOR INTERIM STUDY.**

Rep. Peter T Hansen for Executive Departments and Administration: The broad nature of the constituents impacted by this bill and the immensely varying size, in monetary terms, suggests to the committee that a quick and one size fits all solution does not serve the constituency well. Testimony revealed there are some 8400 charitable organizations in the state with but approximately less than 300 whose income exceeds \$250,000 annually. Most troublesome issues with the smaller organizations are the result of insufficient knowledge of the law and not fraud. The majority of the charitable organizations felt that as proposed cost and volunteer time to train board members would have a negative effect on their recruiting and retention efforts. The largest organizations are better financed to withstand the costs and risk and the dollar amount of potential fraud is larger. It was agreed by all parties that a solution was available through a cooperative effort to address all the concerns in revised or new legislation, and they have committed to work with the committee. **Vote 13-0.**

SB 226, transferring the administration of the electricians' board to the joint board for licensure and certification. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Spec Bowers for Executive Departments and Administration: The electricians reported conflicts at the department of safety over hiring and firing decisions and rulemaking authority. They believe that they will operate more smoothly and have greater autonomy if they are attached to the joint board. Neither the fire marshall nor the joint board objected to the administrative move. The fire marshall voiced some reservations about the inspectors leaving his department but testimony indicated that the department of safety seldom had need of the inspectors, that the inspectors belonged more appropriately with the electricians' board, and that the board could easily cooperate with the department of safety as needed. A second change for electricians was to synchronize continuing education with the release of new versions of the national electric code rather than with the renewal date of an electrician's code. Previously, some electricians might have to get their education on a new code within days of a new code being released or not for almost three years depending on when it happened that they needed to renew their licenses. Now, all electricians will need to be educated on a new code within 12 months of a new code being published, even if their renewal date might be years away.

The amendment was a non-germane request by the board of accountancy (part of the joint board), requesting that for the most egregious violations of the board's rules, the maximum administrative punishment be doubled. The concern was that some violators were treating the fine as just a cost of doing business. **Vote 12-0.**

SB 234-FN, relative to salary grades for certain executive branch positions and relative to the retirement classification of the director of the division of forests and lands. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter T Hansen for Executive Departments and Administration: This bill originally sought to provide consideration for 2 issues. A: establish salary grades for a number of unclassified state positions and B: provide for the continued group II membership for the position of director of forests and lands so long as that individual had at least 10 years of participation as a group II member and continues to meet applicable qualifications of a permanent fireman under the retirement system. It was noted during testimony that currently there are additional special exceptions written in law for a limited number of positions similar in intent to the applicable section of the original bill. The committee amended the bill to include additional salary grades for positions in unclassified state positions that were not in the original and further, removed language that sought to create an additional special exception for a state unclassified position. Effective personnel strategy and policy includes the training and preparation for future leadership and provides for unforeseen circumstances beyond the control of management, whether it be early retirement or the myriad of unexpected occurrences life presents. Therefore no one individual employee ought to be indispensable to the organization. Further, when employees are offered promotions, the duties and benefits of that position are defined and the individual has the option of accepting or rejecting that offer. It is also believed that carve-outs and special

exceptions for an individual tend to discourage rather than encourage harmony within an organization. Therefore the amended bill strikes from law current special provisions for the limited number (7) of unclassified positions and “grandfathers” the single individual currently qualified under the current law. **Vote 13-1.**

SB 256, relative to public utilities commission contracts with consultants. **OUGHT TO PASS.**

Rep. Kenneth Hawkins for Executive Departments and Administration: This bill corrects a problem found in a performance audit of the PUC. Currently a contract with a consultant for mergers, transfers, sales or leases of the works or system of a public utility is approved by governor and council, but any extensions are not. This has resulted in contracts being extended and the utility being billed for the additional dollars without G&C approval. That results in consumers being billed as these dollars are included in the rate structure. This bill sets thresholds for G&C approval of \$250,000 for mergers, sales, transfers, or leases. It also sets the threshold of \$100,000 for investigations or proceedings. Any extensions on these contracts would have to be approved by G&C. **Vote 12-0.**

SB 331, clarifying the definition of surviving spouse for eligibility for line-of-duty death benefits for police officers or firefighters killed in the line of duty. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Kenneth Hawkins for Executive Departments and Administration: The language in this bill was requested by the department of safety for police officers, or firefighters killed in the line of duty to clarify who would receive the death benefit, and the timeframe to determine whether it was in the line of duty. The amendment was brought forward to correct a problem that came up last year. A bill was passed to allow the state to pay for a medical subsidy promised to a widow of a police officer killed in the line of duty. The bill did not include a provision to pay LGC for the invoices sent to the widow for \$3,150.79. This provides for the state to pay the invoices of \$3,150.79. **Vote 14-0.**

SB 338-FN, relative to military discipline by the national guard. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Steven J Winter for Executive Departments and Administration: This bill was amended in the senate with the words “or non-judicial” removed. Non-judicial punishment (commonly known as NJP) was removed from the text because the affected statute, RSA 110-B:39 is for implementation of the Uniform Code of Military Justice (UCMJ). Non-judicial punishment is properly addressed in the subsequent statute, RSA 110-B:40. The process or procedure of NJP still exists. This deletion merely acknowledges that process or procedure in the proper RSA. An amendment was passed by the committee to add that in all cases where a member of the New Hampshire National Guard Judge Advocate Staff serves as lead counsel in a New Hampshire state court, such counsel must be a member of the New Hampshire Bar Association. **Vote 14-0.**

SB 342, relative to the inclusion of requirements for log structures in the state building code. **OUGHT TO PASS.**

Rep. Calvin D Pratt for Executive Departments and Administration: This bill will allow the adoption of specific standards for log buildings into the state building codes. Any amendments adopted must still be vetted by the legislature before becoming permanent. These standards will be specific to log buildings only and will not affect general codes, including fire prevention and safety codes currently in effect. **Vote 14-0.**

FINANCE

SB 230-FN, relative to the calculation of average final compensation for certain retirement system members. **OUGHT TO PASS.**

Rep. Timothy L Twombly for Finance: Finance is the second committee for this bill, which provides a technical correction to the calculation of average final compensation for retirement system members. It changes the calculation of excess compensation level over the member’s career from an average dollar amount to a percentage which is used in

determining annual earnable compensation for pension purposes. There is no financial impact to the state. **Vote 23-0.**

SB 237-FN, relative to field purchases and transfers of funds for the state park system and the bureau of trails, and the use of gifts and donations to the division of parks and recreation. **OUGHT TO PASS.**

Rep. Benjamin C Baroody for Finance: Finance is the second committee for this bill, which removes the June 30, 2012 sunset date that is presently in statute on the process for field purchases and transfers of funds for the state park system and bureau of trails and also establishes a fund to receive donations to the park system as well as guidelines for approving and expending designated donations. The department of resources and economic development states this bill may increase state restricted revenue and expenditures by an indeterminable amount in FY 2012 and each year thereafter. The department states this bill addresses efficiencies in operations, to the extent the department directly receives an increase in cash donations to the state park gifts and donations fund. The department stated that everything is working out very well for them. The committee feels this is a fiscally sound policy. **Vote 23-0.**

SB 244-FN, relative to the administration of the New Hampshire retirement system. **OUGHT TO PASS.**

Rep. Lynne M Ober for Finance: Finance is the second committee for this bill, which is a housekeeping bill to correct language that was contained in SB3 & HB 2 (Chapter 224) in 2011. There were 5 sections where the language used in the bills passed caused confusion at the New Hampshire retirement system. The bill was introduced to correct the wording, but keep the intent. An amendment adopted by the House on April 25 added one item that was not included by the Senate relating to the audited financial report. The House changed the reporting date from December 1st to December 31 to allow the retirement system board one extra month to review it. There were a few other minor changes from the retirement system since the Senate passed bills to ensure the final wording of RSA 100 was being implemented as intended. There is no financial impact to the state. **Vote 22-0.**

SB 280, relative to the procedure for approval of medical parole. **OUGHT TO PASS.**

Rep. Bernard L Benn for Finance: This medical parole bill is in Finance as a second committee. The current statute states that a medical parole can only be granted by a majority vote of the full 7-member parole board. This bill changes the requirement from a vote by the full board to a majority vote which includes at least 3 votes of the members who are present and voting, similar to what is currently required for other types of paroles. To be granted a medical parole, an inmate must meet 3 conditions: have a terminal, debilitating, incapacitating or incurable medical condition; render the cost of medical treatment excessive; allow the parole board to determine that the public will not be in danger. Inmates, if paroled without confinement, are eligible for Medicaid or Medicare. Medical paroles thus significantly reduce the cost for medical care to the state and are more humane for the inmate and his family. **Vote 23-0.**

SB 307-FN, relative to the refund of tax overpayment related to a fraudulent investment scheme. **OUGHT TO PASS.**

Rep. Colette Worsman for Finance: Finance is the second committee for this bill, which was submitted at the request of the DRA and provides a refund for taxpayers who are victims of a fraudulent investment scheme. The victim paid taxes on income that did not exist, and lost that money. While federal law allows a deduction for a "theft loss," that deduction is not readily applicable to New Hampshire taxes. In addition, a three year statute of limitations complicates the process. DRA has proposed that the taxpayer have a 180 day window, beginning after an amended federal tax return has been filed, to petition for a New Hampshire refund. The taxpayer can submit the same paperwork to the DRA for validation. However, the department of revenue states this bill, as amended by the Senate (Amendment #2012-0667s), may decrease state revenue by an indeterminable amount in FY 2013 and each year thereafter. This bill is fair and taxpayer friendly. **Vote 19-0.**

SB 313-FN, relative to state photographic identification indicating veteran's status. **INEXPEDIENT TO LEGISLATE.**

Rep. Charles E Sova for Finance: This bill is not necessary since HB 1629 has been amended by the Senate to include the language in SB 313 which is superior to the language contained in the original version of HB 1629. **Vote 23-0.**

SB 330-FN, requiring an independent financial opinion prior to the leasing of any state park property to a private entity. **OUGHT TO PASS.**

Rep. Colette Worsman for Finance: Finance is the second committee for this bill, which applies to substantial leases (all or a majority of a park or operation) and for a lease term of at least ten years. It assures the commissioner of the department of resources and economic development that a proposed lessee will be able to meet the required obligations of said lease and requires the due diligence necessary to protect and maximize the return on the state's park assets. However, the agency said that restricted expenditures would increase, but that it was impossible to estimate the amount of the increases. The department of resources and economic development states this bill requires an independent financial consulting firm to conduct a written analysis of a lease proposal before leasing any state park if the lease is for a minimum of 10 years and is for the entirety or majority of the facility, or enables for significant capital investment. Additionally, this bill could make the lessee liable for all costs associated with financial analysis if required by the director of the division of parks and recreation. The cost associated with the written analysis is indeterminable as it would depend on the complexity of a particular state park, the complexity of the transaction, the structure of the transaction, and the nature of the costs. An analysis would likely include a review of the park history, cash flow projections, rate analysis including discounting, capital asset analysis including cost of financing, and a comparison to other similar enterprises. Because the bill allows for the lessee to be liable for the costs of the analysis, there may be no cost to the state. However, if a decision is made to not require the lessee pay these costs, the department may have an indeterminable increase in state park fund expenditures. **Vote 22-1.**

SB 347-FN, relative to the department of health and human services administrative appeals. **OUGHT TO PASS.**

Rep. Paul H Simard for Finance: This bill changes the appeals process for various HHS services to eliminate futile claims that originate due to changes in state or federal law. The financial impact to the state would be positive, while protecting the rights of individuals applying for or receiving services from the department. **Vote 26-0.**

SB 404-FN, relative to funding for pupils enrolled in vocational education programs. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Karen C Umberger for Finance: The bill effects how the career and technical education (CTE) programs are funded and the committee concurs with the policy committee recommendations; there is no impact on state funds. The amendment simply clarifies some issues as requested by the policy committee. The department of education will develop a formula for determining tuition and transportation costs for all CTE programs as well as procedures for disbursement of funds in conjunction with the House and Senate committees. It also defines a sending school district as being where a student resides and if a child is enrolled in a charter school the sending district shall be where the student resides. The sending district will be responsible for 25% of the receiving district cost per pupil for the prior year. Additionally, the receiving district may charge a fee of not to exceed 3% that shall only be used for CTE program development, improvement, and equipment. It further clarifies that the state tuition responsibility for a student enrolled in an alternative education program shall not exceed the per student cost of a child enrolled in a CTE program as calculated by the department of education. **Vote 25-0.**

JUDICIARY

SB 283, relative to disposition of nursing home patient accounts. **OUGHT TO PASS.**

Rep. Brian JX Murphy for Judiciary: This bill modifies the requirements for disposition of the personal property of a nursing home patient after the patient's death. The bill expedites the process by which a nursing home administrator can settle personal property through the county probate process. This bill also increases the threshold of the amount eligible through this process from \$2,500 to \$5,000. The committee recognized the benefit of both changes to the existing statute. **Vote 14-0.**

SB 301, relative to the amendment of pleadings in landlord-tenant actions.

INEXPEDIENT TO LEGISLATE.

Rep. Donald B McClarren for Judiciary: This bill would allow a landlord to file an amended writ to correct a technical defect within in seven (7) days. The right to amend the writ is regularly allowed by the court. The committee felt the bill was redundant and unnecessary. **Vote 15-0.**

MUNICIPAL AND COUNTY GOVERNMENT

SB 269, relative to the definition of default budget in towns that use official ballot voting.

INEXPEDIENT TO LEGISLATE.

Rep. Philip L Munck for Municipal and County Government: Issues relating to the calculation of default budgets in official ballot towns (SB 2) have arisen so many times this biennial session that a bill to comprehensively study the budget issues for these towns. (SB 238 - should have been passed by both House and Senate by the time this bill appears on the calendar). While this bill appears to be a technical clarification of the statutes, the committee was divided on its efficacy. The committee unanimously agreed that it should be studied in the context of the larger review. **Vote 15-1.**

SB 395, relative to construction of an access road on land in current use. **OUGHT TO PASS.**

Rep. Franklin W Sterling for Municipal and County Government: The purpose of this bill is to add language to the existing statute (RSA 79-A:7,VI(e), that a property which has an existing right of way at the time the property is placed into current use does not lose that status if the right of way is upgraded for the benefit of the adjoining property being served by the right of way. The new language only clarifies that fact; it does not add a new exemption. **Vote 16-0.**

SCIENCE, TECHNOLOGY AND ENERGY

SB 252, increasing the maximum term for energy performance contracts. **OUGHT TO PASS.**

Rep. Naida L Kaen for Science, Technology and Energy: Current law limits energy performance contracts to projects with a maximum of a 10-year payback. Testimony provided many examples of projects for the energy betterment of government or private buildings or equipment with longer paybacks which would benefit us all by saving energy if the maximum were extended to 20 years. This bill does that. **Vote 15-0.**

SCR 2, regarding the White Mountain National Forest. **OUGHT TO PASS.**

Rep. Lester W Bradley for Science, Technology and Energy: This bill encourages the US Government to take better care of the trail system in the White Mountain National Forest in New Hampshire, specifically to perform more distinct trail blazes and repair damaged bridges over streams. Inadequate trail marking results in hikers becoming lost in the wilderness areas of the forest, and in many cases NH Fish and Game and police are required to search for those lost hikers. This results in expense to the state of New Hampshire, not the federal government. The committee endorses this resolution. **Vote 15-0.**

SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

SB 83-FN, enabling municipalities to create other post-employment benefits (OPEB) trusts. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Seth Cohn for Special Committee on Public Employee Pensions Reform: This bill allows municipalities/school districts to create irrevocable trusts into which cities, towns and school districts could deposit funds for the future expense of post employment benefits (OPEB) of municipal/school district employees. The main concern raised in the committee was the unintended consequence that allowing these trusts might encourage continued negotiations of OPEBs in the future, while the current governmental accounting regulations in force, which require showing the entire liability on the books, has discouraged this sort of benefit from being offered in recent years. By grandfathering in all existing OPEB obligations prior to the beginning of 2012, as eligible for trust creation, we can ensure all current employees OPEBs, as well as any new employee OPEBs hired under the current contracts allowing OPEBs, may be funded using these trusts, and potentially saving taxpayers some money in the long run through the trusts' investment returns, while still discouraging any newly created OPEBs, preventing the use of a trust as an accounting mechanism to make the cost seem much lower than the true liability cost, and so more attractive, to the taxpayers who must decide to approve the contracts that offer OPEBs, or otherwise elect those who make those decisions. **Vote 13-1.**

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

SB 351, relative to proclaiming Blue Star Mother's Day. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Frank H McCarthy for State-Federal Relations and Veterans Affairs: This bill, as amended, requires that the governor, each year, shall issue a proclamation calling for the proper observance of the first Sunday after Mother's Day as "Blue Star Mother's Day." Blue Star Mother's Day would recognize and honor all mothers who now have, or have had, a child honorably serving in the United States armed forces. **Vote 17-0.**

SB 398, proclaiming March 30, 2013 as Welcome Home Vietnam Veterans Day. **OUGHT TO PASS WITH AMENDMENT.**

Rep. David C Lundgren for State-Federal Relations and Veterans Affairs: This bill gives long overdue recognition to our state's Korean and Vietnam war veterans by proclaiming March 30 as Welcome Home Vietnam Veterans Day and July 27 as Korean War Veterans Day annually. **Vote 17-0.**

TRANSPORTATION

SB 282, authorizing the commissioner of safety to require the installation of an ignition interlock device or enhanced technology ignition interlock device as a condition of restoring driving privileges in certain instances. **OUGHT TO PASS.**

Rep. John E Tholl for Transportation: This bill provides that the department of safety shall have the authority to require a hearing for those offenders who have lost their license or privilege to drive for offenses involving motor vehicles and alcohol. Prior to the return of their privileges and if their record or continued involvement in excessive alcohol use, to order the installation of an alcohol ignition interlock or enhanced technology ignition interlock as required in current interlock statutes. **Vote 10-0.**

SB 361, establishing a commission to study the feasibility of establishing energy infrastructure corridors within existing transportation rights of way and repealing a commission. **OUGHT TO PASS.**

Rep. Richard W Hinch for Transportation: This bill establishes a commission to study using existing transportation rights of way for utility infrastructure corridors. **Vote 10-0.**

WAYS AND MEANS

SB 203-FN-A, relative to limited liability companies. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Laurie J Sanborn for Ways and Means: This bill completely revises and rewrites existing laws regarding limited liability companies. The previous committee evaluated the merits of these policy changes. Our committee verified that this bill does not have a direct

impact on state revenues nor raises any fees. An amendment to the bill enables the Economic Strategic Commission to study the relationship between New Hampshire businesses and state government to meet through open blogging between regularly convened in-person meetings. Such blogging shall be open to the public at all times for viewing. Digital records of the blog will be kept. **Vote 21-0.**

SB 205, revising the New Hampshire business corporations act, RSA 293-A. **OUGHT TO PASS.**

Rep. Laurie J Sanborn for Ways and Means: This bill creates a committee to study possible revisions to the New Hampshire business corporations act, and creates no new fees. **Vote 21-0.**

SB 314-FN, relative to state-owned vehicle fleet management. **OUGHT TO PASS.**

Rep. Keith Murphy for Ways and Means: This bill will enable the state to be reimbursed for employee personal use of state-owned vehicles at the IRS rate of 55.5 cents per mile, with all reimbursements going to the state highway fund. According to the department of administrative services, there were 1.4 million personal miles driven on state-owned vehicles in 2011. The committee voted unanimously to support this commonsense proposal. **Vote 21-0.**

SB 326-FN-A-L, relative to state reimbursement of towns. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Laurie J Sanborn for Ways and Means: As amended, this bill ensures our state lives up to its promise to 18 towns, which gave up much of their land over 50 years ago for flood control, and clarifies that the state of New Hampshire will fulfill its obligations. As such, it has zero impact on the current budget but gives assurance to towns that have relied upon the state's commitment for decades. Following a public hearing, a non-germane amendment was added which continues our ongoing efforts to improve our trust laws, which have made New Hampshire one of the top states in the nation to establish trusts and have helped to create jobs and expand the economy. This amendment has no fiscal impact on the state. **Vote 20-0.**

SB 343-FN, establishing an independent board of psychologists. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Patrick F Abrami for Ways and Means: This bill establishes a board of psychologists for the regulation of licensed psychologists. Currently the board of mental health practice regulates licensed psychologists. Our committee is charged with reviewing taxes and fees. To insure there are no new fees associated with this bill the committee amended this bill leaving the board of mental health practice the board with continuing responsibility to establish fees for psychologists as well as receive and account for all fees and pay the moneys to the state treasurer to be deposited in the General Fund. The committee unanimously passed this bill. **Vote 20-0.**

TUESDAY, MAY 15

REGULAR CALENDAR

COMMERCE AND CONSUMER AFFAIRS

SB 175, regulating the commercial use of a person's identity. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Jennifer R Coffey for Commerce and Consumer Affairs:: This bill recognizes in statute what has been recognized by the NH courts for years, and that is that a human being has the right of publicity. That is to say that a human being possesses the property right to their own image and the right to control the use of that image in commerce. Ironically, it is the only property right recognized by the state that until now was not a property you can leave to your descendent. SB175, as amended by the committee, creates what 15 other states recognize as a descendible right of property, but sets a limit to ensure that after a

respectable amount of years, that right expires. The amendment ensures that freedom of speech is protected by noting the rights protected in the New Hampshire State Constitution, the United States Constitution with an additional specification of the rights protected under the 1st Amendment. As written, the bill ensures our most basic human right of property to control one's self image is protected, in keeping with the preamble of the United States Constitution. **Vote 17-1.**

SB 219-FN, relative to guaranteed issue for health insurance. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Andrew J Manuse for the **Majority** of Commerce and Consumer Affairs: This bill, as amended, grandfathers certain state insurance policies under the federal health care overhaul of 2010 and implements a minor provision of the act, which guarantees issue for health insurance to individuals under 19 years of age and prohibits the imposition of a preexisting exclusion period for these individuals. This will ease confusion between state and federal law and ensure that the state insurance department can continue to regulate health insurance in New Hampshire without the federal government stepping on its toes. In addition, the committee added to SB 219 the House language of HB 1297 (passed the House on March 8) which prohibits the implementation of a state health benefits exchange under the federal health care overhaul, in an effort to bring about a committee of conference and pass both bills. The committee was surprised that compromise language for HB 1297 that was worked on by House and Senate leaders and the insurance department, leaving all three sides satisfied with the agreement, did not pass immediately through the Senate, and is adding the House language on this bill in the hope of continuing the discussion to pass the compromise language. As to the merits of HB 1297, which already passed the House with the language now in this bill with a veto-proof margin, the federal health overhaul entices states with the choice to create a state operated health benefits exchange or to rely on a federal operated exchange, but it is against the state's best interest to create a state health benefits exchange. In effect, a state exchange or a federal exchange is no different; the federal bureaucracy would control either version. Yet, a state exchange would cost New Hampshire an additional \$10 million to \$15 million a year to run starting in 2015—money we just don't have—just to pay for state officials to follow the federal government's orders. Even if we do end up with federal health care reform, HB 1297 would save New Hampshire money. The compromise language the committee hopes to work toward passing would be inserted in RSA 420-N, updating the responsibility of the Joint Health Care Reform Oversight Committee to guide the state's executive branch in protecting New Hampshire from the federal law. Under this language, HB 1297 would give state officials guidance on how they should interact with federal agents in the event that the court does not overturn the federal act in its upcoming decision or if the federal act is not repealed by Congress. Specifically, the amended HB 1297 would direct state officials to maintain a free market for health insurance to the best of their ability under the federal law. However, the language still takes advantage of a flaw in the federal law that relies on states creating their own exchanges. The federal law did not provide for the contingency that states would refuse to set up exchanges, and because of this, by New Hampshire not creating a state exchange along with other states, it will be more likely that the federal health insurance overhaul would be repealed or amended, regardless of the Supreme Court's ruling. In conclusion, the language of HB 1297 that the House Commerce Committee is working toward passing would provide for every possible outcome and maintain the state's stance against the federal act, and it still ensures New Hampshire maintains its ability to regulate health insurance on its own, regardless of what happens next. **Vote 14-3.**

Rep. Donna L Schlachman for the **Minority** of Commerce and Consumer Affairs: This purpose of this bill as introduced was to clarify language in New Hampshire's statute related to insurance policies for individuals under age 19. The bill as written had issues related to clarity and the committee worked on an amendment with the insurance carriers and the New Hampshire Insurance Department to fix this. The minority supported this amendment

which is found in sections 1 and 2 of amendment passed by the committee. The minority objects to the amendment passed by the committee because section 3 of the amendment is the content of HB 1297 passed by the House earlier this session and tabled by the Senate. The minority felt that HB 1297 set poor public policy when it was passed by the House and has not changed its position.

SB 334, relative to Medicare unfair trade practices. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Kenneth N Gidge for the **Majority** of Commerce and Consumer Affairs: This bill is misleading by only pointing to insurance agents being inconvenienced, and not telling us that for years some insurance agents have taken advantage of the elderly and disabled who are on Medicare. Many dishonest insurance agents call upon the elderly, earning their trust by using the word Medicare in their sale's pitch. Medicare was the key to open the door and then the bait and switch tactics began. It is fair to say that some elderly and disabled were misled and many were confused. It is believed that some elderly were cleverly directed to buy insurance they did not need, want and many could not afford. Calls came into the N.H. insurance dept. from the children of the elderly, friends and neighbors. Advocates for the elderly and disabled called, all with the same story, something had to be done. In 2010 the N.H. insurance department supported HB1364. The bill passed by majority, became law effective 2011 (Chapter 258, Laws of 2010). The N.H. insurance dept. made it clear that since the law of 2011, there have been few complaints. In New Hampshire the elderly and disabled are safer. This law works. SB 334 is wrong. **Vote 12-6.**

Rep. Andrew J Manuse for the **Minority** of Commerce and Consumer Affairs: This bill clarifies the law making it legal again for an insurance broker to sell life insurance or annuity products when a potential client has come in to discuss Medicare products without having to make a separate appointment for that purpose. Currently, an insurance agent has a legal gag order against being able to sell these other legitimate and legal products under RSA 417:4 when a client has an appointment with the broker to discuss Medicare products. The current law presents an inconvenience to the client, who might want to discuss Medicare products along with life insurance and annuity products during the same meeting, because the insurance broker is not legally allowed to discuss the full range of products available. The current law is also a violation of the insurance broker's first amendment right as well as his or her right to make a livelihood by selling perfectly legal and legitimate products. The current "Nanny State" law assumes that some people will be duped into buying life insurance or annuities when they don't really want or need them, but that decision should be made by individual clients or their representatives, not by the government. The Republican Minority believes insurance brokers should be able to sell all of the products they offer at all times to any client without having to jump over the type of red tape that this bill repeals.

CONSTITUTIONAL REVIEW AND STATUTORY RECODIFICATION

SB 356, limiting the authority of delegates to Article V amendment conventions.

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

Rep. Gregory M Sorg for the **Majority** of Constitutional Review and Statutory Recodification: This bill, as amended, would give life to the dormant second alternative for proposing amendments to the federal constitution under Article V, that of calling a convention upon the application of the legislatures of two-thirds of the states. Little effort has ever been made, and no effort has ever gone far, in applying for the calling of a convention, in large part out of fear of a "runaway" convention whose delegates would take it upon them selves to propose amendments exceeding the purposes motivating the call. This bill would put in place for future use by New Hampshire, and would serve as a model for similar legislation in other states, specific instructions by which delegates would be bound by oath as agents of the general court to consider or approve no topic or specific language of a

proposed amendment other than an amendment within the scope of the Article V petition passed by the general court. **Vote 7-3.**

Rep. Christopher W Serlin for the **Minority** of Constitutional Review and Statutory Recodification: The minority of the committee believes SB356 serves no purpose that cannot be addressed if and when any Constitutional Convention might be called under Article V of our Constitution. Some members discussed the need to pass this language for purposes of signaling other states to pass their own version of this same legislation in hopes, ultimately, of calling an Art V Convention. The minority of the committee feels New Hampshire should be passing legislation that focuses on New Hampshire; and not be involved in the business of sending signals to other states. The minority of the committee further believes that attaching potential for criminal or civil penalties to the actions of delegates, in hopes of managing the behavior of such delegates, could force future convention delegates into situations where their sworn obligations might conflict with their own rights of conscience, in violation of Pt 1, Art 4. of New Hampshire's Constitution.

SB 378, allowing municipalities to remove snow from private roads and driveways and class VI highways. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Seth Cohn for the **Majority** Constitutional Review and Statutory Recodification: The committee unanimously agreed that the underlying bill, allowing municipalities to vote to remove snow from private roads and class VI highways, while raising a potential constitutional violation of using public monies for private purposes, was needed to solve real world issues raised in various towns already and allowed a legal solution to the current problems. Towns need a viable way to arrange service for these existing roads, when appropriate, in a manner that doesn't require the taking of complete ownership and maintenance of the road in question, and this bill provides that mechanism cleanly and with legislative body oversight of the process. The committee felt that the constitutional concern was minimal at best, especially with the allowance of an optional fee to be charged for services rendered. The committee chose not to discuss the House amendment to the bill as it was not the purpose for which the bill was sent to the committee and there were no obvious constitutional issues. **Vote 8-3.**

Rep. Gary B Richardson for the **Minority** of Constitutional Review and Statutory Recodification: The minority supports allowing municipalities to remove snow from private roads under the conditions established by the bill. The minority opposes the non germane amendment relating to de-certification of bargaining units because the committee failed to allow consideration of constitutional issues relating to the amendment. The minority also believes that the notice for the hearing and the executive session was inadequate.

EDUCATION

SB 268, relative to the appointment of the treasurer of the Concord school district.

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

Rep. Joseph A Pitre for the **Majority** of Education: For years, the Concord school district charter has been under the exclusive control of the Legislature. In 2011, the Legislature gave the District the opportunity to decide if it wanted to become autonomous. And as the chairwoman of the Concord School District Charter Commission stated after its June 13, 2011 vote to send the new charter to the residents of Concord for their approval, "the one thing that united all the members of the commission was the goal to bring the charter under the control of Concord voters." In their November 8, 2011 vote, the people of Concord approved the measure. Clearly the people of Concord want to have direct oversight of their own school district. Under RSA 671:6, school districts are required to elect a clerk, moderator, and treasurer. This is in keeping with the people of Concord's desire to have those running the district be accountable to the people. Yet SB 268 would exempt the Concord school district from this election requirement and would allow the school board to appoint the district's treasurer who would be accountable to the board and not the people. By allowing the school district treasurer to be appointed, no checks and balances on the

distribution of public funds would be realized. If this bill becomes law, it would provide Concord with a unique and potentially dangerous exception to state law which applies to other school districts. The majority of the committee believes making such an exception is not good public policy and recommends that the full House vote in favor of ITL. **Vote 9-8.** Rep. J.R. Hoell for the **Minority** of Education: In 2011, the citizens of Concord voted to remove the charter governing the Concord school district from the legislature. Prior to 2011, all changes related to the charter had to be introduced and voted on by the Legislature. In an effort to continue the support of local districts managing their own affairs and in the process of reviewing the new Concord school district charter, it was noted that it did not meet a requirement of RSA 671:6. On the recommendation of the NH secretary of state, SB 268 was introduced to add a section, indicating that an exception could be made to RSA 671:6 in cases where the governing body of the school district serves as the legislative body pursuant to the school district's governing charter or statute, and the officers of the school district are appointed or otherwise chosen in accordance with the school district's governing charter or statute. SB 268 addresses a minor detail that if not passed, complicates the implementation of the new locally supported Concord school district charter.

SB 328, relative to the procedure for filling a vacancy on a cooperative school board.

OUGHT TO PASS WITH AMENDMENT.

Rep. J.R. Hoell for Education: Current statutes (RSA 671:33) require that co-operative school districts fill vacancies by a vote of the current co-operative school board. In co-operative districts, there are potentially towns that have a plurality of seats on the school board. In these cases, there exists the potential for the current members of a co-operative school board to fill the vacancy with a new member that may not be looking out for the best interests of the town they are supposed to be representing. The bill changes the statute to create a process for filling the vacancy for co-operative school boards for situations where there are either single or multiple members representing a town. If the town only has one member on the board, the town moderator shall appoint the interim member. If the moderator is unable to fill the position, the board of selectmen shall appoint the person. If the town has multiple members on the school board, the members decide, and if they are unable to come to agreement, the process reverts to the process used for the single member districts. **Vote 17-0.**

SB 373-L, authorizing the retention of funds by a school district. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Barbara E Shaw for Education: This bill with amendments allows a school district, by a vote of the legislative body of a town or city, to authorize the retention of unassigned general funds up to 2.5 percent of its current fiscal year's end net assessment, pursuant to RSA 198:5, for the purpose of having funds on hand for emergency expenditures and over expenditures under RSA 32:11 or to be used as a revenue source to reduce the tax rate. Additionally, it allows the legislative body of Manchester, upon recommendation of the school board, to authorize the retention of additional funds determined by the larger size of its budget and affected by its tax cap. **Vote 16-0.**

SB 402-FN, relative to the adoption of policies for the management of concussion and head injury in youth sports. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Rick M Ladd for Education: This bill as amended encourages the school board of each district to develop guidelines to inform and educate coaches, students, athletes and parents of the nature and risk of concussion and head injury while participating in student sports. The bill further requires a school coach, official, licensed athletic trainer or health care provider to remove a student athlete from a practice or game upon suspicion that the student-athlete has sustained a concussion. In accordance with New Hampshire Interscholastic Athletic Association practice, the student-athlete may return upon receiving written authorization from a health care provider. This legislation is only directed to student sport in grades 9-12. The committee heard much testimony in support of this bill, including

NHIAA, medical personnel, parents, professional athletes, etc. The bill as amended has unanimous committee support. **Vote 17-0.**

ELECTION LAW

SB 236, relative to nomination of candidates. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Dino A Scala for Election Law: This bill as introduced and amended was brought at the request of the Secretary of State. It reverses changes made to accommodate the compressed time period between the primaries and the general election in 2010. This bill 1) modifies the procedure for nominating at political organization 2) changes various dates relating to nomination of candidates, recounts, and hearings by the ballot law commission 3) permits a voter who has been registered as an undeclared voter to register as undeclared after voting in a primary by signing an undeclared voter list 4) changes the requirements for the ballots cast form. **Vote 15-0.**

SB 289-FN, relative to presenting photo identification to vote in person. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William B Smith for the **Majority** of Election Law: SB 289 as passed by the Senate requires one of a wide variety of photo identifications to be presented in order to vote. Voters without photo identification must execute a challenged voter affidavit in elections after January 1, 2013. Procedures are established for follow up in cases that an affidavit is submitted, and to collect data about incidences of lack of photo identification. Requirements are established for appropriate voter education prior to implementation. It is the opinion of the majority that the vulnerability of NH's election system to fraudulent voting requires urgent action starting with the 2012 general election. Consequently the bill was amended to require that a voter present one of four (4) specified types of photo identification, starting November 1st, 2012. If unable to do so he or she must sign a qualified voter affidavit before voting. Such affidavit requires a photograph of the voter to be taken and attached. The photograph requirement is waived if proper working equipment is not available. **Vote 13-7.** Rep. David M Pierce for the **Minority** of Election Law: The committee unanimously passed an amendment to a photo identification bill in 2011 (that bill was ultimately sent to Interim Study). This time the committee could not reach that kind of bi-partisan consensus. This is principally because the subcommittee failed to inquire meaningfully into crucial issues affecting the bill (e.g., whether the election fund can be used to pay for the costs of section I(V) of the bill). The town and city clerks supported the bill as it come to us from the senate, but now oppose it. They are charged with running an efficient polling place on election day, and believe this bill, as amended, will create chaos on election day. The deputy secretary of state also testified that the bill doesn't allow sufficient time to implement the proof of identity requirement properly. The bottom line is that the committee has shown it knows how to draft a photo ID bill that works; a photo ID bill that protects the process but doesn't disenfranchise anyone of their fundamental right to vote. This bill, as amended, doesn't come close to meeting that standard. Our citizens deserve much better from us.

SB 318-FN, relative to voter registration. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Susan C DeLemus for the **Majority** of Election Law: SB 318 removes a statement from RSA 654:1 that was added in 2007 that could be construed to mean that someone can vote in NH without being a resident of the state. It also restores language to the voter registration form that existed prior to July 1st, 2007. The house amended the bill to make changes to the verification procedure to follow up on people who register to vote without showing approved photo identification. The Senate version required the Department of Motor Vehicle to send letters to these people. The majority of the committee determined that it would be more appropriate to have the Secretary of State carry out this verification process. **Vote 9-8.**

Rep. Kathleen M Hoelzel for the **Minority** of Election Law: This bill has several serious flaws. The proposed voter registration form includes references to motor vehicle laws. There

was no explanation by the committee as to the reason for inserting only motor vehicle laws instead of all New Hampshire state laws such as tax laws etc. The definition of domicile on the new, proposed, voter application form is different than the definition domicile affidavit form.

ENVIRONMENT AND AGRICULTURE

SB 370-FN, relative to the powers of law enforcement and animal control officers. **OUGHT TO PASS WITH AMENDMENT.**

Rep. David L Babson for Environment and Agriculture: This bill deletes the wording defining the work conditions of the state veterinarian which was legislated in 1921. At that time, the state vet job became full time and the legislature wanted to be sure that the appointed individual devoted his/her full time to the job. The committee felt that today, this requirement is unnecessary. **Vote 12-0.**

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 239-FN, relative to the membership and duties of the installation standards board. **OUGHT TO PASS WITH AMENDMENT.**

Rep. John Sytek for Executive Departments and Administration: This bill updates the installation standards board. It reduces the board size from 12 to 9 by eliminating the positions of those who never attend meetings. It provides for the appointment of board members by governor and council, rather than by the commissioner of safety. It also provides a minor stipend and actual travel expenses consistent with similar boards. **Vote 12-0.**

SB 259, relative to the appointment of the director of ports and harbors and relative to transfer of land within the Pease development authority. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Randall A Whitehead for Executive Departments and Administration: This bill will enhance the viability of one of New Hampshire's most important economic engines, the former Pease Air Force Base. Great progress has already been made there, as Pease is recognized as one of America's greatest post- base closing success stories. In fact, this economic dynamo produces half a billion dollars to the local and state economies annually. The bill will accomplish three things:

- 1) Transfer appointment of the of the director of ports and harbors from the governor and council to the Pease Development Authority (PDA) board of directors, thus insuring a proper line of authority for the PDA.
- 2) Extend the date by which regulatory authority over certain lands within the PDA is to be transferred to municipalities by 30 years, thus attracting capital investment in the area and insuring future economic development.
- 3) Authorize the Pease division of ports and harbors to enter into a project with the US Army Corps of Engineers for the purpose of dredging parts of Hampton and Seabrook harbors, the cost of which will be shared by the state and the Corps for the initial dredging, with all future dredging to be paid for by the Corps, thus saving the state significant on-going future expenses. **Vote 12-2.**

SB 308, proclaiming January 24, 2013 as Granny D. Day. **OUGHT TO PASS.**

Rep. Kenneth Hawkins for Executive Departments and Administration: The committee supports the one time only observance of Granny D Day. The committee recommends that sponsors and supporters of these proclamations to annually petition the governor to proclaim the celebration of a day, rather than filing legislation at a cost of \$1,000.00 or more. **Vote 8-6.**

SB 310, relative to the commemoration of Purple Day in recognition of epilepsy awareness and relative to the observance of Cancer Prevention Day. **INEXPEDIENT TO LEGISLATE.**

Rep. Spec Bowers for Executive Departments and Administration: The bill would require the governor to issue proclamations to promote awareness of epilepsy and of cancer. The entire committee supports the observance of Purple Day and Cancer Prevention Day, and

urges the governor to issue such proclamations. But the majority notes that the governor has the authority on his own to issue proclamations and no additional legislative authority is needed. The committee encourages organizers of these worthy causes to directly petition the governor to proclaim the celebration of Purple Day and Cancer Prevention Day. **Vote 7-5.**

SB 311-FN-A, establishing a director of the division of weights and measures and relative to the setting of weights and measures fees. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Carol M McGuire for Executive Departments and Administration: This bill, as amended, addresses a number of issues with the division of weights and measures. First, it specifies the duties of the director of the division, including developing procedures for prosecuting violations, performing investigations, and standard operating procedures for the inspectors. Second, it creates an advisory board for the division, including the non-agricultural operators who have had recurrent difficulties with the division. The board will include one legislator, appointed by the Speaker, presumably from one of the relevant committees such as E&A, Commerce, or ED&A. Third, it allows the division to collect fees for metrology services and weights and measures licenses. These are not new fees; they have been in existence for years but were overlooked by the department when last year's SB157, Chapter 202 deleted the commissioner's rulemaking authority for these fees and put all (or so we thought) fees in statute. The AG has ruled that without the authority to create fees, they cannot be collected, resulting in the loss of approximately \$148,000/year of fees for services still performed. SB311 explicitly authorizes the collection of these fees but does not allow any increases until FY2014. Fourth, it specifies the information required on a fuel delivery ticket, as opposed to an invoice, and allows customers to opt out of any of these requirements. An investigation showed that about half the propane delivery trucks and a third of fuel oil trucks were not capable of automatically providing all the information currently required on such a ticket, and there has been only one complaint in about 20 years. Finally, it amends the special police powers of the weights and measures enforcers. The committee amendment replaces the entire bill. **Vote 9-3.**

SB 339, establishing Loon Appreciation Day. **OUGHT TO PASS.**

Rep. Maurice L Pilote for Executive Departments and Administration: The committee agrees that the loon is an extraordinary bird and important to New Hampshire's lakes and admires the efforts for its preservation and protection. The committee recommends that the organizers of the Loon Preservation Committee's Loon Festival annually petition the Governor to proclaim the celebration of Loon Appreciation Day. **Vote 9-3.**

FINANCE

SB 155-FN-A, relative to section 179 expense deductions under the business profits tax.

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

Rep. William S Belvin for the **Majority** of Finance: Finance is the second committee for this bill, which raises the amount that certain business assets can be written off in the year they are purchased, rather than depreciated over several years. This is known as the IRS Section 179 deduction. In 2000, the New Hampshire limit was set at \$20,000 and this bill raises that to \$25,000. This limit increase will result in reduced revenue, but the amount is unknown. The committee thought that rather than place this burden on the current state budget, that in building the next state budget for FY 2014/2015 due consideration should be given to appropriate IRS Section 179 policy relative to future economic conditions. Consequently an amendment was adopted to change the bill's effective date to July 01, 2013 without changing the bill's IRS Section 179 content. The previously attached House amendment related to "refugee re-settlement" was unchanged. **Vote 17-6.**

Rep. Bernard L Benn for the **Minority** of Finance: This bill as amended will not affect the current budget. However, it kicks the can down the road and will have a detrimental affect on revenues for the next budget.

While it is not possible to predict accurately how much revenues will be reduced, we heard testimony that it will be at least \$5 million and potentially significantly more. The minority

doesn't buy the argument that the increase in economic activity anticipated by the increase in expense deduction allowed in the underlying bill will offset the loss in business profit tax revenue. New Hampshire cannot afford the loss of more revenue without damaging the quality of life of our citizens, especially our most disadvantaged. On April 25 the House added an amendment to the bill that would allow local governing bodies to establish moratoria on refugee resettlement in New Hampshire communities. The minority believes that although the amendment was added within the strict interpretation of the House rules, it is not good practice and makes for poor legislation. For these two reasons, we do not support this bill.

SB 295-FN-A, increasing the research and development tax credit against the business profits tax. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS.**

Rep. Paul H Simard for the **Majority** of Finance: The Finance Committee passed this bill restoring the original \$1 million research and development tax credit for NH business. This indicates our continued commitment to support our business community. **Vote 17-9.**

Rep. Dan McGuire for the **Minority** of Finance: The minority strongly objects to the actions of the majority in removing the 24-hour abortion waiting period, for entirely non-financial reasons. That social policy was extensively debated and passed by the full House twice, once as an original bill, and once as an amendment to SB 295. The underlying principle is just as important today.

SB 332, repealing a prohibition relative to auxiliary state troopers and repealing the law governing motor vehicles carrying property for hire. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William B Smith for the **Majority** of Finance: This bill makes the use of auxiliary state police more efficient by allowing flexibility in hours worked for these part time employee. It also repeals the law governing motor vehicles carrying property for hire since federal law takes precedence over state law. The amendment requires law enforcement officers to record citizen complaints about TSA agent searches upon complaint by the citizen, for inclusion into a state-wide database. It also permits audio and video recording of the TSA search. **Vote 20-6.**

Rep. Robert A Foose for the **Minority** of Finance: Even though the minority did agree with the logic of the initial bill that was focused on the use of auxiliary state supporters, the introduction of a non germane amendment at the last minute causes us to suggest that the appropriate vote should be ITL. The amendment reintroduces the provision that individuals can challenge actions by the TSA and that these challenges can become part of a public record. This process has already been considered by the House and Senate without mutual agreement.

SB 348-FN, relative to the pulse oximetry test for newborns. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Richard W Barry for the **Majority** of Finance: This bill adds pulse oximetry testing to the medical diagnostic screenings required for newborns. There is no additional cost to the state for this test. The potential savings involved, while not quantifiable, are substantial. **Vote 17-9.**

Rep. Cindy Rosenwald for the **Minority** of Finance: The minority, while taking no position on the value of newborn pulse oximetry screening, is opposed to the legislature determining clinical standards of medical practice. The newborn screening advisory panel, comprised of the appropriate health professionals and stakeholders, is the statutory process to determine what screenings should be included for all New Hampshire newborns. The American Academy of Pediatrics recommended universal pulse oximetry screening for newborns only six months ago, and the Newborn Screening Advisory Panel has already taken the subject up at a recent meeting. The Newborn Screening Advisory Panel is better qualified than the legislature to set policy for how newborns should be screened. In addition, licensed health care providers are expected to adhere to the clinical guidelines of their professional

associations (in this case, the American Academy of Pediatrics) since these guidelines represent the current standards of care.

SB 366-FN, relative to use of certain OHRVs on snowmobile trails, and relative to authorization for snowmobiles and OHRVs registered in Vermont and Maine to operate in this state. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Colette Worsman for Finance: Finance is the second committee for this bill, which allows OHRVs that are modified to be operated on the state's snowmobile trails as long as they meet the requirements. The policy committee removed the senate provision that allowed residents of Maine and Vermont to operate snowmobiles in New Hampshire without giving reciprocity to New Hampshire residents in their respective states, thus costing New Hampshire revenue without benefit to New Hampshire snowmobilers and reducing the funding for trail maintenance. DRED stated that this bill may increase restricted revenue, but it was impossible to tell the amount. They offered the following analysis: The Department of Resources and Economic Development (DRED) states this bill provides a snowmobile endorsement for OHRVs which use tracks, cleats or skis. The cost for this endorsement is \$16.00 of which \$12.56 shall be appropriated to the Department and \$3.44 shall be appropriated to the Department of Fish and Game. DRED states it does not have accurate numbers to calculate the increase to restricted revenue as there is no registration category for all-terrain vehicles with tracks. However DRED assumes there are 18,000 all-terrain vehicles in NH with approximately two percent having track conversion kits. This would result in approximately 360 vehicles requesting this endorsement, increasing restricted revenue to DRED by approximately \$4,522 (360 vehicles * \$12.56 portion appropriated to DRED). It is assumed Department of Fish and Game restricted revenue will increase by \$1,238 (360 vehicles * \$3.44). The Department of Fish and Game has no information to determine how many vehicles will be converted to tracked vehicles to estimate any increase in revenue. The department states the \$16 is expected to cover the cost of the endorsement sticker. This bill is citizen, sportsmen, and business friendly **Vote 26-0.**

SB 375-FN, relative to a prepaid health plan for Medicaid services and relative to the Medicaid management information system. **OUGHT TO PASS.**

Rep. Neal M Kurk for Finance: This bill repeals the requirement that the department of health and human services apply for a waiver to deliver and pay for Medicaid services to Medicaid-eligible persons with severe mental disabilities through a prepaid health plan. This waiver was made unnecessary through the inclusion of these services in the state's Medicaid managed care system. The bill also repeals as unnecessary the requirement that the state hire an information systems consultant to help implement the Medicaid management information system. The committee found no fiscal impact on state finances from passage of this bill and a potentially negative impact if it does not. **Vote 26-0.**

SB 376, extending the committee to develop a plan for privatizing the department of corrections. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Dan McGuire for the **Majority** of Finance This bill, as amended, extends the term of the prison privatization study committee created by HB2 (Chapter 224, Laws of 2011) to Nov 1, 2012. HB2 directed the dept. of corrections to issue RFPs to privatize NH's prisons, and also set up the committee to review the process. Due to delays in creating the RFPs, the original deadline was inadequate. The amendment also allows the committee to confidentially examine the vendor submissions and summarize their findings without revealing any vendor-specific information. The efficient and effective operation of the state's prison system is of great concern to the citizens of New Hampshire. The legislature needs the best information available to decide what type and degree of privatization is desirable. **Vote 14-7.**

Rep. Robert A Foose for the **Minority** of Finance: The minority can not agree with the process that is directed by the bill for two reasons. First, the risk that this bill creates is that future contract deliberations that should be conducted by administrative units will be

subjected to unnecessary legislative interruption. Second, the kind of inquiry that the committee is seeking should be redirected to consideration of the experiences of other states instead of attempting to review material that has always been held to be a confidential part of the actual bid process.

SB 401-FN, relative to reporting the average daily membership of pupils in the public schools and relative to adjustments to adequate education grants. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Dan McGuire for Finance: Adequate education payments to school districts are currently based on three-year-old attendance figures. This bill shortens the process so that one-year-old data is used. State aid is thus more accurately allocated to where it is needed. Under the bill, schools budget for aid based on estimated attendance for the current year. They may adjust these estimates by up to 5% to ensure that they will never overspend their revenue. The amendment makes it clear that districts' own estimates are to be used and provides for reconciliation of payments to cooperative school districts. **Vote 20-3.**

SB 409-FN, relative to the use of marijuana for medicinal purposes. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Paul H Simard for Finance: This bill establishes a procedure for the medicinal use of marijuana. The committee reviewed the bill for fiscal impact and removed all fees, so that the program will be self-sustaining through gifts and donations. The amendment also makes technical clarifications and corrections that are supported by the sponsors and policy committee. **Vote 18-8.**

JUDICIARY

SB 17, relative to evidence of admissions in medical injury actions. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Brian JX Murphy for the **Majority** of Judiciary: This bill expands the "I'm sorry law" in medical injury cases to cover a broader scope of expressions made by medical care providers - such expressions themselves to be inadmissible as evidence in any medical injury action. The committee amended this bill to remove admissions of fault from the list of expanded expressions. It is important to note that all underlying information, documents and records remain discoverable through the judicial process. The bill was also amended to include a House Bill on tort reform that passed the House earlier this session with a 247 to 85 vote. **Vote 10-4.**

Rep. Lucy M. Weber for the **Minority** of Judiciary: Members of the minority believe that the existing "I'm Sorry" law, enacted in 2005 after considerable discussion with all stakeholders, is a better formulation than that proposed in the current bill as amended. In particular, the current statute makes it clear that actual statements of fault, negligence, or culpable conduct are not covered by the protections of the "I'm Sorry" law, while the new law is silent on the treatment of those statements. In addition, although the attachment to the bill of an unrelated matter passed earlier by this House is allowable under our rules, the minority thinks this maneuver does not further good government

SB 273, relative to vexatious litigants. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Brian JX Murphy for Judiciary: This bill addresses litigants who use the judicial process as a tool of harassment. If a court finds, by clear and convincing evidence, that a litigant has filed three (3) or more suits that were initiated for the purpose of harassment, then the court may require such litigant to retain an attorney (or other person of good character) or post a surety bond sufficient to cover attorney fees and anticipated damages. The committee felt the bill properly balanced the need to limit abusive behavior with the right to judicial access. **Vote 12-3.**

SB 354, relative to the escrow fund for court facility improvements. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Robert H. Rowe for the **Majority** of Judiciary: This bill and amendments make three changes in the law for the Judicial Branch.

First, the bill includes a technical correction to RSA 490:26-c which currently provides for a portion of the court entry fees that are retained and allocated to court facility improvements. The bill amends the reference to district court and changes it to circuit court.

Second, this increases the capitol budget for improvements to the electronic court system that is in the development stage. The resulting program will result in substantial judicial branch savings in the future. The funding is conditional on the fiscal committee and the governor and council accepting specified process reports from the judicial branch by May 30, 2012

Third, the bill makes an important amendment to the new circuit court to insure the citizens and communities are well served. The amendment insures that the legislatively established 32 local court districts and court house locations in each of our communities are preserved until changed by the legislature. Further it provides additional authority to the presiding judge in each court district to have greater authority for personnel and services management in his/her court. A unified court system is important for consistency of adjudication, but total centralized management in judicial system in Concord overlooks the fact that each of our 32 court districts is different and the local presiding justice knows the district. Common sense dictates that the rural, small town Colebrook Court District differs greatly from the urban, border city, Nashua Court District. The law is the same throughout the state but court management necessary to serve the needs of specific districts are greatly different. The local presiding judge is aware of the requirements to serve the local community. **Vote 13-2.**

Rep. Lucy M. Weber for the **Minority** of Judiciary: The minority fully supported the underlying bill relative to the escrow fund for the court facilities improvements when it was execed several weeks ago. The concerns are with the last minute attachments to the bill.

With to the circuit court modifications, the minority is extremely concerned that the reorganization will significantly impact the savings to be realized by the implementation, as originally passed, of the circuit court. We heard testimony that the reason for the modification is that different judges have different ways of doing things, and that a locally assigned judge is necessary to ensure that local customs ways of doing things are preserved. The concern is that in preserving local differences, not only are the economies of scale achieved by consistent procedures lost, but even substantive matters like plea agreements are less standard from judge to judge. We believe that more uniformity, not less, is the desirable goal. We also believe the better way to address the current concerns is to fill all currently vacant judicial vacancies, and to fund additional judges and staff as necessary through the budget process.

The minority fully supports the policy underlying the funding of the E-Court initiative, and applauds this important innovation. However, this is another last-minute addition, and the funding sources for this additional \$1.7 million expenditure are unclear. One witness indicated the funding would come from the anticipated MET payment, while another indicated the appropriation would be bonded, and would thus increase the state's debt. In the absence of solid information about the sources of funding and the implications for the overall budget, the minority was unable to support this very important initiative.

SB 359, relative to civil actions involving accessibility standards for public buildings.

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

Rep. Brian JX Murphy for the **Majority** of Judiciary: This bill that provides that in an action to enforce accessibility standards for public buildings the court may award attorney fees to the prevailing party. The bill provides enforcement authority for the New Hampshire protection and advocacy system. If probable cause exists that a public building violates accessibility standards, then the owner shall have 30 days to respond to a compliance letter and then 270 days to bring the building into compliance. If the owner does not bring the building into compliance, then an action may be brought in superior court to compel compliance. The court may award reasonable attorney's fees and costs to the prevailing party. **Vote 8-1.**

Rep. Lucy M Weber for the **Minority** of Judiciary: Currently, disabled citizens who are unable to access a building have two avenues open to them. They may proceed either under federal law or state law. If they choose to proceed under state law, the landlord has a period of up to nine (9) months to take corrective measures. The adoption of the changes, results in greater risk that the disabled person may be responsible for the landlord's attorney's fees. As a result, more disabled persons will bring suit under the federal system, where the landlord may have immediate liability for damages without the nine months to work out reasonable accommodations.

SB 406, establishing an early offer alternative in medical injury claims. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. J. Brandon Giuda for the **Majority** of Judiciary: This bill as amended establishes a voluntary evenhanded process for parties involved in a medical injury claim to quickly and efficiently settle the claim. The process provides an incentive for injured claimants as it reduces uncertainty and allows them to quickly receive past, present and future economic damages without having to hire an attorney and without having to wade through years of litigation. In return for a quick and full settlement of economic damages, the claimant gives up the right to non-economic damages. The process provides an incentive for medical providers because it reduces uncertainty and liability exposure, reduces the possibility of years of litigation, and allows the medical care provider to focus on providing medical care. In return, the medical care provider pays for the administration of the early offer system and promptly pays the meritorious claimant full and fair economic damages. The bill provides safeguards for claimants who are unrepresented such as a legal advisor and a neutral hearing officer who is not affiliated in any way with the medical providers. It is expected that this voluntary program will provide more consistent results, will eliminate long waits and burdensome litigation costs, and will reduce the practice of defensive medicine. Attached to this bill are two bills passed by the House earlier this year by significant majorities. HB 1438 fixes an unconstitutional law that has contributed to imprisoning innocent citizens. Although HB 1438 passed the House with only 23 dissenting votes, it was not given due consideration in the Senate. HB 1725 which also relates to the medical community passed the House on the consent calendar and also was not given due consideration in the Senate. **Vote 9-4.**

Rep. Lucy M Weber for the **Minority** of Judiciary: The minority appreciates the time and effort put into this bill by the committee as a whole and by individual members. However we are concerned that, due to the pressures of time, this bill has not had the benefit of the thorough subcommittee consideration necessary for a new and untested procedure. The early offer alternative has not been adopted by any other jurisdiction, so there is no available track record. The minority notes many areas of concern, only a few of which are listed here. First, the process simply does not adequately compensate a person who has been injured through the negligence or worse of the medical provider. The settlement schedule is relatively low, and the injured party waives any right to non-economic damages. Second, although the bill provides for independent hearings officers and independent advisors for injured persons who are unrepresented by counsel, how truly independent will these hearings officers and advisors be, considering they are paid by the medical care provider, and are thus dependent on the goodwill of the medical care provider for their livelihood? Third, the time frame of the process is such that the injured party may settle the claim before the full extent of the injury has become apparent. If the injured person agrees to have all their future medical expenses and lost earnings reduced to present value and paid as one lump sum, there will be no possibility of compensation for further complications. Fourth, not only is the bill potentially harmful to the injured party, it is opposed by some of the major insurers in the state, who say they are not set up to pay wages and medical bills on a weekly basis for an undetermined time into the future. An insurance company representative testified that, at best, her company would never make a settlement offer under this bill (thus

raising the possibility that four more months could be added to the existing process) or at worst, insurance companies would leave the state. In addition to more difficulty in obtaining coverage, increased medical malpractice premiums are also a risk. Fifth, a representative from the court system has also warned of the difficulty of obtaining qualified hearings officers and advisors because of conflicts with the current definitions, and of the inappropriateness of court involvement in the process. Sixth, members of the minority believe that the best way to ensure justice required by the NH Constitution for injured persons is to fully fund the court system to provide adequate judges and staffers to ensure cases are heard in a timely manner. Finally, although the attachment to the bill of two unrelated matters is allowable under our rules, the minority thinks this maneuver does not further good government.

MUNICIPAL AND COUNTY GOVERNMENT

SB 231, relative to municipal liens. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Philip L Munck for Municipal and County Government: This bill limits the amount of money that a municipal utility can bill for mutually agreed upon work performed on a customer's property to \$250 without a written contract. The bill arises out of a situation where a customer agreed to have a utility work on a water service for about \$2,000 and subsequently was billed approximately \$20,000. The language is similar to provisions imposed by the Public Utilities Commission on investor owned utilities for these situations.

Vote 16-0.

SB 243, relative to the management of trust funds and capital reserve funds. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Franklin W Sterling for Municipal and County Government: This bill was submitted with language that would add investment advisors to the list of institutions that maybe hired by the trustees of the trust funds to assist in the management of funds under their control and direction; the manner in which the advisors are remunerated for their services is unchanged from existing statute. This bill also adds a new section to RSA 34 that would put capital reserve funds under the same management rules as trust funds. The option to hire investment or management advisors for either trust funds or for capital reserve funds is a decision made at the local level and is not mandated by this legislation. **Vote 15-2.**

PUBLIC WORKS AND HIGHWAYS

SB 324-FN, relative to the use of funds generated by the Hampton Beach parking facilities. **OUGHT TO PASS WITH AMENDMENT.**

Rep. John A Graham for Public Works and Highways: The committee amendment replaces the entire bill, while preserving the original intent to provide additional revenues to the state park fund. As amended, \$200,000 a year will be transferred from the Hampton Beach meter fund to the Hampton Beach capital improvement fund. This is a reduction from the current formula, and will allow additional funds to be placed in the state park fund for use not only at Hampton Beach, but also at other state parks. The second major change to the bill made by the committee is to have 50 percent of the bond approved in the last Capital Budget for rehabilitation of the seawall in Hampton be paid for from the parking meter fund as required by RSA 216:6. Currently 100 percent of the bond would be paid for out of general funds. The committee was unanimous in support of this bill as amended. **Vote 15-0.**

SCIENCE, TECHNOLOGY AND ENERGY

SB 48, relative to state regulation of telephone service providers and clarifying the authority of the public utilities commission to regulate pole attachments. **OUGHT TO PASS.**

Rep. Frank R Holden for Science, Technology and Energy: This bill modernizes the regulation of telecommunications services in four important ways. One, it offers local exchange carriers relief from monopoly era retail regulation, freeing them to compete more effectively. Two, it confirms that Voice over Internet Protocol services and IP enabled services are not subject to regulation as telecommunications services in New Hampshire.

Three, it preserves Incumbent local exchange carrier obligations to serve as the carrier of last resort and ensures that all residents have an affordable Basic Service option for phone service. Four, it preserves incumbent local exchange carrier obligations to provide wholesale services to competitors further encouraging competition among providers. Today's communications landscape offers consumers more choice of providers and services than at any other time in history. Modernization of monopoly era regulations will further encourage investment and innovation in New Hampshire's communications infrastructure. The committee believes that this legislation finds the right balance between continued Public Utilities Commission oversight and modernization of regulation to allow consumers and the state of New Hampshire to benefit from a highly competitive communications environment.

Vote 17-0.

SB 215, establishing a study committee on updating and improving the procedures and criteria for review of projects by the site evaluation committee. **INEXPEDIENT TO LEGISLATE.**

Rep. Frank R Holden for Science, Technology and Energy: The site evaluation committee makes decisions about the selection of sites for energy facilities, including the routing of high voltage transmission lines and energy transmission pipelines. In making these decisions it balances the state's need for new energy facilities with environmental considerations. The site evaluation committee is able to strike that balance and the changes and additional oversight that would result from this bill are not needed. **Vote 16-1.**

SB 218-FN, relative to electric renewable portfolio standards. **OUGHT TO PASS WITH AMENDMENT.**

Rep. James M Garrity for Science, Technology and Energy: This bill as amended makes significant changes to New Hampshire's renewable electric portfolio standards (RPS) law. It expands the potential number of eligible renewable generation facilities, giving slight preference to New Hampshire indigenous resources such as wood, wind and water. It eliminates some regulatory roadblocks, allowing more New Hampshire facilities to qualify for the program. It reduces the maximum premium price for renewable electric classes and limits the future prices of same. It sets goals for the percentage of each class of renewable that are reasonable. The amendment reduces the cost to New Hampshire electric customers that will most likely result in them paying less in the future than they would have without the changes. The amended bill strikes a delicate and fair balance between ratepayer rights, local economic development benefits and fuel diversity of electricity generation. **Vote 14-3.**

SB 258-FN, authorizing group net metering for limited electrical energy producers. **INEXPEDIENT TO LEGISLATE.**

Rep. James D Summers for Science, Technology and Energy: This bill would have greatly expanded the state's limited net metering law (in which small producers of renewable electricity are allowed to pay the net of their on-site generation minus their purchases from their electric utility). It would have allowed the creation of virtual net metering "groups" in which the members could benefit from the socialized subsidy of net metering without all being actual producers of energy. The bill had many shortcomings. It failed to define what a "group" was. It assumed that the groups should be allowed to use the electric transmission and distribution system without paying the price. It was an attempt to use net-metering as financing mechanism to develop new and larger renewable energy generation projects instead of the traditional methods of becoming a qualifying facility in the ISO-NE grid, or of building a distributed energy resource project in partnership with an electric utility. It would have provided savings (or subsidies) to a few at the expense of the rest of the customers of an electric utility. **Vote 13-4.**

SB 266-FN, prohibiting electric utilities from installing and maintaining smart meter gateway devices without the residential or business property owner's consent. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Sam A Cataldo for the **Majority** of Science, Technology and Energy: This bill addresses a potential future privacy concern of customers whose electric utility installs so-called "smart

meters.” The bill does not deal with the meters themselves, which are “smart” only in that they can more efficiently send summary readings back to the utility without human meter readers. Rather the bill deals with an optional piece of equipment which could possibly be installed in the meter in the future, called a “smart meter gateway device.” It defines the terms and makes it clear that electric utilities may not install such devices without the written consent of the homeowner or business owner. It also requires the electric utility to inform a new electric customer if their meter has a smart gateway device installed inside; if so, the customer may ask, and the utility must remove the device. The committee found no conclusive evidence that the smart meters themselves are any danger to human health or privacy. **Vote 11-4.**

Rep. Jacqueline A Cali-Pitts for the **Minority** of Science, Technology and Energy This bill prohibits the use of smart electric meter gateway devices without the written consent of the homeowner and leaves many unanswered questions involving transfers of property, etc. The technology is meant to enable customers and utilities to better manage use of their power and potentially lower costs all around. The fear that utilities will act like Big Brother, will shut down or decrease a customer’s power or know exactly how a customer uses their power and somehow interfere is unfounded. The metering device is owned by the utility and should be the most accurate and technologically advanced device to benefit both utility and customer.

SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

SB 228-FN-L, repealing the assessments for excess benefits paid by employers in the retirement system. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Kenneth Hawkins for Special Committee on Public Employee Pensions Reform: This bill originally was to repeal the spiking charge on employers for payments made to employees above the normal pay passed in 2008, but never implemented. The amendment replaces the formula passed in 2008 with a new method of calculating end of career payments, and goes into effect on July 1, 2013. The amendment also raises the bet at charity games of chance from \$4 to \$6, and will allow poker in a private residence as long as no payment is required by the participants. **Vote 13-0.**

SB 229-FN, establishing a commission to make recommendations on whether the New Hampshire retirement system should be replaced with a defined contribution plan for all new hires and to study the impact such change would have on the retirement system.

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

Rep. William B Smith for the **Majority** of Special Committee on Public Employee Pensions Reform: This bill amends SB229, as passed by the Senate, which establishes a commission to make recommendation on whether the NH retirement system should be replaced with a defined contribution plan for all new hires. The majority felt that the retirement system, which has an estimated unfunded liability of \$3.7 billion, needs to be changed to a defined contribution plan as soon as possible. However, we recognize that there are a number of open questions that must be addressed before the actual plan is established. Consequently, the amendment establishes a legislative committee in lieu of a commission, includes a non-voting advisory group to assist it, and charters it to answer remaining questions and propose legislation to enable the establishment of a specific plan prior to Nov 1, 2012. If the committee meets this reporting requirement, the amendment enacts a basic defined contribution plan, based on the originally introduced version of SB229, effective as of Nov 1, 2013, primarily for new state hires, and a concrete timetable for implementation, with modifications by legislation that the committee will likely submit as part of its reporting. The amendment defines the broad objectives for the plan, and instructs the committee to prepare, issue, and evaluate requests for proposals to collect information to address the open questions, and refine the plan parameters. **Vote 9-4.**

Rep. Daniel J Sullivan for the **Minority** of Special Committee on Public Employee Pensions Reform: This bill as amended is seriously flawed and poorly designed. It uses state employees as test subjects for a defined contribution plan that numerous national experts and the retirement system's actuaries have determined is more expensive for employers and employees. Furthermore, the retirement system's actuaries have shown that a defined contribution plan would dramatically increase the unfunded liability by up to \$1.2 billion. This bill is logically flawed; it asks a legislative study committee to select a suitable proposal for a defined contribution or hybrid plan, but if it does not select one, a default defined contribution plan will still take effect for new state employees, as well as cities, towns, or school districts that choose to enroll. The bill does not address the impact of these members leaving the retirement system on the unfunded liability. The minority feels that state employees and the retirement system should not have to suffer the consequences of this hasty, rushed, and ill-conceived piece of legislation.

STATE FEDERAL RELATIONS AND VETERANS AFFAIRS

SB 217-FN, relative to management of Cannon mountain by the department of resources and economic development. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Lynne F Blankenkemper for State-Federal Relations and Veterans Affairs: This bill protects the veterans' memorials on the area known as Cannon Mountain. It further develops a hiking corridor from the base of Mittersill Mountain. Finally, it denounces any state involvement in the International Council for Local Environmental Initiatives (ICLEI) recognizing the negative and contrary private property and state and federal constitutional implications of ICLEI. **Vote 14-2.**

SB 333, relative to a surviving spouse's right to retain a Purple Heart plate. **REFER FOR INTERIM STUDY.**

Rep. Alfred P Baldasaro for State-Federal Relations and Veterans Affairs: This bill is a very emotional bill that was filed for a family. We felt that this divides the military community by taking care of Purple Heart veteran spouses and not the many veterans who have post traumatic stress syndrome (PTSD) or traumatic brain injury (TBI), where military spouses have to deal with in support of their veteran. Although Pearl Harbor/POW-MIA spouses keep the plate, we see this as a big difference in dividing what spouse is more deserving than the other. The spouses of Bronze Star or Silver Star recipients utilize the veterans' plate and their spouses will be treated different also. **Vote 14-3.**

WAYS AND MEANS

SB 142-FN, relative to reorganizing the permitting process within the department of environmental services. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Gary S Azarian for Ways and Means: This bill is a pro-business bill which streamlines the process for multiple permits and applications through DES on large projects. The bill allows all parties to the project to give input early in the process, at one time, saving developers' time and money by moving the project through the process much quicker by consolidating multiple applications and permits into one. There will be no overall increase in fees. **Vote 21-0.**

SB 212-FN, relative to pooled risk management programs. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Gary S Azarian for Ways and Means: This bill gives the governance, oversight and accountability over the risk pools that has been lacking since their inception. It establishes clear guidelines over reserve and surplus levels and stipulates how surplus will be returned to the municipalities. Finally, it establishes for the end user, the taxpayer, transparency to their tax dollars. **Vote 21-0.**

SB 286, relative to a controlled drug prescription health and safety program. **OUGHT TO PASS.**

Rep. Patrick F Abrami for Ways and Means: This bill establishes a controlled drug prescription health and safety program. The bill grants the New Hampshire pharmacy

board rulemaking authority for the purposes of the bill. This program will be funded from grants, gifts, and user contributions and not from state appropriations. Since this bill has no tax or fee implications, the committee overwhelmingly supported passage. **Vote 19-2.**

SB 372-FN-L, establishing an education tax credit. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Bill Ohm for the **Majority** of Ways and Means: This bill, with the amendment recommended by the committee, promotes school choices for those that might not otherwise be able to afford it. The bill implements a scholarship program for New Hampshire similar to those that are successful in 8 other states, and was created here by melding the best practices of all the other programs. This legislation is similar to HB1607, establishing an education tax credit, which passed the House 173-127, and it remains revenue neutral. The school choice scholarships, managed by non-profit scholarship organizations, are funded by donations from businesses who receive tax credits when they donate. The program works as follows: if parents of limited means wish to send their kids to a non-public school, or a different public school that agrees to accept them, they may apply for a scholarship from an approved non-profit scholarship organization. The average scholarship would be \$2,500. Home schoolers would also qualify, but their scholarship amount would only cover materials and is limited to \$625. Businesses who choose to donate to such scholarship organizations would receive a tax credit of 85% of their donation. This tax credit would apply to their BET or BPT tax liability. The program is designed to ramp up more slowly during the first fifteen years and is structured to mitigate local fiscal impacts. To address the concerns that local school districts may be unfairly hit by a sudden reduction in state aid, the committee amendment provides for a "Scholarship Stabilization Grant" that holds the districts harmless above a certain threshold, yet is revenue neutral for the state for the next biennium, and most likely the distant future. If the reduction in state aid exceeds 0.25% of the school district's total appropriation, then the state will make up the difference with a "State Scholarship Stabilization Grant". For example, if a district's total appropriation is \$30 million, then the reduction in state aid would be limited to \$75,000, which is the cap when 30 students leave the school district. Adjustments in the program were made to provide for savings to fund the stabilization grants such as: reducing the cap on home schoolers and not counting them in the average calculation; ensuring that at least 70% of scholarships are awarded to students in public school districts that currently receive a state education grant (called "switchers") for the first 2 years of the program; and reducing the 70% minimum by 5% a year through year 15. At the same time there will be a reduction in school district expenses due to these students choosing to leave public schools. To further assist low income families, the bill requires that a minimum of 40% of the scholarships go to students eligible for free and reduced lunches. The bill as amended will be revenue neutral or positive over the next biennium. **Vote 14-6.**

Rep. Christine C Hamm for the **Minority** of Ways and Means: This bill offers tax credits to businesses, thus excusing them from paying business taxes to the state in exchange for using those same dollars to provide scholarships for students enrolled in private or religious schools or as stipends for home-schooled students. While proponents argue that it evens the playing field by providing an opportunity for families of all income levels to opt for alternatives to public school education, because these subsidies are capped at a level significantly below the actual cost of private school education, the beneficiaries would be limited to families who home-school their children or to students who live near a private school willing and able to provide additional subsidies. Since many of the children receiving scholarships would have attended private school anyway, this seems a poor use of public resources. In order to benefit this small demographic, the loss of business tax revenues would have an increasingly negative impact upon the state's and local school districts' budgets, thus resulting in an overall increase in local property taxes. The department of education projects that the immediate loss to a school district would be \$4,267 per pupil and that the net loss to school districts statewide would increase from \$3.7 million the first year to \$6.3 million in

Year Three. While DOE estimates show no loss to the state budget in the first two years, after that, losses would mount continuously as the bill's highly complex formulas change. If the program grows at the projected rate of 50% the first two years and 25% beyond that, in 10 years the state, and by extension local school districts, will have sacrificed more than \$130 million in unearned tax revenue. Since this is money no longer available to be passed along to local school districts, the loss will become an increasingly difficult pill for local property taxpayers to swallow. Such a budgetary hit becomes even harder for the minority to accept when we realize the stipulations included in the bill---upon both donors and recipients---are difficult, if not impossible to enforce, thus leaving the law open to abuse. In addition, despite the large shift in state resources, this bill fails to provide for the same kind of academic accountability required of the state's public schools. It should also be noted that in 1967, 1969 and 1992, the state Supreme Court issued opinions that could be used as precedents in cases against this legislation. Part I, Article 6 of our state constitution states in part, "No person shall ever be compelled to pay towards the support of the schools of any sect or denomination," while Part II, Article 83 states in part, "Provided nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination." As the 1969 case dealt specifically with tax credits and as our state constitution is quite explicit on this issue, the success of a legal challenge arguing that businesses are being used only as an intermediary to deny a direct, unconstitutional, connection between the taxpayer and a religious school, is a real possibility--- the recent case of *Arizona v Wynn* notwithstanding since this decision affected only the federal level. The minority believes that this complex, constantly-amended, bill undermines our state's highly-regarded public education system, while providing little meaningful benefit to the majority of New Hampshire's citizens and ever more significant stress to the pocketbooks of local property taxpayers.

SB 399-FN, relative to the maximum permit application fee for certain municipal or state agency dredging projects. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Laurie J Sanborn for the **Majority** of Ways and Means: This bill limits the maximum permit application fee for fresh water municipal and state agency dredging projects as is currently allowed for tidal waters. As amended, the bill brings back language from HB 564, which passed the house with a 271-82 vote, and brings the adoption of business tax forms back to the legislature for improved transparency. As amended, the bill makes it clear that charges for internet access are excluded from the communication services tax, and sends a clear policy statement to New Hampshire residents and employers that New Hampshire is not a state that will tax internet access. As amended, the bill also transfers \$1.5 million in revenue in recognition of a unanticipated surplus for the fiscal year ending June 30, 2011 to the department of health and human services for the purposes of providing services to the developmentally disabled. **Vote 16-5.**

Rep. William A Hatch for the **Minority** of Ways and Means: The minority believes this bill as amended will again take revenues from our already stressed state revenue stream, somewhere between \$6 and \$24 million in this biennium, depending on whether taxpayers request refunds, and \$6 million per year going forward. One of the minority's concerns is that this adds to next term's shortfall of what the minority believes is an already passed loss of revenues that could total \$200 million in the next biennium. The minority believes this is will exacerbate the large downshifting to counties, communities, businesses and citizens that will stagnate economic growth. Further, the minority believes that the loss in this term will force further cuts to our ability to provide essential services, including to the disabled community. The minority believes that there have already been too many layoffs and service cuts in our health care community, education, courts, and other services provided by civil servants. The minority also questions the stated reason for this law change.

SB 407-FN, relative to the purchasing policy of the department of information technology and relative to the transfer of federal grant funds. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Patrick F Abrami for Ways and Means: This bill increases the dollar amount at which the chief information officer needs to approve the procurement of computer hardware, software, related licenses, media, documentation, support and maintenance services and other related services, from more than \$500 to more than \$5,000, as long as what is being purchased is on an approval standards list established by the department of information technology. The committee agreed unanimously that there are no tax or fee issues surrounding this change. **Vote 21-0.**

LAI D ON TABLE

CACR 8, relating to education. Providing that the legislature shall have the power to authorize schools.

HB 162-FN, relative to capital murder for purposely causing the death of another. (Pending question: adoption of committee report of ought to pass.)

HB 448-FN, relative to spice incense products. (Pending question: adoption of committee report of inexpedient to legislate.)

HB 475-FN, relative to penalties under the consumer protection act. (Pending question: adoption of committee report of ought to pass.)

HB 494-FN, relative to tipped employees who deal card and table games at games of chance venues. (Pending question: adoption of majority committee report of ought to pass with amendment.)

HB 591, relative to the determination of parental rights based on the best interest of the child; relative to grounds for modification of an order regarding parental rights and responsibilities, and relative to grandparent and stepparent visitation rights. (Pending question: adoption of majority committee report of inexpedient to legislate.)

HB 1147, proclaiming March 31 of each year as a day to remember Terri Schiavo. (Pending question: adoption of the committee report of inexpedient to legislate.)

HB 1220, repealing the criminal history record and protective order check for the sale of firearms. (Pending question: adoption of the committee report of inexpedient to legislate.)

HB 1238, relative to divestiture of Public Service of New Hampshire (PSNH) generation assets. (Pending question – adoption of the committee report of ought o pass with amendment.)

HB 1318, relative to carrying firearms. (Pending question – adoption of the committee report of inexpedient to legislate.)

HB 1368, relative to real property held as a joint tenancy with rights of survivorship. (Pending question – adoption of the majority committee report of ought to pass with amendment.)

HB 1413-FN, directing New Hampshire to withdraw from the No Child Left Behind Act. (Pending question – adoption of the majority committee report of ought to pass.)

HB 1453, relative to requiring planning boards to require a deeded right-of-way to a public road as a condition for approval of plans for certain developments. (Pending question – adoption of the majority committee report of ought to pass.)

HB 1517-FN-L, prohibiting the state and any political subdivision from entering any agreement implementing any provision of the No Child Left Behind Act without prior approval of the general court. (Pending question – adoption of the majority committee report of ought to pass.)

HB 1522-FN, reducing the penalty for violating a local vendor ordinance. (Pending question – adoption of the committee majority report if inexpedient to legislate.)

HB 1653-FN, relative to the rights of conscience for medical professionals. (Pending question – adoption of the majority committee report of ought to pass.)

HB 1685-FN-L, relative to collective bargaining under the public employee labor relations statutes. (Pending question: adoption of the majority committee amendment.)

HB 1709-FN, establishing a criminal offense for failure to report a missing or deceased child. (Pending question - adoption of the committee report of refer for interim study.)

HCO 1, relative to implementing an election pursuant to representative districts established in the order.

SB 168-FN, conforming the interest and dividends tax to federal tax definitions. (Pending question: adoption of the majority committee report of ought to pass with amendment.)

SB 260, relative to protection and preservation of significant archeological deposits.

SB 315, requiring motorists to give wide berth to highway maintenance vehicles. (Pending question: third reading.)

SB 317, relative to towable devices permitted to be towed by a motorboat. (Pending question: third reading.)

SB 323, authorizing accounting transfers by the department of corrections. (Pending question: third reading.)

SB 369-FN-L, relative to aid to assisted persons. (Pending question: third reading.)

SB 379, relative to insurance fraud. (Pending question: third reading.)

SB 389-L, relative to sewer commission costs. (Pending question: third reading.)

HOUSE BILLS AMENDED BY THE SENATE

CACR 6, relating to taxation. Providing that a 3/5 vote is required to pass legislation imposing new or increased taxes or license fees, or to authorize the issuance of state bonds and providing that the general court shall appropriate funds for payment of interest and installments of principle of all state bonds. (House Nonconcurrent; C of C 3/7/12)

CACR 12, relating to public education. Providing that the general court shall have the authority to define standards for public education, establish standards of accountability, mitigate local disparities in educational opportunity and fiscal capacity, and have full discretion to determine the amount of state funding for education. (House Nonconcurrent; C of C 3/14/12)

HB 102, establishing a committee to study certain issues relative to the insurance department, banking department, and bureau of securities regulation of the office of the secretary of state. (House Nonconcurrent; C of C 2/22/12)

HB 110, requiring professional safety and security services personnel to report certain criminal offenses. (House Concurred 2/1/12)

HB 138-FN, relative to the cold case homicide unit. (SJ 4/25/12)

HB 145, permitting the audio and video recording of a law enforcement officer while in the course of his or her official duties. (House Nonconcurrent; C of C 3/7/12)

HB 146, relative to the right of a jury to judge the application of the law in relationship to the facts in controversy. (House Nonconcurrent; C of C 3/7/12)

HB 158, relative to the misuse of social security numbers. (House Nonconcurrent; C of C 3/7/12)

HB 186-FN, relative to the definition of political communication. (House Nonconcurrent 2/1/12)

HB 193, relative to the Mount Washington commission. (House Nonconcurrent; C of C 4/11/12)

HB 222-FN, relative to the specificity of certain statutory provisions granting rulemaking authority. (SJ 5/2/12)

HB 234-FN-A, relative to food service licensure and establishing a committee to study the regulation of food service establishments. (House Concurred 5/9/12)

HB 256-FN, relative to the administrative appeals process of the department of environmental services and establishing a committee to study the appeal process of the department of environmental services. (SJ 4/25/12)

HB 269-FN, relative to the authority of departments to transfer funds among budget accounting units. (SJ 4/25/12)

HB 283-FN, relative to impaired drivers. (SJ 4/25/12)

HB 325-FN, relative to the transfer of animals from licensed animal vendors. (House Concurred 5/9/12)

HB 350-FN, updating laws relative to the fiscal committee of the general court. (SJ 4/25/12)

HB 388-FN, establishing the amount of the enhanced 911 services surcharge and requiring providers of Voice over Internet Protocol services to pay surcharges for deposit in the enhanced 911 system fund. (SJ 5/2/12)

HB 408, clarifying the exemption for attorneys from licensing requirements for mortgage brokers or bankers. (House Concurred 5/9/12)

HB 418-FN, relative to the use of open source software and open data formats by state agencies and relative to the adoption of a statewide information policy regarding open government data standards. (House Concurred 2/1/12)

HB 420-FN, relative to the definition of employee and clarifying the criteria for exempting workers from employee status. (SJ 4/25/12)

HB 479-FN, relative to receivership of nursing homes and other residential health care facilities. (SJ 1/18/12)

HB 486-FN, relative to penalties for alcohol ignition interlock circumvention. (SJ 4/18/12)

HB 508-FN, establishing a performance measurement for State agencies. (House Nonconcurrent; C of C 2/1/12)

HB 514, relative to entry on private land. (SJ 4/18/12)

HB 533-FN-L, establishing a cap on the amount of school building aid grants distributed in each fiscal year. (House Nonconcurrent; C of C 5/9/12)

HB 574, relative to the taking of private property during a state of emergency. (SJ 5/2/12)

HB 597, revising the child support guidelines based on an income shares model of calculating child support. (House Nonconcurrent; C of C 3/7/12)

HB 624, relative to the rulemaking authority of state agencies to establish fees and costs and establishing a committee to study the rulemaking authority of state agencies to establish fees. (House Concurred 4/11/12)

HB 627-FN, relative to “essential benefits” under federal health care reform. (House Nonconcurrent; C of C 2/22/12)

HB 648, relative to eminent domain petitions by public utilities. (House Concurred 2/8/12)

HB 1128, relative to ignition interlock device recalibration and data reports. (SJ 4/25/12)

HB 1144, establishing a commission to study the taxation of alternative fuel and electric-powered motor vehicles for the purpose of funding improvements to the state’s highways and bridges. (House Concurred 5/9/12)

HB 1157, relative to signage at fuel service stations. (SJ 5/2/12)

HB 1165, naming a bridge in the town of Meredith the POW/MIA Vigil and Freedom Ride bridge. (House Concurred 5/9/12)

HB 1168, requiring the removal of electronic records and information upon entry of an order of annulment. (SJ 4/25/12)

HB 1171, updating certain references in motor vehicle statutes. (House Concurred 5/9/12)

HB 1207-FN, defining the owner of timber rights for purposes of timber tax assessment. (SJ 4/25/12)

HB 1211, establishing a committee to study the promotion of lease of state-owned land for use for beginning farmers. (House Nonconcurrent; C of C 5/9/12)

HB 1217, relative to the form for executing advance directives for health care decisions. (SJ 5/2/12)

HB 1221, relative to the credit for the business enterprise tax against the business profits tax. (House Nonconcurrent; C of C 5/9/12)

HB 1223-FN, relative to remedies under the right-to-know law. (SJ 5/2/12)

HB 1230-FN, requiring a listing of state real property. (House Nonconcurrent; C of C 5/9/12)

HB 1254, establishing a committee to study the effect of illegal immigration on the state and its political subdivisions. (SJ 4/25/12)

HB 1274-FN, transferring the McAuliffe-Shepard discovery center to a private nonprofit

corporation and making supplemental appropriations. (SJ 4/25/12)

HB 1281, establishing a committee to study alternative medical insurance coverage for elected state officials. (SJ 4/11/12)

HB 1307, relative to agricultural plates. (SJ 4/11/12)

HB 1310, increasing the number of days a motorcycle learner's permit is valid. (SJ 4/11/12)

HB 1312, relative to the statute of limitations for violations involving a motor vehicle accident resulting in death or serious bodily injury. (SJ 4/18/12)

HB 1330, establishing a committee to study blood testing of drivers after motor vehicle fatalities. (House Nonconcurrent 5/9/12)

HB 1353, relative to establishing an individual's status as a veteran. (SJ 5/2/12)

HB 1357, relative to the membership of mosquito control districts. (House Concurrent 5/9/12)

HB 1366, relative to employer charges for unemployment compensation benefits and relative to suitable work and eligibility requirements for claimants for unemployment compensation benefits. (SJ 5/2/12)

HB 1367, relative to the issuance of administrative inspection warrants. (SJ 5/2/12)

HB 1383, relative to residency status for the purpose of receiving in-state tuition status within the university system of New Hampshire. (SJ 5/2/12)

HB 1392, relative to oyster aquaculture licenses. (House Concurrent 5/9/12)

HB 1415, relative to permits for repair or replacement of sewage and waste disposal system. (SJ 4/25/12)

HB 1416-L, relative to a required fluoride statement. (SJ 4/25/12)

HB 1434, relative to display of antique motor vehicle plates. (SJ 4/18/12)

HB 1484, relative to fees for state parks. (SJ 5/2/12)

HB 1487, relative to low carbon fuel standards programs. (SJ 5/2/12)

HB 1490-FN, relative to New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions. (SJ 5/2/12)

HB 1495-FN, establishing a Purple Heart Trail along U. S. Route 3. (SJ 4/18/12)

HB 1535-FN, relative to arrest records under the right-to-know law. (SJ 5/2/12)

HB 1552-FN, relative to the reporting of funds. (SJ 4/18/12)

HB 1563, relative to Greenland's water rights. (House Concurrent 5/9/12)

HB 1567, establishing a committee to study the federal Youth Corrections Act. (House Concurrent 5/9/12)

HB 1587, relative to employer safety programs. (SJ 4/25/12)

HB 1593-FN, relative to the department of information technology. (SJ 4/25/12)

HB 1629-FN, relative to state photographic identification indicating honorable veteran's status. (SJ 5/2/12)

HB 1635, relative to motor vehicle inspections. (SJ 5/2/12)

HB 1636, relative to the extension of fill and dredge in wetlands permits. (SJ 4/25/12)

HB 1652-FN-A, requiring the transfer of insurance premium tax revenue to the department of health and human services and the revenue stabilization reserve account. (House Nonconcurrent 5/9/12)

HB 1664, establishing a committee to study transferring election law enforcement to the secretary of state. (House Concurrent 5/9/12)

HB 1665-FN, enabling a superior court or circuit court to implement one or more drug courts. (SJ 5/2/12)

HB 1670, apportioning executive council districts. (House Nonconcurrent; C of C 5/9/12)

HB 1673-FN, relative to complaints of election law violations. (House Concurrent 5/9/12)

HB 1679-FN, relative to partial-birth abortion. (SJ 4/25/12)

HB 1686-FN, relative to state contracts and making an appropriation therefor. (SJ 4/25/12)

HB 1687-FN, relative to state employee information available on the state transparency website. (SJ 4/18/12)

HB 1692-FN, making changes to the administration of the university system of New Hampshire. (SJ 5/2/12)

HB 1701-FN, prohibiting New Hampshire from entering into or enforcing reciprocal agreements with other states to deny rights and privileges for nonpayment of taxes owed to another state. (SJ 5/2/12)

HB 1716, relative to the state 10-year transportation improvement program. (House Concurred 5/9/12)

COMMITTEES OF CONFERENCE

CACR 6, relating to taxation. Providing that a 3/5 vote is required to pass legislation imposing new or increased taxes or license fees, or to authorize the issuance of state bonds and providing that the general court shall appropriate funds for payment of interest and installments of principle of all state bonds. (Reps. Stepanek, Sanborn, Ulery and Azarian - Subject to Senate agreement.)

CACR 12, relating to public education. Providing that the general court shall have the authority to define standards for public education, establish standards of accountability, mitigate local disparities in educational opportunity and fiscal capacity, and have full discretion to determine the amount of state funding for education. (Reps. L. Ober, Hess, Balboni and Renzullo; Alt: Rep. Foose; Sens. Bradley, D'Allesandro and Stiles)

HB 102, establishing a committee to study certain issues relative to the insurance department, banking department, and bureau of securities regulation of the office of the secretary of state. (Reps. Hunt, Mauro, McGuinness and Gidge; Sens. White, Luther and Larsen)

HB 145, permitting the audio and video recording of a law enforcement officer while in the course of his or her official duties. (Reps. Welch, Warden, Parsons and Ginsberg; Sens. Groen, Luther and Houde)

HB 146, relative to the right of a jury to judge the application of the law in relationship to the facts in controversy. (Reps. Giuda, LaCasse, McClarren and Wall; Sens. Forsythe, Groen and Houde)

HB 158, relative to the misuse of social security numbers. (Reps. Murphy, Hagan, Palmer and Watrous; Sens. Carson, Luther and Houde)

HB 193, relative to the Mount Washington commission. (Reps. Hawkins, Hansen, Ingbreton and Y. Thomas; Sens. Carson, Groen and Larsen)

HB 508-FN, establishing a performance measurement for State agencies. (Reps. Bowers, Moran, Cebrowski and Winter - Subject to Senate agreement.)

HB 533-FN-L, establishing a cap on the amount of school building aid grants distributed in each fiscal year. (Reps. L. Ober, Foose, W. Smith and Umberger - Subject to Senate agreement.)

HB 597, revising the child support guidelines based on an income shares model of calculating child support. (Reps. Moran, Edith Hogan, Soucy and Lovejoy; Sens. Groen, Forsythe and Houde)

HB 627-FN, relative to "essential benefits" under federal health care reform. (Reps. Hunt, Manuse, Flanders and Schlachman, Sens. White, Houde and Prescott)

HB 1211, establishing a committee to study the promotion of lease of state-owned land for use for beginning farmers. (Reps. Haefner, Babson, Gandia and Sad - Subject to Senate agreement.)

HB 1221, relative to the credit for the business enterprise tax against the business profits tax. (Reps. Stepanek, Ohm, Azarian and Hamm - Subject to Senate agreement.)

HB 1230-FN, requiring a listing of state real property. (Reps. Graham, E. Smith, McConkey and Bouchard - Subject to Senate agreement.)

HB 1670, apportioning executive council districts. (Reps. Mirski, Bates, Chandler and Rowe - Subject to Senate agreement.)

2012 HOUSE COMMITTEE OF CONFERENCE

PROCEDURES

- The Chairmen of the policy committees will receive bills amended by the Senate and should check with their committees to determine whether the committee will recommend that the House concur, non-concur, or non-concur and request a Committee of Conference.
- When a committee requests that the bill be sent to a Committee of Conference, the Chairman will recommend members for appointment. If the bill has gone to more than one committee, the members may come from the different committees as determined by the Speaker. Chairmen should recommend only those members from their policy committees. The Speaker shall make the final decision of Conference committee members, and the committee choices will be generally limited to those who support the House position..
- The first **named House member shall serve as Chairman of the House Conferees**. For House bills in Committee of Conference, the House Conferee Chairman shall set the time and place of the first meeting and shall chair each meeting of the Committee of Conference. **Each meeting shall be posted in the Clerk's Office and outside the committee room at least 24 hours in advance.** [House Rule 43 (c)]. If a Committee of Conference meeting recesses, the reconvening time shall be posted in the Clerk's office and outside the committee room.
- The House and Senate Conferees on a bill shall meet jointly but vote separately while in conference.
- The Committee of Conference may not change the title of the bill. The Committee also may not add amendments that are not germane to the subject matter of the bill or contain subject matter that has been indefinitely postponed. A non-germane amendment is one in which the subject matter is not contained in either the House or Senate version of the bill. [House Rule 49 (g)]
- The sponsor of a bill that is in Committee of Conference shall, upon request, be provided an opportunity to be heard.
- A unanimous vote of both the House and Senate Conferees, voting separately, is necessary for an agreed upon report to be sent to the House and Senate.
- **Reports of all Committees of Conference must be filed with the Office of Legislative Services by the May 31, 2012 deadline adopted by the House. All Committee of Conference members must sign their reports in the Office of Legislative Services by May 31, 2012.**
- **The first-named House member on all bills in Committee of Conference must prepare an analysis of the report.** This "blurb" should contain a complete explanation of all changes made to the bill since it was passed by the House and must be submitted to the House Clerk for printing in the calendar.
- All Committee of Conference reports shall be distributed in seat pockets to be acted on some subsequent day. [House Rule 49 (f)].

See House Rule 49 for more information

COMMITTEE MEETINGS

FRIDAY, MAY 11

REDRESS OF GRIEVANCES, Room 104, LOB

1:00 p.m. Continued subcommittee work session on *PETITION 21*, grievance of Arthur Ginsberg, Nashua, New Hampshire.

MONDAY, MAY 14

ADVANCED MANUFACTURING EDUCATION ADVISORY COUNCIL (RSA 188-E:21), Room 100, State House

3:00 p.m. Regular meeting.

COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION (RSA 195-H:2), NH Higher Education Assistance Foundation, 4 Barrell Court, Concord

10:00 a.m. Regular meeting.

COMMITTEE TO STUDY WATER INFRASTRUCTURE SUSTAINABILITY FUNDING (SB 60, Chapter 245:1, Laws of 2009), Room 103, State House

1:00 p.m. Regular meeting.

ECONOMIC STRATEGIC COMMISSION TO STUDY THE RELATIONSHIP BETWEEN NEW HAMPSHIRE BUSINESSES AND STATE GOVERNMENT (RSA 359-K:2), Rooms 305-307, LOB

10:00 a.m. Regular meeting.

RESOURCES, RECREATION AND DEVELOPMENT, Room 308, LOB (Please note room change.)

10:00 a.m. Full committee work session on Senate amendments to House Bills.

WEDNESDAY, MAY 16

ASSESSING STANDARDS BOARD (RSA 21-J:14-a), Department of Revenue Administration, 109 Pleasant Street, Concord

1:30 p.m. Subcommittee meeting.

FRIDAY, MAY 18

ADMINISTRATIVE RULES (RSA 541-A:2), Rooms 305-307, LOB

9:00 a.m. Continued regular meeting.

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

10:00 a.m. Regular business.

10:30 a.m. Audits: State of New Hampshire, management letter, year ended June 30, 2011.

State of New Hampshire, Lottery Commission, management letter for the fiscal year ended June 30, 2011.

State of New Hampshire, Racing and Charitable Gaming Commission, internal control over revenue May 2012

GUARDIANS AD LITEM BOARD (RSA 490-C:1), Room 101, LOB

10:00 a.m. Non-public session of the Complaint Review Committee

12:00 p.m. Rescheduled regular meeting.

HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE, (RSA 126-A:13),

Room 205, LOB

12:00 p.m. Regular meeting.

NH-CANADIAN TRADE COUNCIL (RSA 12-A:2-g), Upham Walker House, Park Street, Concord

11:00 a.m. Regular meeting.

NEW HAMPSHIRE RAIL TRANSIT AUTHORITY BOARD OF DIRECTORS (RSA 238-A:2), Room 201, LOB

10:00 a.m. Regular meeting.

MONDAY, MAY 21

COMMISSION ON PRIMARY CARE WORKFORCE ISSUES (RSA 126-T:1), Room 307, LOB

10:00 a.m. Regular meeting.

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

9:00 a.m. Regular meeting.

TUESDAY, MAY 22

FINANCE – (DIVISION I), Department of Environmental Services, 29 Hazen Drive, Concord

1:00 p.m. Department budget update with Commissioner Tom Burack.

THURSDAY, MAY 24

COMMISSION TO STUDY BUSINESS REGULATIONS IN NEW HAMPSHIRE (RSA 359-L:1), Room 303, LOB

3:00 p.m. Regular meeting.

COMMITTEE TO STUDY LAWS RELATING TO CONDO AND HOMEOWNERS' ASSOCIATIONS (RSA 356-B:70), Room 305, LOB

11:00 a.m. Regular meeting.

THURSDAY, MAY 31

HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE, (RSA 126-A:13), Room 205, LOB

1:00 p.m. Medical sharps subcommittee meeting.

OFFICIAL NOTICES

COUNTY DELEGATION NOTICE

Belknap County Delegation will meet on Monday, **May 14** at 4:00 p.m. for a public hearing and subsequent action on the Gunstock Revenue Anticipation Note. Following that meeting will be a meeting with the Belknap County Commissioners.

Rep. Alida I. Millham, Chairman
Belknap County Delegation

COUNTY DELEGATION NOTICES

Pursuant to RSA 23:7 the Executive Committee of the **Merrimack** County Delegation will meet on Monday, **May 21st**, 2012 at 9:00a.m. in the Lower Level Conference Room located at

the McDonnell Building 4 Court Street, Concord, NH. The purpose of the meeting is as follows: 1. Review and Approve the First Quarter Financial Report. 2. Hear a report from the Salary Study Committee Chairman. 3. Hear a report on refunding of certain general obligation bonds. 4. Any other business that may appropriately come before them.

Rep. David Kidder, Chairman

Merrimack County Executive Committee

Pursuant to RSA 23:7 the **Merrimack** County Delegation will meet on Monday, **May 21st**, 2012 at 9:30a.m. in the Lower Level Conference Room located at the McDonnell Building, 4 Court Street in Concord, NH. The purpose of the meeting is: 1. Act on the Elected Officials Salaries. 2. Authorize Refunding of Certain Obligation Bonds. 3. To consider any other business that may appropriately come before them.

Rep. David Palfrey, Chairman

Merrimack County Delegation

COUNTY DELEGATION NOTICE

Rockingham County Delegation will meet to vote on salaries and benefits for elected officials on Monday, **May 14**, 2012 at 6:00 p.m. at the Hilton Auditorium. The Executive Committee will meet at 5:30 p.m. in the Commissioner's Conference Room, Rockingham County Nursing Home, Brentwood NH.

Rep. David A. Welch, Clerk

Rockingham County Delegation

REVISED FISCAL NOTES

The following House Bills and Senate bills have a revised fiscal note: HBs 102, 110, 186, 222, 225, 228, 234, 242, 247, 263, 269, 325, 344, 351, 418, 420, 440, 445, 449, 494, 508, 518, 533, 602, 627, 652, 1155, 1185, 1204, 1230, 1251, 1274, 1297, 1302, 1366, 1383, 1418, 1440, 1455, 1460, 1473, 1483, 1490, 1495, 1496, 1505, 1510, 1521, 1526, 1529, 1534, 1546, 1547, 1552, 1576, 1593, 1597, 1607, 1611, 1629, 1644, 1652, 1658, 1659, 1664, 1666, 1673, 1675, 1677, 1678, 1679, 1680, 1682, 1685, 1686, 1687, 1688, 1691, 1692, 1695, 1696, 1698, 1701, 1713, 1721. SBs 48, 83, 153, 203, 217, 218, 225, 229, 239, 244, 247, 258, 266, 285, 302, 311, 313, 314, 321, 324, 330, 338, 343, 347, 348, 350, 358, 350, 366, 372, 392, 399, 401, 402, 404, 407.

Karen O. Wadsworth, Clerk of the House

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

Rep. Frank G. Case, 44 Beach Head Road, Nottingham, New Hampshire 03290-4921.

Rep. Karen K. Hutchinson, 11 Buttrick Road, Londonderry, New Hampshire 03053-3305.

Rep. Jean L. Jeudy, 134 Calef Road, Manchester, New Hampshire 03103-6324

Rep. Dick W. Patten, 30 Pinewood Trail, Concord, New Hampshire 03301-5247

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

Karen O. Wadsworth, Clerk of the House

MEMBERS' NOTICES

The following notices are published in the House record as a courtesy to the member(s) requesting publication. These are not official public notices and will be limited to legislative

policy or legislative social activities and political meetings or events. Publication should not be construed as support for either the events listed or the views espoused by the individual or organization sponsoring the event.

Legislators are invited to attend the Eighth Annual Dartmouth Symposium on Substance Use. Medical Marijuana- Compassionate Care or Oxymoron? Friday, **May 11th**, 2012, 8:30 a.m.-4:00 p.m. at Collis Center, Dartmouth College. Sponsored by the Dartmouth Center on Addiction Recovery and Education. Details and free registration (must be pre-registered, limited space) at www.dartmouth.edu/~dcare.

Rep. Laurie Harding

National Committeewoman, Phyllis Woods, would like to invite all Republican women to attend an exciting and informative event.: A Women's Summit will be held on Saturday, **May 12th** in the auditorium at the New Hampshire Institute for Politics at Saint Anselm College. This event is for any woman thinking of running for office or who would like to get more information about the resources and help available for a woman considering becoming a candidate or just becoming more active in the Republican Party. We will hear from some great Republican women leaders and elected officials who will share their stories of how they became involved and what serving has meant to them. These women are excellent role models and are more than willing to serve as mentors for other Republican women who want to let their voice be heard and who want to make a difference. The event will begin at 8:30 with registration and coffee and the program will start at 9:00 a.m. and conclude at 12:30 p.m. with a delicious free luncheon. Our special keynote speaker for the event will be Nashua Mayor Donnalee Lozeau. The Summit is free and open to all Republican women but pre-registration and an RSVP is required. Please contact Phyllis Woods at 603-749-2177 or at parishoner@comcast.net to reserve a space.

Rep. Jeanine Notter

The New Hampshire Order of Women Legislators (OWLS) will hold a bake sale throughout the day in the anteroom of Representatives Hall on Tuesday, **May 15**. All proceeds from this date are to benefit MooreMart. They will also hold a bake sale on Wednesday, **May 16**. All proceeds from this date will go to the Law Enforcement Memorial. Anyone wishing to donate may do so.

Rep. Laura Pantelakos

The NH House Business Coalition will meet on Tuesday, **May 15**, at 2:00 p.m. in Room 202, LOB. For more information, please contact Laurie Sanborn at RepSanborn@gmail.com

Rep. Laurie Sanborn

The New Hampshire Soft Drink Association cordially invites all House and Senate members and legislative staff to enjoy a hot breakfast on Wednesday, **May 16th** from 8:00-10:00 a.m. in the State House Cafeteria. Please come and see how the beverage industry in New Hampshire is delivering jobs, choice and recycling innovation. Experts will be on hand to discuss how plastic bottles are recycled and reused. Please RSVP to

igrimbilas@biancopa.com See you there!

Reps. D.J. Bettencourt and Terie Norelli

All Representatives are invited to the Upham Walker House on Wednesday, **May 16** at 9:00 a.m. for morning prayer and fellowship. Coffee will be provided.

Rep. Susan C. DeLemus

All are welcomed to Representative Burt's Hot Dog Day rescheduled to Wednesday, **May 16th** at lunch break. All Representatives, Senators, staff at the State House, Annex and LOB are welcome to join Rep Burt for a relaxing lunch in front of the State House near the arch. There will be plenty of free Hot Dogs with all the fixings and two 24 inch camp fires "with the proper permits" for smores.

Rep. John A. Burt

Members of the General Court and staff are invited to join UNH President Mark W. Huddleston on Wednesday, **May 16th** from 12:00 p.m. to 1:30 p.m. at St. Paul's Church, 21 Centre Street, to learn how the University of New Hampshire is driving research and innovation in New Hampshire and forging job-creating partnerships with New Hampshire businesses. Please register by May 9th at www.unh.edu/universityevents or call (603) 862-3660. Brown bag lunches will be provided.

Rep. Judith Spang

The NH House Business Coalition is sponsoring a Business Roundtable series with Gubernatorial Candidates. The first event will be held on Thursday, **May 17**, at 8:00 a.m. and will be held at Northeast Delta Dental in Concord. Former State Senator Jackie Cilley will be our first speaker. The event is free, but space is limited and RSVPs are required to RepSanborn@gmail.com. Business leaders and pro-business legislators are encouraged to come to hear the candidate's ideas for improving the climate for job creation and economic growth in New Hampshire.

Rep. Laurie Sanborn

In recognition of your support, the New Hampshire Law Enforcement Officers Memorial Committee cordially invites you to the 20th Annual New Hampshire Law Enforcement Officers Memorial Ceremony. The ceremony will be held on **Friday, May 18, 2012**, beginning promptly at 10:00 a.m. on the memorial site in front of the Legislative Office Building. The ceremony will proceed rain or shine. Refreshments will be served immediately following the event. Please do not hesitate to contact either Timothy J. Acerno of Fish and Game at 603-271-3128 or Chief Michael Greeley of the Deerfield Department at 603-463-7258 if you have any questions.

William L. O'Brien, Speaker

The NH American Legion will hold its annual Boys State program from July 1-6, 2012. Boys

State is a six-day “learn-by-doing” experience in the American way of government, focusing primarily on municipal and NH state institutions. Young men completing their junior year of high school are encouraged to participate in the program. Home school students of “junior equivalence” are also eligible to apply. There is no cost to the students to attend. Interested individuals should contact Rep. John A. Graham or Rep. Duffy Daugherty. Information and applications are also available at the N.H. American Legion Boys State website at www.nhboysstate.org. Application deadline is **June 8, 2012**.

Reps. John A. Graham and Duffy Daugherty

All members of the Republican caucus are invited to the House Republican Alliance's weekly meeting. The HRA will meet Tuesdays at 8:30 a.m. in Room 308 LOB.

Reps. Dan McGuire, Marilinda Garcia and Stephen Palmer

The Main Street Republicans will meet on Wednesdays prior to session, at 9:00 a.m. in Room 209, LOB. All Republican House members are welcome.

Reps. David H. Kidder and Rick M. Ladd

The Natural Rights Council will hold its weekly meeting at 8:00 a.m. Wednesdays at Caffenio, 84 North Main Street. All House members are welcome. NRC is a bi-partisan group dedicated to upholding principles outlined in Article 2, Part I of the NH Constitution.

Reps. JR Hoell and Laura Jones

STATE HOUSE VISITATION SCHEDULE

As a convenience to the members of the NH General Court, the Visitors' Center offers the following schedule of schools and other groups visiting the State House in **2012**. These listings are to ensure all members be notified in a timely manner of visitors from their district. Our schedule is tightly booked for the school year and subject to changes.

Please contact the Visitor Center concerning school tour booking information. Legislators planning to meet with students should notify the Visitor Center. Thank you for your continued participation with your School Visitation Program.

Virginia J. Drew, Director

Deborah Rivers, Public Information Administrator

DATE	TIME	GROUP	Group#/Grade
May 11	10:00	Ray School – Hanover	45/4
May 11	11:15	St. Joseph Regional School – Keene	14/4
May 11	11:15	Danbury Elementary School	11/4
May 14	10:00/11:30	Wm. Barron School – Salem	60/4
May 14	12:00	Rollinsford Grade School	60/4
May 15	9:15	Bridgewater Hebron School	35/4
May 15	10:15/11:30	Pelham Elementary School	97/4
	SH/GiftShop		
May 16	9:00	Path Finder Montessori School – Epsom	10
May 16	10:00/12:00	Mastway School – Lee	87/4
May 16	3:00	Immaculate Conception Apostolic School – Wolfeboro	15/HS
May 17	8:30	NH Society of CPA's Leadership Group	15
May 17	9:45	Lakeway Elementary School – Littleton	56/4

May 17	10:30	Mont Vernon Village School	36/4
May 18	10:15/11:30 SH/SC	Memorial School – Newton	60/4
May 21	9:15	John Fuller School – North Conway	40/4
May 21	10:15/11:30 SH/GiftShop	Pelham Elementary School	97/4
May 21	12:45	Simonds Elementary School – Warner	35/4
May 22	9:15	Florence Rideout School – Wilton	40/4
May 22	10:15	Deerfield Community School	34/4
May 22	11:30	Pittsfield Elementary School	40/4
May 23	9:30/11:00 SH/HM	Gossler Park School – Manchester	56/4
May 23	10:30	Hancock Elementary School	17/4
May 23	11:30	Ed Fenn Elementary School – Gorham	37/4
May 23	11:30	Mt. Washington Valley Leadership	20
May 24	9:30	Riverwoods Retirement Community-Exeter	
May 24	10:15	Hampstead Central School	46/4
May 24	12:30	Little Harbor School – Portsmouth	44/4
May 24	12:00	St. Elizabeth Seton School – Rochester	25/4
May 25	10:00	Lin-Wood School – Lincoln & Woodstock	30/4
May 25	11:00	Mt. Pleasant School – Nashua	50/4
May 25	12:00	Little Harbor School – Portsmouth	44/4
May 29	9:00	Merrimack Middle School	50/8
May 29	10:00	Hampstead Central School	46/4
May 29	10:30/12:00	Hollis Brookline High School	132/HS
May 29	11:00	Lincoln Akerman School- Hampton Falls	26/4
May 30	9:00	Merrimack Middle School	50/8
May 30	10:30	Mountain Shadows School – Dublin	10/6
May 30	10:30	Lakes Region Christian School- Laconia	4/HS
May 30	11:00	Sunset Tours	40/SRS
May 30	11:30	North Hampton School	45/4
May 30	12:30	Holderness Central School	22/4
May 31	9:00	Jennie Blake School – Hill	23/4
May 31	10:00	New Hampton School	16/4
May 31	10:00	Cornerstone Christian Academy-Ossipee	12/4
May 31	11:30	Mason Elementary School	37/4
May 31	12:30	Kimball School – Concord	27/4

TUESDAY, MAY 15

AMENDMENTS

(LISTED IN NUMERICAL ORDER)

Amendment to SB 17

(2012-2138h)

Proposed by the Majority of the Committee on Judiciary - R

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

AN ACT relative to evidence of admissions in medical injury actions and relative to offers of judgments.

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

1 Medical Injury Actions; Evidence of Admissions. RSA 507-E:4 is repealed and reenacted to read as follows:

507-E:4 Evidence of Admissions.

I. In this section:

(a) "Relative" means a victim's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister, or spouse's parents. The term includes said relationships that are created as a result of adoption. In addition, "relative" includes any person who has a family-type relationship with a victim.

(b) "Representative" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a medical power of attorney, or any person recognized in law or custom as a patient's agent.

(c) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

II. In any medical injury action brought by an alleged victim of an unanticipated outcome of medical care, or in any arbitration proceeding related to such medical injury action, any and all statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence which are made by a medical care provider to the alleged victim, a relative of the alleged victim, or a representative of the alleged victim and which relate to the discomfort, pain, suffering, injury, or death of the alleged victim as the result of the unanticipated outcome of medical care shall be inadmissible as evidence of an admission liability or as evidence of an admission against interest; provided, however, that such communication complies with state and federal law governing the privacy of patient information.

III. Information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any matter solely because they were described or discussed by a medical care provider in accordance with paragraph II.

2 New Subdivision; Offers of Judgments in Civil Cases. Amend RSA 507 by inserting after section 17 the following new subdivision:

Offers of Judgments in Civil Cases

507:18 Offers of Judgment in Civil Cases.

I. More than 10 days before the trial begins, either party to a claim may serve on an opposing party an offer to allow judgment on specified terms, with the costs then accrued. If, within 10 days after being served, the opposing party serves written notice accepting the offer, either party may then file the offer and notice of acceptance, plus proof of service. The clerk shall then enter judgment.

II. An unaccepted offer shall be considered withdrawn, but does not preclude a later offer. Evidence of an unaccepted offer shall not be admissible except after judgment in a proceeding to determine costs.

III. When one party's liability to another has been determined, but the extent of liability remains to be determined by further proceedings, the party held liable may make an offer of judgment. This offer shall be served within a reasonable time, but at least 10 days, before a hearing to determine the extent of liability.

IV. If the judgment that the offeree finally obtains is not more favorable than the unaccepted offer and the court finds that the offeree was unreasonable in rejecting the offer, the offeree shall pay the costs incurred, including reasonable attorney's fees, after the offer was made.

3 Effective Date. This act shall take effect January 1, 2013.

AMENDED ANALYSIS

This bill makes certain statements by medical care providers to an alleged victim and the alleged victim's relatives and representatives inadmissible as evidence in any medical injury action.

The bill also establishes procedures for offers of judgments in civil cases based on Rule 68 of the Federal Rules of Civil Procedure.

Amendment to SB 83-FN

(2012-2049h)

Proposed by the Special Committee on Public Employee Pensions Reform - C

Amend RSA 31:19-c, I as inserted by section 1 of the bill by replacing it with the following:

I. The legislative body of a municipality that created, on or before January 1, 2012, an actuarial liability to pay other post-employment benefits (OPEB) to employees or officers after their termination of service may establish an irrevocable trust to pay those benefits. In this section, the term “other post-employment benefits” means employee benefits other than pensions that are received after employment ends, and may include such medical, disability, or other health benefits, as are covered by Statement No. 45 of the Governmental Accounting Standards Board (GASB). The term “trust” means a trust qualified under GASB Statement No. 43.

Amend RSA 198:20-c, VII(a) as inserted by section 3 of the bill by replacing it with the following:

(a) A school district that created, on or before January 1, 2012, an actuarial liability to pay other post-employment benefits (OPEB) to employees or officers after their termination of service may establish an irrevocable trust to pay those benefits. In this paragraph, the term “other post-employment benefits” means employee benefits other than pensions that are received after employment ends, and may include such medical, disability, or other health benefits, as are covered by Statement No. 45 of the Governmental Accounting Standards Board (GASB). The term “trust” means a trust qualified under GASB Statement No. 43.

AMENDED ANALYSIS

This bill enables municipalities and school districts to create other post-employment benefits (OPEB) trusts provided that the actuarial liability for the benefit was created on or before January 1, 2012.

Amendment to SB 142-FN (2012-2069h)

Proposed by the Committee on Ways and Means - R

Amend RSA 489:6, II as inserted by section 1 of the bill by replacing it with the following:

II. After conducting the activities required under paragraph I the applicant shall submit to the department such materials as the department requires under rules adopted pursuant to RSA 541-A. The department may require the applicant to pay up to 30 percent of the expected final application fee under RSA 489:7, I to cover departmental costs associated with the pre-application technical review. Any payment made shall be applied towards the final application fee. Such payment shall not be refundable or transferrable to another project should a final permit application not be submitted.

Amend RSA 489:6, IV as inserted by section 1 of the bill by replacing it with the following:

IV. As part of the pre-application technical review, the department shall review preliminary design plans, supporting information, and advisory input from state or federal entities notified or consulted pursuant to paragraph I and comments received from other persons notified pursuant to paragraph I to identify critical issues regarding site development and design, any requested waivers, and any mitigation that may be needed, and review the final permit application requirements with the applicant.

Amend RSA 489:8, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Time extensions and duration of a permit, and procedures and requirements for amending a permit issued pursuant to this chapter which shall be in conformance with the statute and rules of the affected programs.

Amend RSA 489 as inserted by section 1 of the bill by deleting RSA 489:8, VII.

Amendment to SB 155-FN-A (2012-2128h)

Proposed by the Majority of the Committee on Finance - R

Amend the bill by replacing section 4 with the following:

4 Effective Date.

- I. Sections 1 and 2 of this act shall take effect July 1, 2013.
- II. The remainder of this act shall take effect upon its passage.

**Amendment to SB 175
(2012-2008h)**

Proposed by the Committee on Commerce and Consumer Affairs - R

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

1 Purpose. The legislature finds that:

I. A person's right to control the commercial use of his or her identity, sometimes called the "right of publicity," has been recognized by the courts of this state (see *Remsburg v. Docusearch, Inc.*, 149 N.H. 148 (2003) and *Thompson v. C&C Research Development, LLC*, 153 N.H. 446 (2006)).

II. This act will make clear that individuals who are domiciled in New Hampshire at the time of death retain a protectable right regarding the commercial use of their identities that is descendible to their heirs or successors.

III. This act will respect the New Hampshire constitution and the United States Constitution by its recognition that the substance of the protected right of publicity will be governed by the common law, which balances the right to control the commercial use of one's name and/or likeness against the rights to freedom of expression.

2 New Chapter; Descendibility; and Transferability of Rights Regarding Commercial Use of Individual Identity. Amend RSA by inserting after chapter 359- L the following new chapter:

**CHAPTER 359-M
DESCENDIBILITY AND TRANSFERABILITY OF RIGHTS
REGARDING COMMERCIAL USE OF INDIVIDUAL IDENTITY**

359-M:1 Recognition of the Right to Control Commercial Use of Identity. The common law recognizes that every natural person has the right to control the commercial use of his or her identity, subject to limitations imposed by the New Hampshire constitution and the United States Constitution.

359-M:2 Transferability and Descendibility of the Right to Control Commercial Use of Identity.

I. The right to control the commercial use of a person's identity, as recognized by the common law and as may be further developed under the common law, is a property right that survives death. The right is freely transferable and descendible, in whole or in part, during and after a person's life by means of:

(a) A written contract, license, conveyance, or assignment or a will, trust, or other testamentary instrument, executed before or after the enactment of this chapter, and by the original holder or his or her successor-in-interest; or

(b) Intestate succession occurring before or after the enactment of this chapter.

II. In the absence of an express transfer in a testamentary instrument of the right to control commercial use of a person's identity, a provision in a testamentary instrument that provides for the disposition of the residue of the deceased person's assets shall be effective to transfer that right in accordance with the terms of that provision.

359-M:3 Duration and Termination.

I. The right protected under this chapter endures for a term consisting of the death of the person plus 70 years after his or her death, regardless of whether the person commercially exploits the right during his or her lifetime.

II. A person's right under this chapter shall be deemed to have existed prior to the enactment of this chapter, and at the time of the death of the original holder or his or her successor-in-interest, whether that death occurs before or after the enactment of this chapter, for the purpose of determining entitlement to the right.

III. The right protected under this chapter terminates if its holder dies without having transferred or devised it, either during his or her life or through a will, trust, or other

testamentary instrument, and there are no surviving natural persons to whom the right can pass by intestate succession.

IV. The right protected under this chapter applies only to any person who died a domiciliary of the state of New Hampshire.

359-M:4 Exercise and Enforcement. The right protected under this chapter, including the right to consent to the use of a deceased person's identity, may be exercised and enforced by any one person or entity who holds, or persons or entities who together hold, more than a 1/2 interest in the right.

359-M:5 Applicability. The prohibitions set forth in this chapter apply only to unauthorized use of a person's identity occurring after July 15, 2012 or upon passage, whichever occurs first.

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

AMENDED ANALYSIS

This bill provides for the transferability and descendibility of the common law right to control the commercial use of one's identity.

Amendment to SB 203-FN-A (2012-2080h)

Proposed by the Committee on Ways and Means - C

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

AN ACT relative to limited liability companies and relative to meetings of a certain legislative study commission by open blogging.

Amend the bill by replacing all after section 11 with the following:

12 New Subparagraph; Economic Strategic Commission to Study the Relationship Between New Hampshire Businesses and State Government; Additional Members. Amend RSA 359-K:3, I by inserting after subparagraph (e) the following new subparagraph:

(f) Up to 3 members of the public, appointed by the chairperson of the commission.

13 New Section; Meetings of the Economic Strategic Commission to Study the Relationship Between New Hampshire Businesses and State Government by Open Blogging Permitted. Amend RSA 91-A by inserting after section 2-a the following new section:

91-A:2-b Meetings of the Economic Strategic Commission to Study the Relationship Between New Hampshire Businesses and State Government by Open Blogging Permitted.

I. Notwithstanding RSA 91-A:2, III, between regularly convened in-person meetings the economic strategic commission to study the relationship between New Hampshire businesses and state government, established by RSA 359-K, may meet through open blogging managed by the department of information technology, provided that the commission shall not vote, act, or decide upon any matter within its statutory charge utilizing the blog. Such blogging shall be open to the public at all times for viewing of member discussions, and the blog record shall be maintained in accordance with RSA 91-A:4, III, III-a, and III-b, except that a digital copy of the blog record shall be maintained in a permanent file, and shall be provided to any citizen upon request in accordance with RSA 91-A:4, V. Compliance with this paragraph shall satisfy the requirements of RSA 91-A:4 and of RSA 91-A:2, II relative to the use of recording devices by members of the public.

II. A meeting of such legislative study commission pursuant to the authority of this section shall satisfy the notice requirements of RSA 91-A:2, II by placing a notice of use of the blog in each legislative calendar during the term of the commission, on the general court's website at the web page for the commission accessed through the link for searches for statutory and study committees, and within the minutes of each in-person meeting of the commission. Each such notice shall include an e-mail and postal address to which members of the public may send comments and testimony regarding the commission's discussions on the blog.

14 Repeal. RSA 91-A:2-b, relative to meetings by a certain study commission by open blogging, is repealed.

15 Effective Date.

- I. Sections 1-11 of this act shall take effect January 1, 2013.
- II. Section 14 of this act shall take effect December 1, 2012.
- II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill revises laws governing limited liability companies. This bill also permits meetings, pursuant to RSA 91-A, of the economic strategic commission to study the relationship between New Hampshire businesses and state government, established by RSA 359-K, by open blogging under certain circumstances.

Amendment to SB 212-FN (2012-2155h)

Proposed by the Committee on Ways and Means - R

Amend RSA 5-B:1-a as inserted by section 1 of the bill by replacing it with the following:

5-B:1-a Findings; Intent.

I. The legislature finds that:

(a) Insurance and risk management is essential to the proper functioning of political subdivisions.

(b) Risk management can be achieved through purchase of traditional insurance or by participation in pooled risk management programs established for the benefit of political subdivisions.

(c) Pooled risk management is an essential governmental function by providing focused public sector loss prevention programs, accrual of interest and dividend earnings which may be returned to the public benefit, and establishment of costs predicated solely on the actual experience of political subdivisions within the state.

(d) The resources of political subdivisions have at times been burdened by the securing of insurance protection through standard carriers.

II. Based on these findings and that the legislative intent of this chapter is to provide political subdivisions with the best, most appropriate, and potentially lowest cost risk management programs available, no program established under this chapter shall enter into any type of free market preemption such as exclusive arrangements or right of first refusal arrangements with any carrier licensed to do business in this state. This will ensure that political subdivisions have the greatest latitude in procuring risk management programs from whatever free market distribution method and channel they find to their advantage.

Amend RSA 5-B:2, IV(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Contingency reserves limited to protection from excess claim losses, catastrophic claim losses, insufficient contributions and underwriting risk, losses on rate guarantees, ceded reinsurance denial or failure, adverse market developments, and capital asset or investment losses not included in the rates.

Amend RSA 5-B:3, I-III as inserted by section 1 of the bill by replacing them with the following:

I. A political subdivision, by a properly documented majority resolution of its governing body, may establish and enter into agreements for obtaining or implementing insurance by self-insurance; for obtaining insurance from any insurer authorized to transact business in this state as an admitted or surplus lines carrier; or for obtaining insurance secured in accordance with any method provided by law; or for obtaining insurance by any combination of the provisions of this paragraph. Agreements made pursuant to this paragraph may provide for pooling of self-insurance reserves, risks, claims and losses, and of administrative services and expenses associated with them among political subdivisions. To accomplish the purposes of this chapter, 2 or more political subdivisions, with the approval of

the secretary of state, may form an association under the laws of this state or affirm an existing association so formed to develop and administer a risk management program having as its purposes reducing the risk of its members; improving the health and wellness of the employees, dependents, and retirees of its members; safety engineering; distributing, sharing, and pooling risks; acquiring insurance, excess loss insurance by purchase or by self-funding, or reinsurance; and processing, paying, and defending claims against the members of such association.

II. Pooled risk management programs shall be subject to the provisions of RSA 31:8-a.

III. In a pooled risk management program's budget there shall be a separate line item accounting for advocacy work. All lobbyists shall comply with the provisions of RSA 15:5 and shall be limited to issues relative to RSA 5-B.

Amend RSA 5-B:3, V(b)(8) as inserted by section 1 of the bill by replacing it with the following:

(8) Prescription drug coverage for employees, retirees, and their dependents, except that pharmacy benefit management programs with the state are specifically prohibited after December 31, 2015.

Amend RSA 5-B:4 as inserted by section 2 of the bill by replacing it with the following:

5-B:4 ~~[Informational]~~ **Annual** Filing Required; Fee. Pooled risk management programs established for the benefit of political subdivisions shall make an ~~[informational]~~ **annual** filing, as defined in RSA 5-B:2, ~~[H]~~ **I**, with the department and shall pay an annual filing fee of \$150. The department may make requests for additional information necessary to exercise regulatory or enforcement authority pursuant to, but not limited to, the hearings procedures under RSA 421-B:26-a over any pooled risk management program formed or affirmed in accordance with this chapter. Pooled workers' compensation and unemployment compensation programs which are regulated by and which report to the department of labor and the department of employment security, under RSA 281-A and RSA 282-A, respectively, shall be exempt from the requirements of this ~~[section]~~ **chapter** as long as their operations and reports conform to the laws and rules adopted by those departments.

Amend RSA 5-B:4-a, VI as inserted by section 3 of the bill by replacing it with the following:

VI. Whenever it appears to the secretary of state that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order under this chapter, the secretary of state shall have the power to issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with RSA 421-B:26-a. ***Further, the secretary of state shall have all enforcement powers outlined in RSA 421-B:23, as well as examination authority pursuant to RSA 421-B:9.***

Amend RSA 5-B:4-a, VIII as inserted by section 3 of the bill by replacing it with the following:

VIII. Notwithstanding paragraph IX, decisions of the secretary of state requiring rescission, restitution, or disgorgement may be appealed to the Merrimack county superior court. Upon appeal, the court shall review all findings of fact and rulings of law for legal sufficiency based upon the evidentiary record of the administrative proceedings. In conducting such review, the court may order and receive such additional evidence and testimony as it deems necessary. Any final decision of the Merrimack county superior court may be appealed to the supreme court to review rulings of law.

Amend RSA 5-B:5, I(a)-(c) as inserted by section 4 of the bill by replacing them with the following:

(a) Exist as a ~~[legal entity]~~ **nonprofit corporation organized** under New Hampshire law **and RSA 292. No other organizational structures shall be permitted.**

(b) Be governed by a board the majority of which is composed of elected or appointed public officials, officers, or employees. Board members shall not receive compensation but may be reimbursed for mileage and other reasonable expenses. ***All new board members after the effective date of this section shall serve a maximum of 3 3-year terms. After 2 years such former board members may return as members. Each board shall govern each distinct program based upon the needs of the member political subdivisions and in compliance with all provisions of this chapter, consistent with its fiduciary duties. Directors may only serve on one pooled risk management board at a time.***

(c) Return all earnings and surplus in excess of any amounts required for ~~administration,~~ claims, reserves, ~~and~~ ***the purchase of excess insurance, and reasonable and prudent costs of administration*** to the participating political subdivisions, ***to be paid to the political subdivisions which contributed to the pooled risk management program, annually. Management and investment of such funds shall comply with all provisions of RSA 35:9. If necessary, and with permission of the secretary of state, a certain percentage of any pooled risk management program's entire investment portfolio, including cash and cash equivalents, may deviate, by agreement, from the requirements of RSA 35:9, but shall comply with RSA 402:28, I, with the exception of 402:28, I(o). The amount of any such deviation shall not exceed 10 percent of the pooled risk management program's entire investment portfolio.***

(1) For employee benefit coverage programs, reserves under RSA 5-B:2, IV(a) shall be calculated using an actuarially determined method. Contingency reserves under RSA 5-B:2, IV(b) shall not exceed a level calculated using stochastic modeling at a 95 percent confidence level. Any other actuarial method may be utilized to determine contingency reserves for employee benefit coverage programs if any such calculation does not exceed the level of contingency reserves determined using stochastic modeling at a 95 percent confidence level. Additional margins shall not be added to the modeling.

(2) For property-casualty coverage programs, reserves under RSA 5-B:2, IV(a) shall be calculated using an actuarially determined point estimate and associated range of values. Contingency reserves under RSA 5-B:2, IV(b) shall not exceed a risk-based capital target level of 3.0. Any other actuarial method may be utilized to determine contingency reserves for property-casualty coverage programs if any such calculation does not exceed the level of contingency reserves determined using a risk-based capital target level of 3.0.

(3) Once the calculations for reserves and surplus have been determined, as described, the board shall determine and publicly disclose the amount, if any, of surplus that will be returned to the member political subdivisions. Return of surplus shall be made through premium holiday to a political subdivision which continues to be a member. If a political subdivision ceases to be a member, the return of surplus shall be paid to it in cash. This cash option shall not be available when a prior legal agreement has been entered into with the secretary of state to return surplus in another manner. Any pooled risk management program established under this chapter may deviate from the above stated methods for calculating reserves, by board resolution, if the resolution states every reason in support of the deviation and is distributed to every participating political subdivision at least 30 days prior to the deviation. The pooled risk management program shall also post the resolution including its reasons for the deviation on its Internet website 30 days prior to the deviation.

Amend RSA 5-B:5, V-VII as inserted by section 4 of the bill by replacing them with the following:

V. If a pooled risk management program fails to provide for an annual audit or an annual actuarial ~~evaluation~~ ***accounting***, the department shall perform or cause to be

performed the required audit or ~~evaluation~~ **actuarial** accounting and shall be reimbursed the ~~cost~~ **costs** by the program.

Amend the bill by replacing section 5 with the following:

5 Declaration of Status; Tax Exemption; Liability. Amend RSA 5-B:6, II and III to read as follows:

5-B:6 Declaration of Status; Tax Exemption; Liability.

II. Any such program operating under this chapter ~~[, whether or not a body corporate,]~~ may sue or be sued; make contracts; hold and dispose of real property; and borrow money, contract debts, and pledge assets in its name.

III. Participation by a political subdivision in a pooled risk management program formed and affirmed under this chapter shall not subject any such political subdivision to any liability to any third party for the acts or omissions of the pooled risk management program or any other political subdivision participating in the program.

IV. Pooled risk management programs operated in accordance with this chapter shall not be deemed to be offering securities or engaged in the sale of securities.

Amend the bill by replacing section 10 with the following:

10 Effective Date.

I. RSA 5-B:5, I(a) and (b) as inserted by section 4 of this act shall take effect July 1, 2013.

II. RSA 5-B:5, I(c) as inserted by section 4 of this act shall take effect July 1, 2014.

III. The remainder of this act shall take effect July 1, 2012.

AMENDED ANALYSIS

This bill:

I. Makes changes in the laws regulating pooled risk management programs.

II. Requires pooled risk management programs to return any surplus through premium holiday and cash in certain circumstances.

Amendment to SB 217-FN (2012-2209h)

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

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

AN ACT establishing a hiking corridor on Mittersill Mountain, and relative to prohibiting the state, counties, towns, and cities from implementing programs of, expending money for, receiving funding from, or contracting with the International Council for Local Environmental Initiatives.

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

1 Department of Resources and Economic Development; Hiking Corridor on Ski Trails. The commissioner of the department of resources and economic development shall, after consulting with fish and game department, develop a hiking corridor from the base of Mittersill Mountain over the summit of Mittersill Mountain to connect with the Kinsman Ridge trail at the summit of Cannon Mountain. The department may restrict access to the hiking trail only during times the ski area is open to the public and only if restricting such access is necessary to promote safety.

2 New Section; Towns and Cities; Prohibition Added. Amend RSA 31 by inserting after section 8-a the following new section:

31:8-b International Council for Local Environmental Initiatives; Contracts; Expenditures Prohibited. No town or city shall implement programs of, expend any sum for, be a member of, receive funding from, contract for services from, or give financial or other forms of aid to the International Council for Local Environmental Initiatives (ICLEI), and its derivatives, in furtherance of the United Nations program known as Agenda 21.

3 New Section; State Budget; Prohibition Added. Amend RSA 9 by inserting after section 28 the following new section:

9:29 International Council for Local Environmental Initiatives; Contracts; Expenditures Prohibited. No agency or department of the state shall implement programs of, expend any sum for, be a member of, receive funding from, contract for services from, or give financial or other forms of aid to the International Council for Local Environmental Initiatives (ICLEI), and its derivatives, in furtherance of the United Nations program known as Agenda 21.

4 New Section; Counties; Prohibition Added. Amend RSA 23 by inserting after section 1-a the following new section:

23:1-b International Council for Local Environmental Initiatives; Contracts; Expenditures Prohibited. No county nor any department thereof shall implement programs of, expend any sum for, be a member of, receive funding from, contract for services from, or give financial or other forms of aid to the International Council for Local Environmental Initiatives (ICLEI), and its derivatives, in furtherance of the United Nations program known as Agenda 21.

5 Effective Date.

I. Sections 2-4 of this act shall take effect 60 days after its passage.

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

AMENDED ANALYSIS

This bill requires the commissioner of the department of resources and economic development to develop a hiking corridor from the base of Mittersill Mountain over the summit of Mittersill Mountain to connect with the Kinsman Ridge trail at the summit of Cannon Mountain. This bill also prohibits the state and political subdivisions from implementing programs, or receiving funding from, or contracting with, the International Council for Local Environmental Initiatives (ICLEI).

Amendment to SB 218-FN (2012-2180h)

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

Amend the bill by replacing section 8 with the following:

8 Renewable Energy Portfolio; Purchased Power Agreements. No provision of RSA 362-F shall be construed to affect the cost recovery of any contract or agreement entered into pursuant to RSA 362-F:9 prior to the effective date of this act. Such contract or agreement shall be governed by the commission's order approving the same.

Amend RSA 362-F:2, XIV as inserted by section 2 of the bill by replacing it with the following:

XIV. "Provider of electricity" means a distribution company providing default service; ***a nonresidential customer meeting its retail load through direct purchase from the wholesale electricity market, except as provided in RSA 362-F:14, II;*** or an electricity supplier as defined in RSA 374-F:2, II, but does not include municipal suppliers.

Amend the bill by replacing section 19 with the following:

19 New Section; Phase-In for Existing Supply Contract Load. Amend RSA 362-F by inserting after section 13 the following new section:

362-F:14 Phase-In for Existing Supply Contract Load.

I. The increases in the annual purchase percentages in RSA 362-F:3 as compared to those in effect as of January 1, 2012 shall apply to the electrical load under any electrical power supply contracts for a term of years entered into by providers of electricity prior to or on July 1, 2012, upon the expiration of the term of any such contract. Providers of electricity shall inform the commission by July 1 of each year of all such contracts and their terms, including but not limited to the execution date and expiration date of the contract and the annual volume of electrical energy supplied.

II. A "provider of electricity" as defined in RSA 362-F:2, XIV shall not include any nonresidential customer that has a contract with a supplier of wholesale electrical power in

effect for a term of years until the term of such contract has expired. The supplier of electrical power under any such contract shall inform the commission by July 1 of each year of such contract and its terms, including but not limited to, the execution date and expiration date and the annual volume of electrical energy supplied.

Amend RSA 362-F:6, II as inserted by section 11 of the bill by replacing it with the following:

II. The commission shall establish procedures by which electricity ***and useful thermal energy*** production not tracked by ISO-New England from customer-sited sources, including behind the meter production, may be included within the certificate program, provided such sources are located in New Hampshire. The procedures may include the aggregation of sources and shall be compatible with procedures of the certificate program administrator, ***where possible***. The production shall be monitored and verified by an independent entity designated by the commission, which may include electric distribution companies, ***or by such other means as the commission finds adequate in verifying that such production is occurring***.

II-a. The commission shall establish a methodology to estimate the total yearly production for customer-sited sources that are net metered under RSA 362-A:9 and for which class I or II certificates are not issued. For purposes of estimation, the commission shall use a capacity factor rating of 20 percent for each installation and shall keep class II production separate from class I production. Providers of electricity required to obtain and retire certificates under RSA 362-F:3 shall receive an annual credit for such production. By February 28 of each year, the commission shall compute and make public credit percentages that are equal to the estimated production for the prior calendar year in each class divided by the total amount of electricity supplied by providers of electricity to end-use customers in the prior calendar year, with the result converted to a percentage. Each provider may then, at the time of its annual report filing under RSA 362-F:8, claim a class I and a class II certificate credit equal to the credit percentage times the total megawatt-hours of electricity supplied by the provider to its end-use customers the prior calendar year.

Amend RSA 362-F:2, XV-a as inserted by section 2 of the bill by replacing it with the following:

XV-a. "Useful thermal energy" means renewable energy delivered from class I sources that can be metered and that is delivered in New Hampshire to an end user in the form of direct heat, steam, hot water, or other thermal form that is used for heating, cooling, humidity control, process use, or other valid thermal end use energy requirements and for which fuel or electricity would otherwise be consumed.

Amend RSA 362-F:3 as inserted by section 3 of the bill by replacing it with the following:

362-F:3 Minimum Electric Renewable Portfolio Standards. For each year specified in the table below, each provider of electricity shall obtain and retire certificates sufficient in number and class type to meet or exceed the following percentages of total megawatt-hours of electricity supplied by the provider to its end-use customers that year, except to the extent that the provider makes payments to the renewable energy fund under RSA 362-F:10, II:

	2008	2009	2010	2011	2012	2013	2014	2015	2025
Class I	0.0%	0.5%	1%	2%	3%	4%	5%	6%	16% (*)
Class II	0.0%	0.0%	0.04%	0.08%	0.15%	0.2%	0.3%	0.3%	0.3%
Class III	3.5%	4.5%	5.5%	6.5%	6.5%	6.5%	~~[6.5%]~~ 7.0%	~~[6.5%]~~ 8.0%	~~[6.5%]~~ 8.0%
Class IV	0.5%	1%	1%	1%	1%	~~[1%]~~ 1.3%	~~[1%]~~ 1.3%	~~[1%]~~ 1.3%	~~[1%]~~ 1.3%

****Class I increases an additional one percent per year from 2015 through 2025. A set percentage of the class I totals shall be satisfied annually by the acquisition of renewable energy certificates from qualifying renewable energy technologies producing useful thermal energy as defined in RSA 362-F:2, XV-a. The set percentage shall be 0.2 percent in 2013, 0.4 percent in 2014, and increased annually by 0.2 percent per year from 2015 through 2025. Classes II-IV remain at the same***

percentages from 2015 through 2025 except as provided in RSA 362-F:4, V-VI.

Amend the bill by replacing section 14 with the following:

14 Renewable Energy Fund. Amend RSA 362-F:10, I-III to read as follows:

I. There is hereby established a renewable energy fund. This nonlapsing, special fund shall be continually appropriated to the commission to be expended in accordance with this section. The state treasurer shall invest the moneys deposited therein as provided by law. Income received on investments made by the state treasurer shall also be credited to the fund. All payments to be made under this section shall be deposited in the fund. The moneys paid into the fund under paragraph II of this section, excluding class II moneys, shall be used by the commission to support thermal and electrical renewable energy initiatives. Class II moneys shall only be used to support solar energy technologies in New Hampshire. All initiatives supported out of these funds shall be subject to audit by the commission as deemed necessary. All fund moneys including those from class II may be used to administer this chapter, but all new employee positions shall be approved by the fiscal committee of the general court. ***No new employees shall be hired by the commission due to the inclusion of useful thermal energy in class I production.***

II. In lieu of meeting the portfolio requirements of RSA 362-F:3 for a given year if, and to the extent sufficient certificates are not otherwise available at a price below the amounts specified in this paragraph, an electricity provider may, at the time of report submission for that year under RSA 362-F:8, make payment to the commission at the following rates for each megawatt-hour not met for a given class obligation through the acquisition of certificates:

(a) Class I—~~[\$57.12,]~~ ***\$55, except for that portion of the class electric renewable portfolio standards to be met by qualifying renewable energy technologies producing useful thermal energy under RSA 362-F:3 which shall be \$25 beginning January 1, 2013.***

(b) Class II—~~[\$150]~~ ***\$55.***

(c) Class III—~~[\$28]~~ ***\$25***

(d) Class IV—~~[\$28]~~ ***\$25.***

III. Beginning in ~~[2008]~~ ***2013***, the commission shall adjust these rates by January 31 of each year using $\frac{1}{2}$ ***of*** the Consumer Price Index as published by the Bureau of Labor Statistics of the United States Department of Labor.

Amendment to SB 219-FN

(2012-2178h)

Proposed by the Majority of the Committee on Commerce and Consumer Affairs - R

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

AN ACT relative to guaranteed issue for health insurance and relative to federal health care reform and health care exchanges.

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

1 Medical Underwriting. Amend RSA 420-G:5, II to read as follows:

II. Health carriers providing health coverage for individuals may refuse to write or issue coverage to an individual because of his or her ***claims experience, medical history or health status, except in the case of a non-grandfathered policy providing coverage for an individual under 19 years of age. For the purposes of this paragraph, a policy shall be considered grandfathered if it meets applicable requirements for***

grandfathered policies under the Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, including any federal regulations, interpretations, standards, or guidance issued thereunder. Regardless of ~~[claim]~~ ***claims*** experience, health status, or medical history, health carriers providing health coverage for small employers shall not refuse to write or issue any of their available coverages or health benefit plans to any small employer group that elects to be covered under that plan and agrees to make premium payments and meet the other requirements of the plan.

2 New Paragraph; Preexisting Conditions. Amend RSA 420-G:7 by inserting after paragraph II the following new paragraph:

II-a. No health carrier shall impose a preexisting condition exclusion period under any non-grandfathered policy providing health coverage issued to a person under 19 years of age. For the purposes of this paragraph, a policy shall be considered grandfathered if it meets applicable requirements for grandfathered policies under the Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, including any federal regulations, interpretations, standards, or guidance issued thereunder.

3 Federal Health Care Reform; Purpose and Scope. Amend RSA 420-N:1 to read as follows:

420-N:1 Purpose and Scope.

~~[I.]~~ The intent of this chapter is to preserve the constitutional integrity and sovereignty of the state of New Hampshire under the Tenth Amendment to the United States Constitution and part I, article 7 of the New Hampshire constitution by creating a legislative oversight committee to supervise the insurance commissioner's ~~[implementation]~~ ***administration*** of the insurance reforms required under the Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, including any federal regulations, interpretations, standards, or guidance issued thereunder (hereinafter "the Act").

~~[II. Further, it is the intent of this chapter to prevent the state of New Hampshire from defaulting into federal oversight regarding the Act by not meeting certain federally-mandated time frames for state implementation of the Act. It is the intent of this chapter to preserve the state's flexibility by allowing consideration of each state implementation requirement as it arises.]~~

4 Federal Health Care Reform; Consistency. Amend RSA 420-N:6 to read as follows:

420-N:6 Consistency. In order to ~~[prevent a default to federal regulation and to preserve the state's status as the sole regulator of]~~ ***protect the state's rights and responsibilities to regulate*** the business of insurance within the state, the oversight committee shall have the authority to find, with respect to any specific provision within Title XXXVII, that the provision is inconsistent with and prevents the application of the Act. Upon such a finding, the ~~[commissioner may, on a provisional basis, implement this provision of the Act]~~ ***oversight committee shall make a recommendation to the legislature.*** The ~~[commissioner's]~~ ***commissioner and any other state official in any agency, department and subdivision and any government in New Hampshire shall not have*** authority to implement this provision ~~[shall extend only]~~ until such time as the general court can take legislative action to amend Title XXXVII as it deems appropriate.

5 New Section; Prohibition. Amend RSA 420-N by inserting after section 6 the following new section:

420-N:7 Prohibition. The state of New Hampshire and all of its agencies, departments, and subdivisions and any government in New Hampshire shall not plan, create, participate in or enable a state exchange for health insurance including, but not limited to, the exchange requirements of the Act. In addition, the state of New Hampshire and all of its agencies, departments, and subdivisions and any government in New Hampshire shall not contract

with any private entity to plan, create, or enable a state exchange for health insurance including, but not limited to, the exchange requirements of the Act.

6 Effective Date.

I. Sections 1 and 2 of this act shall take effect July 1, 2012.

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

AMENDED ANALYSIS

This bill:

I. Declares that health carriers shall issue and renew health insurance coverage to individuals under 19 years of age and shall not impose a preexisting condition exclusion period for such individuals if the policy meets the grandfathered requirements of the federal Patient Protection and Affordable Care Act of 2009, as amended.

II. Clarifies the implementation of certain provisions of the Patient Protection and Affordable care Act.

III. Prohibits the state of New Hampshire from planning, creating, or participating in a state health care exchange.

**Amendment to SB 219-FN
(2012-2118h)**

**Proposed by the Minority of the Committee on Commerce and Consumer Affairs -
R**

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

1 Medical Underwriting. Amend RSA 420-G:5, II to read as follows:

II. Health carriers providing health coverage for individuals may refuse to write or issue coverage to an individual because of his or her ***claims experience, medical history or health status, except in the case of a non-grandfathered policy providing coverage for an individual under 19 years of age. For the purposes of this paragraph, a policy shall be considered grandfathered if it meets applicable requirements for grandfathered policies under the Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, including any federal regulations, interpretations, standards, or guidance issued thereunder.*** Regardless of ~~claim~~ ***claims*** experience, health status, or medical history, health carriers providing health coverage for small employers shall not refuse to write or issue any of their available coverages or health benefit plans to any small employer group that elects to be covered under that plan and agrees to make premium payments and meet the other requirements of the plan.

2 New Paragraph; Preexisting Conditions. Amend RSA 420-G:7 by inserting after paragraph II the following new paragraph:

II-a. No health carrier shall impose a preexisting condition exclusion period under any non-grandfathered policy providing health coverage issued to a person under 19 years of age. For the purposes of this paragraph, a policy shall be considered grandfathered if it meets applicable requirements for grandfathered policies under the Patient Protection and Affordable Care Act of 2009, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, including any federal regulations, interpretations, standards, or guidance issued thereunder.

3 Effective Date. This act shall take effect July 1, 2012.

AMENDED ANALYSIS

This bill declares that health carriers shall issue and renew health insurance coverage to individuals under 19 years of age and shall not impose a preexisting condition exclusion period for such individuals if the policy meets the grandfathered requirements of the federal Patient Protection and Affordable Care Act of 2009, as amended.

This bill is a request of the insurance department.

**Amendment to SB 226
(2012-1629h)**

Proposed by the Committee on Executive Departments and Administration - C

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

AN ACT transferring the administration of the electricians' board to the joint board for licensure and certification, and changing the administrative fine authority of the board of accountancy.

Amend the bill by replacing all after section 5 with the following:

6 New Section; Electricians' Board; Continuing Education. Amend RSA 319-C by inserting after section 6-b the following new section:

319-C:6-c Continuing Education, NFPA 70 Changes. The board shall adopt rules relative to continuing education applicable to all licensees for training and compliance with the latest published edition of the NFPA 70, National Electrical Code, as published by the National Fire Protection Association. Each licensee shall show proof of completion of continuing education requirements adopted under this section within 12 months from the January 1 following the publication date of the latest version of the NFPA 70. Proof of completion shall be furnished to the board by the continuing education provider. Failure to complete the continuing education shall render the electrician's license invalid until the licensee demonstrates to the board that he or she has completed the requisite number of continuing education hours.

7 Repeal. The following are repealed:

I. RSA 319-C:11, relative to disposition of funds.

II. RSA 21-P:12, VI, relative to the bureau of electrical safety and licensing within the division of fire safety.

III. RSA 6:12, I(b)(201), relative to the electricians' board account.

8 New Hampshire Accountancy Act; Enforcement; Disciplinary Action. Amend RSA 309-B:10, I to read as follows:

I. After notice and hearing pursuant to RSA 309-B:12, the board may ~~[revoke any certificate, permit, or registration issued under RSA 309-B:7, 309-B:8 or 309-B:9 or corresponding provisions of prior laws; suspend any such certificate, permit, or registration; or refuse to renew any such certificate, permit, or registration for a period of not more than 5 years. The board may reprimand, censure, or limit the scope of practice of any licensee; impose an administrative fine not exceeding \$1,000; or place any licensee on probation, all with or without terms, conditions, and limitations, for any one or more of the following reasons]~~ **take disciplinary action in any one or more of the following ways:**

(a) By written reprimand or censure.

(b) By suspension or refusal to renew for a period of not more than 5 years, any such certificate, permit, or registration.

(c) By limiting the scope of practice of any licensee or placing a licensee on probation, with or without terms, conditions, and limitations.

(d) By revocation of any certificate, permit, or registration issued under RSA 309-B:7, 309-B:8, or 309-B:9 or corresponding provisions of prior laws.

(e) By assessing civil penalties, after notification and due process, in amounts established by the board which shall not exceed \$2,000 per offense or, in the case of continuing offenses, \$200 for each day the violation continues, whichever is greater.

I-a. Misconduct sufficient to support disciplinary proceedings under this section shall include:

(a) Fraud or deceit in obtaining a certificate, permit, or registration.

(b) Cancellation, revocation, suspension, or refusal to renew a license or practice rights by any other state, including possessions of the United States, for any cause involving disciplinary reasons.

(c) Failure, on the part of a holder of a certificate under RSA 309-B:7 or permit under RSA 309-B:8 or registration under RSA 309-B:9, to maintain compliance with the requirements for issuance or renewal of such certificate, permit, or registration or to report changes to the board under RSA 309-B:7, VI and 309-B:8, VI.

(d) Revocation or suspension of the right to practice before any state, including possessions of the United States, or federal agency for disciplinary reasons.

(e) Dishonesty, fraud, or gross negligence in the performance of services as a licensee or in the filing or failure to file the licensee's own income or employment tax returns or the payment of the licensee's income or employment tax liability.

(f) Violation of any provision of this chapter or rule adopted by the board under this chapter or violation of professional standards.

(g) Violation of any rule of professional conduct adopted by the board under RSA 309-B:4, VIII(d).

(h) Conviction of a felony, or of any crime an element of which is dishonesty or fraud, under the laws of the United States, of this state, or of any other state, of any possessions of the United States, or of any other country if the acts involved would have constituted a crime under the laws of this state.

(i) Performance of any fraudulent act while holding a certificate, registration, or permit issued under this chapter or prior law.

(j) Any conduct reflecting adversely upon the licensee's fitness to perform services as a licensee.

(k) Making any false or misleading statement or verification, in support of an application for a certificate, registration, or permit filed by another.

9 New Hampshire Accountancy Act; Rulemaking. Amend RSA 309-B:4, VIII(i) to read as follows:

(i) ***The establishment of administrative fines for violations of this chapter.***

(j) Such other rules as the board may deem necessary or appropriate for implementing the provisions and purposes of this chapter.

10 Effective Date.

I. Section 6 of this act shall take effect January 1, 2014.

II. The remainder of this act shall take effect July 1, 2013.

AMENDED ANALYSIS

This bill transfers the administration of the electricians' board from the department of safety to the joint board for licensure and certification. The bill also expands the authority for the board of accountancy to impose administrative fines for violations of the New Hampshire accountancy act.

Amendment to SB 228-FN-LOCAL (2012-2216h)

Proposed by the Special Committee on Public Employee Pensions Reform - R

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

AN ACT relative to the calculation of employer assessments for excess retirement system benefits, and relative to charitable games of chance and poker in private residences.

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

1 Retirement System; Assessment on Employers. RSA 100-A:16, III-a is repealed and reenacted to read as follows:

III-a. Upon the retirement of a member:

(a) The retirement system shall:

(1) Calculate the amount of the following which are included in earnable compensation in the member's final 12 months of creditable service as determined for the purpose of calculating average final compensation or as compensation paid within 120 days after the member's termination of employment from a retirement eligible position:

- (A) Unused sick leave;
- (B) Unused vacation leave;
- (C) Severance pay;
- (D) Cash incentives paid by an employer to encourage members to retire;

or

(E) Any similar end-of-service payment resulting from a contractual or legal requirement or an employment policy where the triggering event for the payment is the termination of the member's employment.

(2) Determine the present value of the portion of the member's retirement benefit attributable to the earnable compensation calculated in subparagraph (a)(1).

(3) Subtract from the amount determined in subparagraph (a)(2) a credit to account for the portion of such present value, as determined by the retirement system, that has been funded through the normal employer contributions.

(b) If the result in subparagraph (a) is greater than zero, the employer shall be assessed the cost of the excess benefit.

(c) The retirement system shall certify to the cost determined in subparagraph (b) to the employer and assess upon the employer such cost for payment to the retirement system at such times and in such manner as the board of trustees may prescribe.

(d) The employer shall certify to the accuracy of each member's compensation included in subparagraph (a)(1).

2 Effective Date of Amendments; Employer Assessments. Amend 2008, 300:35, VII, as amended by 2009, 4:1, 2010, 357:1, and 2011, 230:3, to read as follows:

VII. Section 33 of this act shall take effect July 1, ~~2012~~ **2013**.

3 Online Calculator. Amend 2011, 230:5 to read as follows:

230:5 Retirement System; **Online Calculator**; Interactive Estimator. The retirement system shall develop and implement on the retirement system's website, within 30 days after the effective date of this section, an **online calculator and** interactive estimator for a retirement system employer to evaluate its probable costs under RSA 100-A:16, III-a, as amended ~~[by this act]~~, for individual members **planning to retire**.

4 Repeal of Prior Version and Applicability Provision. The following are repealed:

I. 2011, 230:1, relative to the amendment to RSA 100-A:16, III-a.

II. 2011, 230:2, relative to the applicability of RSA 100-A:16, III-a.

5 Wagering; Single Player. Amend RSA 287-D:3, V to read as follows:

V. No single wager by a player, on any game of chance, shall exceed the amount of ~~[\$4]~~ **\$6**.

6 New Subparagraph; Poker in Private Residences. Amend RSA 647:2, V by inserting after subparagraph (c) the following new subparagraph:

(d) Poker games held in a private residence so long as neither the house nor any person or individual takes any rake or compensation from the prize pool, admission fee, or from any other source whatsoever.

7 Effective Date.

I. Section 1 of this act shall take effect July 1, 2013 at 12:01 p.m.

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

AMENDED ANALYSIS

This bill requires that employer assessments for excess retirement system benefits begin with persons retiring on or after July 1, 2013.

The bill also increases the limit on a single wager in a charitable game of chance and allows the playing of poker in private residences.

Amendment to SB 229-FN (2012-2214h)

Proposed by the Majority of the Special Committee on Public Employee Pensions
Reform - R

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

AN ACT establishing a defined contribution retirement plan for state employees and establishing a committee to study and implement a defined contribution plan.

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

1 Findings and Intent.

I. It is imperative for the state to take immediate action to assure the state retirement system's future financial health.

(a) The Pew Institute has concluded that unfunded pension and healthcare liabilities are a nationwide problem, estimated at over \$1 trillion. There is a general trend in private industry, and increasingly included as an option in state plans, toward replacing defined benefit plan pensions with defined contribution plans to solve this problem.

(b) The New Hampshire retirement system has an estimated unfunded pension liability of \$3.7 billion and \$1.5 billion of unfunded other post-employment benefit insurance liability. Although a plan is underway for recovery over the next 26 years, uncertainties in future market returns, rapid increases in medical costs, increases in life expectancy, and slower growth in public sector employment require a more prudent long term approach to assure financial viability.

(c) The budget reductions in the state fiscal years 2012 and 2013 are large and future budgets will likely remain lean. Federal budgets are likely to be lower in the future, and in order to meet the state's long term commitments to health and human services, education, transportation, and other services, setting future retirement liabilities and obligations in a financially prudent manner is a necessary part to help ensure these other commitments can be met.

(d) Financial viability is essential to the operation of state government and local government performing its constitutional and statutory obligations. Therefore, ensuring that a financially viable retirement plan is in place is an important, immediate, and fundamental necessity.

II. The current level of benefits for public employees is unsustainable. On average, benefits constitute an additional 52 percent increase to the cost of public salaries. This is significantly higher than the percent paid in the private sector, and taxpayers are increasingly unable to continue this level of support, especially in our recessionary climate.

III. The financial viability of the state retirement system must be preserved.

(a) Simply shifting who pays (i.e., employees or employers) will not solve the problem.

(b) It is important to adjust the system fairly among employee classes, and to introduce changes in a way to avoid impact on any present employees.

(c) Pension costs must not make public employees uncompetitive with the private sector.

(d) This act will ensure greater predictability for taxpayers in the cost of pensions.

IV. There are many advantages to a defined contribution system for our employees:

(a) Capability to build family wealth as any principal and earnings in the employees individual account can be passed onto heirs through the estate process.

(b) The employee can transfer all vested account balances upon employment termination to another employer's plan or their own IRA account penalty free.

(c) Daily valuation of investment selection along with a wide selection of investment options give employees the ability to check account balance status and make transfers frequently.

(d) Vesting schedule gives true ownership of account balances to the employees in a shorter time period than a defined benefit pension.

(e) Distribution options allow for employee access to a partial lump-sum of retirement assets to satisfy retirement needs.

(f) The nature of the investments provides the possibility for a built-in cost of living. Market adjustments to market conditions makes this possible.

V. The legislature specifically finds after many public hearings, hours of studying the issue, and hours of debate, that the changes made in this act are reasonable and necessary, and seek to find optimum adjustments to the current retirement system and to public employee retirement benefits to accomplish the important public purpose of preserving and providing retirement benefits to public employees.

2 Committee Established. There is established a committee to make recommendations on the details and the procedures for the transition from a defined benefit plan to a defined contribution plan, for all new state employee hires, and others who may elect to do so, including issuing requests for proposals (RFPs) from potential vendors, studying the proposals received, and recommending legislation to implement a defined contribution plan based on one or more proposals, and any other matters deemed relevant by the committee.

3 Membership and Compensation of the Committee; Advisory Adjunct Committee.

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

(a) Four members of the house of representatives, one of whom shall be from the special committee on pension reform and one of whom shall be from the finance committee, appointed by the speaker of the house of representatives.

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

(c) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

II. In order to assist the legislative committee members in answering any questions on implementing a defined contribution plan for all new hires by the state of New Hampshire and other employers eligible to participate, and to study the impact such change might have on the current retirement system, there shall be an advisory adjunct to the committee. The appointed members of the advisory adjunct to the committee shall have substantial experience in the field of institutional investment or finance, taking into account factors such as educational background, business experience, and professional licensure and designations. The adjunct committee shall consist of the following nonvoting members:

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

(b) One member representative of group I of the retirement system in RSA 100-A, appointed by the speaker of the house of representatives.

(c) One member representative of group II of the retirement system in RSA 100-A, appointed by the president of the senate.

(d) Four retirement system employer representatives, with one employer representative appointed by the New Hampshire Municipal Association, one appointed by the New Hampshire School Boards Association, one appointed by the New Hampshire Association of Counties, and one representing the state of New Hampshire, appointed by the governor.

(e) One public member with recognized expertise in finance, financial management, or the governance and oversight of large endowments or public funds, appointed by the governor.

(f) Two public members with recognized expertise in the design, administration, implementation, and educational components of public sector and/or private sector defined contribution plans. One member to be appointed by the speaker of the house of representatives and one member to be appointed by the president of the senate.

4 Duties. The committee shall:

I. Study the issues surrounding the implementation of a defined contribution plan for all state employees hired after November 1, 2013. Such study shall include but not be limited to:

(a) Public employee defined contribution plans in other states, including who is actually covered (such as state employees only, or cities and towns as well), and private sector defined contribution plans, including the following areas:

(1) Investments:

(A) Number of selections and types of investments (i.e. mutual funds only, brokerage accounts, etc.).

(B) The process by which investments are selected and by whom at the plan level.

(C) Employee discretion in choosing individual investments and timing.

(2) Administration:

(A) Plan reports to employers.

(B) Plan reports to employees.

(C) Access and enrollment of personal accounts (on-line, telephone, etc.).

(D) In-house administration or private company contract, and duration of a contract.

(3) Education:

(A) Generic education of employees.

(B) Specific education done by licensed professionals (CFP, ChFC, etc.).

(b) Evaluation of issues described in subparagraph (a) considering those features that a defined contribution plan for New Hampshire state employees should contain. A hybrid plan combining elements of both a defined benefit and a defined contribution plan are to be duly considered, and proposals may allow for implementing such a hybrid plan.

II. Prepare one or more RFPs for a new defined contribution plan and/or for managing both the existing defined benefit plan in RSA 100-A and the new defined contribution plan.

III. Evaluate proposals received pursuant to the RFPs.

IV. Study the impact on New Hampshire taxpayers from the closing of the defined benefit plan in RSA 100-A to new state employees after November 1, 2013. The study may include:

(a) Various investment return scenarios.

(b) Suggestions made by the defined benefit plan under RSA 100-A and its actuaries of investment policy changes due to needed liquidity, including:

(1) Actuarial assumptions.

(2) Investment committee opinion of liquidity needs.

(3) Possible solutions to a lowering of the assumed interest earnings to include bonding or changing the make-up of the finite employee pool in the defined benefit plan by incentivizing buy-outs or annuitization.

V. Evaluate various methods for continued funding of the unfunded accrued liability of the existing New Hampshire retirement system, including but not limited to recent legislative proposals establishing a state administered defined contribution plan, and any proposals received.

VI. Seek technical assistance as necessary from the New Hampshire retirement system and from other independent financial, investment, actuarial, and retirement experts. The committee may utilize support staff for the purposes of its duties.

VII. Evaluate employer and employee education programs for administration and participation in the proposed plan.

VIII. Prepare legislation intended to implement the selected plan based on criteria in this act. If no proposal or combination or variation thereof is selected, the committee may propose supplemental legislation as deemed needed.

5 Chairperson; Quorum. The voting members of the committee shall elect a chairperson from among the legislative members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45

days of the effective date of this section. Four voting members of the committee shall constitute a quorum.

6 Appropriation; Expenditures. In addition to any sums collected from the assessment of the RFP application charge which may be expended by the committee for the purposes of this act, there is hereby appropriated the sum of \$100,000 for fiscal year 2013 which may be expended by the committee for the purposes of this act. The source of funds for the appropriation to the committee shall be charged equally against each subaccount in the legislative account established in 2011, 224:217, provided that any sums collected from the assessment of an application charge for an RFP response by a vendor shall offset the special legislative account funds for this appropriation.

7 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2012. This report shall include estimation of costs, comparison of benefits against the current defined benefit plan, and an analysis of potential advantages and disadvantages.

8 Development and Issuance of Request for Proposals.

I. The RFPs shall ask for the inclusion of as many of the features specified in paragraph VIII as possible. Variations, including not meeting all of the requested features is acceptable, if the overall proposal is selected as the most appropriate for implementation. The committee may assess an application charge of \$10,000 to vendors or other entities responding to an RFP. Any sums collected shall be for the use of the committee as provided in section 6 of this act.

II. The committee shall issue RFPs to qualified entities engaged in retirement and pension plan management. In addition, the New Hampshire retirement system may submit a proposal on any of the 3 options set forth in paragraph III.

III. The RFP shall be issued allowing entities to submit proposals on one, 2, or all 3 of the following options for plan management and administration:

(a) Investment management and plan administration for the public employee selected plan only.

(b) Investment management and plan administration for the public employee selected plan, plus investment management for the retirement system corpus fund under RSA 100-A pending legislative authorization for such management.

(c) Investment management and plan administration for the public employee selected plan, plus investment management and plan administration for retirement system corpus fund under RSA 100-A pending legislative authorization for such management and administration.

IV. The committee shall explore the opportunities and details of the various proposals or combination of proposals. Criteria of evaluation shall include but not be limited to:

(a) Set-up/ongoing cost compared with current system.

(b) Level of financial risk.

(c) Expected performance.

V. If after due evaluation, a second round of RFPs to further refine the best approach is needed, the committee may issue additional RFPs.

VI. The committee shall issue a recommendation for the best plan proposal for New Hampshire, no later than November 1, 2012, and, notwithstanding any rule of the house of representatives or senate, prepare and introduce a bill to implement that recommended proposal, on the following time table:

(a) The vendor to implement the recommended proposal demonstrating the greatest ability to satisfy the state's need for value, quality, efficiency, and savings shall be selected no later than August 15, 2013.

(b) Final contracts submitted to the governor and council no later than September 15, 2013, unless this date is extended by the implementation legislation.

(c) The date for implementation of the contract shall be November 1, 2013.

VII. The committee may change the target dates in paragraph VI, conditional on agreement of a proposal that otherwise achieves the objectives as stated in this act.

VIII. The following items shall be included in the RFPs issued by the committee. These items shall be major considerations in the development of the first RFP, so that proposals received will give them due focus and attention. In the RFPs, the committee shall include a request for any alternatives that should be considered by the committee in addition to stated requirements.

(a) The state employee defined contribution plan is intended as a qualified retirement plan established and maintained with contributions treated as provided in 26 U.S.C. section 414(h). Any person who is first employed, or reemployed after separation from service, by the state of New Hampshire, and entered on the payroll on a full-time basis on or after November 1, 2013 shall be a member of the plan; except that membership shall be optional in the case of state elected officials, unclassified state employees appointed for fixed terms, or full-time employees of the general court. In addition, membership shall be optional for political subdivision employees, teachers, firemen and police working for those employers as defined in RSA 100-A:1, IV which otherwise elect to join the plan.

(b) Employee Contributions.

(1) Mandatory employee contributions shall be as close to the following rate percent as feasible to achieve a standard level of retirement, applied to the employee's earnable compensation:

Group I employees, 7.00.

Group II permanent fireman employees, 11.80.

Group II permanent police employees, 11.55.

(2) Additional voluntary employee contributions should be allowed to the extent permitted by the federal Internal Revenue Code and Regulations for qualified governmental retirement plans.

(c) Employer Contributions.

(1) For group I employees and teachers, the employer shall contribute on behalf of the employee an amount equal to 10 percent of the employee's earnable compensation, minus the sum of the following:

(A) Mandatory contributions of the employee.

(B) The cost of any required premium contributions for long term disability insurance and life insurance attributable to the employee, paid by the employer.

(2) For group II employees, the employer shall contribute on behalf of the employee an amount equal to 16 percent of the employee's earnable compensation, minus the sum of the following:

(A) Mandatory contributions of the employee.

(B) The cost of any required premium contributions for long term disability insurance and life insurance attributable to the employee, paid by the employer.

(3) Any increases over targets given for employee and employer contribution rates shall be shared equally.

(d) Plan Administration.

(1) The plan will include a range of investment options and a procedure for election of options by the employee.

(2) No loans, hardship withdrawals, or other in-service withdrawals shall be permitted, except as provided in subparagraph (g).

(e) Vesting. Member contributions and investment return attributable to member contributions shall be 100 percent vested as of the date of contribution or accrual. Employer contributions, if any, and investment return attributable to employer contributions

held in an account of a member by the administrator shall be vested under this subdivision according to the following schedule:

- (1) Twenty percent of funds in an account after one year total of active service by a member.
- (2) Forty percent of funds in an account after 2 years total of active service by a member.
- (3) Sixty percent of funds in an account after 3 years total of active service by a member.
- (4) Eighty percent of funds in an account after 4 years total of active service by a member.
- (5) One hundred percent of funds in an account after 5 years total of active service by a member.

(f) Upon retirement of a member:, at least 50 percent of funds in an individual member account may be convertible by the employee to a life annuity contract.

(g) Withdrawal of funds. Distributions from an account of a member shall be permitted in the following circumstances, subject to applicable limitations under federal regulations:

- (1) Termination of employment.
- (2) Retirement.
- (3) If the member becomes disabled.
- (4) If the member dies.

(h) The plan and the benefits provided shall not be construed to constitute a binding contractual obligation with respect to members and may be modified or discontinued by the adoption of appropriate legislation or vendor contract changes.

(i) The RFP may include as an optional item, the potential for the plan to apply not just to new hires but to non-vested employees.

IX. Notwithstanding any provision of law to the contrary relating to the award of public contracts, the committee established in this act shall be authorized to issue a public request for proposals provided for in this act, advertise and receive responses for the RFPs, and review and consider the proposals. Once negotiations have been completed and the contract for administration of the selected plan is approved by the governor and council, all proposals submitted to the committee, but excluding any proprietary information or materials, shall become available for public review.

9 New Subparagraph; Participation by Members; Retirement System. Amend RSA 100-A:3, I by inserting after subparagraph (d) the following new subparagraph:

(e) Notwithstanding the provisions of subparagraphs (a)–(d) of this paragraph, employees, teachers, permanent policemen, and permanent firemen beginning service on or after November 1, 2013, working in a position for the state of New Hampshire, or for an employer who has joined the defined contribution plan under RSA 100-E, as determined by common law standards, shall as a condition of employment participate in the public employee defined contribution plan established under RSA 100-E and not be members of the retirement system established in RSA 100-A.

10 New Chapter; Public Employee Defined Contribution Plan. Amend RSA by inserting after chapter 100-D the following new chapter:

CHAPTER 100-E

PUBLIC EMPLOYEE DEFINED CONTRIBUTION PLAN

100-E:1 Authorization of Plan. The public employee defined contribution plan authorized in this chapter is intended as a qualified retirement plan established and maintained by the state with contributions treated as provided in 26 U.S.C. section 414(h).

100-E:2 Definitions. In this chapter:

I. “Earnable compensation” means earnable compensation as defined in RSA 100-A:1.

II. "Employer" means the state of New Hampshire and agencies of state government. All employers other than the state, participating in the New Hampshire retirement system under RSA 100-A on October 31, 2012, and any new employers, may elect to participate in the plan on and after November 1, 2013.

III. "Group I members" means employees and teachers as defined in RSA 100-A:1.

IV. "Group II members" means permanent policemen and permanent firemen as defined in RSA 100-A:1.

V. "Member" means any person included in the membership of the plan, as provided in RSA 100-E:3.

VI. "Plan" means the public employee defined contribution plan established in this chapter for members who begin service on and after November 1, 2013.

100-E:3 Membership. Any person who is first employed, or reemployed after separation from service, by the state of New Hampshire or an employer who has expressly opted to participate in this plan, and entered on the payroll on a full-time basis on or after November 1, 2013 shall be a member of the plan established in this chapter; except that membership shall be optional in the case of elected officials, unclassified state employees appointed for fixed terms, or full-time employees of the general court.

100-E:4 Member Contributions.

I. Mandatory member contributions shall be at the following rate percent applied to the member's earnable compensation:

(a) Group I members, 7.00.

(b)(1) Group II permanent fireman members, 11.80.

(2) Group II permanent police members, 11.55.

II. Additional voluntary employee contributions shall be allowed to the extent permitted by the federal Internal Revenue Code and Regulations for qualified governmental retirement plans.

100-E:5 Employer Contributions.

I. For group I employees and teachers, the employer shall contribute on behalf of the member an amount equal to 10 percent of the member's earnable compensation, minus the sum of the following:

(a) Mandatory contributions of the member under RSA 100-E:4, I.

(b) The cost of the required premium contributions for long term disability insurance and life insurance attributable to the member.

II. For group II members, the employer shall contribute on behalf of the member an amount equal to 16 percent of the member's earnable compensation, minus the sum of the following:

(a) Mandatory contributions of the member under RSA 100-E:4, I.

(b) The cost of the required premium contributions for long term disability insurance and life insurance attributable to the member.

100-E:6 Employer Payments for State Retirement System Unfunded Accrued Liability.

I. Each employer participating in the New Hampshire retirement system under RSA 100-A on October 31, 2012 shall pay to the retirement system a sum, calculated as the percentage of earnable compensation of its members participating in the plan, in an amount equal to the employer contribution rate determined under RSA 100-A:16, II minus the employer contribution determined in RSA 100-E:5 for the respective member.

II. Employer payments under this section shall continue until the New Hampshire retirement system actuary determines that the funded ratio of the consolidated retirement system in RSA 100-A as of June 30 of any given year is equal to or greater than 100 percent. Provided, however that employer payments under this section shall resume if for any subsequent period the retirement system under RSA 100-A incurs new unfunded accrued liability.

100-E:7 Adjustment of Contribution Rates.

I. The sum of the employer contributions under RSA 100-E:5 and the employer payments under RSA 100-E:6, expressed as the rate percent of a member's earnable compensation, shall be the "total employer rate."

II. Upon attainment of the reduction in the total employer rate to 7 percent for group I, 11.80 percent for group II permanent fireman members, or 11.55 percent for group II permanent police members, the contribution rates under RSA 100-E:4 and RSA 100-E:5 shall, upon further reductions in required contributions, both be adjusted and reduced equally until the sum of the total employer rate and the employee contribution rate equals 10 percent for group I members or 16 percent for group II members.

100-E:8 Employer Costs for Long Term Disability and Life Insurance Benefits. The employer shall pay the costs for long term disability insurance benefits and life insurance benefits which shall be provided at benefit levels to be determined.

100-E:9 Plan Administration.

I. The governor and council shall contract according to the procedure in RSA 100-E:13 with an administrator for the public employee defined contribution plan for the administration of assets accumulated under each member's account.

II. The plan shall include a range of investment options and a procedure for election of options by the member. If a member exercises control over the assets in the individual account, the member is not considered a fiduciary for any reason on the basis of exercising that control.

III. No member-in-service loans, hardship withdrawals, or other in-service withdrawals shall be permitted.

IV. To the extent permitted by federal law, the plan shall include the requirement that at least 50 percent of funds in an individual member account at the member's retirement be converted to a life annuity contract to provide income during retirement. The plan shall include life annuity options which may be elected by the member upon retirement or allow for members to show proof of a suitable alternative.

100-E:10 Vesting. Member contributions and investment return attributable to member contributions shall be 100 percent vested as of the date of contribution or accrual. Employer contributions and investment return attributable to employer contributions held in an account of a member by the administrator shall be vested under this chapter according to the following schedule:

I. 20 percent of funds in an account after one year of continuous participation by a member.

II. 40 percent of funds in an account after 2 years of continuous participation by a member.

III. 60 percent of funds in an account after 3 years of continuous participation by a member.

IV. 80 percent of funds in an account after 4 years of continuous participation by a member.

V. 100 percent of funds in an account after 5 years of continuous participation by a member.

100-E:11 Disbursement of Funds. Upon retirement of a member:

I. At least 50 percent of funds in an individual member account shall be converted by the administrator to a life annuity contract.

II. Up to 50 percent of the vested balance in an individual member account shall be available for withdrawal by the participant at retirement.

100-E:12 Selection of Administrator.

I. The department of administrative services shall issue a request for proposals (RFP) to qualified entities engaged in retirement and pension plan management. In addition, the New Hampshire retirement system may bid on management of the public employee defined contribution plan.

II. The RFP shall be issued requesting 3 options for plan management and administration, as follows:

(a) Investment management and plan administration for the public employee defined contribution plan only.

(b) Investment management and plan administration for the public employee defined contribution plan, plus investment management for the retirement system corpus fund under RSA 100-A pending legislative authorization for such management.

(c) Investment management and plan administration for the public employee defined contribution plan, plus investment management and plan administration for retirement system corpus fund under RSA 100-A pending legislative authorization for such management and administration.

III. The governor and council shall contract to provide for a fully bundled retirement plan including investment management and plan administration that will include full services to employer and employee participants in the plan. Plan management shall provide educational services for employer and employee participants.

IV. The selection of an administrator for plan management shall be based on the best combination of contracted management and administrative costs and proposed services.

100-E:13 Construction of Provisions; Member Acknowledgement.

I. The benefits provided under this chapter shall not be construed to constitute a binding contractual obligation with respect to members and may be modified or discontinued by the adoption of appropriate legislation.

II. Every employer involved under this chapter shall keep on file for each member commencing service after November 1, 2013 a statement of the employee's, teacher's, policeman's, or fireman's acknowledgement of the provisions of paragraph I of this section.

11 Contingency. If the committee established in section 2 of this act submits its report, including recommendations for proposed legislation, no later than November 1, 2012, then sections 9 and 10 of this act shall take effect November 1, 2013. If the committee does not submit its report by November 1, 2012, then sections 9 and 10 of this act shall not take effect.

12 Effective Date.

I. Sections 9 and 10 of this act shall take effect as provided in section 11 of this act.

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

AMENDED ANALYSIS

This bill establishes a committee to study and evaluate defined contributions plans for new state employee hires after November 1, 2013. The committee shall issue a request for proposals and propose legislation to implement the plan. The bill also establishes a defined contribution plan for new state employees hired after November 1, 2013, and other governmental employees whose employers elect its provisions, unless amended by legislation.

Amendment to SB 231

(2012-1563h)

Proposed by the Committee on Municipal and County Government - R

Amend RSA 38:22, I as inserted by section 1 of the bill by replacing it with the following:

I. ***Except as provided in paragraph III***, all charges for services furnished to patrons by a municipally owned electric, gas, ***water***, or ~~[water works]~~ ***wastewater utility*** shall create a lien upon the real estate where such services are furnished.

Amend RSA 38:22, III as inserted by section 1 of the bill by replacing it with the following:

III. No municipally owned electric, gas, water, or wastewater utility shall perform non-emergency work with a total cost in excess of \$250 per project on facilities on customer property beyond the utility's final shutoff point or the point at which the property owner is responsible for construction or maintenance, or both, unless a written contract has been executed and signed between the owner or an authorized representative of the property and an authorized representative of the utility. The contract shall include the terms of the work to be performed, the name

and address of the property owner, the location of the work to be performed, the estimated price of the work, the time of completion, and any other agreed upon stipulations relating to the project. No lien shall be placed on the property for such work in the absence of such a contract.

AMENDED ANALYSIS

This bill requires a written contract between a property owner and a municipally owned electric, gas, water, or wastewater utility for the performance of work beyond the utility's final shutoff point located on customer property, in order for a lien to be placed on the property by the municipality.

**Amendment to SB 234-FN
(2012-2015h)**

Proposed by the Committee on Executive Departments and Administration - C

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

AN ACT relative to salary grades for certain executive branch positions and relative to the retirement classification of certain state officials.

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

1 Unclassified Salaries; Liquor Commission; Department of Information Technology.

Amend RSA 94:1-a, I(b) by inserting in grade GG the following:

- I. Liquor commission, director of marketing, merchandising, and warehousing.
- II. Liquor commission, director of enforcement and licensing.
- III. Liquor commission, chief operating officer.
- IV. Department of information technology, chief information security officer.

2 Unclassified Salaries; Public Utilities Commission; Department of Information Technology. Amend RSA 94:1-a, I(b) by inserting in grade HH the following:

- I. Public utilities commission, director of safety and security.
- II. Department of information technology, director of agency software.

3 Unclassified Salaries; Department of Administrative Services. Amend RSA 94:1-a, I(b) by inserting in grade JJ the following:

- I. Department of administrative services, deputy commissioner.

4 Repeal. The following are repealed:

- I. RSA 206:8-a, relative to group II eligibility of the executive director of fish and game.
- II. RSA 21-P:5-a, III, relative to group II eligibility of the director of homeland security and emergency management.
- III. RSA 21-P:36-a, relative to group II eligibility of the assistant director of homeland security and emergency management.
- IV. RSA 21-H:8-a, relative to group II eligibility of the assistant commissioner and division directors, department of corrections.

5 Applicability. The repeal of RSA 21-P:36-a in section 4 of this act shall not apply to the individual serving as the assistant director of homeland security and emergency management on the effective date of this act.

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

AMENDED ANALYSIS

This bill:

- I. Establishes the salary grades for certain positions in the liquor commission, the department of information technology, and the department of administrative services.
- II. Repeals authorization for certain state employees to remain eligible for group II retirement status based on their prior service and group II membership.

**Amendment to SB 236
(2012-2078h)**

Proposed by the Committee on Election Law - R

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

AN ACT relative to nomination of candidates and political organizations, election procedure, and recounts.

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

1 Retention Schedule. Amend RSA 33-A:3-a, CXLI(c) to read as follows:

(c)(1) Party change form: until voter is removed from checklist plus 7 years.

(2) List of undeclared voters from the statewide centralized voter registration database: 7 years.

2 Change of Registration. Amend RSA 654:34, II(b) to read as follows:

(b) A voter may also register as a member of a party at any primary by requesting to be registered as a member and voting the ballot of the party of the voter's choice. A voter may also register once again as an undeclared voter after voting in a primary as a registered member of a party by returning the card **or signing the list of undeclared voters from the statewide centralized voter registration database** provided for in paragraph V. **If cards are used, the voter shall return the card** to the person at the polls designated by the town or city clerk to accept the card. All such cards **and lists** shall be in the possession of the supervisors of the checklist at the close of the polls on election day.

3 Change of Registration. Amend RSA 654:34, V to read as follows:

V.(a) At any primary, the supervisors of the checklist shall make available within the polling place a card **or list of undeclared voters from the statewide centralized voter registration database** to enable a voter who was registered as an undeclared voter but who changed registration on the day of the primary in order to vote as a registered member of a party to change registration so that the voter is registered once again as an undeclared voter. The card **or list** shall be in substantially the following form:

Name _____

(Print)

Address _____

I hereby request that my political party registration be changed as follows:

From: Democrat [] or Republican []

To: Undeclared []

Signed under the pains and penalties of perjury.

Date _____

(b) The supervisors of the checklist, upon receipt of such a card **or list**, shall keep it in accordance with RSA 33-A:3-a and at ~~their next~~ **the public** session of supervisors of the checklist **on election day** shall change the party of the voter as indicated on the card **or list**.

4 Declaration of Intent; Political Organization. Amend RSA 655:17-c to read as follows:

655:17-c Declaration of Intent; Political Organization.

I. Declarations of intent for political organizations shall be in the following form and signed by the chairman of the political organization:

I, _____, chairman of the _____ organization hereby declare that the _____ organization intends to file nomination papers by the deadline established under RSA 655:43, I. ~~[I further declare that the _____ organization intends to file the names of candidates for the following offices with the nomination papers.]~~

II. At the time of filing the declaration of intent, the chairman of the political organization shall submit a list of the offices for which it intends to file candidates and the names of the candidates for those offices. In addition, each candidate shall file a declaration of candidacy. The declaration of candidacy shall be in the form provided by RSA 655:17 with the understanding that, where the form

says primary election, it shall be construed to mean general election. If the political organization does not obtain enough nomination papers to have its name placed on the ballot, any declarations of candidacy filed for that political organization shall be void.

5 Vacancy for Office on Party Ticket. Amend RSA 655:37 to read as follows:

655:37 Vacancy for Office on Party Ticket. If, after the holding of a state primary election, a vacancy exists for any office on a party ticket, such vacancy may be filled as provided in this section. The appropriate party committee shall notify the secretary of state in writing of a person they designate to fill the vacancy. The person so designated shall, no later than the first ~~[Friday]~~ **Tuesday** following the primary election, file with the secretary of state a declaration of candidacy as provided in RSA 655:17 with the understanding that, where the form says primary election, it shall be construed to mean general election. If the candidate is designated for the office of governor, executive councilor, state senator, or state representative, he or she shall also file, no later than ~~[5:00 p.m. on]~~ the first ~~[Friday]~~ **Tuesday** following the primary, the appropriate affidavit as provided in RSA 655:29. Any candidate who has not filed all the forms required by this section within the required period of time shall not have his or her name printed on the state general election ballot for that office.

6 General Content of Return. Amend RSA 659:73, VI to read as follows:

VI. The moderator shall record and sign a ballots cast form prepared by the secretary of state within 48 hours of the closing of the polls, or other time ordered by the secretary of state, and shall submit the form to the secretary of state, with a copy to the clerk. The ballots cast form shall include, but not be limited to:

(a) The number of ~~[voters who voted in person on election day checked off on the checklist as having voted]~~ **ballots cast.**

(b) The number of absentee ~~[voters checked off on the checklist as having voted]~~ **ballots cast.**

7 Write-In Nomination. Amend RSA 659:88, I(b) to read as follows:

(b) A person whose name was not printed anywhere on the official state primary election ballot, and who receives the nomination of a party by write-in vote in a primary election and wishes to accept the nomination, shall file a declaration of candidacy with the secretary of state no later than ~~[3:00 p.m. on]~~ the first ~~[Friday]~~ **Monday** after the primary. The declaration of candidacy shall be filed with the understanding that, where the form says "primary election," it shall be construed to mean "general election." Such person shall not, however, be required to pay the administrative assessment under RSA 655:19-c.

8 Rejection of Nomination by Write-In Vote. RSA 659:90 is repealed and reenacted to read as follows:

659:90 Rejection of Nomination by Write-In Vote. Persons nominated by write-in vote who wish to reject the nomination shall reject their nominations as follows. A person notified in writing of his or her nomination by the secretary of state as required by RSA 659:89 shall advise the secretary of state in writing if he or she wishes to reject the nomination. If such rejection of nomination is not received by the secretary of state by the first Tuesday following the date of the primary, the person shall be deemed to have accepted the nomination, and his or her name shall appear on the official ballot as a candidate for the office. If for any reason the person cannot be contacted by the deadline for the printing of the ballots, the candidate's name shall be printed on the official state general election ballot.

9 Nomination for Incompatible Offices. Amend RSA 659:91 to read as follows:

659:91 Nominations for Incompatible Offices. Any person who is nominated by the same political party for incompatible offices shall notify the secretary of state in person, in writing, by facsimile transmission, or by e-mailing a signed statement as an attachment no later than ~~[3:00 p.m. on the Thursday]~~ **the Friday** following the date of the primary of which nomination he or she will accept. Thereupon the secretary of state shall declare a vacancy to exist in the nomination which such person declined. The vacancy shall be filled as provided

in RSA 655:37 except that all the necessary declarations of candidacy and affidavits shall be filed no later than 5:00 p.m. on the ~~[Friday]~~ **first Tuesday** following the date of the primary.

10 Time and Notice of Recount. Amend RSA 660:4 to read as follows:

660:4 Time and Notice. Upon satisfactory application for a recount as provided in RSA 660:1, the secretary of state shall begin the process of recounting the ballots on **a date selected by the secretary of state, which shall be no later than** the Wednesday following the deadline for requesting a recount. A recount shall take place at any suitable state facility in the city of Concord as may be designated by the secretary of state. The secretary of state shall give a reasonable notice thereof to the applicant and to each of the opposing candidates. The secretary of state shall also prepare and distribute to the applicant and to each of the opposing candidates the rules and procedures governing the recount at the same time notice of the time and place for holding the recount is given to the applicant and to each opposing candidate.

11 Primary Recount Applications. Amend RSA 660:7, I to read as follows:

I. Any person for whom a vote was cast for any nomination of any party at a state primary may apply for a recount, provided that the difference between the votes cast for the applying candidate and a candidate of that party declared nominated is less than 10 votes or less than 1.5 percent of the total ballots cast in the primary for that party in the towns which comprise the office to be recounted. The application shall be made in writing to the secretary of state and shall be submitted no later than 5:00 p.m. on the ~~[day]~~ **Friday** after the primary election. ~~[The request may be made by hand delivery, by facsimile transmission, or as an attachment to an e-mail. The fee shall be paid prior to the beginning of the recount. Recounts shall begin 2 days after the primary election and shall be conducted so as to complete all recounts involving towns or wards which have pending requests for absentee ballots for the general election from UOCAVA voters no later than 8:00 a.m. on the Saturday following the primary. Other recounts shall begin during the week following the primary.]~~
Each candidate requesting a recount shall pay the secretary of state fees as provided in RSA 660:2.

12 Ballot Law Commission; Hearing Date. Amend the introductory paragraph of RSA 665:5, I to read as follows:

I. **If necessary**, the ballot law commission shall meet ~~[at 9:00 a.m. on the Saturday following the regularly scheduled state primary election and, if necessary, on]~~ **on the third Thursday of September in each general election year and** the third Friday following the presidential primary election in order to hear and decide:

13 Repeal. RSA 655:40-b, relative to filing names of candidates, is repealed.

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

AMENDED ANALYSIS

This bill:

I. Modifies the procedure for nominating a political organization.

II. Changes various dates relating to nomination of candidates, recounts, and hearings by the ballot law commission.

III. Permits a voter who has been registered as an undeclared voter to register as undeclared after voting in a primary by signing an undeclared voter list.

IV. Changes the requirements for the ballots cast form.

Amendment to SB 239 (2012-1588h)

Proposed by the Committee on Executive Departments and Administration - C
Amend the bill by replacing all after the enacting clause with the following:

1 Manufactured Housing Installation Standards; Inspections. Amend the introductory paragraph of RSA 205-D:5, I to read as follows:

I. The local enforcement agency, or if there is no local enforcement agency, the ~~[state fire marshal or the state fire marshal's]~~ **board or the board's** designee, shall:

2 Manufactured Housing Installation Standards; Inspections. Amend RSA 205-D:5, II to read as follows:

II. Whenever a local enforcement agency, or if there is no local enforcement agency, ~~[the state fire marshal or the state fire marshal's]~~ **the board or the board's** designee~~[-]~~ orders the correction of a violation under subparagraph I(c), he or she shall immediately notify the board.

3 Manufactured Housing Installation Standards; Fees. Amend RSA 205-D:12, I to read as follows:

I. The board may establish, pursuant to RSA 541-A, fees for licensure, license renewal, training, inspections ~~[conducted by the state fire marshal]~~, and **issuance of the** manufacturer's warranty seal. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year. ~~[The fee for the manufacturer's warranty seal shall not exceed \$50. If the fees collected through licensure, license renewal, training, and the manufacturer's warranty seal are not sufficient to produce revenue to carry out the responsibilities of the board and the responsibilities of the state fire marshal in conducting inspections under this chapter, then the board shall establish a fee for inspection which shall not exceed \$100.]~~

4 Membership of the Installation Standards Board. Amend RSA 205-D:2, I to read as follows:

I. There is hereby created an installation standards board consisting of ~~[the commissioner of the department of safety or the commissioner's designee and 12 additional]~~ **9** members appointed by the ~~[commissioner of safety]~~ **governor and council** as follows:

~~(a) [Two public members who are not tenants or owners of a manufactured house, owners or operators of a manufactured housing park, or in any way associated with the manufactured housing industry.]~~

~~(b)~~ One installer of manufactured housing, nominated by the New Hampshire Manufactured Housing Association.

~~(c)~~ **(b)** One structural engineer or architect licensed in this state for a minimum of 5 years, nominated by the board of professional engineers established under RSA 310-A:3.

~~(d)~~ **(c)** One dealer or retailer, nominated by the New Hampshire Manufactured Housing Association.

~~(e) One owner or operator]~~ **(d) Two owners or operators** of a manufactured housing park with 100 or fewer lots, nominated by the New Hampshire Manufactured Housing Association.

~~(f)~~ **(e)** One owner or operator of a manufactured housing park with more than 100 lots, nominated by the New Hampshire Manufactured Housing Association.

~~(g)~~ **(f)** One member of a cooperative manufactured housing park, nominated by the Mobile/Manufactured Homeowner and Tenants Association of New Hampshire.

~~(h)~~ **(g)** One municipal building code official, nominated by the New Hampshire Building Officials Association.

~~(i)~~ **(h)** One municipal fire chief, nominated by the New Hampshire Association of Fire Chiefs.

~~(j) One civil engineer licensed in this state for a minimum of 5 years, nominated by the board of professional engineers established under RSA 310-A:3.~~

~~(k) One homeowner of a manufactured house, nominated by the Mobile/Manufactured Homeowner and Tenants Association of New Hampshire.]~~

5 Membership and Terms of Board. RSA 205-D:2, II-IV are repealed and reenacted to read as follows:

II. Each member shall serve a 3-year term and until a successor is appointed and qualified. If there is a vacancy on the board, the provisions of RSA 21:33-a and RSA 21:34 shall apply.

III. The board shall biennially elect a chairperson and vice-chairperson. Five members of the board shall constitute a quorum.

IV. Members of the board shall receive \$25 for each day they are engaged in the duties of their office and shall be reimbursed for all actual travel, incidental, and clerical expenses incurred in carrying out the provisions of this chapter.

6 Renewal. Amend RSA 205-D:11, I to read as follows:

I. All licenses issued by the board shall expire on the last day of the month of the licensee's birth ***in the third year following the year of issuance***, but may be renewed during the following month, retroactive to the first day of the month. Upon failure to pay the renewal fee within the required period, a licensee may renew his or her license by submitting the required fee plus \$10 before the last day of the second month following the month of his or her birth.

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

AMENDED ANALYSIS

This bill:

I. Transfers responsibility for manufactured housing inspections from the state fire marshal to the manufactured housing installation standards board.

II. Removes statutory limitations on fees established by the board for warranty seals and inspections.

III. Revises the membership of the installation standards board and establishes a stipend for board members.

IV. Extends the license renewal period for licenses issued by the manufactured housing installation standards board.

Amendment to SB 243 (2012-2071h)

Proposed by the Committee on Municipal and County Government - R

Amend the bill by deleting section 2 and renumbering the original sections 3-9 to read as 2-8, respectively.

Amend the bill by replacing section 3 with the following:

3 Trust Funds; Professional Banking and Brokerage Assistance. Amend RSA 31:38-a, III to read as follows:

III. Any trustee or trustees of trust funds authorized by this chapter may hire or employ the trust department or departments of a bank or banks or a brokerage firm ***or an investment advisor*** to assist in the management and investment of trust fund resources or to provide bookkeeping services in connection therewith or to do both. ~~[They may also place securities in the nominee name of a trust department or departments or a brokerage firm to facilitate transfers for such securities.]~~ Trust fund records maintained by any bank or brokerage firm ~~[must]~~ ***or investment advisor shall*** be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. In employing such trust departments, portfolio management departments, or investment advisors, the trustees may enter into contracts or agreements delegating the management of such trust funds to those departments subject to investment guidelines adopted by the trustees under applicable statutes and subject to at least quarterly review and approval of such management by the trustees.

Amend RSA 35:19, II-III as inserted by section 5 of the bill by replacing them with the following:

II. Any trustee or trustees of capital reserve funds authorized by this chapter may hire or employ the trust department or departments of a bank or banks or a brokerage firm or investment advisor to assist in the management and investment of capital reserve fund resources or to provide bookkeeping services in connection therewith or to do both. ~~[They~~

~~may also place securities in the nominee name of a trust department or departments or a brokerage firm or investment advisor to facilitate transfers for such securities.]~~ Capital reserve fund records maintained by any bank or brokerage firm or investment advisor shall be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. In employing such trust departments, portfolio management departments, or investment advisors, the trustees may enter into contracts or agreements delegating the management of such capital reserve funds to those departments subject to investment guidelines adopted by the trustees under applicable statutes and subject to at least quarterly review and approval of such management by the trustees.

III. Any expenses incurred pursuant to paragraph II of this section by a trustee or trustees of trust funds authorized by this chapter may, with the annual approval of the governing body, be charged against the income of the capital reserve funds involved and shall be identified and reported in the annual report of the trustee or trustees as expenditures out of capital reserve funds made pursuant to paragraph II.

Amend RSA 34:16, II-III as inserted by section 7 of the bill by replacing them with the following:

II. Any trustee or trustees of capital reserve funds authorized by this chapter may hire or employ the trust department or departments of a bank or banks or a brokerage firm or investment advisor to assist in the management and investment of capital reserve fund resources or to provide bookkeeping services in connection therewith or to do both. ~~[They may also place securities in the nominee name of a trust department or departments or a brokerage firm or investment advisor to facilitate transfers for such securities.]~~ Capital reserve fund records maintained by any bank or brokerage firm or investment advisor shall be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. In employing such trust departments, portfolio management departments, or investment advisors, the trustees may enter into contracts or agreements delegating the management of such capital reserve funds to those departments subject to investment guidelines adopted by the trustees under applicable statutes and subject to at least quarterly review and approval of such management by the trustees.

III. Any expenses incurred pursuant to paragraph II of this section by a trustee or trustees of trust funds authorized by this chapter may, with the annual approval of the governing body, be charged against the income of the capital reserve funds involved and shall be identified and reported in the annual report of the trustee or trustees as expenditures out of capital reserve funds made pursuant to paragraph II.

**Floor Amendment to SB 244-FN
(2012-2198h)**

Proposed by Reps. Hawkins and Kurk

Amend the bill by replacing section 8 with the following:

8 Effective Date.

- I. Section 1 of this act shall take effect January 1, 2012.
- II. The remainder of this act shall take effect upon its passage.

**Amendment to SB 259
(2012-2187h)**

Proposed by the Committee on Executive Departments and Administration - R

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

AN ACT relative to the appointment of the director of ports and harbors, relative to the transfer of land within the Pease development authority, and relative to dredging the Hampton and Seabrook Harbors.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 New Paragraph; Pease Division of Ports and Harbors; Authority to Enter Agreement with the Department of the Army in Connection with the Hampton and Seabrook Harbors Dredging Project. Amend RSA 12-G:42 by inserting after paragraph XIV the following new paragraph:

XV. Be authorized to enter into a project partnership agreement with the Department of the Army in connection with the Hampton Harbor, Hampton, Seabrook, New Hampshire Navigation Improvement and Maintenance Dredging Project, Section 107 of the River and Harbor Act of 1960 (PL 86-645), as amended, for the dredging of Hampton Harbor inlet, and the commercial anchorage areas of Hampton and Seabrook Harbors. Incident to the execution of the agreement and the acceptance of federal aid, the authority is authorized to take all actions required of the authority under the agreement, including, but not limited to:

(a) Execute an indemnification agreement in the name of the authority and the state with and for the benefit of the United States for damage arising from the design, construction, or operation and maintenance of the project and any betterments and the local service facilities;

(b) Accept, as between the U.S. Army Corps of Engineers and the authority, the obligations imposed on an operator of the project under the federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980, 42 U.S.C. section 9601, et seq., as amended;

(c) Provide or acquire all lands, easements, rights of way, and suitable borrow and dredged or excavated material disposal areas that the Department determines the authority must provide for the construction, operation, maintenance, repair, replacement, rehabilitation, monitoring and management of the project; and

(d) Bear half the costs for services provided in connection with non-binding alternative dispute resolution as may be necessary under the agreement.

AMENDED ANALYSIS

This bill:

I. Transfers appointment of the director of ports and harbors from the governor to the Pease development authority board of directors.

II. Extends the date by which regulatory authority over certain lands within the Pease development authority is to be transferred to the municipalities.

III. Authorizes the Pease division of ports and harbors to enter into a project partnership agreement with the Department of the Army for the purpose of dredging portions of the Hampton and Seabrook Harbors.

Amendment to SB 273 (2012-2115h)

Proposed by the Committee on Judiciary - R

Amend RSA 507:15-a, I and II as inserted by section 1 of the bill by replacing them with the following:

I. In this section, "vexatious litigant" means an individual who has been found by a judge to have filed 3 or more frivolous lawsuits which have had a final disposition and which the judge finds, by clear and convincing evidence, were initiated for the primary purpose of harassment.

II. The court may require a vexatious litigant to:

(a) Retain an attorney or other person of good character to represent him or her in all actions; or

(b) Post a cash or surety bond sufficient to cover all attorney fees and anticipated damages.

**Amendment to SB 288
(2012-1943h)**

Proposed by the Committee on Commerce and Consumer Affairs - C

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

AN ACT relative to medical records and patient information.

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

1 New Paragraph; Medical Records and Patient Information. Amend RSA 332-I:3 by inserting after paragraph VII the following new paragraph:

VIII. Notwithstanding paragraph I, health care providers otherwise required or authorized by law to submit data to the department of health and human services may do so through a health information organization; provided, that such transmissions meet the same standards for privacy and security of protected health information that apply when such information is exchanged between providers.

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

AMENDED ANALYSIS

This bill allows health care providers who are required to submit data to the department of health and human services to submit such data through a health information organization under certain circumstances.

**Amendment to SB 289-FN
(2012-2169h)**

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

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

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

659:13 Obtaining a Ballot.

I.(a) A person desiring to vote shall, before being admitted to the enclosed space within the guardrail, announce his or her name **and address** to one of the ballot clerks who shall ~~[thereupon repeat the name; and]~~, if the name is found on the checklist by the ballot clerk, ~~[the ballot clerk shall put a checkmark beside it and again]~~ repeat the name **and address**. ~~[The ballot clerk shall state the address listed on the checklist for the voter, and ask if the address is correct.]~~ If the address **announced by voter is different from what appears** on the checklist, ~~[is not correct]~~ **but is in the same town or ward**, the ballot clerk shall **ask the voter for proof of his or her new domicile address in accordance with RSA 654:12, I(c) and, upon receipt of proof showing a change of domicile**, correct the address in red on the paper checklist and the supervisors of the checklist shall cause the centralized voter registration database to reflect the correction. **If the voter executes a domicile affidavit as proof for a change of domicile, it shall be given to the supervisors of the checklist and retained in accordance with RSA 33-A:3-a. If the voter does not present proof of new domicile or the address announced by voter is not within the same voting district, the ballot clerk shall inform the voter that he or she is not qualified to vote in that polling place.**

(b) The voter, if **the ballot clerk determines that he or she is** ~~[still]~~ qualified to vote in the town or ward, and unless challenged as provided for in RSA ~~[659:27-33]~~ **659:27 through 659:33**, shall then be ~~[allowed to enter the space enclosed by the guardrail. After the voter enters the enclosed space]~~ **asked to present proof of his or her identity meeting the requirements of paragraph II. If the voter presents such proof of identity to the ballot clerk**, the ballot clerk shall give the voter one of each ballot to be voted on in that election which shall be folded as it was upon receipt from the secretary of state. **The ballot clerk shall also mark the checklist using a ruler or other straight edge to ensure accuracy of the mark in order to show that the voter obtained his or her ballot. If**

the photo identification is an out-of state driver's license, the ballot clerk shall record the state of issuance on the checklist in a color designated for such entries and the supervisors of the checklist or designee shall submit the information to the secretary of state within 30 days of the election. The voter shall then be allowed to enter the space enclosed by the guardrail to mark and cast his or her ballot.

(c)(1) If the voter does not have a valid photo identification, the ballot clerk shall inform the voter that he or she may execute a qualified voter affidavit in accordance with RSA 654:12. The voter shall receive an explanatory document prepared by the secretary of state explaining the proof of identity requirements.

(2) If the voter desires to execute a qualified voter affidavit, the moderator or the moderator's designee shall take a photograph of the voter and immediately print and attach the photograph to, and thus make it a part of, the affidavit form. The photograph shall be 2 inches by 2 inches, or larger, and be in color. The moderator or his or her designee who took the photograph and the voter shall then sign the qualified voter affidavit. The moderator or designee shall delete the photograph from the camera in the presence of the voter. If the moderator or his or her designee is unable to take the voter's photograph due to equipment failure or other cause beyond the moderator's or his or her designee's reasonable control, the voter may execute a qualified voter affidavit without a photograph.

(3) If the voter objects to the photograph requirement because of religious beliefs, he or she may execute an affidavit of religious exemption in accordance with RSA 659:13-b, which shall be attested to by 2 election officers and attached to the qualified voter affidavit.

II.(a) A valid photo identification shall show the name of the individual to whom the identification was issued, and the name shall substantially conform to the name in the individual's voter registration record; it also shall show a photograph of the individual to whom the identification was issued; and it shall also have an expiration date that has not been exceeded by a period of more than 5 years from the current date. The following forms of identification bearing a photograph of the voter shall satisfy the identification requirements of paragraph I:

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

(2) An identification card issued by the director of the division of motor vehicles under the provisions of RSA 260:21.

(3) A United States armed services identification card.

(4) A United States passport.

(5) A qualified voter affidavit in accordance with subparagraph I(c).

(b) Additionally, the identification requirements of paragraph I may be satisfied by verification of the person's identity by a moderator or supervisor of the checklist or the town or city clerk, provided that if any person authorized to challenge a voter under RSA 659:27 objects to such verification, the voter shall be required to execute a challenged voter affidavit.

III. If a voter on the nonpublic checklist executes an affidavit in accordance with subparagraph I(c), the affidavit shall not be subject to RSA 91-A.

IV.(a) The secretary of state shall cause a letter of identity verification to be mailed by first class mail to each voter who executed a qualified voter affidavit or affidavit of religious exemption in accordance with paragraph I, unless the same person is sent letter of identity verification pursuant to RSA 654:12, V(b). The letter shall be mailed within 60 days after the election. The secretary of state shall mark the envelope with instructions to the United States Post Office not to forward the letter and to provide address correction information. The letter shall notify the person that a person who did not present valid photo identification voted using his or her name and address and instruct the person to return the letter within 30 days with a written confirmation that the person voted or to contact the attorney general

immediately if he or she did not vote. The letter shall also inform the person of the procedure for obtaining a free nondriver's picture identification card for voting purposes.

(b) The secretary of state shall cause any letters mailed pursuant to subparagraph (a) that are returned as undeliverable by the United States Post Office to be referred to the attorney general. The secretary of state shall also prepare and forward to the attorney general a list of all persons who were mailed letters under subparagraph (a) and have not confirmed that they voted. Upon receipt of notice from a person who receives a letter of identity verification that the person did not vote, or upon receipt of a referral from the secretary of state, the attorney general shall cause an investigation to be made to determine whether fraudulent voting occurred.

(c) Within 60 days after any election held after November 1, 2012, the secretary of state shall compile a report by voting district of the number of voters who registered or voted on election day but did not present valid photo identification, and forward the report to the speaker of the house of representatives, the president of the senate, and the chairpersons of the appropriate house and senate standing committees with jurisdiction over election law.

V.(a) The secretary of state shall provide to each town or city the photography equipment, supplies, and printing device that are necessary to enable it to comply with the photograph provision of subparagraph I(c), along with instructions in their use. The state requirement for competitive bid and approval of governor and council for initial purchase of this equipment is waived. The secretary of state may make initial purchases of this equipment with the approval of the fiscal committee of the general court.

(b) If the moderator or his or her designee is unable to take the voter's photograph due to equipment failure or other cause beyond the moderator's or his or her designee's reasonable control, the secretary of state may waive a voter's compliance with the photograph requirement of subparagraph I(c).

2 New Subdivisions; Voter Identification Advisory Committee; Voter Education Requirements. Amend RSA 652 by inserting after section 23 the following new subdivisions: Voter Identification Advisory Committee

652:24 Voter Identification Advisory Committee.

I. There is established a voter identification advisory committee. The committee shall review the implementation of voter identification requirements after every state general election. If the committee determines that problems exist requiring statutory changes, the committee shall report its findings to the senate and house standing committees with jurisdiction over election laws.

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

- (a) The secretary of state or designee.
- (b) The president of the senate or designee.
- (c) The speaker of the house of representatives or designee.
- (d) The governor or designee.
- (e) The president of the New Hampshire City and Town Clerks' Association, or his or her representative.

III. The committee shall meet at the call of the secretary of state or designee, who shall serve as chairperson.

Voter Education Requirements

652:25 Voter Education Requirements.

I. The secretary of state shall prepare an explanatory document explaining the proof of identity requirements of RSA 659:13, including all the permissible methods for proving identity and the dates of applicability of these requirements. The secretary of state shall provide copies of the explanatory document to all towns and wards, so it will be available to

all persons registering to vote at the city or town hall and at all polling places at each election held after the effective date of this section.

II. The secretary of state shall take whatever measures he or she deems necessary to educate the public about the voter identification requirements in RSA 659:13. Such measures shall include prominently displaying on the department of state's website information for voters relating to the voter identification requirements in RSA 659:13. The department shall also provide explanatory information relating to voter identification requirements to media outlets that request such information and shall encourage such outlets to assist the department in educating the public about the voter identification requirements in RSA 659:13.

3 Election Fund Reimbursement. Amend RSA 5:6-d, III to read as follows:

III. The secretary of state is authorized to accept, budget, and, subject to the limitations of this paragraph, expend monies in the election fund received from any party for the purposes of conducting elections, voter and election official education, the purchase or lease of ~~[voting]~~ equipment ~~[which]~~ **that** complies with Help America Vote Act of 2002, Public Law 107-252, **or with RSA 659:13, V, reimbursing the department of safety for the actual cost of voter identification cards**, election law enforcement, and improvements to related information technology, including acquisition and operation of an automated election management system. The secretary of state shall not expend any monies in the election fund unless the balance in the fund following such expenditures shall be at least ~~[15]~~ **12** times the estimated annual cost of maintaining the programs established to comply with the Help America Vote Act of 2002, Public Law 107-252.

4 Identification Cards; Voucher. Amend RSA 260:21, V to read as follows:

V.(a) The fee for such card shall be \$10 and is not refundable, except that no fee shall be charged to any person who, for reason of health or age, turns in his **or her** driver's license before the expiration date of such license. For purposes of this section, reasons of age shall be deemed to apply only to those persons over age 65. **A person who requires a photo identification card only for voter identification purposes may obtain a voucher in the form provided for in subparagraph (b) from his or her town or city clerk or the secretary of state exempting the voter from the identification card fee. Upon presentation of the voucher to the division, the actual costs of issuing the card shall be paid by the secretary of state from the election fund established under RSA 5:6-d. An identification card paid for by the secretary of state shall be valid for voter identification purposes only, and the card, which shall be known as a voter identification card, shall be marked "for voter identification only."**

(b) The identification card voucher shall be in the following form:

IDENTIFICATION CARD VOUCHER

To be completed by applicant:

Name: _____

Domicile Address: _____

Mailing Address: _____

I hereby swear or affirm that I require a photo identification for voting purposes and that I do not possess a form of identification that meets the requirements of the election laws of this state.

I hereby swear or affirm that I am the identical person whom I represent myself to be and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

To be completed by town or city clerk:

I, the clerk of _____ (town or city), hereby swear or affirm that the person identified on this voucher is qualified to vote in this city or town.

(Signature of town or city clerk)

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

Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

5 Statutes Posted. Amend RSA 658:29 to read as follows:

658:29 Statutes Posted. The secretary of state shall prepare and distribute copies of the following RSA sections which the selectmen shall post or cause to be posted outside the guardrail in the polling place at all elections: RSA 654:7-a, RSA 654:7-b; ***RSA 659:13, RSA 659:13-b***, RSA 659:27, RSA 659:30, RSA 659:31, RSA 659:32, RSA 659:34, RSA 659:35, RSA 659:37, RSA 659:38, RSA 659:40, RSA 659:41, RSA 659:103; RSA 666:4, RSA 666:5, RSA 666:8. In addition, the secretary of state shall include any other statutes or regulations that are required to be posted by state or federal law. The secretary of state may also include statutes or regulations that, in the secretary of state's judgment, would aid a voter in casting a vote or in contacting the appropriate official if the voter believes that his or her voting rights are being violated.

6 New Section; Proof of Voter Identity Instructions to be Posted. Amend RSA 658 by inserting after section 29 the following new section:

658:29-a Proof of Voter Identity Instructions to be Posted. The secretary of state shall prepare a notice explaining to voters the photo identification requirement in RSA 659:13, including all the permissible methods for proving identity, and directing voters to the department of state's website or to the town or city clerk to obtain the explanatory document described in RSA 652:25, I, for additional information. Such notice shall also include the penalties as described in RSA 659:34. The governing body of each town or ward shall prominently display this notice for at least 14 days prior to each election held after the effective date of this section. The poster shall be placed outside the guardrail at each polling place at all elections.

7 Wrongful Voting; Penalties for Voter Fraud. Amend RSA 659:34, I-II to read as follows:

I. A person is subject to a civil penalty not to exceed \$5,000 if such person:

(a) When registering to vote; when obtaining an official ballot; ~~or~~ when casting a vote by official ballot; ***or when applying for a photo identification card for voting purposes, purposely or knowingly*** makes a false material statement regarding his or her qualifications as a voter to an election officer or submits a voter registration form, an election day registration affidavit, a qualified voter affidavit, a domicile affidavit, ***or affidavit of religious exemption, an identification card voucher***, or an absentee registration affidavit containing false material information regarding his or her qualifications as a voter;

(b) Votes more than once for any office or measure;

(c) Applies for a ballot in a name other than his or her own;

(d) Applies for a ballot in his or her own name after he or she has voted once;

(e) Votes for any office or measure at an election if such person is not qualified to vote as provided in RSA 654; ~~or~~

(f) Gives a false name or answer if under examination as to his or her qualifications as a voter before the supervisors of the checklist or moderator; ***or***

(g) Presents falsified proof of identity at any election.

II. A person is guilty of a class B felony if, at any election, such person ~~[purposefully]~~ ***purposely*** or knowingly commits an act specified in subparagraph I(b) ***or I(e)***. A person is guilty of a class A misdemeanor if, at any election, such person ~~[purposefully]~~ ***purposely*** or knowingly commits any of the other acts listed in paragraph I, ***and, if the act involved the use of false proof of identity or voting using the name of another person, the person shall be sentenced to a mandatory sentence in the county correctional facility of not***

less than 30 days for a first offense under this section, 90 days for a second offense under this section, and 180 days for a third or subsequent offense under this section.

8 New Section; Affidavit of Religious Exemption. Amend RSA 659 by inserting after section 13-a the following new section:

659:13-b Affidavit of Religious Exemption. The affidavit of religious exemption shall be in the following form:

AFFIDAVIT OF RELIGIOUS EXEMPTION

Name: _____

Domicile Address: _____

Date of birth: _____

I hereby swear or affirm that because of my religious beliefs, I object to having my photograph taken and that I do not possess a form of identification that meets the requirements of the election laws of this state showing my photograph.

I hereby swear or affirm, under the penalties for voting fraud set forth below, that I am the identical person whom I represent myself to be and that to the best of my knowledge and belief the information above is true and correct.

(Signature of affiant)

In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when 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.

This affidavit was executed before us on the date shown and the person who subscribed his or her name to the foregoing affidavit swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

(Name of First Election Officer)

(Name of Second Election Officer)

(Date)

(Name of First Election Officer)

(Name of Second Election Officer)

9 Right to Know Exemption. Amend RSA 654:31-a to read as follows:

654:31-a Right to Know Exemption. The information contained on the checklist of a town or city, specifically, the name, domicile address, mailing address, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, qualified voter and domicile affidavits, ***affidavit of religious exemption***, and application for absentee ballot shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. Notwithstanding the foregoing, qualified voter and domicile affidavits are public records subject to RSA 91-A for the sole purpose of challenging an individual registering to vote or voting, challenging ballots to be recounted, to the extent that such ballot challenges are specifically authorized by law, or determining the accuracy of any qualified voter or domicile affidavit. Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, qualified voter and domicile affidavits, ***affidavits of religious exemption***, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution.

10 New Paragraph; Disposition and Retention Schedule. Amend RSA 33-A:3-a by inserting after paragraph CLV the following new paragraph:

CLVI. Affidavits of religious exemption: until voter is removed from checklist plus 7 years.

11 Repeal. RSA 659:13, II(b), relative to verification of identity, is repealed.

12 Applicability. In accordance with RSA 659:13, as amended by this act, ballot clerks shall request that the voters present a valid photo identification at all elections after the effective date of this act. Notwithstanding the provisions of RSA 659:13, as amended by this act, prior to November 1, 2012, if the voter does not present such identification, he or she may vote without executing a qualified voter affidavit, but the ballot clerk shall provide the voter with a copy of the explanatory document specified in RSA 652:25 and explain the need for photo identification after November 1, 2012.

13 Effective Date.

I. Section 11 of this act shall take effect June 30, 2013.

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

AMENDED ANALYSIS

This bill:

I. Requires that a voter be asked to present proof of identity to vote in person. Voters who prove identity by executing a qualified voter affidavit shall be photographed or execute an affidavit of religious exemption.

II. Requires that the secretary of state pay the cost for a picture identification card upon presentation of a voucher to the division of motor vehicles.

III. Establishes minimum sentences for certain voter fraud violations.

Amendment to SB 295-FN-A (2012-2220h)

Proposed by the Majority of the Committee on Finance - R

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

AN ACT relative to the research and development tax credit against the business profits tax.

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

1 Prospective Repeal of Research and Development Tax Credit Repealed. 2007, 271:6, relative to the repeal of the research and development tax credit authorized by RSA 77-A:5, XIII, RSA 77-E:3-b, and RSA 162-P:1, is repealed.

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

AMENDED ANALYSIS

This bill repeals the prospective repeal of the research and development tax credit.

Floor Amendment to SB 295-FN-A (2012-2224h)

Proposed by Reps. O'Brien, Tucker, Weyler, Bettencourt, Silva, Garcia, Keane, Coffey, Cebrowski and Sova

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

AN ACT relative to the research and development tax credit against the business profits tax and relative to the women's right to know act regarding abortion information.

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

2 New Chapter; Women's Right to Know Act. Amend RSA by inserting after chapter 132-A the following new chapter:

CHAPTER 132-B

WOMEN'S RIGHT TO KNOW ACT

132-B:1 Title. This act shall be known as the "Women's Right to Know Act."

132-B:2 Definitions. In this chapter:

I. "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will

with reasonable likelihood cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

- (a) Save the life or preserve the health of an unborn child;
- (b) Remove a dead unborn child caused by spontaneous abortion; or
- (c) Remove an ectopic pregnancy.

II. "Facility" or "medical facility" means any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center, or other institution or location wherein medical care is provided to any person.

III. "Gestational age" means the time that has elapsed since the first day of the woman's last menstrual period.

IV. "Hospital" means a facility licensed under RSA 151.

V. "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate termination of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

VI. "Physician" means any person licensed under RSA 329. The term includes medical doctors and doctors of osteopathy.

VII. "Pregnant" or "pregnancy" means that female reproductive condition of having an unborn child in the woman's uterus.

VIII. "Qualified person" means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse, or physician.

IX. "Unborn child" means the offspring of human beings from conception until birth.

132-B:3 Informed Consent Requirement. No abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

I. At least 24 hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person, of the following:

- (a) The name of the physician who will perform the abortion;
- (b) Medically-accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion, including (1) a description of the proposed abortion method; (2) the immediate and long-term medical risks associated with the proposed abortion method including, but not limited to, the risks of infection, hemorrhage, cervical or uterine perforation, danger to subsequent pregnancies; and (3) alternatives to the abortion;
- (c) The probable gestational age of the unborn child at the time the abortion is to be performed;
- (d) The medical risks associated with carrying her child to term; and
- (e) Any need for anti-Rh immune globulin therapy if she is Rh negative, the likely consequences of refusing such therapy, and the cost of the therapy.

II. At least 24 hours before the abortion, the physician who is to perform the abortion, the referring physician, or a qualified person has informed the woman, orally and in person, that she is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally-funded benefits to which she might otherwise be entitled.

III. In the event of a medical emergency requiring an immediate termination of pregnancy, the physician who performed the abortion shall clearly certify in writing the nature of the medical emergency and the circumstances which necessitated the waiving of the informed consent requirements of this chapter. This certification shall be signed by the physician who performed the emergency abortion, and shall be permanently filed in both the

records of the physician performing the abortion and the records of the facility where the abortion takes place.

IV. A physician shall not require or obtain payment for a service provided in relation to abortion to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the 24-hour reflection period required in this section.

132-B:4 Medical Emergencies. When a medical emergency compels the performance of an abortion, the physician shall inform the woman, before the abortion if possible, of the medical indications supporting the physician's judgment that an immediate abortion is necessary to avert her death or that a 24-hour delay will cause substantial and irreversible impairment of a major bodily function.

132-B:5 Civil Penalties.

I. In addition to any and all remedies available under the common or statutory law of this state, failure to comply with the requirements of this chapter shall:

(a) Provide a basis for a civil malpractice action for actual and punitive damages.

(b) Provide a basis for a professional disciplinary action under RSA 329.

II. No civil liability may be assessed against the female upon whom the abortion is performed.

III. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

IV. If judgment is rendered in favor of the plaintiff, the court shall also render judgment for a reasonable attorney's fee in favor of the plaintiff against the defendant.

V. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for reasonable attorney's fees in favor of the defendant against the plaintiff.

132-B:6 Construction. Nothing in this chapter shall be construed as creating or recognizing a right to abortion. It is not the intention of this law to make lawful an abortion that is currently unlawful.

132-B:7 Right of Intervention. The general court, by joint resolution, may appoint one or more of its members, who sponsored or cosponsored this chapter in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of this chapter is challenged.

132-B:8 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

3 Effective Date.

I. Section 2 of this act shall take effect July 1, 2013.

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

AMENDED ANALYSIS

The bill:

I. Repeals the prospective repeal of the research and development tax credit.

II. Establishes the women's right to know act.

Amendment to SB 300

(2012-2142h)

Proposed by the Committee on Education - C

Amend the introductory paragraph in RSA 194-B:11, III(b) as inserted by section 1 of the bill by replacing it with the following:

(b) When a child is enrolled by a parent in a chartered public school, the local education agency of the child's resident district shall convene a meeting of the individualized education program (IEP) team and shall invite a representative of the chartered public school to that meeting. At the meeting, the IEP team shall

determine how to ensure the provision of a free and appropriate public education in accordance with the child's IEP. The child's special education and related services shall be provided using any or all of the methods listed below starting with the least restrictive environment:

**Amendment to SB 311-FN-A
(2012-2146h)**

Proposed by the Committee on Executive Departments and Administration - R

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

AN ACT relative to weights and measures.

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

1 New Sections; Division of Weights And Measures; Director. Amend RSA 438 by inserting after section 8 the following new sections:

438:8-a Division Director; Duties. The director shall operate under the duties prescribed to him or her by the commissioner, including but not limited to:

I. Subject to direction from the commissioner, the director of weights and measures shall direct and supervise the functions of the division of weights and measures including the work of the inspectors, the metrologist, and the clerical staff.

II. The director, in accordance with the policies of the department of administrative services shall keep records on the weights and measures inspectors which shall include by employee, the hours worked, approval of any overtime hours worked and the reason therefor, and accurate records of leave time accrued and used.

III. The director shall, with the approval of the commissioner, establish a written procedure for prosecuting violations of this chapter and shall make judicious use of the civil penalty system in lieu of criminal prosecution when in his or her judgment it will be equally or more effective in enforcing the provisions of this chapter.

IV. The director shall, with approval of the commissioner, establish a written code of conduct for the inspectors which shall be available upon request and shall establish written regulations and standard operating procedures for the inspectors.

V. The director shall provide quarterly reports of investigations of complaints to the advisory board. Such reports shall include the date and nature of the complaint, the investigator of the complaint, and the resolution of the complaint.

438:8-b Weights and Measures Advisory Board.

I. There shall be a weights and measures advisory board consisting of 11 members. With the exception of the member from the general court, the members shall be appointed by commissioner of the department of agriculture, markets, and food, and shall include the following:

- (a) Two members nominated by the New Hampshire Grocers Association.
- (b) One member nominated by the Oil Heat Council of New Hampshire.
- (c) One member who is a scrap dealer.
- (d) Two members who are farmers, one of whom is engaged in retail of his or her products.
- (e) One legislator from the house of representatives, appointed by the speaker of the house of representatives.
- (f) One member nominated by the Propane Gas Association of New England.
- (g) One member nominated by the Independent Oil Marketers Association.
- (h) One member of the general public who is not involved commercially with weights and measures.
- (i) One member who is a weights and measures service technician registered under RSA 438:14-a.

II. The director of weights and measures shall serve as an ex-officio, non-voting member of the board.

III. Following an initial appointment for staggered terms, each board member shall serve for a term of 4 years. Board members shall not serve more than 2 consecutive terms. The board shall annually elect from among its members a chairman and a vice-chairman.

IV. Board members shall serve without compensation, except that they shall receive reimbursement for mileage when in the performance of their duties. This reimbursement shall be a charge against the appropriation for the department for weights and measures.

V. The board shall meet at least 2 times per year at a time and place to be fixed by the chairman. Additional meetings shall occur either upon his or her own motion or at the request of 3 or more board members.

VI. The weights and measures advisory board shall regularly advise the director of the division of weights and measures and the commissioner on all matters related to the enforcement of this chapter.

2 New Subparagraphs; Authority to Collect Fees. Amend RSA 438:8, I by inserting after subparagraph (j) the following new subparagraphs:

(k) The collection of fees set in departmental rules Agr 1410.03 through 1410.07.

(l) Procedures for investigating complaints about weights and measures generally.

3 Applicability. The provisions of RSA 438:8, I(k) as inserted by section 2 of this act shall not be construed as allowing the commissioner of agriculture, markets, and food to change the fees set in departmental rules Agr 1410.03 through 1410.07 prior to June 30, 2013.

4 Petroleum Products Delivery Tickets and Invoices. Amend RSA 438:33 to read as follows:

438:33 Furnace and Stove Oil.

I. All distillate heating oil sold at retail shall be sold by liquid measure or by net weight in accordance with the provisions of RSA 438:20.

II. In the case of each delivery of such liquid fuel not in package form and in an amount greater than 100 gallons in the case of sale by liquid measure, or 100 pounds in the case of sale by weight, there shall be rendered to the purchaser at the time of delivery, **or as otherwise specified by the customer**, a printed delivery ticket which shall clearly state the following:

(a) ~~[The name and address of the vendor;]~~ ***The date the product was delivered.***

(b) The name and address of the ~~[purchaser;]~~ ***vendor, including the street, city, state, and zip code.***

(c) ~~[The identity of the type of fuel comprising the delivery;]~~ ***The name and address of the purchaser.***

(d) ~~[The unit price, that is, the price per gallon or per pound, as the case may be, of the fuel delivered;]~~ ***The type of product being delivered.***

(e) In the case of sale by liquid measure, the liquid volume of the delivery shall be determined by a meter with a register printing the meter readings on a ticket from which such liquid volume shall be computed and expressed in terms of the gallon and its binary or decimal subdivisions (said ticket shall not be inserted into the register until immediately before delivery is begun, and in no case shall a ticket be in the register when the vehicle is in motion); or the liquid volume may be determined by a vehicle tank used as a measure when in full compliance with the National Institute of Standards and Technology Handbook 44, as adopted by the National Conference of Weights and Measures, and calibrated by a weights and measures official. Sale by a liquid measuring device, as defined in said Handbook 44, and sale by a vapor meter are excluded from this paragraph[;].

(f) In the case of sales by weight, the net weight of the delivery, together with any weighing scale readings from which such net weight has been computed, expressed in terms of tons or pounds avoirdupois.

(g) ***If there is correction for temperature:***

- (1) *The net gallons or liters delivered; and*
- (2) *The statement: "The volume delivered has been adjusted to the volume at 60 degrees Fahrenheit."*

III. All invoices, whether mailed or left at time of delivery, shall contain at least the following:

- (a) *The date the product is delivered;*
- (b) *The name and address of the vendor, including the street, city, state, and zip code;*
- (c) *The name and address of the purchaser, including the street, city, state, and zip code;*
- (d) *The type of product being delivered;*
- (e) *The unit price, per gallon or liter, of the product being delivered;*
- (f) *The total computed price for the volume delivered or the terms of any prompt payment discount being offered to the purchaser.*

5 Police Powers, Right of Entry and Stoppage. Amend RSA 438:15 to read as follows:

438:15 Police Powers, Right of Entry and Stoppage. With respect to the enforcement of this chapter and any other law dealing with weights and measures that he **or she** is or may be empowered to enforce, the commissioner, or ~~his~~ **the commissioner's** inspectors at his **or her** direction, is hereby vested with special police powers, and is authorized to arrest, without formal warrant, any violator of said laws, and to seize for use as evidence, without formal warrant, incorrect or unsealed weights and measures or amounts or packages of commodity found to be used, retained, offered, or exposed for sale or sold in violation of law. ~~[In the performance of his official duties, the commissioner is authorized to enter and go into or upon, without formal warrant, any structure or premises, and to stop any person whatsoever and to require him to proceed, with or without any vehicle of which he may be in charge, to some place which the commissioner may specify.]~~

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

AMENDED ANALYSIS

This bill:

- I. Establishes a director of the division of weights and measures.
- II. Establishes a weights and measures advisory board.
- III. Allows the commissioner of the department of agriculture, markets, and food to collect certain fees related to weights and measures and adopt procedures to investigate weights and measures complaints.
- IV. Establishes requirements for delivery tickets and invoices on petroleum products delivery.

Amendment to SB 318-FN (2012-2101h)

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

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

1 Voter, Office Holder; Claim of Domicile. Amend RSA 654:1, I to read as follows:

I. Every inhabitant of the state, having a single established domicile for voting purposes, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of New Hampshire, shall have a right at any meeting or election, to vote in the town, ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves. ~~[A person's claim of domicile for voting purposes shall not be conclusive of the person's residence for any other legal purpose.]~~

2 Voter Registration. Amend RSA 654:7 to read as follows:
654:7 **Voter Registration;** Voter Registration Form.

I. Any person registering to vote shall be:

(a) At least 18 years of age on the day of the election; and

(b) A United States citizen; and

(c) Domiciled in the town or city in which the applicant is registering to vote and not otherwise disqualified to vote.

II. The applicant shall be required to produce appropriate proof of qualifications as provided in RSA 654:12 and fill out the form as prescribed in paragraph IV.

III. If an applicant is unable to provide the proof of qualifications as required in RSA 654:12, he or she may register by completing the necessary affidavits, pursuant to RSA 654:12, and completing the form in paragraph IV.

IV. A standard registration application form shall be used throughout the state. The registration form shall be no larger than 8 1/2 inches by 11 inches. The secretary of state shall prescribe the form of the voter registration form, which shall be in substantially the following form:

Date _____

VOTER REGISTRATION FORM

(Please print or type)

1. Name

Last (suffix) First

Full Middle Name

2. ***Domicile*** Address

Street Ward Number

Town or City Zip Code

3. Mailing Address if different than in 2

Street Ward Number

Town or City

Zip Code

4. Place and Date of Birth

Town or City State

Date

5. If a naturalized citizen, give name of court where and date when naturalized

6. Place last registered to vote

Street Ward Number

7. Name under which previously registered, if different from above

8. Party Affiliation (if any)

9. Driver's License Number _____ State _____

If you do not have a valid driver's license, provide the last four digits of your social security number ____ _

My name is _____. I am today registering to vote in the city/town of _____, New Hampshire.

I understand that to vote in this city/town, I must be at least 18 years of age, I must be a United States citizen, and I must be domiciled in this city/town.

~~[I understand that I can claim only one city/town as my domicile at a time. A domicile is that place, more than any other, where I sleep most nights of the year, or to which I intend to return after a temporary absence. By registering or voting today, I acknowledge that I am not registering to vote or voting in any other city/town.]~~

I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or any other city/town.

In declaring New Hampshire as my domicile, I am subject to the laws of the state of New Hampshire which apply to all residents, including laws requiring a driver to register a motor vehicle and apply for a New Hampshire's driver's license within 60 days of becoming a resident.

In declaring New Hampshire as my domicile, I realize that I am not qualified to vote in the state or federal elections in another state.

If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a supervisor of the checklist is available to address my questions or concerns.

I acknowledge that I have read and understand the above qualifications for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

Date Signature

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

Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

3 Qualified Voter Affidavit. Amend RSA 654:12, I(a) to read as follows:

(a) CITIZENSHIP. The supervisors of the checklist, or the town or city clerk, shall accept from the applicant any one of the following as proof of citizenship: the applicant's birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, a qualified voter affidavit, or any other reasonable documentation which indicates the applicant is a United States citizen. The qualified voter affidavit shall be in the following form, and shall be retained in accordance with RSA 33-A:3-a:

Date: _____

QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)

Name: _____

Name at birth if different: _____

Place of birth: _____

Date of birth: _____

Date and Place of Naturalization: _____

Domicile Address: _____

Mailing Address (if different): _____

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I ***am not in possession of some or all of the documents necessary to prove my identity, citizenship, and age and that I*** am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward), that I am a United States citizen, that I am at least 18 years of age as of this date or will be at the next election, and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

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

Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

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

This affidavit was executed for purposes of proving (check all that apply):

[] Identity

[] Citizenship

[] Age

Notary Public/Justice of the Peace/

Official Authorized by RSA 659:30

4 Domicile Affidavit. Amend RSA 654:12, I(c) to read as follows:

(c) DOMICILE. Any reasonable documentation which indicates that the applicant has a domicile and intends to maintain a domicile, as defined in this chapter, in the town, city, or ward in which he or she desires to vote, or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, an affidavit in the following form, which shall be retained in accordance with RSA 33-A:3-a:

DOMICILE AFFIDAVIT

Date: _____

Name: _____

Current Domicile Address: _____

Street Ward Number

Town or City Zip Code

Current Mailing Address (if different): _____

Street Ward Number

Town or City Zip Code

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

Place and date of birth: _____

Address of last previous domicile: _____

Street Ward Number

Town or City Zip Code

I hereby swear and affirm, under the penalties for voting fraud set forth below, that ***I am not currently in possession of necessary documents to prove my domicile and that*** my established domicile is at the current domicile address I have entered above. I understand that I can claim only one city/town as my domicile at a time. A domicile is that place, more than any other, where I sleep most nights of the year, or to which I intend to

return after a temporary absence. By registering or voting today, I acknowledge that I am not registering to vote or voting in any other city/town, and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

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

Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

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

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

5 Voter Records. Amend RSA 654:12, V(a)-(b) to read as follows:

V.(a) The election official approving the application for registration as voter of a person who does not present an approved form of photo identification as proof of identity when registering, shall mark the voter registration form to indicate that no photo identification was presented and shall inform the person that, if he or she is a first-time election day registrant in New Hampshire, he or she will receive a letter of identity verification. The person entering the voter information into the centralized voter registration database shall determine if the person is listed in the system as having been previously registered in the town or ward reported by the applicant on the voter registration form. If the person is a new registrant who has not been previously registered anywhere in New Hampshire or if the centralized voter registration database does not confirm a previous registration claimed on the voter registration form, the election official shall cause the record created in the centralized voter registration database to indicate that the person is a new applicant in New Hampshire and that no photo identification was presented. When municipalities enter information on people who register on election day into the centralized voter registration database, to the extent practical applicants who are registering for the first time in New Hampshire and who also register without presenting an approved photo identification shall be entered first. ***The person entering the voter information of election day residents into the centralized voter registration database shall cause the records to indicate if the voter executed a domicile affidavit.***

(b) The secretary of state shall cause a letter of identity verification to be mailed by first class mail to each voter identified at ~~[a state general]~~ ***any*** election as a first-time election day registrant in New Hampshire who also did not verify his or her identity with an approved photo identification. The letter shall be mailed within 90 days after the ~~[general]~~ election. The secretary of state shall mark the envelope with instructions to the United States Post Office not to forward the letter and to provide address correction information. The letter shall notify the person that a person who was unable to present photo identification registered or registered and voted using his or her name and address and instruct the person to return the letter within 45 days with a written confirmation that the person registered and voted or to contact the attorney general immediately if he or she did not register and vote. Any voter under a protective order pursuant to RSA 173-B, and whose name does not appear on the checklist as provided under RSA 654:25, shall not be subject to the provisions of paragraph V.

6 New Subparagraphs; Voter Registration; Domicile Verification. Amend RSA 654:12, V by inserting after subparagraph (c) the following new subparagraphs:

(d) Within 90 days of each election, the secretary of state shall cause a list of persons executing domicile affidavits since the prior election to be forwarded to the attorney general and the division of motor vehicles. The secretary of state shall send a letter to each such person informing him or her of a driver's obligation to obtain a New Hampshire driver's license within 60 days of becoming a New Hampshire resident. The secretary of state shall mark the envelope with instructions to the United States Post Office not to forward the letter and to provide address correction information.

(e) The secretary of state shall cause any letters mailed pursuant to subparagraph (d) that are returned as undeliverable by the United States Post Office to be referred to the attorney general and the attorney general shall cause an investigation to be made to determine whether fraudulent registration or voting occurred.

(f) Upon completion of any investigation authorized under this section, the attorney general shall forward a report summarizing the results of the investigation to the speaker of the house of representatives, the president of the senate, and the chairpersons of the appropriate house and senate standing committees with jurisdiction over election law.

7 Qualifications of Voter Applicant; Identity. Amend RSA 654:12, III to read as follows:

III. To prove the qualifications set forth in paragraphs I and II, an applicant for registration as a voter must prove his or her identity to establish that the evidence used to prove age, citizenship, and domicile relate to the applicant. A person who has in his or her immediate possession a photo identification approved for use by paragraph II must present that identification when applying for registration. A person who does not have an approved photo identification with him or her may establish identity through ~~[any reasonable means, including, but not limited to: photo identification not approved by paragraph II, but determined to be legitimate by the supervisors of the checklist or clerk, verification of the person's identity by another person registered as a voter and known to the supervisor or clerk, or]~~ completion of the qualified voter affidavit, which shall be retained in accordance with RSA 33-A:3-a. Residents of a nursing home or similar facility may prove their identity through verification of identity by the administrator of the facility or by his or her designee. For the purposes of this section, the application of a person whose identity has been verified by an official of a nursing home or similar facility shall be treated in the same manner as the application of a person who proved his or her identity with a photo identification.

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

**Floor Amendment to SB 318-FN
(2012-2223h)**

Proposed by Reps. Bates, Scala, DeLemus, W. Smith, Baldasaro and Reilly

Amend the bill by replacing section 4 with the following:

4 Domicile Affidavit. Amend RSA 654:12, I(c) to read as follows:

(c) **DOMICILE.** Any reasonable documentation which indicates that the applicant has a domicile and intends to maintain a domicile, as defined in this chapter, in the town, city, or ward in which he or she desires to vote, or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, an affidavit in the following form, which shall be retained in accordance with RSA 33-A:3-a:

DOMICILE AFFIDAVIT

Date: _____

Name: _____

Current Domicile Address: _____

Street Ward Number

Town or City Zip Code

Current Mailing Address (if different): _____

Street Ward Number

Town or City Zip Code

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

Place and date of birth: _____

Address of last previous domicile: _____

Street Ward Number _____

Town or City Zip Code

I hereby swear and affirm, under the penalties for voting fraud set forth below, that ***I am not currently in possession of necessary documents to prove my domicile and that*** my established domicile is at the current domicile address I have entered above. I understand that ~~[I]~~ ***a person*** can claim only ***one state and*** one city/town as ~~[my]~~ ***his or her*** domicile at a time. A domicile is that place, ~~[more than any other, where I sleep most nights of the year, or]~~ to which ~~[I intend to return after a]~~ ***upon*** temporary absence, ***a person has the intention of returning.*** By registering or voting today, I ~~[acknowledge]~~ ***am acknowledging*** that I am not ~~[registering to vote]~~ ***domiciled*** or voting in any other city/town, and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

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

Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

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

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

**Amendment to SB 324-FN
(2012-2111h)**

Proposed by the Committee on Public Works and Highways - R

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

1 Operation of Beach Parking Facilities. Amend RSA 216:3, II to read as follows:

II. The state treasurer shall establish a special nonlapsing fund, which shall only lapse pursuant to paragraph III, for the revenues from the ***state*** parking facilities at Hampton Beach. Fifty percent of the payments for principal and interest of bonds and notes that are issued for the project of replacing the ~~[steel seawall with a concrete]~~ seawall in the Hampton Beach area shall be paid from this fund. ~~[If the revenues from the parking facilities at Hampton Beach exceed \$1,025,000 for the fiscal year, all revenues in excess of \$1,025,000 shall be transferred prior to the close of the fiscal year from this fund to the Hampton Beach capital improvement fund established in paragraph IV.]~~ ***Each fiscal year, the sum of \$200,000 shall be transferred from this fund to the Hampton Beach capital improvement fund established in paragraph IV.***

2 Capital Budget; Resources and Economic Development; Hampton Beach Seawall.

Amend 2011, 253:1, XII to read as follows:

XII. Department of Resources and Economic Development

A. Fire Tower Maintenance	\$170,000
B. State Park Repairs*	1,500,000
C. Mt. Washington State Park-Sherman Adams Bldg. Concrete Repair	180,000

D. North Hampton State Beach Redevelopment	450,000
E. Hampton Beach North Seawall Repair**	1,000,000
<i>Less Other Funds****</i>	<i>(500,000)</i>
<i>Net state appropriation subparagraph E</i>	<i>500,000</i>
F. Cannon Upgrades/Snowmaking	500,000
<i>Less Other Funds***</i>	<i>(500,000)</i>
Net state appropriation subparagraph F	0
Total state appropriation paragraph XII	~~[\$3,300,000]~~ \$2,800,000

* No funds appropriated in subparagraph XII, B shall be used for the Nansen Wayside ski jump and officials tower.

** The appropriation made in subparagraph XII, E, may be used as matching money for eligible federal funds to build further sections of the Hampton Beach Seawall.

*** To provide funds for the appropriations made in subparagraph XII, F, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$500,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the Cannon Mountain capital improvement fund established in RSA 12-A:29-c.

******* To provide funds for the appropriation made in subparagraph XII, E, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$500,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A.***

Payments of principal and interest on the bonds and notes shall be made from the Hampton Beach parking meter fund under RSA 216:3, II.

3 Capital Budget; Total Adjusted. Amend 2011, 253:1, Total state appropriation section 1, to read as follows:

Total state appropriation section 1 ~~[\$88,365,294]~~ **\$87,865,294**

4 Capital Budget; Bonds Authorized. Amend 2011, 253:5 to read as follows:

253:5 Bonds Authorized.

~~[L-]~~ To provide funds for the total of the appropriations of state funds made in sections 1 and 2 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of ~~[\$97,778,481]~~ **\$97,278,481** and for said purposes may issue bonds and notes in the ~~[names]~~ **name** and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The source of funds shall be as follows: general fund ~~[\$88,365,294]~~ **\$87,865,294** and highway funds \$9,423,187; with other funds ~~[\$77,887,482]~~ **\$78,387,482**.

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

AMENDED ANALYSIS

This bill revises the allocation of funds between the Hampton Beach parking meter fund and the Hampton Beach capital improvement fund. The bill also changes the funding for the Hampton Beach north seawall repair under the state capital budget.

Amendment to SB 326 (2012-2205h)

Proposed by the Committee on Ways and Means - C

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

AN ACT relative to state reimbursement of towns, relative to taxation of trusts under the interest and dividends tax, and clarifying that a provision of the uniform trust code applies to all trusts.

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

1 Repeal. RSA 122:4, II, relative to reimbursement to towns and cities of moneys owed by other states, is repealed.

2 Appropriation; Department of Revenue Administration. Notwithstanding RSA 122:4, II, the sum equal to the arrearages owed by any state under the Merrimack River compact and the Connecticut River compact for the fiscal year ending June 30, 2012 is hereby appropriated to the department of revenue administration for the fiscal year ending June 30, 2014, for the purpose of making payments to towns affected by RSA 484 in accordance with RSA 122:4, I. The sum equal to the arrearages owed by any state under the Merrimack River compact and the Connecticut River compact for the fiscal year ending June 30, 2013, is hereby appropriated to the department of revenue administration for the fiscal year ending June 30, 2015 for the purpose of making payments to towns affected by RSA 484 in accordance with RSA 122:4, I. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

3 Contingency. Notwithstanding RSA 122:4, II, if any other state in a river management compact with the state of New Hampshire makes a payment in any amount on an arrearage to the state of New Hampshire, then within 30 days of receiving such payment, the state treasurer shall distribute such money to the towns affected by RSA 484 in the manner prescribed by RSA 122:4, I for the fiscal years ending June 30, 2012 and June 30, 2013. Any additional funds shall lapse to the general fund on June 30, 2013.

4 Interest and Dividends Tax; Who Taxable. Amend RSA 77:3, I(b) and (c) to read as follows:

(b) Partnerships, limited liability companies, **and** associations, ~~[and trusts,]~~ the beneficial interest in which is not represented by transferable shares, whose gross interest and dividend income from all sources exceeds \$2,400 during the taxable year, but not including a qualified investment company as defined in RSA 77-A:1, XXI, or a trust comprising a part of an employee benefit plan, as defined in the Employee Retirement Income Security Act of 1974, section 3.

(c) ~~[Fiduciaries]~~ **Executors** deriving their appointment from a court of this state whose gross interest and dividend income from all sources exceeds \$2,400 during the taxable year.

5 Interest and Dividends Tax; Trusts Not Subject to Tax. Amend RSA 77:4, III to read as follows:

III. Dividends, other than stock dividends paid in new stock of the partnership, limited liability company, **or** association~~[-or trust]~~ issuing the same, on shares in partnerships, limited liability companies, **or** associations~~[-or trusts]~~ the beneficial interest in which is represented by transferable shares.

6 Interest and Dividends Tax; Income From Trusts. Amend RSA 77:10 to read as follows:

77:10 Income From Trusts. ~~[The income received by estates held by trustees, any one of whom is an inhabitant of this state, or has derived his appointment from a court of this state, shall be subject to the taxes imposed by this chapter, except that]~~ **Interest and dividend** income received by estates held by trustees treated as grantor trusts under section 671 of the United States Internal Revenue Code shall be included in the return of their ~~[owners]~~ **grantor**, to the extent that the ~~[persons to whom the income from the trust is payable, or for whose benefit it is accumulated, are inhabitants]~~ **grantor is an inhabitant or resident** of this state. **Income reported by, and taxed federally as interest or dividends to, a trust beneficiary who is an individual inhabitant or resident of this state with respect to distributions from a trust that is not treated as a grantor trust under section 671 of the United States Internal Revenue Code shall be included as interest or dividends in the return of such beneficiary and subject to taxation in accordance with the provisions of this chapter.**

7 Interest and Dividends Tax; Guardians, etc. Amend RSA 77:13 to read as follows:

77:13 Guardians, etc. RSA 77:9 ~~[to 12]~~ **through RSA 77:11** shall apply to guardians, conservators, trustees in bankruptcy, receivers, and assignees for the benefit of creditors, so

far as apt, to the taxable income received by them ~~[and to their beneficiaries, and to corporations acting as trustees or in any other fiduciary capacity].~~

8 Interest and Dividends Tax; Application of Sections. Amend RSA 77:14-d to read as follows:

77:14-d Application of Sections. RSA 77:14-a to 77:14-c shall apply, so far as apt, to associations ~~[and trusts]~~, but not to partnerships, limited liability companies, **and** associations~~[-and trusts]~~ the beneficial interest in which is represented by transferable shares.

9 New Paragraph; Uniform Trust Code; Trustee's Authority to Decant Trust. Amend RSA 564-B:4-418 by inserting after paragraph (h) the following new paragraph:

(i) Unless terms of the first trust expressly provide otherwise, regardless of whether the first trust was created before or after the date of enactment of any provision of this section, this section shall apply to:

(1) Any trust governed by the laws of this state, including a trust whose governing law has changed to the laws of this state; and

(2) Any trust that has a trustee who is an individual domiciled in this state or a trustee which is a New Hampshire chartered trust company, provided that a majority of the trustees select this state as the location for the primary administration of the trust by an instrument in writing, signed and acknowledged by a majority of the trustees. The instrument exercising this selection shall be kept with the records of the trust.

10 Repeal. RSA 77:12, relative to taxation of income from nonresident trustees, is repealed.

11 Applicability. Sections 4-8 and 10 of this act shall apply to taxable periods ending on or after December 31, 2011.

12 Effective Date.

I. Sections 1 - 2 of this act shall take effect July 1, 2013.

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

AMENDED ANALYSIS

This bill:

I. Repeals the reduction in certain reimbursements paid to towns and cities who have lost taxable valuation of certain lands.

II. Allows moneys received by the state to pay arrearages under certain river compacts to be distributed to towns listed under such compacts.

III. Appropriates money to pay towns under certain river compacts the arrearages owed until such arrearages can be collected.

IV. Eliminates certain taxation of trusts under the interest and dividends tax. The bill also clarifies that a uniform trust code provision relative to decanting applies to all trusts, regardless of when the trust was created.

Amendment to SB 328

(2012-2104h)

Proposed by the Committee on Education - R

Amend RSA 671:33, II(b) as inserted by section 1 of the bill by replacing it with the following:

(b) In a cooperative school district, the remaining school board members representing the same town or towns as the departed member shall fill a vacancy on the school board, provided that there are at least 2 such members. If there are less than 2 remaining members on the cooperative school board representing the same town or towns as the departed member, or if the remaining members are unable, by majority vote, to agree upon an appointment, the moderator shall fill the vacancy or, if the moderator is unable to fill the vacancy, the selectmen of the town or towns involved shall fill the vacancy by majority vote in convention. A member appointed to fill a vacancy under this subparagraph shall serve until the next district election when the voters of the district shall elect a replacement for the unexpired term.

**Amendment to SB 331
(2012-2019h)**

Proposed by the Committee on Executive Departments and Administration - C

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

AN ACT clarifying the definition of surviving spouse for eligibility for line-of-duty death benefits for police officers or firefighters killed in the line of duty, and making an appropriation for a shortfall in an individual medical subsidy payment.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 Appropriation; Individual Medical Subsidy Shortfall. The sum of \$3,150.79 is hereby appropriated to the New Hampshire Local Government Center for payment of the shortfall in medical subsidy payments for the period of July 2009 through January 2010 on behalf of a certain surviving spouse of a police officer killed in the line of duty. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill clarifies the definition of surviving spouse of a police officer or firefighter killed in the line of duty and clarifies the time when determination of eligibility is made. This bill exempts the state from liability for claims of improper payment of a death benefit. The bill also makes an appropriation to the New Hampshire Local Government Center for a shortfall in an individual medical subsidy payment.

**Amendment to SB 332
(2012-2221h)**

Proposed by the Majority of the Committee on Finance - R

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

AN ACT repealing a prohibition relative to auxiliary state troopers, repealing the law governing motor vehicles carrying property for hire, and relative to searches conducted for purposes of transportation-related security.

Amend the bill by inserting after section 4 the following and renumbering the original sections 5-6 to read as 6-7, respectively:

5 New Chapter; Federal Agency Searches Recorded. Amend RSA by inserting after chapter 595-B the following new chapter:

CHAPTER 595-C

FEDERAL AGENCY SEARCHES RECORDED

595-C:1 Federal Agency Searches Recorded.

I. Any law enforcement officer, as defined in RSA 651:6, I-a(a) who is stationed or present at an airport, bus station, train station, highway, or other transportation-related location or is in the presence of or who is working with an agent of the federal Transportation Security Administration or its equivalent while such agent is conducting an administrative search for transportation security of persons about to travel or already traveling in a vehicle of any kind shall record all interactions between the agent and citizen when that citizen complains to the law enforcement officer about the manner in which the administrative search is being or has been conducted.

II. When a law enforcement officer is not available at the site of an administrative search conducted for transportation security, a citizen may file a complaint at any office of the county sheriff within the state of New Hampshire, and the officer taking the report shall follow the same procedures as would be required had he or she been at the scene.

III. In such cases as described in paragraphs I and II, the law enforcement officer shall record the name and address of the citizen as well as the name and address or official

identification of the agent, along with an accurate statement of the details involving the complaint and his or her observations of the federal agent's behavior when applicable.

IV. Such records described in paragraph III shall be submitted within 5 business days to the division of state police for inclusion on an electronic database specifically identified as "Citizen Complaints About TSA Searches." The division of state police shall maintain the reports on the electronic database for at least 5 years, after which the records may be archived but not destroyed.

V. The information recorded pursuant to this section, with the name and other identifying information of the complainant redacted, shall be a public record under RSA 91-A.

VI. The department of safety and its employees and agents shall not be held liable for errors of omission or commission in the recording and maintenance of information under this section unless the error is shown to be the result of gross negligence or an intentional act.

VII.(a) In order to assist in the accuracy of records created by law enforcement officers in paragraph III, all citizens being searched shall be afforded their rights under the First Amendment to the Constitution for the United States of America and under Part 1, Article 22 of the New Hampshire Constitution to record, or designate a person to record, using any type of audio and video recording device, or a device that records just audio or just video, all interactions with an agent described in paragraph I, even in the presence of a law enforcement officer, without exception.

(b) If a citizen is prevented in any way from exercising his or her rights as specified in this section, he or she may require a law enforcement officer to enforce the provisions of this section.

(c) If a law enforcement officer does not enforce the provisions of this chapter or makes it difficult for a citizen to exercise his or her rights as specified in this section, the law enforcement officer may be guilty of official oppression pursuant to RSA 643:1.

Amend the bill by replacing section 7 with the following:

7 Effective Date.

I. Section 5 of this act shall take effect 90 days after its passage.

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

AMENDED ANALYSIS

This bill repeals a prohibition relative to auxiliary state troopers and repeals the law governing motor vehicles carrying property for hire.

This bill also requires law enforcement officers to document complaints relating to administrative searches by agents of the Transportation Security Administration.

**Amendment to SB 338-FN
(2012-2007h)**

Proposed by the Committee on Executive Departments and Administration - C

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

AN ACT relative to military discipline by the national guard and relative to qualifications of national guard judge advocate staff.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Appointment of Judge Advocate; New Hampshire Bar Membership; When Required.

Amend RSA 110-B:16, IV to read as follows:

IV. Members of the national guard may be ordered by the governor or under his authority to perform special duty, including duty in a judicial proceeding conducted pursuant to this chapter or as a member of or in any other capacity with any military board or as an investigating officer or as a medical examiner or as a judge advocate in the performance of legal services in any suit, action or proceeding. *In all cases where a member of the*

national guard judge advocate staff serves as lead counsel in a New Hampshire state court, such counsel shall be a member of the New Hampshire Bar Association.

AMENDED ANALYSIS

This bill removes a statutory reference to non-judicial punishment in the New Hampshire code of military justice. The bill also requires a member of the national guard judge advocate staff serving as lead counsel in a state court proceeding to be a member of the New Hampshire Bar Association.

**Amendment to SB 343-FN
(2012-2192h)**

Proposed by the Committee on Ways and Means - C

Amend RSA 329-B:10, XV through XIX as inserted by section 1 of the bill by replacing them with the following:

XV. Procedures for receiving and addressing complaints against licensees who have had a personal or professional relationship with a board member.

XVI. Procedures relative to the disclosure to the public of final disciplinary actions by the board, including those actions that occur without holding a public hearing. Dismissed complaints shall not be made public.

XVII. Standards of care for the practice of telemedicine or tele-health.

XVIII. Guidance for providing informed consent under RSA 329-B:32.

Amend RSA 329-B:11 through 329-B:13 as inserted by section 1 of the bill by replacing it with the following:

329-B:11 Receipts and Disbursements. The board of mental health practice, under its continuing responsibility to establish fees for psychologists, shall receive and account for all fees under the provisions of this chapter, and shall pay such moneys to the state treasurer to be deposited in the general fund.

329-B:12 Establishment of Fees; Continued Responsibility of Board of Mental Health Practice. The board of mental health practice, pursuant to RSA 330-A:12, II, shall continue to establish fees applicable to psychologists for review of applicants; licensure; renewal of license; reinstatement of license; inactive license status; reactivation of an inactive license; examination of applicants; transcribing and transferring records; and other services, including investigations, and hearings conducted under this chapter.

329-B:13 Records and Reports.

I. The board shall keep records of its proceedings and separate registers of all applications for licensure and all complaints filed against licensees. Such records shall show information relative to the application or complaint and the board's response to the application or complaint, without disclosing the identity of those involved, as the rules of the board may prescribe. The records shall be public and shall be open to inspection at all reasonable times, except for records compiled in connection with disciplinary investigations and records otherwise exempt from disclosure under RSA 91-A or other applicable statutes.

II. Biennially, as of October 1, the board shall submit to the governor a report of the applications, licensure, and other activity of the preceding biennium, and shall also transmit a complete statement of the expenditures of the board.

Amend RSA 329-B:15 as inserted by section 1 of the bill by replacing it with the following:

329-B:15 Psychologist License.

I. The board shall issue a psychologist license to any person who:

(a) Has passed a satisfactory examination in psychology.

(b) Has received the doctoral degree based on a program of studies, the content of which was primarily psychological, from a regionally accredited educational institution having a graduate program, or its substantial equivalent in both subject matter and extent of training.

(c) Has had at least 2 years of satisfactory, supervised experience in the field of psychology.

(d) Is of good professional character.

(e) Has paid all fees established and collected by the board of mental health practice.

II. Examinations for applicants under this chapter shall be held by the board at least once each year. The board shall determine the subject and scope of the examination, which may be written, oral, or both. If an applicant fails the first examination, the applicant may be admitted to a subsequent examination upon the payment of an additional fee in the amount established by the board of mental health practice under RSA 330-A:12.

Amend RSA 329-B:21, III(e) as inserted by section 1 of the bill by replacing it with the following:

(e) By assessing administrative fines in amounts established by the board which shall not exceed \$2,000 per offense, or, in the case of continuing offenses, \$200 for each day up to a total not exceeding \$2,000. All amounts collected shall be paid to the state treasurer for deposit in the general fund.

Amend RSA 329-B:25 as inserted by section 1 of the bill by replacing it with the following:

329-B:25 Expirations, Renewals, Reinstatements, and Inactive Status.

I. Licenses shall be valid for a period of 2 years and shall become invalid on the expiration date unless renewed. It shall be the duty of the board to notify every person licensed by the board under this chapter of the date of expiration of the license and the amount of the fee that shall be required for its renewal for 2 years. Such notice shall be mailed at least 2 months in advance of the date of expiration of such license. Renewal shall be conditional upon filing a timely and complete renewal application and payment of the fee as set by the board of mental health practice under RSA 330-A:12.

II. If a license is not renewed it may be reinstated not later than 6 months after the date of license expiration upon compliance with rules adopted by the board and payment of the fee established by the board of mental health practice under RSA 330-A:12. A license may be placed on inactive status pursuant to rules adopted by the board.

III. Upon the request of a person licensed by the board who is a member of any reserve component of the armed forces of the United States or the national guard and is called to active duty, the board shall place such person's license on inactive status. The license may be reactivated, after notification to the board, within one year of the person's release from active status by payment of the renewal fee to the board of mental health practice and with proof of completion of the most current continuing education requirement unless still within the renewal period.

Amend RSA 329-B:27, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Except for administrative rules relating to establishing and collecting fees for psychologists, administrative rules pertaining to psychologists adopted under RSA 330-A that are in effect on June 30, 2012, shall remain in effect and be administered by the board of psychologists under RSA 329-B until such rules are amended, repealed, superseded, or expired. The board of mental health practice shall continue to have responsibility to establish and collect fees for psychologists.

Amend the bill by replacing section 5 with the following:

5 Mental Health Practice; Fees. Amend RSA 330-A:12 to read as follows:
330-A:12 Fees.

I. The board shall establish fees pursuant to RSA 541-A for review of applicants for licensure; supervisory agreements; applications for licensed ~~psychologist,~~ pastoral psychotherapist, independent clinical social worker, clinical mental health counselor, and marriage and family therapist; renewal of license; renewal of dual license; reinstatement of license; inactive license status; reactivation of an inactive license; examination of applicants; transcribing and transferring records; and other services, including investigations and hearings conducted under this chapter.

II. The board shall continue to have responsibility for the establishment, collection, and disbursement of fees for psychologists regulated under RSA 329-B. The board shall establish fees pursuant to RSA 541-A for the activities listed in RSA 329-B:12.

AMENDED ANALYSIS

This bill establishes a board of psychologists for the regulation of licensed psychologists. Currently the board of mental health practice regulates licensed psychologists. The bill continues the responsibility of the board of mental health practice to establish the fees charged to psychologists.

**Amendment to SB 351
(2012-2212h)**

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

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

AN ACT relative to proclaiming Blue Star Mother's Day and changing eligibility for free admission to the state park system for members and retired members of the armed forces.

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

1 New Section; Blue Star Mother's Day. Amend RSA 4 by inserting after section 13-q the following new section:

4:13-r Blue Star Mother's Day. The governor shall annually proclaim the first Sunday after Mother's Day as Blue Star Mother's Day recognizing and honoring all mothers who now have, or have had, children honorably serving in the United States Armed Forces. The governor shall urge the citizens of this state to observe this day with appropriate events.

2 Free Admission to State Park System for Members of the Armed Forces. RSA 216-A:3-g, V is repealed and reenacted to read as follows:

V.(a) Upon presentation of military identification, any active member of the armed forces who meets the minimum requirements for satisfactory membership, as defined in federal regulations, shall not be charged a fee for admission to day-use areas of the state park system. In this section, "armed forces" means armed forces as defined in RSA 21:50, II and includes active and reserve members of the New Hampshire national guard.

(b) Any retired member of the armed forces who was honorably discharged and who is a New Hampshire resident shall not be charged a fee for day-use admission to the state park system.

(c) Any fees for the use of enterprise activities as described in paragraph II of this section shall be charged.

3 Contingency. If SB 358-FN of the 2012 legislative session becomes law, section 2 of this act shall take effect at 12:01 a.m. on the effective date of SB 358-FN. If SB 358-FN does not become law, section 2 of this act shall not take effect.

4 Effective Date.

I. Section 2 of this act shall take effect as provided in section 3 of this act.

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

AMENDED ANALYSIS

This bill provides for the proclamation of Blue Star Mother's Day.

This bill also changes eligibility requirements for free admission to the state park system for members and retired members of the armed forces.

**Amendment to SB 354
(2012-2213h)**

Proposed by the Majority of the Committee on Judiciary - R

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

AN ACT relative to the escrow fund for court facility improvements, the circuit court, and funding of the E-Court initiative for the judicial branch.

Amend the bill by replacing all after section 2 with the following:

3 Circuit Court; Purpose. RSA 490-F:1 is repealed and reenacted to read as follows:

490-F:1 Purpose. The general court hereby organizes, constitutes, and establishes the New Hampshire circuit court. The goals of the circuit court are:

- I. To enhance and hasten the judicial services brought to citizens in the local community courts, but also to preserve the local court districts;
- II. The respectful treatment of all individuals;
- III. The prompt and fair resolution of all issues within its jurisdiction;
- IV. The use of alternative dispute resolution to reduce the adversarial nature of proceedings;
- V. The effective use of technology; and
- VI. The assignment of judicial and nonjudicial staff specially selected for their commitment to these goals.

4 Circuit Court; General. Amend RSA 490-F:2 to read as follows:

490-F:2 Circuit Court; General. The circuit court shall be a court of record with statewide jurisdiction. Each circuit court location shall have the authority to hear all cases within the subject matter jurisdiction of the circuit court. Subject to part 1, article 17 of the New Hampshire constitution, nothing in this chapter shall prohibit the reassignment of cases within the circuit court as justice or efficiency requires in the discretion of the [administrative judge of the circuit] **chief justice of the supreme court or his or her designee.**

5 Circuit Court Locations. RSA 490-F:4 is repealed and reenacted to read as follows:

490-F:4 Circuit Court Locations. The judicial districts for the district and family divisions shall be known as circuit court districts and be as set forth in RSA 502-A:1 as follows:

“502-A:1 Judicial Districts. A comprehensive system of judicial districts, each with a district court, is hereby organized, constituted and established as follows:
Rockingham County

I. PORTSMOUTH DISTRICT. The Portsmouth district shall consist of the city of Portsmouth and the towns of Newington, Greenland, Rye, and New Castle. The district court for the district shall be located in Portsmouth, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Portsmouth District Court.

II. HAMPTON-EXETER DISTRICT. The Hampton-Exeter district shall consist of the towns of Hampton, Hampton Falls, North Hampton, South Hampton, Seabrook, Exeter, Newmarket, Stratham, Newfields, Fremont, East Kingston, Kensington, Epping, and Brentwood. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.

II-a. [Repealed.]

III. DERRY DISTRICT. The Derry district shall consist of the towns of Derry, Londonderry, Chester, and Sandown. The district court for the district shall be located in Derry, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Derry District Court.

IV. AUBURN-CANDIA-RAYMOND DISTRICT. The Auburn-Candia-Raymond district shall consist of the towns of Auburn, Candia, Deerfield, Nottingham, Raymond, and Northwood. The court shall be located in Auburn, Candia, or Raymond. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. The court shall bear the name of the town in which it is located.

V. SALEM DISTRICT. The Salem district shall consist of the towns of Salem and Windham in Rockingham county and the town of Pelham in Hillsborough county. The district court for the district shall be located in Salem, holding sessions regularly therein and

elsewhere in the district as justice may require. The name of the court shall be Salem District Court.

VI. PLAISTOW DISTRICT. The Plaistow district shall consist of the towns of Plaistow, Hampstead, Kingston, Newton, Atkinson, and Danville. The district court for the district shall be located in Plaistow, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Plaistow District Court. Strafford County

VII. DOVER-SOMERSWORTH-DURHAM DISTRICT. The Dover-Somersworth-Durham district shall consist of the cities of Dover and Somersworth and the towns of Rollinsford, Durham, Lee, and Madbury. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require.

VIII. ROCHESTER DISTRICT. The Rochester district court shall consist of the city of Rochester and the towns of Barrington, Milton, New Durham, Farmington, Strafford, and Middleton. The district court for the district shall be located in Rochester, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Rochester District Court. Belknap County

IX. LACONIA DISTRICT. The Laconia district shall consist of the city of Laconia and the towns of Meredith, New Hampton, Gilford, Belmont, Alton, Gilmanton, Center Harbor, and Barnstead. The district court for the district shall be located in Laconia, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Laconia District Court. Carroll County

X. CONWAY DISTRICT. The district for northern Carroll county shall consist of the towns of Conway, Bartlett, Jackson, Eaton, Chatham, Hart's Location, Albany, Madison and the unincorporated places of Hale's Location, Cutt's Grant, Hadley's Purchase, and those portions of the towns of Waterville and Livermore within the watershed of the Saco River and its tributaries. The district court for the district shall be located in Conway, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be the Conway District Court.

XI. OSSIPEE DISTRICT. The district for southern Carroll county shall consist of the towns of Ossipee, Tamworth, Freedom, Effingham, Wakefield, Wolfeboro, Brookfield, Tuftonboro, Moultonborough, and Sandwich. The court shall be located in Ossipee, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be the Ossipee District Court. Merrimack County

XII. CONCORD DISTRICT. The Concord district shall consist of the city of Concord, and the towns of Loudon, Canterbury, Dunbarton, Bow, Hopkinton, Pittsfield, Chichester, and Epsom. The district court for the district shall be located in Concord, holding sessions regularly there and elsewhere in the district as justice may require. The name of the court shall be Concord District Court.

XIII. HOOKSETT DISTRICT. The Hooksett district shall consist of the towns of Allenstown, Pembroke, and Hooksett. The district court for the district shall be located in Hooksett, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be the Hooksett District Court.

XIV. FRANKLIN DISTRICT. The Franklin district shall consist of the city of Franklin and the towns of Northfield, Danbury, Andover, Boscawen, Salisbury, Hill, and Webster in Merrimack county and the towns of Sanbornton and Tilton in Belknap county.

The district court for the district shall be located in Franklin, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Franklin District Court.

XV. HENNIKER-HILLSBOROUGH DISTRICT. The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, Sutton, and Bradford in Merrimack county and the towns of Hillsborough, Deering, Windsor, Antrim, and Bennington in Hillsborough county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. The court shall bear the name of the city or town in which it is located.

Hillsborough County

XVI. MANCHESTER DISTRICT. The Manchester district shall consist of the city of Manchester. The district court for the district shall be located in Manchester, holding sessions regularly therein as justice may require. The name of the court shall be Manchester District Court.

XVII. NASHUA DISTRICT. The Nashua district shall consist of the city of Nashua and the towns of Hudson and Hollis. The district court for the district shall be located in Nashua, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Nashua District Court.

XVIII. MERRIMACK DISTRICT. The Merrimack district shall consist of the towns of Merrimack, Litchfield, and Bedford. The district court for the district shall be located in Merrimack, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be the Merrimack District Court.

XIX. MILFORD DISTRICT. The Milford district shall consist of the towns of Milford, Brookline, Amherst, Mason, Wilton, Lyndeborough, and Mont Vernon. The district court for the district shall be located in Milford, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Milford District Court.

XX. JAFFREY-PETERBOROUGH DISTRICT. The Jaffrey-Peterborough district shall consist of the towns of Peterborough, Hancock, Greenville, Greenfield, New Ipswich, Temple, and Sharon in Hillsborough county and the towns of Jaffrey, Dublin, Fitzwilliam, and Rindge in Cheshire county. The district court for the district shall be located in Jaffrey or Peterborough, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Jaffrey-Peterborough District Court.

XXI. HENNIKER-HILLSBOROUGH DISTRICT. The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, Sutton, and Bradford in Merrimack county and the towns of Hillsborough, Deering, Windsor, Antrim, and Bennington in Hillsborough county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. The court shall bear the name of the city or town in which it is located.

XXII. GOFFSTOWN DISTRICT. The Goffstown district shall consist of the towns of Goffstown, Weare, New Boston, and Frankestown. The district court for the district shall be located in Goffstown, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Goffstown District Court.

Cheshire County

XXIII. KEENE DISTRICT. The Keene district shall consist of the city of Keene and the towns of Stoddard, Westmoreland, Surry, Gilsum, Sullivan, Nelson, Roxbury, Marlow, Swanzey, Marlborough, Winchester, Richmond, Hinsdale, Harrisville, Walpole, Alstead, Troy, and Chesterfield. The district court for the district shall be located in Keene, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Keene District Court.

XXIV. JAFFREY-PETERBOROUGH DISTRICT. The Jaffrey-Peterborough district shall consist of the towns of Jaffrey, Dublin, Fitzwilliam, and Rindge in Cheshire county and the towns of Peterborough, Hancock, Greenville, Greenfield, New Ipswich, Temple, and Sharon in Hillsborough county. The district court for the district shall be located in Jaffrey or Peterborough, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Jaffrey-Peterborough District Court.
Sullivan County

XXV. CLAREMONT-NEWPORT DISTRICT. The Claremont-Newport district shall consist of the city of Claremont and the towns of Cornish, Unity, Charlestown, Acworth, Langdon, Plainfield, Newport, Grantham, Croydon, Springfield, Sunapee, Goshen, Lempster, and Washington in Sullivan county and the towns of New London, Newbury, and Wilmot in Merrimack county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.
Grafton County

XXVI. HANOVER-LEBANON DISTRICT. The Hanover-Lebanon district shall consist of the towns of Hanover, Orford, Lyme, Lebanon, Enfield, Canaan, Grafton, Dorchester, and Orange. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.

XXVII. HAVERHILL DISTRICT. The Haverhill district shall consist of the towns of Haverhill, Bath, Landaff, Benton, Piermont, and Warren. The district court for the district shall be located in Haverhill, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Haverhill District Court.

XXVIII. LITTLETON DISTRICT. The Littleton district shall consist of the towns of Littleton, Monroe, Lyman, Lisbon, Franconia, Bethlehem, Sugar Hill, and Easton. The district court for the district shall be located in Littleton, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Littleton District Court.

XXIX. PLYMOUTH-LINCOLN DISTRICT. The Plymouth-Lincoln district shall consist of the towns of Plymouth, Bristol, Groton, Wentworth, Rumney, Ellsworth, Thornton, Campton, Ashland, Hebron, Holderness, Bridgewater, Alexandria, Lincoln, Woodstock and those portions of the towns of Livermore and Waterville not within the watershed of the Saco River and its tributaries. The district court for the district shall be located in Plymouth, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Plymouth District Court.
Coos County

XXX. BERLIN-GORHAM DISTRICT. The Berlin-Gorham district shall consist of the city of Berlin and the towns of Gorham, Milan, Dummer, Shelburne, and Randolph and the unincorporated places of Cambridge, Success, Bean's Purchase, Martin's Location, Green's Grant, Pinkham's Grant, Sargent's Purchase, Thompson and Meserve's Purchase

and Low and Burbank's Grant. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.

XXXI. COLEBROOK DISTRICT. The Colebrook district shall consist of the towns of Colebrook, Pittsburg, Clarksville, Wentworth's Location, Errol, Millsfield, Columbia, Stewartstown, and Stratford and the unincorporated places of Dix's Grant, Atkinson and Gilmanton Academy Grant, Second College Grant, Dixville, Erving's Location, and Odell. The district court for the district shall be located in Colebrook, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Colebrook District Court.

XXXII. LANCASTER DISTRICT. The Lancaster district shall consist of the towns of Lancaster, Stark, Northumberland, Carroll, Whitefield, Dalton and Jefferson, and the unincorporated places of Kilkenny, Bean's Grant, Chandler's Purchase, and Crawford's Purchase. The district court for the district shall be located in Lancaster, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Lancaster District Court."

The judicial district for the probate division shall be the county seat in each county. The legislature may, from time to time, establish other districts and courthouse locations for each of the divisions. The probate court records shall be maintained at the circuit court site at each county seat.

6 Circuit Court Judges. Amend RSA 490-F:5 to read as follows:

490-F:5 Circuit Court Judges ~~and Masters~~, **Clerks, and Staff**; Appointment; Tenure.

I. The chief justice of the supreme court shall be the administrative head of the circuit court. The chief justice may appoint an administrator of the circuit court, who shall not be a judicial officer, who shall assist the chief justice with administrative duties.

I-a. The chief justice of the supreme court or his or her designee shall appoint a clerk with responsibility for each circuit court site and other staff upon the recommendation and approval of the presiding judge of the district. To insure that personnel and services are provided to the citizens of the district with efficiency and courtesy, the presiding judge shall be the primary supervisor of all staff assigned to the district.

I-b. On the effective date of this chapter, the circuit court shall consist of those justices and masters previously appointed and commissioned by the governor and council as prescribed by the constitution and the laws of the state of New Hampshire. The tenure of office of persons serving as justices or special justices of the district and probate courts or marital masters in the judicial branch family division and superior court shall not be affected hereby, and they shall continue in office as judges or masters respectively of the circuit court. Marital masters sitting as of the effective date of this chapter shall remain in office until the end of the master's current term or appointment. No marital master contract or appointment shall be renewed, extended or modified after the effective date of this chapter. No marital master shall be appointed after the effective date of this chapter.

II. ~~[Judicial and master appointments to fill vacancies which exist on the effective date of this chapter in the former probate and district courts and in the former judicial branch family division shall be to the New Hampshire circuit court. No judicial officer appointed to the circuit court shall be appointed to a particular location; however, the assignment of a circuit court judge to a particular location shall be within the discretion of the administrative judge of the circuit court who shall take into account the weighted caseload and judicial need of that location.]~~

(a) Judges appointed to the circuit court by the governor and council shall be as follows:

- (1) A presiding circuit court judge for each circuit court district; and**
- (2) Circuit court judges.**

(b) The chief justice may, if necessary, make temporary and emergency assignments of the presiding judge to other locations.

(c) Appointments of circuit court judges by the governor and council shall not be made to specific circuit court districts or locations. The chief justice of the supreme court or his or her designee shall have the authority to assign circuit court judges to locations as necessary.

7 Circuit Court Judges and Masters; Assignment. Amend RSA 490-F:6 to read as follows:

490-F:6 Circuit Court Judges and Masters; Assignment; Certification.

I. Circuit court judges and masters ~~shall~~ **may** be assigned to one or more ~~[circuits]~~ **circuit districts** or locations ~~[in]~~ **within a district in** the discretion of the ~~[administrative judge of the circuit]~~ **chief justice of the supreme court or his or her designee** after considering population, judicial time and efficiency, available judicial resources, and the needs of the public. **Presiding judges may be temporarily assigned to another district in order to fill a specific and immediate need, but not on a permanent basis.**

II. The assignment of a circuit court judge to a division within the circuit court shall be based upon the judge's knowledge of, commitment to, and expertise in the subject matter of the division.

III. For purposes of part 2, articles 80 and 81 of the New Hampshire constitution, a judge of probate shall be any circuit court judge assigned to the probate division.

IV. Judges and marital masters appointed prior to the effective date of this chapter shall be initially assigned within the circuit court as follows:

(a) Judges of the former probate court shall be initially assigned to the probate division of the circuit court;

(b) Judges of the former district court shall be initially assigned to the district division of the circuit court;

(c) Judges certified in the former judicial branch family division shall be initially assigned to the division that corresponds with their initial appointment and to the family division of the circuit court; and

(d) Masters appointed to the former judicial branch family division or superior court shall be permanently assigned to the family division of the circuit court.

V. The assignment of a circuit court judge to a division following initial assignment shall be within the discretion of the ~~[administrative judge]~~ **chief justice of the supreme court or his or her designee**; provided, however, the circuit court judge shall be certified by the supreme court to hear cases coming within the newly assigned division prior to such assignment. A judge initially assigned to a division within the circuit court pursuant to paragraph I shall be deemed certified in the division of initial assignment.

~~VI. [Thereafter, judges appointed to the circuit court shall be assigned to a division at the discretion of the administrative judge subject to the following considerations:~~

~~(a) The knowledge, commitment to, and expertise of the judge in the subject matter of the particular division to which the judge is to be assigned;~~

~~(b) The division in which the judicial vacancy resulting in the new appointment exists, and~~

~~(c) The judicial needs of a particular circuit court location as determined by the administrative judge.~~

~~VII.]~~ Judges may be certified in all divisions of the circuit court pursuant to rules adopted by the supreme court.

~~[VIII.]~~ **VII.** Nothing in this section shall prohibit the ~~[administrative judge]~~ **chief justice of the supreme court or his or her designee** from assigning judges to a division as justice and efficiency require.

~~[IX.]~~ **VIII.** The judges and masters shall be entitled to receive their actual personal expenses when absent from their assigned court in the performance of their official duties. The judges and masters shall not be reimbursed for mileage to commute from the judge's residence to his or her assigned court except for any mileage in excess of 50 miles each way.

8 Circuit Court Clerks; Appointment. Amend RSA 490-F:13 to read as follows:

490-F:13 Circuit Court Clerks; ~~[Appointment]~~ **Duties.** ~~[The administrative judge of the circuit court shall appoint a clerk with responsibility for each circuit court site.]~~ In the interest of the effective administration of justice, any ~~[such]~~ **circuit court** clerk may have responsibility for one or more circuit court locations. Circuit court clerks shall have the same duties as clerks of the former district court and judicial branch family division and as registers of probate with the exception of RSA 15-B, RSA 456-B, RSA 548, RSA 653, RSA 655, and RSA 661 which shall remain as duties of the registers of probate. Circuit court clerks shall hold office at the pleasure of the ~~[administrative judge of the circuit]~~ **chief justice of the supreme court.**

9 Staff. Amend RSA 490-F:14 to read as follows:

490-F:14 Staff. ~~[The administrative judge of the circuit court shall identify a mechanism by which to assign and transfer existing staff in the probate and district courts and in the judicial branch family division to operate the circuit court.]~~ The number of circuit court staff shall be based upon a review of anticipated caseload, population, available staff resources, and other relevant criteria, including information from any weighted caseload system.

10 Repeal. RSA 490-F:19, relative to the implementation plan for the circuit court, is repealed.

11 Capital Budget; Judicial Branch; E-Court. Amend 2011, 253:1, IX to read as follows:

IX. Judicial Branch

A. Prisoner Video Conference	\$541,085
B. Call Center *	57,500
C. E-Court Initiative **	~~[1,951,000]~~ 3,651,000
Total state appropriation paragraph IX	~~[\$2,549,585]~~ \$4,249,585

* The judicial branch shall work in consultation with the department of information technology on completion of the call center project under subparagraph IX, B. To the extent necessary, the department of information technology shall assign the highest priority to the completion of the judicial branch call center to ensure completion of the project by September 1, 2011.

**** The appropriation on subparagraph IX, C shall not be expended, obligated, or encumbered until the fiscal committee and governor and council accept the following reports from the judicial branch: statute and rules analysis report and recommendations due to the judicial branch by May 30, 2012, and the E-Court rule development report due to the judicial branch by June 30, 2012. The information technology requirements for the E-Court initiative shall be included as part of the E-Court rule development report.**

12 Capital Budget; Total Adjusted. Amend 2011, 253:1, Total state appropriation section 1, to read as follows:

Total state appropriation section 1 ~~[\$88,365,294]~~ **\$90,065,294**

13 Capital Budget; Bonds Authorized. Amend 2011, 253:5 to read as follows:

253:5 Bonds Authorized.

~~[I.]~~ To provide funds for the total of the appropriations of state funds made in sections 1 and 2 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of ~~[\$97,778,481]~~ **\$99,478,481** and for said purposes may issue bonds and notes in the ~~[names]~~ **name** and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The source of funds shall be as follows: general

fund [~~\$88,365,294~~] **\$90,065,294** and highway funds \$9,423,187; with other funds \$77,887,482.

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

AMENDED ANALYSIS

This bill makes technical corrections regarding the escrow fund for court facility improvements, including changing the name of the fund to the escrow fund for judicial branch facility improvements. The bill also makes certain changes in the administration of the circuit court.

The bill also increases the capital appropriation for the E-Court initiative for the judicial branch.

Amendment to SB 356

(2012-2208h)

Proposed by the Majority of the Committee on Constitutional Review and Statutory Recodification - R

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

1 New Chapter; Constitutional Convention; Authority of New Hampshire Delegates.

Amend RSA by inserting after chapter 20-B the following new chapter:

CHAPTER 20-C

AUTHORITY OF NEW HAMPSHIRE DELEGATES TO CONSTITUTIONAL CONVENTION

20-C:1 Definitions. In this chapter:

I. "Article V convention" means a convention called by the states pursuant to the Constitution for the United States of America, Article V.

II. "Article V petition" means a concurrent resolution by the general court of New Hampshire calling for a convention pursuant to the Constitution for the United States of America, Article V.

III. "Delegate" means a person from the state of New Hampshire, selected by law to represent the people and state of New Hampshire at an Article V convention.

IV. "Permitted scope" means the topic of an amendment or specific language of an amendment that may be considered by the Article V convention.

V. "Unauthorized amendment" means any amendment outside the scope permitted by the Article V petition passed by the general court of New Hampshire.

20-C:2 Authority of New Hampshire Delegates.

I. No delegate from New Hampshire to the Article V convention shall have the authority to allow consideration, consider, or approve an unauthorized amendment to the Constitution for the United States of America.

II. Any vote taken by a delegate from New Hampshire at the Article V convention in violation of paragraph I of this section shall be null and void. Any delegate making this vote shall be immediately disqualified from serving as a delegate to the Article V convention.

III. Every delegate from New Hampshire to the Article V convention called for by the Article V petition shall be required to take the following oath:

"I do solemnly swear or affirm that to the best of my abilities, I will, as a delegate to the Article V convention, uphold the Constitution and laws of the United States and the state of New Hampshire. I will accept and will act according to the limits of the authority as a delegate granted to me by New Hampshire law, and I will not vote to consider or approve any unauthorized amendment to the Constitution for the United States of America. I understand and accept any penalties that may be imposed on me by New Hampshire law for violating this oath."

IV. Any delegate who violates the oath contained in paragraph III of this section shall be subject to the maximum criminal penalty under RSA 641:2.

V. The secretary of state shall certify the selection of the New Hampshire delegates in writing to the Article V convention and shall provide a copy of the certification to each

delegate. No delegate shall have authority to vote or otherwise serve as a delegate at the Article V convention without the certification.

VI. The secretary of state shall promulgate rules and regulations setting out a process for selecting alternative delegates to the Article V convention in the event a delegate becomes unable or ineligible to serve. If a delegate becomes ineligible to serve under the provisions of paragraph IV, the alternate delegate shall immediately be entitled to represent New Hampshire as a delegate in place of the delegate who has become ineligible and the secretary of state shall immediately provide certification to the new delegate.

VII. The secretary of state shall notify the Article V convention and any delegate involved of the automatic revocation of that delegate's certification should the delegate violate his or her pledge to act only within the limits of the authority granted by the state of New Hampshire.

20-C:3 Enforcement by Attorney General; Right to Private Action.

I. The provisions of this chapter shall be enforced by the department of justice.

II. A New Hampshire citizen may file an action to enforce the requirements of this chapter and shall be entitled to reasonable attorney's fees if successful.

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

AMENDED ANALYSIS

This bill limits the scope of authority granted to delegates to a constitutional convention called pursuant to Article V of the Constitution for the United States of America.

Floor Amendment to SB 356 (2012-2215h)

Proposed by Rep. Itse

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

AN ACT limiting the authority of delegates to Article V conventions and recodifying the laws relative to religious societies and adding a religious exemption to the insurance mandates relative to coverage for contraception.

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

2 Gender Neutral References Amend RSA 306:1 to read as follows:

306:1 Membership. No person shall be liable as a member of an incorporated religious society without his **or her** express consent first having been obtained; and any person may separate from any such society by leaving with the clerk thereof a written notice signed by him **or her** of his **or her** intention so to separate, and by paying all legal assessments and arrearages then due from him **or her** to the society.

3 Powers as to Donations. Amend RSA 306:3 to read as follows:

306:3 Powers as to Donation. If a donation, gift or grant is made to any unincorporated religious society **consisting of 10 or more unrelated individuals**, such society shall be a corporation so far as may be necessary to take, hold, manage and use the donation, gift or grant[; ~~but the income of the donations, gifts or grants to any such unincorporated religious society shall not exceed the sum of \$5,000 a year~~].

4 Corporate Powers. Amend RSA 306:4 to read as follows:

306:4 Corporate Powers. The trustees, deacons, church wardens or other similar officers of churches or religious societies[~~, if citizens of the United States,~~] shall be deemed bodies corporate for the purpose of taking and holding in succession grants and donations, whether of real or personal estate, made either to them and their successors, or to their respective churches, or to the poor of their churches.

5 Joint Donees. Amend RSA 306:5 to read as follows:

306:5 Joint Donees. If the [~~ministers, elders or vestry~~] **clergy** of a church shall, in the grants and donations mentioned in RSA 306:4, have been joined with the deacons or church wardens as donees or grantees, such officers and their successors, together with the deacons or church wardens, shall be deemed the corporation for the purposes of the grants and donations.

6 Parsonage Land. Amend RSA 306:6 to read as follows:

306:6 Parsonage Land. The ~~[minister]~~ **clergy** of a church or religious society, of whatever denomination, ~~[if a citizen of the United States,]~~ shall be capable of taking in succession parsonage land granted to the ~~[minister]~~ **clergy** and his **or her** successors, or to the use of the ~~[ministers]~~ **clergy**, or granted by any words of the like import, and may prosecute and defend in all actions relating to the land.

7 Sale of Meeting Houses by Proprietors. Amend RSA 307:1 to read as follows:

307:1 By Proprietors. The proprietors of a meetinghouse~~[-other than a religious society subject to the provisions of RSA 308,]~~ may sell the same and divide the proceeds as provided in this chapter when it has ceased to be occupied as a place of public worship for the space of 2 years.

8 Sale of Meeting Houses; Procedure. Amend RSA 307:4 to read as follows:

307:4 Procedure. At the meeting called as provided in RSA 307:3, the proprietors may vote to sell the meetinghouse and appurtenances, and appoint all necessary agents to carry their votes into effect. ~~[If the interest of the proprietors consists of the ownership of pews, each one shall have the right to cast one vote for each pew owned by him, and a majority vote shall bind the proprietors.]~~

9 Repeal. The following are repealed:

I. RSA 306:2, relative to taxes.

II. RSA 306:7 through RSA 306:11, relative to general provisions regarding religious societies.

III. RSA 307:10 through RSA 307:20, relative to repairs, alterations, and removals of meetinghouses.

IV. RSA 308, relative to dissolutions of religious societies.

10 Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive Services; Group; Religious Exemption. Amend RSA 415:18-i to read as follows:

415:18-i Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive Services. Each insurer that issues or renews any group policy of accident or health insurance providing benefits for medical or hospital expenses, which provides coverage for outpatient services shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for outpatient contraceptive services under the same terms and conditions as for other outpatient services. "Outpatient contraceptive services" means consultations, examinations, and medical services, provided on an outpatient basis and related to the use of contraceptive methods to prevent pregnancy which has been approved by the U.S. Food and Drug Administration. Each insurer that issues or renews any policy of group accident or health insurance providing benefits for medical or hospital expenses which provides a prescription rider shall cover all prescription contraceptive drugs and prescription contraceptive devices approved by the U.S. Food and Drug Administration under the same terms and conditions as other prescription drugs. Nothing in this section shall be construed as altering the terms and conditions of a contract relating to prescription drugs and outpatient services. ***No proprietorship, employer owned in whole or in part by a religious society, or employer formed for religious intent shall be required to include in its coverage for its employees the provisions of this section if the employer has a religious objection.***

11 Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive Services; Health Service Corporations; Religious Exemption. Amend RSA 420-A:17-c to read as follows:

420-A:17-c Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive Services. Every health service corporation and every other similar corporation licensed under the laws of another state that issues or renews any policy of group accident or health insurance providing benefits for medical or

hospital expenses, which provides coverage for outpatient services shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for outpatient contraceptive services under the same terms and conditions as for other outpatient services. "Outpatient contraceptive services" means consultations, examinations, and medical services, provided on an outpatient basis and related to the use of contraceptive methods to prevent pregnancy which has been approved by the U.S. Food and Drug Administration. Each health service corporation and every other similar corporation licensed under the laws of a different state that issues or renews any group policy of accident or health insurance providing benefits for medical or hospital expenses which provides a prescription rider shall cover all prescription contraceptive drugs and prescription contraceptive devices approved by the U.S. Food and Drug Administration under the same terms and conditions as other prescription drugs. Nothing in this section shall be construed as altering the terms and conditions of a contract relating to prescription drugs and outpatient services. ***No proprietorship, employer owned in whole or in part by a religious society, or employer formed for religious intent shall be required to include in its coverage for its employees the provisions of this section if the employer has a religious objection.***

12 Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive Services; Health Maintenance Organizations; Religious Exemption. Amend RSA 420-B:8-gg to read as follows:

420-B:8-gg Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive Services. Every health maintenance organization and every other similar corporation licensed under the laws of another state that issues or renews any policy of group health insurance providing benefits for medical or hospital expenses, which provides coverage for outpatient services shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for outpatient contraceptive services under the same terms and conditions as for other outpatient services. "Outpatient contraceptive services" means consultations, examinations, and medical services, provided on an outpatient basis and related to the use of contraceptive methods to prevent pregnancy which has been approved by the U.S. Food and Drug Administration. Each health maintenance organization and every other similar corporation licensed under the laws of another state that issues or renews any group health insurance providing benefits for medical or hospital expenses which provides a prescription rider shall cover all prescription contraceptive drugs and prescription contraceptive devices approved by the U.S. Food and Drug Administration under the same terms and conditions as other prescription drugs. Nothing in this section shall be construed as altering the terms and conditions of a contract relating to prescription drugs and outpatient services. ***No proprietorship, employer owned in whole or in part by a religious society, or employer formed for religious intent shall be required to include in its coverage for its employees the provisions of this section if the employer has a religious objection.***

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

AMENDED ANALYSIS

This bill:

- I. Limits the scope of amendments that may be considered by delegates to a constitutional convention called pursuant to Article V of the United States Constitution.
- II. Recodifies title 29, relative to religious societies.
- III. Adds a religious exemption to the insurance mandates relative to coverage for contraception.

Amendment to SB 359

(2012-2183h)

Proposed by the Majority of the Committee on Judiciary - R

Amend the bill by replacing section 1 with the following:

1 Accessibility Standards for Public Buildings; Enforcement Actions. Amend RSA 155-A:5-a, V to read as follows:

V. In addition to other enforcement authority granted in this chapter, the protection and advocacy system for New Hampshire, as designated by the governor pursuant to 42 U.S.C. section 15043, shall have standing to enforce the accessibility standards required by this section. If the protection and advocacy system determines that probable cause exists that a public building violates the accessibility certification or inspection requirements of this section, it shall issue a letter to the owner of the building specifically identifying the deficiencies and requesting that the building be brought into compliance. The owner shall have 30 days to respond to the letter and 270 days to bring the building into compliance. If the owner does not respond, does not agree that there are some or all of the deficiencies asserted, **or** does not agree to bring the building into compliance within the specified time periods, or any other dispute remains as to compliance, either the owner or the protection and advocacy system may file an action in the superior court to determine compliance with this section. The protection and advocacy system may bring the action in its name or in the name of any individual with a physical impairment who is adversely affected by the alleged failure to adhere to the accessibility standards of the state building code, or both. If it is determined by the superior court that the building is not in compliance with the accessibility standards in the state building code, the court shall order that the ~~owner~~ **responsible party** bring the building into compliance. ~~[If the protection and advocacy system prevails in such action, it shall be awarded court costs and reasonable attorney's fees from the owner. For purposes of this section, "prevailing" is defined to include a judgment by the court, a consent decree, or instances where the owner agrees to make or makes some or all of the requested changes after the filing date of the action.]~~ **The court may award reasonable attorney's fees and costs to the prevailing party. For purposes of this section, a party prevails only if it receives either an enforceable judgment on the merits or a consent decree.**

AMENDED ANALYSIS

This bill provides that, in an action to enforce accessibility standards for public buildings, the court may award attorneys fees to the prevailing party. The bill also defines prevailing party in such cases.

Amendment to SB 366-FN (2012-2196h)

Proposed by the Committee on Finance - R

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

1 New Paragraph; Snowmobiles. Amend RSA 215-C:36 by inserting after paragraph XI the following new paragraph:

XII. A properly registered OHRV under RSA 215-A:21 and RSA 215-A:23, that has had the wheels or tires removed and replaced with tracks, cleats, skis, or a combination thereof, and complies with the restrictions set forth in RSA 215-C:1, XV, and has procured and affixed a snowmobile endorsement sticker as provided in RSA 215-C:39, I-a, shall be authorized to operate as a snowmobile as prescribed in this chapter.

2 New Paragraph; Snowmobile Endorsement. Amend RSA 215-C:39 by inserting after paragraph I the following new paragraph:

I-a. Snowmobile endorsement -- \$16.00 for each OHRV in compliance with RSA 215-C:36, XII upon presentation of a valid driver's license issued to a person 18 years of age or older. The endorsement shall not be transferable. From each endorsement collected pursuant to this paragraph:

(a) The first \$9.12 shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VII.

(b) From the balance, \$3.44 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VIII, and \$3.44 shall be appropriated to the department of fish and game for the purposes listed in paragraph IX.

**Amendment to SB 370-FN
(2012-2119h)**

Proposed by the Committee on Environment and Agriculture - R

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

AN ACT relative to the powers of the state veterinarian.

Amend RSA 436:8 as inserted by section 1 of the bill by replacing it with the following:

436:8 Powers. The state veterinarian, under the direction of the commissioner, shall have all of the powers of the commissioner and shall have general charge of the enforcement of this chapter~~[-and shall devote his or her entire time and attention to the duties of his or her office]~~. Complaints under RSA 644:8, 644:8-a, 644:8-aa and any other law pertaining to the abuse of domestic animals, as defined under RSA 436:1, shall initially be filed with the local law enforcement agency, animal control officer, state police, or sheriff which has jurisdiction over where the animal is located or kept. At the request of the local law enforcement agency, animal control officer, state police, or sheriff, the state veterinarian shall assist in a secondary capacity in enforcing the provisions of and investigating said complaints. In the event the commissioner becomes incapacitated or a vacancy occurs in the office, the state veterinarian shall perform all the duties of that office during any such incapacity or until any such vacancy is filled. The commissioner may direct the state veterinarian to act for him or her in an official capacity whenever he or she may be absent from his or her duties.

AMENDED ANALYSIS

This bill provides for powers of the state veterinarian.

**Amendment to SB 372-FN-LOCAL
(2012-2190h)**

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

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

1 Purpose.

I. The general court finds that:

(a) It has the inherent power to determine subjects of taxation for general or particular public purposes.

(b) Expanding educational opportunities and improving the quality of educational services within the state are valid public purposes that the general court may cherish using its sovereign power to determine subjects of taxation and exemptions from taxation.

(c) Ensuring that all parents may exercise and enjoy their basic right to educate their children as they see fit is a valid public purpose that the general court may promote using its sovereign power to determine subjects of taxation and exemptions from taxation.

(d) Expanding educational opportunities and thereby promoting healthy competition is critical to improving the quality of education in the state and ensuring that all children have the opportunity to receive a high quality education.

II. The purpose of this act is to:

(a) Allow maximum freedom to parents and nonpublic schools to respond to and, without governmental control, provide for the educational needs of children, and this act shall be liberally construed to achieve that purpose.

(b) Promote the general welfare by expanding educational opportunities for children.

(c) Enable children in this state to achieve a higher level of excellence in their education.

(d) Improve the quality of education in this state, both by expanding educational opportunities for children and by creating incentives for schools to achieve excellence.

2 New Paragraph; Business Profits Tax; Education Tax Credit. Amend RSA 77-A:5 by inserting after paragraph XIV the following new paragraph:

XV. The education tax credit as computed in RSA 77-G:4.

3 New Section; Business Enterprise Tax; Education Tax Credit. Amend RSA 77-E by inserting after section 3-c the following new section:

77-E:3-d Education Tax Credit. The education tax credit as computed in RSA 77-G:4 shall be allowed against the tax due under this chapter.

4 New Chapter; Education Tax Credit. Amend RSA by inserting after chapter 77-F the following new chapter:

CHAPTER 77-G EDUCATION TAX CREDIT

77-G:1 Definitions. The following definitions shall apply in this chapter:

I. "Adequacy cost" means the total cost of the opportunity for an adequate education as defined in RSA 198:40-a, I-III.

II. "Adequacy grant" means the grant calculated under RSA 198:41, or for a chartered public school, the amount calculated under RSA 194-B:11.

III. "Business organization" shall be as defined in RSA 77-A:1, I.

IV. "Business enterprise" shall be as defined in RSA 77-E:1, III.

V. "Donation receipt" means a document submitted by a scholarship organization that contains at a minimum:

(a) The business organization's or business enterprise's name, address, and federal taxpayer identification number.

(b) The scholarship organization's name and address.

(c) The donation amount and date received.

VI. "Educational expenses" means the tuition cost of an eligible student to attend a public or nonpublic school, excluding students who were placed into a nonpublic school by their school district, and in the case of a home educated student, the academic expenses not to exceed 25 percent of the average scholarship as defined in RSA 77-G:2, I(b), incurred in a child's home schooling. Educational expenses shall not include fees or expenses related to participation in athletic programs, transportation expenses, or the cost of a parent's time expended in the home schooling of his or her child.

VII. "Education tax credit application" means a document developed by the department of revenue administration and submitted by a business organization or business enterprise that contains at a minimum:

(a) The business organization's or business enterprise's name, address, and federal taxpayer identification number.

(b) A contact person's name, title, and phone number.

(c) The requested donation amount.

(d) A signed statement certifying that the business organization or business enterprise agrees to make donations in accordance with the requirements established in this chapter.

VIII. "Eligible student" means a New Hampshire resident who is at least 5 years of age and no more than 20 years of age, has not graduated from high school, and

(a)(1) Who is currently attending a New Hampshire public school, including a chartered public school, and for whom the adequacy grant in the next school year would be reduced if the student were removed from the average daily membership calculation; or

(2) Who received a scholarship under subparagraph (1) or this subparagraph in the prior program year; or

(3) Who does not qualify under subparagraphs (1) or (2); and

(b) Whose annual household income is less than or equal to 300 percent of the federal poverty guidelines as updated annually in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902(2). The scholarship organization shall verify eligibility under this subparagraph.

IX. "Nonpublic school" shall be as defined in RSA 193-A:1.

X. "Owner or operator" means an owner, president, officer, or director of an eligible nonprofit scholarship organization or a person with equivalent decision making authority over an eligible nonprofit scholarship organization.

XI. "Parent" means the natural or adoptive parent or legal guardian of a child.

XII. "Program year" means the year beginning January 1 and ending December 31.

XIII. "Receipt" means a document developed by the department of revenue administration that is issued by the receiving school, or parent in the case of a home educated student, to the scholarship organization which makes payment for educational expenses on behalf of an eligible student and that contains, at a minimum and where applicable:

(a) The name and address of the school if a school is attended or, in the case of a home educated student, the name and address of a parent.

(b) The name and address of the eligible student for whom the expense has been paid.

(c) The name of the payer and the date and amount of the expense paid.

(d) Receipts for all specific, reimbursed educational expenses.

XIV. "Receiving school" means a public or nonpublic school which the eligible student seeks to attend.

XV. "Release of information form" means a document developed by a receiving school, signed by the parent or guardian of an eligible student, and which acknowledges the consent of the parent or guardian to release of information contained in the receipt.

XVI. "Scholarship impact survey" means a document developed by the department of education and given to the parents of students who have exited a public school under the provisions of RSA 77-G:8. The survey shall solicit the reasons for seeking the scholarship, and any suggested improvements desired in the public school they are leaving.

XVII. "Scholarship organization" means a charitable organization incorporated or qualified to do business in this state that:

(a) Is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code;

(b) Complies with applicable state and federal antidiscrimination and privacy laws;

(c) Is registered with the director of charitable trusts; and

(d) Has been approved by the department of revenue administration for the purpose of issuing scholarships as provided in this chapter.

XVIII. "Scholarship organization application" means a document developed by the department of revenue administration and submitted by a scholarship organization that contains at a minimum:

(a) The scholarship organization's name, address, and federal taxpayer identification number.

(b) A contact person's name, title, and phone number.

(c) A signed statement that the scholarship organization has met the eligibility requirements of paragraph XVII, and will comply with the provisions of this chapter.

XIX. "Scholarship organization report" means a document developed by the department of revenue administration and submitted by a scholarship organization to the department of revenue administration that shall be a public record, notwithstanding RSA 21-J:14, and contains at a minimum:

(a) The number of scholarships granted under subparagraph VIII(a)(1), and the percentage of these students who were eligible for the federal free and reduced-price meal program in the final year they were in public school

(b) The number of scholarships granted under subparagraph VIII(a)(2), and the percentage of these students who were eligible for the federal free and reduced-price meal program in the final year they were in public school.

(c) The number of scholarships granted under subparagraph VIII(a)(3), and the percentage of these students who were eligible for the federal free and reduced-price meal program in the prior year.

(d) The total dollar amount of all scholarships granted.

(e) The total dollar amount of donations spent on administrative expenses pursuant to RSA 77-G:5, I(f).

(f) The total dollar amount to be carried forward pursuant to RSA 77-G:5, I(g).

(g) The total dollar amount of donations used and not used for scholarships.

(h) The number of scholarships granted.

(i) The number of scholarships distributed by the organization, per school, and the dollar range of those scholarships. All home educated students shall be totaled together as a single school.

(j) An analysis, broken down by zip code, of the place of residence for each student receiving a scholarship under this program.

(k)(1) The aggregated results from a survey, designed by the department of revenue administration, and administered by the scholarship organization, which shall solicit and receive information from at least 90 percent of the parents or legal guardians of participating students, broken down by the number of years in the program. In each case, the respondent shall be asked to gauge their level of agreement with the statement as follows: "strongly agree," "agree," "no change," "disagree," "strongly disagree." The following statements shall be included in the survey:

(A) I am satisfied with the school my child is attending as compared to the school my child attended prior to the availability of the education tax credit program.

(B) My child has seen a measurable improvement in academic achievement.

(C) My child would have been unable to attend the school of his or her choice without the education tax credit program.

(2) The survey shall include the following question to the parent or legal guardian of a participating student: "Excluding the education tax credit scholarship, how much did you pay out of pocket for your child to attend school this year?"

(l) The aggregated results from a survey, designed by the department of education, and administered by the scholarship organization, which shall solicit and receive information from the parents or legal guardians of participating students who graduated or stopped attending 2 years prior. A parent's or legal guardian's response to the survey shall be optional. Results shall be aggregated by the scholarship organization and published by the department of education. The survey shall solicit the following information:

(1) Whether the student is attending a private, public, community, or vocational college, or otherwise employed or unemployed.

(2) Whether the student graduated or not.

(m) The number of participating students who graduated from high school in the previous year, and the number that dropped out of school.

(n) A signed statement that the scholarship organization acknowledges compliance with the provisions of this chapter.

(o) An explanation of information omitted from the report because it would reveal private data about an individual student.

(p) The name of any other scholarship organizations who have agreed to combine their data with the scholarship organization for the purposes set forth in RSA 77-G:2, II.

The agreement shall only be considered valid if each scholarship organization lists the other scholarship organizations in the agreement.

XX. "Scholarship receipt" means a document developed by the department of revenue administration and submitted by a scholarship organization to the business organization or business enterprise and that contains at a minimum:

(a) The business organization's or business enterprise's name, address, and federal taxpayer identification number.

(b) The amount of the donations used or carried forward and the amount not used.

77-G:2 Scholarships.

I.(a) An eligible student may receive a scholarship to attend (1) a nonpublic school, except when the student has been placed by the local school district through the special education process; or (2) a public school located outside of the school district in which the student resides and for which the public school is not eligible to receive an adequate education grant payment for the student in the current fiscal year, in an amount not to exceed the tuition cost of the public or nonpublic school. A home education student may also receive a scholarship to cover educational expenses. A student shall not receive a scholarship from more than one scholarship organization.

(b) The average value of all scholarships awarded by a scholarship organization, excluding eligible students who received scholarships for educational expenses related to home education only, shall not exceed \$2,500. Beginning in the second year of the program, the commissioner of the department of revenue administration shall annually adjust this amount based on the average change in the Consumer Price Index for All Urban Consumers, Northeast Region, using the "services less medical care services" special aggregate index, as published by the Bureau of Labor Statistics, United States Department of Labor. The average change shall be calculated using the calendar year ending 12 months prior to the beginning of program year. In each of the first and second program years, a scholarship organization shall award a minimum of 70 percent of all scholarships issued to eligible students as defined in RSA 77-G:1, VIII(a)(1) and (2) and, notwithstanding RSA 193-E:5, shall notify the department of education of the unique pupil identifier and date of birth for each of these students granted a scholarship by July 15. The required minimum percentage of all scholarships issued by a scholarship organization to eligible students as defined in RSA 77-G:1, VIII(a)(1) and (2) shall be reduced by 5 percent each program year for years 3 through 15 of the program, and, at the beginning of the sixteenth program year and every program year thereafter, there shall be no required minimum percentage of scholarships.

(c) The minimum value of a scholarship granted to a student receiving special education programs or services pursuant to RSA 186-C shall be 175 percent of the maximum average scholarship size as defined in subparagraph (b).

(d) At least 40 percent of the scholarships awarded by the scholarship organization to eligible students as defined in RSA 77-G:1, VIII(a)(1) and (2) shall be awarded to students who qualified for the federal free and reduced-price meal program in the final year they were in public school.

(e) A student shall reapply each year for a scholarship.

II. Scholarship organizations may meet the percentage requirements of subparagraphs I(b) and (d) if, pursuant to a mutual agreement, the organizations aggregate their scholarship data and the aggregated data shows compliance with the percentage requirements.

77-G:3 Contributions to Scholarship Organizations. For each contribution made to a scholarship organization, a business organization or business enterprise may claim a credit equal to 85 percent of the contribution against the business profits tax due pursuant to RSA 77-A, or against the business enterprise tax due pursuant to RSA 77-E, or apportioned against both provided the total credit granted against both shall not exceed the maximum education tax credit allowed. Credits provided under this chapter shall not be deemed taxes

paid for the purposes of RSA 77-A:5, X. The department of revenue administration shall not grant the credit without a scholarship receipt. No business organization or business enterprise shall direct, assign, or restrict any contribution to a scholarship organization for the use of a particular student or nonpublic school. No business organization or business enterprise shall receive more than 10 percent of the aggregate amount of tax credits permitted in RSA 77-G:4.

77-G:4 Tax Credits.

I. The aggregate of tax credits issued by the commissioner of the department of revenue administration to all taxpayers claiming the credit shall not exceed \$3,400,000 for the first program year and \$5,100,000 for the second program year, subject to the provisions of paragraph III. In subsequent years, the aggregate of tax credits shall not exceed the amount allowed for the prior year, unless adjusted pursuant to paragraph II.

II. Beginning with the second program year, if the amount of the total donations used for scholarships exceeds 80 percent of the current program year's tax credits allowed, the aggregate of tax credits allowed for the next program year shall increase by 25 percent, subject to the provisions of paragraph III.

III. In each program year, the increase in the aggregate of tax credits allowed pursuant to paragraphs I and II shall be contingent upon the board of directors of the community development finance authority certifying in writing to the commissioner of the department of revenue administration by the December 1 preceding the program year that the community development finance authority has received \$5,000,000 or more in contributions for the state fiscal year or that the authority has received contribution offers sufficient to meet its state fiscal year limit but did not meet its limit for other reasons.

77-G:5 Scholarship Organizations.

I. A scholarship organization shall:

(a) Provide scholarships from eligible contributions to eligible students to defray educational expenses.

(b) Not restrict or reserve scholarships for use at a single nonpublic school and not restrict or reserve a scholarship for a specific student or a specific person.

(c) Verify a student's eligibility to apply for and receive a scholarship through transcripts and attendance records.

(d) Not have an owner or operator who also owns or operates a nonpublic school that participates in the education tax credit program.

(e) Not have an owner or operator who in the last 7 years has filed for personal bankruptcy or corporate bankruptcy in a business organization or business enterprise of which he or she owned more than 20 percent.

(f) Not use more than 10 percent of eligible contributions used during the program year in which the contributions are collected, and for which scholarship receipts were issued for tax credit purposes, for administrative expenses. Administrative expenses shall be reasonable and necessary for the organization's management and distribution of eligible contributions pursuant to this chapter.

(g) In the first program year, there shall be no carry forward of unused eligible contributions. In each program year thereafter, not more than 10 percent of eligible contributions may be carried forward to the following program year. Any amount carried forward shall be expended for annual or partial year scholarships in the program year into which the amount is carried forward.

(h) Maintain separate accounts for scholarship funds, non-tax credit donations, and operating funds.

(i)(1) Not award a scholarship to any lineal descendent or equivalent step-person of any officer, director, or employee of any scholarship organization; and

(2) Not award a scholarship to any lineal descendant or equivalent step-person of any proprietor, partner, or member of any business organization or business enterprise making a contribution to a scholarship organization and claiming a credit against

the business profits tax or business enterprise tax, nor any lineal descendant or equivalent step-person of any officer, director, or owner of more than a 5 percent interest in any business organization or business enterprise making a contribution to a scholarship organization and claiming a credit against the business profits tax or business enterprise tax, nor any employee who is among the highest-paid 20 percent of paid employees in any business organization or business enterprise making a contribution to a scholarship organization and claiming a credit against the business profits tax or business enterprise tax.

(j) Provide to each school district which receives a stabilization grant pursuant to RSA 77-G:8 a copy of the aggregated results of the scholarship impact survey, including total number of students who received scholarships from that school district under RSA 77-G:1, VIII(a)(1).

II.(a) An organization seeking approval as a scholarship organization under this chapter shall submit an application to the department of revenue administration each program year no later than June 15. The department of revenue administration shall approve or deny the application within 30 days of receipt. The department shall deny any application that fails to meet the statutory requirements and shall notify the scholarship organization of the reasons for denial.

(b) A business organization or business enterprise shall submit an education tax credit application to the department of revenue administration no earlier than January 1 and no later than June 15. The department shall approve these applications within 30 days on a first come-first served basis, up to the aggregate tax credit amount allowed under RSA 77-G:4. If multiple education tax credit applications are received on the same day, they shall be processed at random. No business organization or business enterprise shall be granted an education tax credit for more than 10 percent of the aggregate tax credit amount permitted in RSA 77-G:4. The department of revenue administration may approve only a portion of a request if required to prevent exceeding the aggregate tax credit amount allowed under RSA 77-G:4. The approval shall include the amount allowed and the date of approval.

(c) Once an education tax credit application is approved, the business organization or business enterprise shall donate within 60 days of the date of approval or the request shall expire. Donations may be made to multiple scholarship organizations provided the total amount donated by the business organization or business enterprise does not exceed the amount approved. Donations shall be made no later than July 15 of the program year.

(d) Upon receiving a donation, the scholarship organization shall send a donation receipt to the department of revenue administration and to the business organization or business enterprise within 15 days. The department of revenue administration shall notify the scholarship organization and the business organization or business enterprise within 15 days if the donations made by a business organization or business enterprise exceed the amount approved. If a business organization or business enterprise fails to donate the total amount approved within the time permitted, the department of revenue administration may grant credit requests in the order specified in subparagraph (b).

(e) Notwithstanding RSA 193-E:5, on or before July 15, a scholarship organization shall furnish the unique pupil identifier and date of birth for each student eligible pursuant to RSA 77-G:1, VIII(a)(1) and (2) who is receiving a scholarship, and the subparagraph under which he or she was eligible, to the department of education. The department of education shall notify the scholarship organization within 30 days of any students who are ineligible under RSA 77-G:1, VIII(a)(1). The scholarship organization shall notify the department of education within 30 days if any student eligible under RSA 77-G:1, VIII(a)(1) or (2) is not awarded a scholarship or is awarded a scholarship yet subsequently returns to public school. The department of education shall return such student to the calculation of the average daily membership in residence, as defined in RSA 189:1-d, IV, for the student's school district of residence, and add the amount calculated under RSA 198:40-a,

I-III to the adequate education grant amount to the student's school district of residence, and include such amount in the next adequate education grant payment made under RSA 198:42.

(f) On or before December 1, the scholarship organization shall send a scholarship receipt to the business organization or business enterprise and to the department of revenue administration. The scholarship receipt shall include the amount of the donation that was used under this chapter which is eligible for the tax credit, and the amount that was not used. The scholarship organization shall return any unused funds to the business organization or business enterprise.

(g) On or prior to December 1, the scholarship organization shall submit a scholarship organization report to the department of revenue administration. The scholarship organization shall also include a scholarship organization application if it intends to issue scholarships under this chapter in the next program year. The department of revenue administration shall review the scholarship organization report and the scholarship receipts to ensure that the administrative expenses requirement set forth in subparagraph I(f) is not exceeded, that the number of scholarships issued under RSA 77-G:1, VIII(a)(1) and (2) meets the requirements of this chapter, and the average scholarship size does not exceed the amount allowed. If any of these requirements are not met, the department of revenue administration may deny a scholarship organization application for subsequent program years and shall notify the scholarship organization of the reasons for denial.

(h) A business organization or business enterprise may file for the tax credit after receiving the scholarship receipt, and may file a tax credit request for the subsequent program year up to the amount donated in the current program year.

(i) The provisions of this chapter regarding nonpublic schools and their relation to scholarship organizations shall apply only to nonpublic schools that choose to accept scholarship students.

77-G:6 Department of Revenue Administration; Requirements.

I. The department of revenue administration shall:

(a) Develop, and annually verify and update, by February 1, a list of eligible nonprofit scholarship funding organizations that meet the requirements of this chapter. The department shall post this list on the department's Internet website and update the list monthly until July 15. The department shall forward the list and any updates to the commissioner of the department of education who shall post the list on the department of education's Internet website.

(b) Conduct or require audits in response to any reasonable complaints made. The cost of an independent audit shall be paid by the scholarship organization, but this cost shall be excluded from the administrative expenses requirement set forth in RSA 77-G:5, I(f).

(c) Establish a process by which individuals may notify the department of revenue administration of any violation by a parent, business organization, business enterprise, scholarship organization, or nonpublic school of state laws relating to program participation. The department of revenue administration shall conduct an inquiry of any written complaint of a violation of this chapter, or make a referral to the appropriate agency for an investigation, if the complaint is signed by the complainant and is legally sufficient. A complaint is legally sufficient if it contains facts demonstrating a violation of this chapter or any rule adopted pursuant to this chapter. In order to determine legal sufficiency, the department of revenue administration may require supporting information or documentation from the complainant.

(d) Create, maintain, and post online the relevant forms and reports, and submit scholarship organization reports to the members of the house and senate education committees and to the department of education.

(e) Post to the department's website an up-to-date total of the amount of credits available.

(f) No later than January 1, 2013, adopt rules pursuant to RSA 541-A, relative to:

(1) The application procedure for a scholarship organization applying to accept scholarship donations under this chapter.

(2) The application procedure for a business organization or business enterprise applying for a tax credit under this chapter.

(3) Complaint procedures, including the filing of a complaint and investigations of complaints.

(4) The design and content of the forms and applications required to be filed with, or issued by, the department of revenue administration under this chapter.

77-G:7 Department of Education; Requirements.

I. The department of education shall determine the number of students receiving a scholarship under RSA 77-G:1, VIII(a)(1) and (2) who were counted in the calculation of the average daily membership in attendance, as defined in RSA 198:38, I, for schools, other than chartered public schools, for the student's school district of residence and for each such student, shall deduct the amount calculated under RSA 198:40-a, I-III from the total education grant amount disbursed to the student's school district of residence calculated pursuant to RSA 198:40-a, IV(b)-(c). This adjustment shall be completed prior to September 1 of the program year in which the scholarships are granted.

II. The department of education shall verify a student's eligibility under RSA 77-G:1, VIII(a)(1) upon request of a scholarship organization. The department of education shall assist the department of revenue administration, upon request, in the investigation of student eligibility complaints.

III. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to forms necessary for any surveys required and the procedures for determining and disbursing stabilization grants.

77-G:8 Scholarship Stabilization Grant.

I. For each school district, the department of education shall calculate the combined amount of reductions in adequacy cost pursuant to RSA 77-G:7 from students receiving scholarships under RSA 77-G:1, VIII(a)(1) and who were in attendance in that district in the year prior to receiving the scholarships. If this combined amount is greater than 1/4 of one percent of a school district's total voted appropriations for the year prior to the scholarship year, the commissioner of the department of education shall disburse a scholarship stabilization grant for the current and next 3 fiscal years to each such school district equal to the amount of the reductions in excess of 1/4 of one percent. This scholarship stabilization grant shall be included in the September 1 disbursement required pursuant to RSA 198:42.

II. The department of education shall order any scholarship organizations that provided scholarships to students from districts that were awarded stabilization grants pursuant to paragraph I to conduct a scholarship impact survey. The organization shall forward the results of this survey to the department of education and the school board of each district. The department of education shall post the results of this survey online.

77-G:9 Exceptions.

I. A receiving nonpublic school or home education program that accepts students benefiting from scholarships, grants, or tax credits shall not be considered an agent of the state or federal government as a result of participating in the program established in this chapter.

II. Except as provided in this chapter, or otherwise provided in law, no state department, agency, or board shall regulate the educational program of a receiving nonpublic school or home education program that accepts students pursuant to this chapter.

III. Donations made by a business organization or business enterprise to a scholarship organization that are not for the purpose of obtaining a tax credit under this chapter shall not be subject to the requirements in this chapter.

77-G:10 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

5 Applicability. The first program year of the education tax credit pursuant to RSA 77-G as inserted by section 4 of this act shall begin on January 1, 2013.

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

AMENDED ANALYSIS

This bill establishes an education tax credit against the business profits tax and/or the business enterprise tax for business organizations and business enterprises that contribute to scholarship organizations which award scholarships to be used by students to defray the educational expenses.

Amendment to SB 373-LOCAL (2012-2193h)

Proposed by the Committee on Education - R

Amend RSA 198:4-b, II as inserted by section 1 of the bill by replacing it with the following:

II. Notwithstanding any other provision of law, a school district by a vote of the legislative body, may authorize, indefinitely until specific rescission, the school district to retain year-end unassigned general funds in an amount not to exceed, in any fiscal year, 2.5 percent of the current fiscal year's net assessment pursuant to RSA 198:5, for the purpose of having funds on hand to use as a revenue source for emergency expenditures and overexpenditures under RSA 32:11, or to be used as a revenue source to reduce the tax rate.

Amend RSA 198:4-b as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. The legislative body of the city of Manchester, upon recommendation of the school committee, may authorize, indefinitely until specific rescission, the school district to retain year-end unassigned general funds.

Amendment to SB 376 (2012-2194h)

Proposed by the Majority of the Committee on Finance - R

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

1 Committee to Develop a Plan to Privatize the Department of Corrections; Duties.

Amend 2011, 224:346, IV to read as follows:

IV. The committee shall develop a plan for privatizing the department of corrections and shall review the results of the request for proposals issued by the commissioner of administrative services under section 347 of this act. ***As part of its study and notwithstanding RSA 21-I:13-a or any other provision of law to the contrary, the committee shall review the vendor submissions confidentially and may include a summary of such submissions in its report required under paragraph VI. The summary of such submissions shall not include references or information which identifies the vendors making such submissions.***

2 Committee to Develop a Plan to Privatize the Department of Corrections; Report Date Extended. Amend 2011, 224:346, VI to read as follows:

VI. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before ~~December 1, 2011~~ ***November 1, 2012.***

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

Amendment to SB 398

(2012-2102h)

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

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

AN ACT proclaiming March 30 as Welcome Home Vietnam Veterans Day and proclaiming July 27 as Korean War Veterans Day.

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

2 New Section; Welcome Home Vietnam Veterans Day. Amend RSA 4 by inserting after section 13-q the following new section:

4:13-r Welcome Home Vietnam Veterans Day. The governor shall annually proclaim March 30 of each year as Welcome Home Vietnam Veterans Day to acknowledge and commemorate the military service of American men and women in Vietnam. The day may be observed by suitable observances and exercises by civic groups and the public.

3 Findings. The general court hereby finds and declares the following:

I. The Korean War began on June 25, 1950 when communist North Korea invaded South Korea.

II. During this war, nearly 1.8 million members of the United States Armed Forces served alongside the forces of the Republic of Korea and 20 other allied nations. The war took 36,574 American lives and wounded over 103,000.

III. By July 1953 all sides involved in the conflict were ready to sign an agreement ending the bloodshed.

IV. On July 27, 1953, a ceasefire agreement was signed at Panmunjom.

V. The establishment of a Korean War Veterans Day would be an appropriate way to honor those members of the United States armed forces who served in Korea during the Korean War.

4 New Section; Korean War Veterans Day. Amend RSA 4 by inserting after section 13-r the following new section:

4:13-s Korean War Veterans Day. The governor shall annually proclaim July 27 of each year as Korean War Veterans Day to acknowledge and commemorate the military service of American men and women who served in Korea. The day may be observed by suitable observances and exercises by civic groups and the public.

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

AMENDED ANALYSIS

This bill proclaims March 30 as Welcome Home Vietnam Veterans Day to acknowledge and commemorate the military service of American men and women in Vietnam.

This bill also proclaims July 27 as Korean War Veterans Day to acknowledge and commemorate the military service of American men and women who served in Korea.

Amendment to SB 399-FN

(2012-2217h)

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

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

AN ACT relative to the maximum permit application fee for certain municipal or state agency dredging projects, relative to the adoption of forms by the department of revenue administration for the filing of taxes and removing the requirement for electronic tax payments, excluding charges for Internet access from the communications services tax, and requiring the transfer of insurance premium tax revenue to the department of health and human services.

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

2 New Paragraph; Department of Revenue Administration; Rulemaking Authority; Business Tax Forms Added. Amend RSA 21-J:13 by inserting after paragraph XIII the following new paragraph:

XIV. The requirements for business tax forms developed or approved by the department which relate to the business profits tax under RSA 77-A, the business enterprise tax under RSA 77-E, and the taxation of incomes under RSA 77.

3 Rulemaking; Forms. Amend RSA 21-J:13-a to read as follows:

21-J:13-a Exemption From Rulemaking Requirement. The commissioner shall be exempt from adopting, as rules pursuant to RSA 541-A, the requirements on all forms ***except as provided in RSA 21-J:13, XIV.***

4 Rulemaking; Reference Removed. Amend RSA 21-J:13, X to read as follows:

X. A method for collecting taxes by electronic transfer [~~under RSA 21-J:3, XXI~~].

5 Repeal. The following are repealed:

I. RSA 21-J:33, III, relative to the penalty for failure to comply with electronic payment requirements.

II. RSA 21-J:3, XXI, relative to the authority of the commissioner of revenue administration to require electronic payment.

6 Communications Services Tax; Purpose. Amend RSA 82-A:1 to read as follows:

82-A:1 Statement of Purpose. It is the intent of the general court to impose a tax on those who use 2-way communications services and to source mobile telecommunications services to the place of primary use. It is also the intent of the general court that ***Internet access service and*** basic communications services essential to public health, safety, and welfare shall not be subject to the tax imposed by this chapter.

7 Communications Services Tax; Definition of “Communications Services;” Internet Access Excluded. Amend RSA 82-A:2, III(b) and (c) to read as follows:

(b) Purchases of communications services by a communications services provider for use as a component part of the service provided by him to the ultimate retail consumer who originates or terminates the taxable end-to-end communications, including carrier access charges, right of access charges, charges for use of inter-company facilities, and all communications services resold in the subsequent provision of, used as a component of, or integrated into end-to-end communications services; ~~or~~

(c) The one-way transmission of radio or television programming, by cable, broadcast, satellite, microwave or similar facility, which is made available generally to any person able to receive such transmission, together with the interaction, if any, of such person required for the selection of such programming other than by use of the same facility by which such transmission was received~~[-];~~ ***or***

(d) Internet access.

8 New Paragraphs; Communications Services Tax; Definitions of “Internet” and “Internet Access.” Amend RSA 82-A:2 by inserting after paragraph XXIV the following new paragraphs:

XXV. “Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprises the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

XXVI. “Internet access”:

(a) Means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

(b) Includes the purchase, use, or sale of communications services by a provider of a service described in subparagraph (a) to the extent such communications services are purchased, used or sold:

(1) To provide such service; or

(2) To otherwise enable users to access content, information, or other services offered over the Internet;

(c) Includes services that are incidental to the provision of the service described in subparagraph (a) when furnished to users as part of such service, such as a home page,

electronic mail, and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity;

(d) Does not include voice, audio, or video programming, or other products and services, except services described in subparagraph (a), (b), (c), or (e) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated with the charge for services described in subparagraph (a), (b), (c), or (e); and

(e) Includes a homepage, electronic mail, and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity that are provided independently or not packaged with Internet access.

9 Communications Services Tax; Definition of "Gross Charge;" Charges of Internet Access Excluded. Amend RSA 82-A:2, V(f)-(h) to read as follows:

(f) Charges for communications services and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the tax imposed under this chapter has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service; ~~and~~

(g) [Repealed.]

(h) Bad debt. For the purposes of this paragraph, bad debt means any portion of a debt that is related to a purchase at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards. If the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made[-]; **and**

(i) Charges for Internet access.

10 Existing Assessments Not Enforceable. The department of revenue administration shall not enforce any existing assessment of communications services tax on charges for Internet access, shall promptly withdraw all such pending assessments, and shall issue no additional assessments with respect to such charges.

11 Transfer of Insurance Premium Tax Revenue to Department of Health and Human Services. Notwithstanding any provision of law to the contrary, and in recognition of an unanticipated surplus for the fiscal year ending June 30, 2011 as determined by the official audit performed pursuant to RSA 21-I:8, II(a), the state treasurer shall transfer \$1,500,000 in revenue received from the insurance premium tax pursuant to RSA 400-A:32 to the department of health and human services for the purpose of providing services to the developmentally disabled. Said amounts are hereby appropriated to the department for the biennium ending June 30, 2013.

12 Effective Date.

I. Section 1 of this act shall take effect July 1, 2012.

II. Section 11 of this act shall take effect upon its passage.

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

AMENDED ANALYSIS

This bill:

I. Limits the maximum permit application fee for certain municipal or state agency dredging projects.

II. Requires that business tax forms relating to the business profits tax, the business enterprise tax, and the interest and dividends tax, developed or approved by the department of revenue administration, shall be adopted pursuant to RSA 541-A, the administrative procedure act. The bill also repeals the penalty for failure to make electronic payments and the authority of the department of revenue administration to require electronic payments.

III. Clarifies that Internet access services is not subject to the communications services tax.

IV. Requires the transfer of insurance premium tax revenue to the department of health and human services.

**Amendment to SB 401
(2012-2120h)**

Proposed by the Committee on Finance - R

Amend the bill by replacing all after section 5 with the following:

6 New Paragraph; School Money; Cost of an Opportunity for an Adequate Education. Amend RSA 198:40-a by inserting after paragraph V the following new paragraph:

VI. The commissioner of the department of education shall adjust the April adequate education grant disbursement as provided in RSA 198:42 to the extent necessary to ensure that the total education grant for each school district is within 5 percent of the school district's estimated total education grant amount, as provided in the report prepared by the department of education pursuant to RSA 198:40-a, V, for the school year for which the calculation is made.

7 District Taxes; Reports Required. Amend RSA 198:4-d, II to read as follows:

II. A report filed by the governing body of each city and school district shall revise all the estimated revenues for the year. This report shall be filed by September 1 of each year.

The revised estimates by school districts for the adequate education grants calculated under RSA 198:41 shall be considered the most accurate within 5 percent of the amount estimated pursuant to RSA 198:40-a, V.

8 New Paragraph; Cooperative School Districts; District Taxes. Amend RSA 195:14 by inserting after paragraph II the following new paragraph:

III.(a) The adequate education grant used in subparagraph I(d) shall be based on the revised estimated revenues contained in the report required in RSA 198:4-d, II.

(b) If the commissioner finds that the actual adequacy grant used in the prior year was inaccurate or inappropriate, the commissioner shall perform a town-specific reconciliation adjustment for each town's estimates in question against the apportionment. The difference between the recomputed apportionment and the apportionment determined under subparagraph (a), and the difference between the actual adequate education grant provided under RSA 198:42 for the prior year and the grant amount estimated in the prior year under subparagraph (a), shall be the basis for the town-specific reconciliation adjustment.

9 Applicability. The provisions of this act shall apply beginning with the 2013-2014 school year.

10 Effective Date. This act shall take effect July 1, 2012.

**Amendment to SB 402
(2012-2124h)**

Proposed by the Committee on Education - R

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

AN ACT relative to the adoption of policies for the management of concussion and head injury in student sports.

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

1 Legislative Findings. The general court finds that:

I. A concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull. The risk of catastrophic injuries or death are significant when a concussion or head injury is not properly evaluated and managed.

II. Concussions are a type of mild brain injury that can disrupt the way the brain normally works. Concussions can result from a fall or from players colliding with each other, the ground, or obstacles. Concussions occur with or without loss of consciousness, but the

vast majority occur without loss of consciousness. When managed properly, the majority of concussions resolve without direct medical intervention in 10-14 days.

III. Continuing to play with a concussion or symptoms of head injury leaves the student-athlete especially vulnerable to greater injury and even death.

2 New Subdivision; Health and Sanitation; Head Injury Policies for Student Sports. Amend RSA 200 by inserting after section 48 the following new subdivision:

Head Injury Policies for Student Sports

200:49 Head Injury Policies for Student Sports. Education is the key to identification and appropriate management of all concussions. The school board of each school district is encouraged to develop guidelines and other pertinent information and forms for student sports to inform and educate coaches, student-athletes, and student-athletes' parents or guardians of the nature and risk of concussion and head injury including continuing to play after concussion or head injury. On an annual basis, a school district or school is encouraged to distribute a concussion and head injury information sheet to all student-athletes.

200:50 Removal of Student-Athlete.

I. A school employee coach, official, licensed athletic trainer, or health care provider who suspects that a student-athlete has sustained a concussion or head injury in a practice or game shall remove the student-athlete from play immediately.

II. A student-athlete who has been removed from play shall not return to play on the same day or until he or she is evaluated by a health care provider and receives medical clearance and written authorization from that health care provider to return to play. The student-athlete shall also present written permission from a parent or guardian to return to play.

III. No person who authorizes a student-athlete to return to play shall be liable for civil damages resulting from any act or omission in the rendering of such care, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

200:51 School Districts; Limitation of Liability.

I. An employee of a school administrative unit, school, or chartered public school, or a school volunteer, pupil, parent, legal guardian, or employee of a company under contract to a school, school district, school administrative unit, or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the injury or death of a student-athlete provided the action or inaction was in compliance with this subdivision and local school board policies relative to the management of concussions and head injuries. This limitation of liability shall extend to school-sponsored athletic activities. A school district or school may provide concussion guidelines to other organizations sponsoring athletic activities on school property, however the school district or school shall not be required to enforce compliance with such guidelines.

200:52 Definitions. As used in this subdivision:

I. "Health care provider" means a person who is licensed, certified, or otherwise statutorily authorized by the state to provide medical treatment and is trained in the evaluation and management of concussions.

II. "School property" means school property as defined in RSA 193-D:1.

III. "Student-athlete" means a student in grades 9-12 involved in student sports.

IV. "Student sports" means athletic programs for students in grades 9-12.

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

AMENDED ANALYSIS

This bill requires school districts to develop policies for the management of concussion and head injury in student sports and limits a school district's liability for injuries occurring on school district property.

**Amendment to SB 404-FN
(2012-2161h)
Proposed by the Committee on Finance - C**

Amend RSA 188-E:6, II as inserted by section 2 of the bill by replacing it with the following:

II. A student's sending district shall be financially responsible for an amount equal to 25 percent of the receiving district's cost per pupil for the prior school year, as calculated by the department of education.

Amend the bill by replacing section 3 with the following:

3 Regional Vocational Education; Tuition. Amend RSA 188-E:7 to read as follows:
188-E:7 Tuition.

I. The department of education is authorized to pay from its regular budget tuition for full or part-time students, attending programs at designated vocational centers or designated vocational educational courses at other comprehensive high schools, whose residence is in a district where the high school of normal attendance does not offer a similar vocational education course. The department is authorized to pay from its budget for at risk students who reside in a school district in which the high school does not offer an alternative education program, to attend an alternative education program at a regional vocational education center or the associated high school. ~~[The tuition payment shall not exceed the cost of attending the regional vocational education center.]~~

II. The liability of the state and local school districts for tuition shall be determined by the state board under rules adopted pursuant to RSA 541-A, provided that a receiving district may charge a student from a sending district a differential ~~[vocational]~~ **career and technical** education ~~[rate]~~ **fee not to exceed 3 percent of the receiving district's cost per pupil for the prior school year, as calculated by the department of education,** and **provided** that the receiving district shall deposit ~~[that]~~ **the differential fee** into its capital reserve account to be used for ~~[vocational centers]~~ **career and technical education program development, improvement,** and equipment.

III. The state's tuition liability for a student enrolled in an alternative education program shall not exceed the per student cost of a student enrolled in a career and technical education program, as calculated by the department of education.

Amendment to SB 406 (2012-1980h)

Proposed by the Majority of the Committee on Judiciary - R

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

AN ACT relative to establishing an early offer alternative in medical injury claims, relative to confidentiality of police personnel files, and relative to prohibiting health care practitioner self-referrals for medical devices.

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

1 Findings and Purpose.

I. The general court finds that the legal system for resolving claims for medical injury requires reform to encourage the fast and efficient payment of meritorious claims. Under the current system individuals with meritorious claims are either unable to litigate their claims or wait for an uncertain recovery while medical providers are often deprived of a fair and reasonable opportunity to address and resolve claims in a timely manner. In addition, the general public is adversely affected because significant resources are spent on litigation costs and defensive medicine or on coverage for those unable to litigate claims. The result is a system that has higher than necessary health care costs, higher liability insurance premiums, and higher health insurance premiums.

II. These overarching conclusions are based upon the following factual findings:

(a) Inconsistent results: Recent data presented to the general court by the New Hampshire insurance department pursuant to RSA 519-B:14, II shows that the current medical injury liability system produces inconsistent results with average indemnity payments on similar claims varying substantially from year to year.

(b) Long waits for the parties: The testimony before the general court demonstrates that medical injury cases are highly complex, requiring specialized medical

evidence and testimony. This complex medical evidence and testimony requires additional discovery and case preparation that results in a particularly lengthy process for resolving cases.

(c) Costly litigation: Recent data presented to the general court by the New Hampshire insurance department pursuant to RSA 519-B:14, II shows that the aggregate administrative and litigation costs for all claims for medical injury nearly exceed the amount that claimants receive for their injuries.

(d) Defensive medicine: Data from the American Medical Association, Gallup, Harvard School of Public Health, Health Affairs Magazine, and other reliable sources estimate that defensive medicine, practiced in response to the current medical injury system, increases the annual health care expenditures in the United States by billions of dollars. These organizations consider defensive medicine to be diagnostic tests or treatments that have little or no expected benefit to the patient, ordered primarily as a means to guard against claims of liability.

III. The legislature further finds that the slow, inconsistent, and costly nature of the existing medical injury litigation system has a detrimental impact upon injured claimants, whose medical and economic needs require rapid resolution of their claims with less uncertainty, risk, and costs, as well as upon medical providers whose provision of patient care is disrupted by lengthy and costly litigation of medical injury claims.

IV. Therefore, the important governmental objective of this act is to supplement the existing medical injury compensation system with an alternative system that will provide fast and certain results for those who use it, while preserving access to the court system and medical injury screening panels for parties that choose to resolve claims under the current system. The general court further finds that the early offer process set forth in RSA 519-C as inserted by this act to resolve medical injury claims is substantially related to this important governmental objective.

V. The general court further finds that medical injury claimants will benefit from the early offer process set forth in RSA 519-C as inserted by this act as it provides the option of a simple, clear process defined in statute that provides prompt and sure recovery of all economic losses associated with meritorious claims settled pursuant to RSA 519-C. The early offer process, if elected, would be more efficient and cost effective in many cases than the high risk, high cost traditional litigation process.

VI. In exchange for the benefits of the early offer process established in this act, the claimant agrees to participate fully in the process, which may affect the damages the claimant can recover, the fees the claimant's attorney may receive, and other important rights or claims that may exist under the existing system.

VII. The general court finds that the benefits to the public and to the parties to medical injury claims from the process established in this act far exceed the burdens imposed on the general public and medical injury claimants.

2 New Chapter; Early Offers for Medical Injury Claims. Amend RSA by inserting after chapter 519-B the following new chapter:

CHAPTER 519-C

EARLY OFFERS FOR MEDICAL INJURY CLAIMS

519-C:1 Definitions. In this chapter:

I. "Claim for medical injury" means any claim against a medical care provider, whether based in tort, contract, or otherwise, to recover damages on account of a medical injury.

II. "Claimant" means an individual who, in his or her own right, or on behalf of another as otherwise permitted by law, is seeking compensation for a medical injury, due to alleged sub-standard medical care or treatment.

III. "Early offer" means an offer to pay an injured person's economic loss related to a medical injury, and reasonable attorney's fees and costs incurred in representing the injured

person under this chapter. No other damages of any kind shall be included in an early offer under this chapter.

IV. “Economic loss” means monetary expenses incurred by or on behalf of a claimant reasonably related to a medical injury and its consequences, including actual out-of-pocket medical expenses, replacement services, additional payment to the claimant pursuant to RSA 519-C:7, and 100 percent of the claimant’s salary, wages or income from self-employment or contract work lost as a result of the medical injury. Economic loss does not include: pain and suffering, punitive damages, enhanced compensatory damages, exemplary damages, damages for loss of enjoyment of life (hedonic damages), inconvenience, physical impairment, mental anguish, emotional pain and suffering, and loss of the following: earning capacity, consortium, society, companionship, comfort, protection, marital care, parental care, attention, advice, counsel, training, guidance or education, and all other non-economic damages of any kind.

V. “Hearing officer” means a person of judicial and/or legal training, common sense, and a respect for the law, including retired New Hampshire judges, judicial referees, and masters, assigned by the New Hampshire supreme court, who shall be paid by the medical care provider for presiding at hearings under this chapter at the rate applicable to such officers of the court when presiding at hearings and court related matters. No hearing officer shall be employed by the insurance department or shall serve if such service would constitute a conflict under the New Hampshire Rules of Professional Conduct, or would require disqualification under the Code of Judicial Conduct.

VI. “Medical care provider” means a physician, physician’s assistant, registered or licensed practical nurse, hospital, clinic, or other health care provider or agency licensed by the state, or otherwise lawfully providing medical care or services, or an officer, employee, or agent thereof acting in the course of and scope of employment.

VII. “Medical injury” or “injury” means any adverse, untoward, or undesired consequences caused by professional services rendered by a medical care provider, whether resulting from negligence, error, or omission in the performance of such services; from rendition of such services without informed consent or in breach of warranty or in violation of contract; from failure to diagnose; from premature abandonment of a patient or of a course of treatment; from failure properly to maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such services.

VIII. “Notice of injury” means written notice by certified mail provided to the medical care provider alleged to have caused a medical injury, and containing:

- (a) The name, address, and telephone number of the claimant;
- (b) The believed date and place of the alleged medical injury;
- (c) The nature of the alleged injury;
- (d) An explanation, if known, as to how the alleged injury was caused;
- (e) A description of the severity of the alleged injury, including the claimant’s opinion of where the injury is located on the National Practitioner Data Bank severity scale;
- (f) Medical records and medical bills associated with the alleged injury or a limited authorization allowing the medical care provider to obtain medical records and medical bills associated with the alleged injury;
- (g) Evidence of lost wages or income from self-employment or contract work for the individual suffering from an alleged medical injury, which may be supplied through income tax returns or paycheck stubs for the year prior to the alleged injury and any subsequent records up to the date of the notice of alleged injury, or a limited authorization allowing the medical care provider to obtain such records;
- (h) A demand for economic loss resulting from the alleged injury, that includes only medical expenses, replacement services, reasonable attorney fees, and lost wages, or income from self-employment or contract work;
- (i) The name, address and telephone number of claimant’s attorney; and

(j) A request that the medical care provider extend an early offer of settlement of the claim.

IX. “Personal representative” means an executor, administrator, successor personal representative, or special administrator of a decedent’s estate or a person legally authorized to perform substantially the same functions.

X. “Reasonable attorney fee” means 20 percent of the present value of the claimant’s economic loss and the reasonable costs incurred in representing the injured person under this chapter.

XI. “Replacement services” means expenses reasonably incurred in obtaining ordinary and necessary services from others, who are not members of the injured person’s household, in lieu of those the injured person would have performed for the benefit of the household, but could not because of the injury.

XII. “Wages” means monetary payment for services rendered, and the reasonable value of board, rent, housing, lodging, fuel, or a similar advantage received from the employer and gratuities received in the course of employment from others than the employer; but “wages” shall not include any sum paid by the employer to the employee to cover any special expenses incurred by the employee because of the nature of the employment. For individuals receiving unemployment benefits pursuant to RSA 282-A:25 at the time of the injury, wages shall equal the wage rate used to determine the unemployed individual’s unemployment benefit pursuant to RSA 282-A:25. For a minor who is injured prior to reaching the age of 18 and who is unable to perform any gainful work as a result of the medical injury, upon reaching the age of 18 wages shall equal the mean New Hampshire per capita income as shown by the American Community Survey’s 1-year Estimate (inflation adjusted), produced by the United States Census Bureau.

519-C:2 Procedure.

I. After a medical injury, the claimant may:

- (a) Pursue resolution of a claim for medical injury pursuant to this chapter; or
- (b) Pursue an action for medical injury as provided in RSA 507-E and RSA 519-

B.

II. For so long as the claimant and medical provider are proceeding under this chapter, this section shall govern the procedure for resolving the medical injury claim at issue between the 2 parties, notwithstanding any other provision of law.

III. If the claimant elects to pursue a remedy under this chapter, the claimant shall serve a notice of injury to the medical care provider alleged to be responsible for the injury and an executed notification and waiver of rights in the form set forth in RSA 519-C:13, by certified mail, return receipt requested.

IV. Upon the receipt by the medical care provider of a notice of injury and an executed notification and waiver of rights, the medical care provider may elect to:

- (a) Extend an early offer of settlement; or
- (b) Decline to extend an early offer of settlement.

V. A claimant’s failure to submit a notice of injury requesting an early offer, or a provider’s failure to extend an early offer, shall not be subject to review in any hearing, court, or other proceeding of any kind.

VI. The medical care provider shall respond to the claimant’s notice of injury in writing, within 90 days, setting forth the details of its early offer, or indicating that the medical care provider has decided not to extend an early offer of settlement. The medical care provider’s written response shall be sent by certified mail, return receipt requested, to the address provided in the claimant’s notice of injury.

VII. The medical care provider may request in writing that the individual alleging a medical injury submit to an independent medical examination by a qualified and board certified physician chosen by the medical care provider and agreed to by the claimant at a time and place reasonably convenient for the claimant. If the parties cannot agree on a physician to conduct the examination within 30 days of the request, the hearing officer shall

select the physician. The physician conducting the examination shall not be affiliated directly or indirectly in any way, with the medical care provider alleged to have caused the injury. The cost of the examination, including reasonable travel expenses for the claimant, shall be paid by the medical care provider's professional liability insurance company. Within 5 days of receipt, the medical provider or its insurer shall, at no cost to the claimant, provide the claimant with all reports and documents originating from the examination. The claimant shall also be entitled to obtain a transcript and/or audio-video recording of the examination at the claimant's expense. Any physician conducting medical examinations under this section shall be certified by the appropriate specialty board as recognized by the American Board of Medical Specialties and in good standing with the New Hampshire board of medicine.

VIII. If the medical care provider requests that the claimant submit to a physical examination as set forth in paragraph VII, the time allowed for a medical care provider to respond to the claimant's notice of injury shall be extended by 30 days.

IX. If the medical care provider extends an early offer, the claimant shall accept or reject the medical care provider's written offer in writing within 60 days of receipt of the offer. If the claimant requests a hearing pursuant to RSA 519-C:10, to resolve any dispute with respect to the content of an early offer, the timeframe within which the claimant may accept or reject the early offer shall be extended until 10 days after the decision on the disputed issue is issued by the hearing officer.

X. If the claimant accepts the medical care provider's early offer, the claimant shall notify the medical care provider in writing by certified mail, return receipt requested, and thereafter, the claimant is barred from pursuing any claim for the same medical injury against any medical care provider.

XI. If the claimant rejects the medical care provider's early offer or does not accept the medical care provider's early offer within the time constraints provided by paragraph IX, the early offer shall be considered rejected. A claimant who rejects an early offer may pursue an action for medical injury against the medical care provider pursuant to RSA 507-E, however such claimant shall be exempt from the requirements of RSA 519-B.

XII. A claimant who rejects an early offer and who does not prevail in an action for medical injury against the medical care provider that made the early offer, shall be responsible for paying the medical care provider's reasonable attorney's fees and costs incurred in the proceedings under this chapter. A claimant who rejects an early offer and who is awarded economic damages equal to or less than the amount of the early offer may be responsible for paying the medical care provider's reasonable attorney's fees and costs incurred in proceedings under this chapter, if the court hearing the medical injury action finds that the claimant's decision to reject the early offer and pursue the medical injury action was unreasonable.

519-C:3 Unrepresented Claimant.

I. If the claimant is not represented by legal counsel, upon receiving a notice of injury, the medical care provider shall provide a neutral advisor who is a member of the New Hampshire Bar or a retired judge, at the medical care provider's expense, to offer assistance to the claimant and medical care provider under this chapter. Among other things, the neutral advisor shall encourage the claimant to consider retaining an attorney, and shall ensure the claimant is aware of the differences between proceeding under this chapter or as provided in RSA 507-E and RSA 519-B.

II. A claimant who was unrepresented at the time the claimant submitted the notice and waiver of rights shall have the right to withdraw the notice of injury and the notice and waiver of rights within 5 business days after the claimant's first meeting with the neutral advisor, which shall occur no later than 10 business days from claimant's notification of the identity of the neutral advisor. In the event the claimant withdraws the notice of injury, the early offer process shall be terminated and both parties shall proceed as if the notice of injury was never filed.

III. No medical care provider or insurer shall extend an early offer prior to the expiration of 15 business days after the claimant receives notification of the appointment of the neutral advisor.

519-C:4 Confidentiality.

I. Proceedings, records, and communications during negotiation of an early offer shall be treated as private and confidential by the claimant and the medical care provider, except if such information would normally be discoverable pursuant to the Rules of Evidence. The outcome and any other writings, evidence, or statements made or offered by a party or a party's representative during negotiation of an early offer and relevant only to the early offer process are not admissible in court or in a screening panel hearing under RSA 519-B, shall not be submitted or used for any purpose in a subsequent trial, and shall not be publicly disclosed.

II. A notice of injury provided pursuant to RSA 519-C:2, III, and subsequent actions taken pursuant to this chapter shall be exempt from the reporting requirements of RSA 329:17 and administrative rules adopted thereunder, unless the parties reach a settlement under this chapter. Settlements reached pursuant to this chapter are not exempt from the reporting requirements of RSA 329:17 and said administrative rules.

519-C:5 Payment of Early Offer.

I. If an early offer is accepted, economic losses previously incurred by the claimant as a result of the medical injury and the reasonable attorney fee shall be paid by the medical care provider to the claimant within 15 days of the claimant accepting an early offer.

II. If an early offer is accepted, the medical care provider shall pay future economic losses incurred by the claimant to the claimant as such losses accrue. If any requested payment is denied, the medical provider shall notify the claimant in writing of the denial and the basis for denial, and inform the claimant that any request for a hearing under RSA 519-C:10 regarding the denial must be made within 30 days of the date of denial.

(a) Payments for medical bills arising after the early offer settlement is reached shall be made within 15 days after the medical care provider receives reasonable proof of the fact and the amount of loss sustained. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof shall be paid within 15 days after such proof is received. Any part or all of the remainder of the claim that is later supported by reasonable proof shall be paid within 15 days after such proof is received by the medical care provider. The medical care provider shall pay any and all fees and charges incurred by the claimant resulting from failure to make timely payment of medical bills.

(b) Payment of lost wages shall be made weekly. At a minimum, such payments shall be adjusted annually on July 1 by a factor equal to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for Boston-Brockton-Nashua, MA-NH-ME-CT for the prior 12 months established by the Federal Bureau of Labor Statistics.

(c) Payment of any other amounts due under an early offer shall be paid within 30 days of the date that the provider receives notice and proof of the fact and amount that is due.

(d) When necessary for the medical care provider or its insurer to evaluate whether medical expenses are reasonably related to the medical injury, the medical care provider may request in writing that the claimant submit to an independent medical evaluation as provided by section C:2, VII.

III. Interest shall accrue at the rate of 1-1/2 percent per month on any amounts due under an early offer that are not paid as prescribed by this section.

IV. In lieu of periodic payments, the claimant and medical care provider may agree upon a lump sum payment for any and all potential future economic losses suffered by the claimant, provided that the lump sum agreement is reviewed and approved by a hearing officer after a hearing.

519-C:6 Compensation for Death. If death results from a medical injury, the amount of an early offer pursuant to this chapter shall include:

- I. Any economic loss incurred by the decedent prior to death;
- II. The value at the time of death of what would have been the net earnings of the deceased, less living expenses during the period of his or her life expectancy, but for the medical injury;
- III. The value of replacement services during the period of the decedent's life expectancy, but for the medical injury;
- IV. The additional payment determined pursuant to RSA 519-C:7; and
- V. A reasonable attorney fee.

519-C:7 Additional Payment to the Claimant.

- I. In addition to the lost wages, medical expenses, and replacement services, economic loss included in any early offer under this chapter shall include an additional payment to the claimant.
- II. The additional payment, as adjusted under paragraph V, that must be included in an early offer shall be:

- (a) For a temporary injury involving only emotional harm, without physical injury: \$5,500.
- (b) For a temporary injury involving insignificant harm: \$5,500.
- (c) For a temporary injury involving minor harm: \$11,000.
- (d) For a temporary injury involving major harm: \$40,000.
- (e) For a permanent injury involving minor harm: \$50,000.
- (f) For a permanent injury involving significant harm: \$100,000.
- (g) For a permanent injury involving major harm: \$150,000.
- (h) For a permanent injury involving grave harm, or an injury resulting in death: \$235,000.

III. Classification of injuries under paragraph II shall be determined using the National Practitioner Data Bank severity scale.

IV. Either party may request a hearing pursuant to RSA 519-C:10 to resolve a dispute regarding classification of injury severity under this section.

V. The additional payment amounts in paragraph II shall be adjusted annually on July 1 beginning in 2013 by a factor equal to the percentage change in the CPI-U index for medical care for the Northeast Region for the prior 12 months established by the Federal Bureau of Labor Statistics.

519-C:8 Assignments; Certain Claims of Creditors.

- I. Payments for economic loss under this chapter shall not be assignable.
- II. Claims for child support, spousal support, or combination child and spousal support payments, pursuant to RSA 458-B, may be enforced against economic loss settlements.

519-C:9 Multiple Parties Alleged to have Contributed to Causing Medical Injury.

I. Every early offer to settle a claim under this chapter shall include all of the economic loss, plus a reasonable attorney fee as set forth herein, and shall not be reduced or apportioned based on comparative fault of multiple providers. Any medical care provider, or combination of providers alleged to have contributed to causing an injury may extend an early offer as provided in this chapter, and acceptance of that offer by the claimant shall bar any further lawsuit or other claims for compensation by the claimant against all medical care providers arising as a result of the same medical injury. However, any medical care provider that extends an early offer to a claimant may seek contribution in a separate action against any medical care provider or other party that contributed to causing the medical injury. The injured individual shall not be a party to any action for contribution between medical care providers, however, the injured individual shall reasonably cooperate with the proceedings and provide such reasonable information and testimony as may be necessary to resolve the contribution claim. The parties to the action shall pay the injured individual all reasonable

costs associated with such reasonable cooperation and testimony, including travel expenses and reasonable loss of earnings or a witness fee of \$100 per day, whichever is greater.

II. Nothing in this section shall be regarded as exempting contribution claims from any applicable provisions of RSA 519-B.

III. Nothing in this section shall limit claims by the claimant against any party other than medical care providers who participated in providing medical care which gave rise to the medical injury.

519-C:10 Dispute Resolution.

I. Upon the request of either party, the New Hampshire supreme court shall appoint a qualified hearing officer to resolve a dispute regarding an early offer made under this chapter.

II. Dispute resolution under this chapter shall be limited to the following issues:

(a) Whether an early offer includes all of the economic loss related to the injury that is required by this chapter;

(b) Whether economic loss of any kind, past or future, asserted by the claimant, is reasonably related to an injury that is the subject of an early offer;

(c) Which severity level, pursuant to RSA 519-C:7, most closely describes the injury that is the subject of an early offer; or

(d) What the net present value of an early offer is, for the purposes of calculating the appropriate payment for reasonable attorney fees.

III. No other disputes arising under this chapter may be the subject of, or resolved through a hearing under, this section.

IV. Any request for a hearing pursuant to this section shall contain a reasonably complete statement of the issue or issues to be resolved in the hearing shall fully identify all parties to the dispute. Any issue not listed in paragraph II shall not be considered.

Hearings concerning economic loss that arises after a settlement under this chapter shall be requested within 30 days of the date payment for such economic loss is denied under RSA 519-C:5, II.

V. The medical care provider or, if applicable, the medical care provider's insurer shall pay all reasonable costs associated with a hearing under this section.

VI. Hearings conducted under this chapter shall be governed by this section and by the New Hampshire Rules of Evidence, except that in the discretion of the hearing officer and in the interest of justice, strict compliance with said rules may not be required.

VII. Any hearing conducted under this chapter shall be conducted within 45 days of the request and a decision shall be issued within 10 days of completion of the hearing. Hearings may be conducted in person or telephonically.

VIII. On a motion from any party, or on his or her own motion, a hearing officer may summarily determine any issue in dispute without a hearing if it appears from the record that there are no material issues of fact in dispute. By agreement of the parties, any dispute may be determined by the hearing officer on the written record without a hearing.

IX. Hearings conducted pursuant to this chapter shall be limited to a reasonable amount of time as determined by the hearing officer, shall not require the presence or testimony of expert witnesses, and shall be recorded by an accurate audio or stenographic recording of all testimony, available to both parties at the non-prevailing parties' expense.

X. Parties to a hearing under this section shall exchange exhibits and witness lists at least 10 days prior to the hearing. No exhibit may be introduced or witness called in a hearing unless exchanged with the opposing party pursuant to this paragraph.

XI. The hearing officer shall issue a written decision resolving the issues in dispute. If the hearing officer finds against the medical provider on any issue, the decision shall modify the terms of the early offer. The early offer, as modified by the decision of the hearing officer, shall be binding on the parties.

XII. In a hearing conducted pursuant to subparagraph II(b) of this section, if the hearing officer determines the claimant's position to be frivolous, the claimant shall

reimburse the medical care provider for its costs related to presenting the dispute to the hearing officer, up to a maximum of \$1,000.

XIII. In a hearing conducted pursuant to subparagraph II(b) of this section, if the hearing officer determines the medical care provider's position to be frivolous, the medical care provider shall reimburse the claimant for its costs related to presenting the dispute to the hearing officer, up to a maximum of \$1,000, or if the claimant is unrepresented, pay the claimant double the amount that was frivolously disputed or denied.

519-C:11 Limitations of Claims.

I. Except for claims on behalf of deceased individuals, claims for medical injury to a competent adult under this chapter shall be subject to the limitation set forth in RSA 508:4.

II. Except for claims on behalf of deceased individuals, claims for medical injury to a minor or incompetent under this chapter shall be subject to the limitation set forth in RSA 508:8.

III. Claims for medical injuries on behalf of deceased individuals shall be subject to the limitations set forth in RSA 556:7.

IV. Providing a notice of injury to a medical care provider as provided in this chapter shall operate to toll the applicable statute of limitation with respect to that injury from the time such notice is provided to a medical care provider until the expiration of time for a medical care provider to extend an early offer, or if an early offer is extended, until the acceptance or rejection of an early offer by the claimant, whichever occurs later.

519-C:12 Subrogation. Any insurer or third party who has paid or reimbursed economic losses to or for the benefit of the claimant, shall have the right of subrogation against the medical provider entering into an early offer of settlement under this chapter.

519-C:13 Notice and Waiver of Rights.

I. Claimants electing to pursue resolution of a medical injury under this chapter shall execute a notice and waiver of rights which contains the following wording:

WAIVER OF RIGHTS

By agreeing to submit a notice of injury to the medical care provider, I understand that my rights to seek legal remedies and a jury trial for my injuries guaranteed by Part I, Articles 14 and 20 of the New Hampshire Constitution may be affected.

I understand that I have the right to consult and retain an attorney to represent me regarding this matter, and that if an early offer settlement is reached, my attorney will be paid pursuant to RSA 519-C:6, V by the health care provider, in addition to any amount that is paid for my economic loss.

If I do not have an attorney when I sign this waiver form, the medical provider will appoint a neutral advisor to assist me in the early offer process and to explain, among other things, the differences between proceeding under this chapter or as provided in RSA 507-E and RSA 519-B. I HAVE THE RIGHT TO WITHDRAW THIS WAIVER AND THE NOTICE OF INJURY ANY TIME PRIOR TO MIDNIGHT OF THE FIFTH BUSINESS DAY AFTER MY FIRST MEETING WITH THE ADVISOR, WHICH MUST OCCUR NO LATER THAN 10 BUSINESS DAYS FROM MY NOTIFICATION OF THE IDENTITY OF THE NEUTRAL ADVISOR.

If after submitting a notice of injury, the medical care provider does NOT extend an early offer (RSA 519-C:1 III), I am free to pursue my legal remedies as defined in New Hampshire law without restriction.

If after submitting a notice of injury, the medical care provider does extend an early offer (RSA 519-C:1, III), I may either:

(1) Accept the early offer;

(2) Request a hearing before a hearing officer appointed by the New Hampshire Supreme Court to determine whether the early offer includes all of the economic loss I am entitled to under the statute, and if necessary, the hearing officer may order the medical care provider to increase the early offer to meet the requirements of the early offer law; or

(3) Reject the early offer and seek legal remedies.

I understand that if I reject the early offer and do not prevail in an action for medical injury against the medical care provider that made the early offer, I will be responsible for paying the medical care provider's reasonable attorney's fees and costs incurred in the proceedings under this chapter and under the action for medical injury against the medical care provider. I further understand that if I reject an early offer and am later awarded economic damages equal to or less than the amount of the early offer, I will be responsible for paying the medical care provider's reasonable attorney's fees and costs incurred in proceedings under this chapter.

I understand that if an early offer is made by the medical care provider and I accept that offer, disputes regarding the early offer can be resolved only in accordance with RSA 519-C:10 by a hearing officer appointed by the New Hampshire Supreme Court at my request or the request of the medical care provider. If either party believes that the decision of the hearing officer is unlawful, that party may seek discretionary review in the New Hampshire court system; however, there is no assurance that the courts will undertake such review.

Date _____ Signature _____

II. A properly executed waiver form by a claimant who is competent at the time the waiver is executed shall be conclusively presumed to be a sufficient, knowing, and voluntary waiver if the waiver form complies with this section.

519-C:14 Other Action for Injury. Except as set forth in RSA 519-C:2, IX, a claimant may only pursue an action for medical injury as provided in RSA 507-E and RSA 519-B when:

- I. The claimant elects not to submit a notice of injury pursuant to this chapter;
- II. The medical care provider elects not to extend an early offer pursuant to this chapter in response to the notice of injury; or
- III. The claimant withdraws the notice of injury and the notice and waiver of rights pursuant to RSA 519-C:3.

519-C:15 Rulemaking. The New Hampshire supreme court shall adopt rules in the minimum number necessary to implement the hearings process under this chapter.

519-C:16 Reports.

I. The insurance commissioner shall report to the general court annually, on or before November 1, on the effects of the early offer process established in this chapter. Such reports shall include, but not be limited to, statistics of each time the early offer process was initiated, including the number of claimants requesting early offers, the number of claimants receiving early offers, a record of the amount of each demand for economic loss, the corresponding early offer from the medical provider and the ultimate amount received by the claimant, if any, the severity of injuries, the time from initial notice to final resolution of claims, and the amount paid on claims.

II. The insurance commissioner may adopt rules under RSA 541-A to collect the data from insurers or any self-insured entity necessary to prepare the report required by this section. To the extent the commissioner collects information from insurers regarding individual claims, loss adjustment and other expenses, reserves, indemnity payments, or other financial information that is not otherwise reported to the commissioner and available to the public, such information shall be treated as examination materials, kept confidential, and not be subject to RSA 91-A.

3 Prospective Repeal. RSA 519-C, relative to early offers for medical injury claims, is repealed.

4 Confidentiality of Police Personnel Files. Amend RSA 105:13-b to read as follows:

105:13-b Confidentiality of Personnel Files. ~~[No personnel file on a police officer who is serving as a witness or prosecutor in a criminal case shall be opened for the purposes of that criminal case, unless]~~ ***All exculpatory evidence in a personnel file on a police officer who is serving as a witness or prosecutor shall be provided to the prosecutor by the police department employing the officer and shall be released by the prosecutor to***

be used as evidence in accordance with all applicable rules regarding evidence in criminal cases. Non-exculpatory evidence shall only be released in that criminal case if the sitting judge makes a specific ruling that probable cause exists to believe that the file contains evidence relevant to that criminal case. If the judge rules that probable cause exists, the judge shall order the police department employing the officer to deliver the file to the judge. The judge shall examine the file in camera and make a determination whether it contains evidence relevant to the criminal case. Only those portions of the file which the judge determines to be relevant in the case shall be released to be used as evidence in accordance with all applicable rules regarding evidence in criminal cases. The remainder of the file shall be treated as confidential and shall be returned to the police department employing the officer.

5 New Subdivision; Prohibited Self-Referrals. Amend RSA 125 by inserting after section 25-c the following new subdivision:

Prohibited Self-Referrals

125:25-d Prohibited Self-Referrals.

I. In this subdivision:

(a) "Health care practitioner" means "health care practitioner" as defined in RSA 125:25-a.

(b) "Medical device" means any Food and Drug Administration class II or III implantable medical device.

(c) "Ownership interest" means "ownership interest" as defined in RSA 125:25-a.

(d) "Referral" means a health care practitioner's request for, ordering of, or certifying or recertifying the need for, any medical device, or a health care practitioner's request that includes the provision of any medical device, the establishment of a plan of care that includes the provision of a medical device, or the certifying or recertifying of the need for a medical device. A health care practitioner refers a person to a supplier for a medical device when the health care practitioner directly or indirectly chooses or directs or requests another to choose the supplier of the medical device.

(e) "Supplier" means an entity that sells, or arranges for or negotiates contracts for purchase or sale of, medical devices, including a manufacturer, distributor, group purchasing organization, sales agent, or other medical device supplier. The term supplier does not include the health care facility or medical office where the implant procedure is performed.

II. Notwithstanding any provision of law to the contrary, a health care practitioner, including an immediate family member, shall not:

(a) Profit indirectly or directly from the sale of a medical device by any supplier in which the health care practitioner has a direct or indirect ownership interest.

(b) Make a referral of a person to a supplier for a medical device if the health care practitioner has a direct or indirect ownership interest in the supplier.

(c) Enter into a contract or business arrangement with another entity where the purpose or effect of the contract or business arrangement is to accomplish prohibited self-referrals indirectly, such as through the use of a third party, or through the use of a cross-referral agreement. Such prohibited contracts or business arrangements shall include any arrangement that requires or has the purpose or effect of causing the purchase of such medical devices from a specific supplier as a condition of, or incident to the provision of medical care by the health care practitioner.

III. No claim for payment shall be presented to any individual, third party payer, or other entity, for any medical device provided incident to the provision of a medical device furnished in violation of this subdivision.

IV. Failure to comply with this subdivision shall constitute an unfair or deceptive act or practice in violation of RSA 358-A.

V. In addition to penalties pursuant to paragraph IV, violators of this subdivision may be fined up to \$5,000 per procedure for a first offense and a second offense may result in suspension or loss of professional licensure and up to a \$10,000 fine.

6 Effective Date.

- I. Section 3 of this act shall take effect November 1, 2017.
- II. Section 1 and 2 of this act shall take effect 120 days after its passage.
- III. Section 5 of this act shall take effect 90 days after its passage.
- IV. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a system of early offers for medical injury claims as an alternative to litigation or screening panels under RSA 519-B.

This bill clarifies the confidentiality provisions regarding use of police personnel files as evidence in criminal cases.

This bill also prohibits health care practitioners, including physicians, from referring, recommending, ordering, or arranging for the acquisition of medical devices for patients under their care if the medical device is supplied directly or indirectly by an entity in which the referring practitioner has a direct or indirect ownership interest.

**Amendment to SB 407-FN
(2012-2043h)**

Proposed by the Committee on Ways and Means - R

Amend the bill by replacing section 9 with the following:

9 Effective Date. This act shall take effect July 1, 2012.

**Amendment to SB 409-FN
(2012-2143h)**

Proposed by the Committee on Finance - R

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

1 New Chapter; Use of Marijuana for Medicinal Purposes. Amend RSA by inserting after chapter 126-U the following new chapter:

CHAPTER 126-V

USE OF MARIJUANA FOR MEDICINAL PURPOSES

126-V:1 Definitions. In this chapter:

I. Provider-patient relationship” means a relationship between a provider and a patient that includes:

- (a) Taking a medical history;
- (b) Performing a relevant physical examination;
- (c) Reviewing prior treatment and treatment response;
- (d) Obtaining and reviewing relevant diagnostic test results;
- (e) The provider being available for and offering follow-up care and treatment to the patient, including but not limited to patient examinations;
- (f) Creating and maintaining patient records; and
- (g) Notifying the patient’s primary care provider when appropriate.

II. “Cultivation location” means a locked and enclosed site, under the control of the qualifying patient or designated caregiver who has reported the location of the site to the department, where marijuana is cultivated in accordance with the provisions of this chapter.

III.(a) “Debilitating medical condition” means the presence of both:

- (1) A chronic or terminal disease; and
- (2) Symptoms or treatment results that include at least one of the following: wasting syndrome, severe pain that has not responded to previously prescribed medication or surgical measures for more than 3 months, elevated intraocular pressure, severe nausea, severe vomiting, seizures, or severe, persistent muscle spasms.

(b) “Chronic or terminal disease” means cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic lateral sclerosis, muscular dystrophy, Crohn’s disease, agitation of Alzheimer’s disease, multiple sclerosis, inflammatory autoimmune-mediated arthritis, Parkinson’s disease, systemic lupus erythematosus, quadriplegia, paraplegia, sickle cell disease, cerebral palsy, epilepsy, spinal cord injury, intractable skeletal muscular spasticity, traumatic brain injury, Tourette’s Syndrome, spinal cord disease, chronic pancreatitis with cysts, one or more injuries that significantly interfere with daily activities as documented by the patient’s treating provider, or painful peripheral neuropathy only if the application is accompanied by medical records that confirm the objective presence of painful peripheral neuropathy that has been refractory to other treatments.

(c) The commissioner of the department of health and human services may waive the requirements of subparagraph (a)(1) upon written request accompanied by a written recommendation from the provider.

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

V. “Designated caregiver” means an individual:

(a) Who is at least 21 years of age; and

(b) Who has agreed to assist with a qualifying patient’s medical use of marijuana; and

(c) Who has never been convicted of any drug-related offense; and

(d) Who possesses a valid registry identification card issued pursuant to RSA

126-V:4

VI. “Marijuana” means all parts of any plant of the Cannabis genus of plants, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. Such term shall not include the mature stalks of such plants, fiber produced from such stalks, oil, or cake made from the seeds of such plants, any other compound, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such plants which are incapable of germination.

VII. “Medical use” means the acquisition, possession, cultivation, preparation, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms or results of treatment associated with the qualifying patient’s debilitating medical condition. It shall not include the use of marijuana by a designated caregiver who is not a qualifying patient.

VIII. “Provider” means a physician licensed to prescribe drugs to humans under RSA 329 and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances, or an advanced practice registered nurse (APRN) licensed pursuant to RSA 326-B, except that in relation to a visiting qualifying patient, “provider” means an individual licensed to prescribe drugs to humans in the state of the patient’s residence and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances.

IX. “Qualifying patient” means an individual who has been diagnosed by a provider as having a debilitating medical condition and who possesses a valid registry identification card issued pursuant to RSA 126-V:4.

X. “Registry identification card” means a document issued by the department pursuant to RSA 126-V:4 that identifies an individual as a qualifying patient or a designated caregiver.

XI. “Seedling” means a marijuana plant that has no flowers and is less than 12 inches in height and less than 12 inches in diameter.

XII. “Unusable marijuana” means any marijuana, other than usable marijuana, including the seeds, stalks, and roots of the plant.

XIII. “Usable marijuana” means the dried leaves and flowers of the marijuana plant and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink.

XIV. “Visiting qualifying patient” means a patient with a debilitating medical condition who is not a resident of New Hampshire or who has been a resident of New Hampshire for fewer than 30 days.

XV. “Written certification” means a document signed by a provider stating that in the provider’s professional opinion, after having completed a full assessment of the patient’s medical history and current medical condition made in the course of a provider-patient relationship of at least 3 months in duration, the patient has a debilitating medical condition, and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. If the patient’s debilitating medical condition is of recent or sudden onset and the certifying provider is primarily responsible for the patient’s care related to his or her debilitating medical condition, the 3-month requirement for the provider-patient relationship required in this paragraph shall not apply. The written certification shall be valid for up to one year. The date of expiration and the patient’s debilitating medical condition shall be specified on the written certification.

126-V:2 Possession of Medical Marijuana by a Qualifying Patient or Designated Caregiver.

I. A qualifying patient shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege for the medical use of marijuana in accordance with this chapter, if the qualifying patient possesses, cultivates, or possesses and cultivates, an amount of marijuana that does not exceed the following:

(a) If the qualifying patient does not have a designated caregiver for the possession and cultivation of marijuana that occurs at the cultivation location reported to the department, or while transporting marijuana and marijuana plants and seedlings to a new cultivation location that has been reported to the department within the prior 21 days:

- (1) Six ounces of usable marijuana; and
- (2) Any amount of unusable marijuana; and
- (3) Four mature marijuana plants and 12 seedlings, with a total canopy of no more than 100 square feet.

(b) If the qualifying patient is not at the cultivation location reported to the department:

- (1) Two ounces of usable marijuana; and

(2) Any amount of unusable marijuana.

II. A designated caregiver shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing entity, for the medical use of marijuana in accordance with this chapter on behalf of a qualifying patient if the designated caregiver possesses or cultivates, or both, an amount of marijuana that does not exceed the following:

(a) If at the cultivation location reported to the department, or while transporting marijuana and marijuana plants and seedlings to a new cultivation location that has been reported to the department within the prior 21 days:

- (1) Six ounces of usable marijuana; and
- (2) Any amount of unusable marijuana; and
- (3) Four mature marijuana plants and 12 seedlings, with a total canopy of no more than 100 square feet.

(b) If not at the cultivation location reported to the department:

- (1) Two ounces of usable marijuana; and

(2) Any amount of unusable marijuana.

III. A qualifying patient or designated caregiver shall not be subject to arrest, prosecution, or penalty for giving marijuana to a qualifying patient or a visiting qualifying patient where nothing of value is transferred in return, or for offering to do the same, if the

person giving the marijuana does not knowingly cause the recipient to possess more marijuana than is permitted by this section.

IV.(a) A qualifying patient is presumed to be lawfully engaged in the medical use of marijuana in accordance with this chapter if the qualifying patient possesses a valid registry identification card and possesses an amount of marijuana that does not exceed the amount allowed under this chapter.

(b) A designated caregiver is presumed to be lawfully engaged in assisting with the medical use of marijuana in accordance with this chapter if the designated caregiver possesses a valid registry identification card and possesses an amount of marijuana that does not exceed the amount allowed under this chapter.

(c) The presumptions made in subparagraphs (a) and (b) may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms or effects of the treatment associated with the debilitating medical condition, in accordance with this chapter.

V. A person otherwise entitled to custody of, or visitation or parenting time with, a minor shall not be denied such a right solely for conduct allowed under this chapter and there shall be no presumption of neglect or child endangerment.

VI. Notwithstanding paragraph III, a designated caregiver may receive compensation for costs, not including labor, associated with assisting a qualifying patient who has designated the designated caregiver to assist him or her with the medical use of marijuana. Such compensation shall not constitute the sale of controlled substances.

VII. A provider shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the New Hampshire board of medicine or any other occupational or professional licensing entity, solely for providing written certifications or for otherwise stating that, in the provider's professional opinion, and in the context of a provider-patient relationship, a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana, provided that nothing shall prevent a professional licensing entity from sanctioning a provider for failing to properly evaluate a patient's medical condition.

VIII. Any marijuana, marijuana paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of marijuana as allowed under this chapter, or acts incidental to such use, shall not be seized or forfeited if the basis for the seizure or forfeiture is activity related to marijuana that is exempt from state criminal penalties under this chapter.

IX. An individual shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing entity, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this chapter.

X. A valid registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows, in the jurisdiction of issuance, a visiting qualifying patient to possess marijuana for medical purposes, shall have the same force and effect as a valid registry identification card issued by the department in this state, provided that:

(a) The visiting qualifying patient shall also produce a statement from his or her provider stating that the visiting qualifying patient has a debilitating medical condition as defined in RSA 126-V:1, III; and

(b) A visiting qualifying patient shall not cultivate marijuana in New Hampshire.

XI.(a) Any qualifying patient or registered caregiver who sells marijuana to another person who is not a qualifying patient or registered caregiver under this chapter shall be subject to the penalties specified in RSA 318-B:26, IX-a, shall have his or her registry

identification card revoked, and shall be subject to other penalties as provided in RSA 318-B:26.

(b) The department may revoke the registry identification card of a qualifying patient or registered caregiver who violates any other provision of this chapter, and the qualifying patient or registered caregiver shall be subject to any other penalties established in law for the violation.

XII. Where a state or local law enforcement agency encounters an individual who, during the course of an investigation, credibly asserts that he or she is a qualifying patient or designated caregiver, the law enforcement agency shall not provide any information from any marijuana-related investigation of the individual or entity to any law enforcement agency that does not recognize the protection of this chapter, and any prosecution of the individual or entity for a violation of this chapter shall be conducted pursuant to the laws of this state. This paragraph shall not apply in cases where the state or local law enforcement agency has probable cause to believe the person is distributing marijuana to a person who is not allowed to possess it under this chapter.

XIII. A person who ceases to be a qualifying patient or designated caregiver shall have 10 days after notification by the department to dispose of marijuana in one of the following ways:

(a) If the person was a designated caregiver and the qualifying patient who designated the caregiver is still a qualifying patient, but has designated a new caregiver or will cultivate plants himself or herself, the designated caregiver may transfer marijuana to the new person who will cultivate for the qualifying patient;

(b) The person may notify local law enforcement and request that they dispose of the marijuana;

(c) The person may dispose of marijuana, after mixing marijuana with other ingredients such as soil to render it unusable; or

(d) The person may donate usable marijuana to a qualifying patient.

XIV. For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana in accordance with this chapter shall be considered the equivalent of the authorized use of any other medication used at the direction of a provider, and shall not constitute the use of an illicit substance.

126-V:3 Prohibitions and Limitations On the Use of Medical Marijuana.

I. A qualifying patient may use medical marijuana on privately owned real property only with the permission of the property owner.

II. Nothing in this chapter shall exempt any person from arrest or prosecution for:

(a) Being under the influence of marijuana while:

(1) Operating a motor vehicle, commercial vehicle, boat, or vessel, or any other vehicle propelled or drawn by power other than muscular power; or

(2) In his or her place of employment, without the written permission of the employer; or

(3) Operating heavy machinery or handling a dangerous instrumentality.

(b) The use or possession of marijuana by a qualified patient or designated caregiver for purposes other than for medical use as permitted by this chapter.

(c) The smoking of marijuana in any public place, including:

(1) A school bus, public bus, or other public vehicle; or

(2) A place of employment, without the written permission of the employer;

or

(3) The grounds of any preschool, elementary, or secondary school; or

(4) Any correctional facility; or

(5) Any public park, public beach, public recreation center, public field, or youth center.

III. Nothing in this chapter shall be construed to require:

(a) Any health insurance provider, health care plan, or medical assistance program to be liable for any claim for reimbursement for the medical use of marijuana; or

(b) Any individual or entity in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property. This chapter shall not limit an individual or entity in lawful possession of property, or an agent of such individual or entity, from expelling an individual who uses marijuana without permission from their property and from seeking civil and criminal penalties for the unauthorized use of marijuana on their property; or

(c) Any accommodation of the medical use of marijuana on the property or premises of any place of employment or on the property or premises of any jail, correctional facility, or other type of penal institution where prisoners reside or persons under arrest are detained. This chapter shall in no way limit an employer's ability to discipline an employee for ingesting marijuana in the workplace or for working while under the influence of marijuana;

IV. Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a fine of \$500, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this chapter.

V. A qualifying patient or designated caregiver who is found to be in possession of marijuana outside of his or her home and is not in possession of his or her registry identification card, may be subject to a \$100 fine.

126-V:4 Departmental Administration.

I. Except as provided in paragraph V, the department shall issue a registry identification card to a person applying as a qualifying patient who submits all of the following information:

(a) Written certification as defined in RSA 126-V:1.

(b) An application or renewal application.

(c) Name, residential and mailing address, and date of birth of the applicant, except that if the applicant is homeless, no residential address is required.

(d) Name, address, and telephone number of the applicant's provider.

(e) Name, address, and date of birth of the applicant's designated caregiver, if any.

A qualifying patient shall have only one designated caregiver.

(f) Street address of the cultivation location, if the qualifying patient does not have a designated caregiver.

(g) A statement signed by the applicant, pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter and acknowledging that his or her diversion of marijuana is punishable as a class B felony and revocation of his or her registry identification card, in addition to other penalties for the illegal sale of marijuana.

II.(a) Except as provided in paragraph V, the department shall issue a registry identification card to a person applying as a designated caregiver who submits all of the following information:

(1) An application or renewal application.

(2) Name, residential and mailing address, and date of birth of the applicant.

(3) Name, residential and mailing address, and date of birth of the qualifying patient for whom the applicant will act as designated caregiver, except that if the qualifying patient is homeless, no residential address is required. A designated caregiver shall act on behalf of only one qualifying patient.

(4) A complete set of fingerprints.

(5) Street address of the cultivation location.

(6) A statement indicating the applicant's preference as to whether the applicant requests the department to retain his or her fingerprints on file for any renewal

application or whether the applicant requests the department to destroy his or her fingerprints and acknowledges that the applicant shall resubmit fingerprints if the applicant applies for renewal as a designated caregiver.

(7) A signed statement from the applicant agreeing to act as the designated caregiver for the qualifying patient named in the application and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter and acknowledging that the diversion of marijuana is punishable as a class B felony and revocation of one's registry identification card, in addition to other penalties for the illegal sale of marijuana.

(b) A person who is applying to be a designated caregiver shall submit to a state and federal criminal records check. The department shall request the department of safety to perform the state and federal criminal records check and the department of safety shall complete such records checks and convey the findings of such checks to the department within 30 days of the request. The department and the department of safety may exchange necessary data including fingerprint data with the Federal Bureau of Investigation without disclosing that the records check is related to the provisions of this chapter and acts permitted by it. Unless the applicant stated that he or she prefers his or her fingerprints to be kept on file for any renewal, the department and the department of safety shall destroy each set of fingerprints obtained pursuant to this chapter after the criminal records check is complete.

III. The department shall verify the information contained in an application or renewal submitted pursuant to this section. The department shall approve or deny an application or renewal for a qualifying patient within 15 days of receipt of the application. The department shall approve or deny an application or renewal to serve as a designated caregiver within 45 days of receipt of the application. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or the applicant previously had a registry identification card revoked for violating the provisions of this chapter, or if the department determines that the information provided was falsified. The department shall notify an applicant of the denial of an application. An applicant who is aggrieved by a department decision may request an administrative hearing at the department.

IV. The department shall issue registry identification cards to persons applying as a qualifying patient or designated caregiver within 5 days of approving an application or renewal. Each registry identification card shall expire one year after the date of issuance, unless the provider states in the written certification that he or she believes the qualifying patient would benefit from medical marijuana only until a specified earlier date, then the registry identification card shall expire on that date. Registry identification cards shall contain all of the following:

(a) Name, mailing address, and date of birth of the qualifying patient or designated caregiver.

(b) The date of issuance and expiration date of the registry identification card.

(c) A random 10-digit identification number, containing at least 4 numbers and at least 4 letters, that is unique to the qualifying patient or the designated caregiver.

(d) A designation that the person is either a "qualifying patient" or a "designated caregiver." If the person is a designated caregiver, the identification card shall include the random 10-digit identification number of the qualifying patient for whom he or she is providing care.

(e) A photograph of the qualifying patient or designated caregiver.

(f) A statement that the qualifying patient or designated caregiver is permitted under state law to possess marijuana pursuant to this chapter for the medical use of the qualifying patient.

(g) For a qualifying patient's registry identification card, a statement that either:

(1) The person is a qualifying patient who has not designated a caregiver and is therefore exempt from state penalties for cultivating marijuana; or

(2) The person is a qualifying patient who has designated a caregiver, and therefore shall not be permitted to cultivate marijuana.

V. The department shall not issue a registry identification card to an applicant under 18 years of age who is applying as a qualifying patient unless:

(a) The applicant's provider has explained the potential risks and benefits of the medical use of marijuana to the custodial parent or legal guardian with responsibility for health care decisions for the applicant; and

(b) The custodial parent or legal guardian with responsibility for health care decisions for the applicant consents in writing to:

(1) Allow the applicant's medical use of marijuana; and

(2) Control the acquisition of the marijuana and the frequency of the medical use of marijuana by the applicant; and

(c) The custodial parent or legal guardian completes an application in accordance with the requirements of paragraph I on behalf of the applicant.

VI. The department shall send each approved qualifying patient and caregiver a statement with the registry identification card explaining federal law on the possession of marijuana and that possession of a state registry identification card does not protect a person from federal criminal penalties.

VII.(a) A qualifying patient shall notify the department of any change in his or her name, address, or designated caregiver within 10 days of such change. If the qualifying patient's certifying provider notifies the department in writing that either the qualifying patient no longer suffers from a debilitating medical condition or that the provider no longer believes the qualifying patient would receive benefit from the medical use of marijuana, the registry identification card shall become void upon notification by the department to the qualifying patient.

(b) When a qualifying patient or a designated caregiver notifies the department of any change to a name or address, the department shall issue the qualifying patient or designated caregiver a new registry identification card with a new random 10-digit identification number within 15 days of receiving the updated information.

(c) If a qualifying patient notifies the department of a change in his or her designated caregiver and the prospective designated caregiver meets the requirements of this chapter, the department shall issue the designated caregiver a registry identification card with a new random 10-digit identification number within 45 days of receiving the designated caregiver's application.

(d) A qualifying patient or designated caregiver who fails to notify the department of any changes to his or her name, address, designated caregiver, or cultivation location shall be guilty of a violation and may be subject to a fine not to exceed \$150.

(e) If a qualifying patient or designated caregiver loses his or her registry identification card, he or she shall notify the department within 10 days of losing the card. Within 5 days after such notification, the department shall issue a new registry identification card with a new random 10-digit identification number.

VIII. Mere possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the individual or property of the individual possessing or applying for the registry identification card. The possession of, or application for, a registry identification card shall not preclude the existence of probable cause if probable cause exists on other grounds.

IX.(a) The department shall create and maintain a confidential registry of each individual who has applied for and received a registry identification card as a qualifying patient or a designated caregiver in accordance with the provisions of this chapter. Each entry in the registry shall contain the qualifying patient's or designated caregiver's name, mailing address, date of birth, date of registry identification card issuance, date of registry identification card expiration, random 10-digit identification number, street address at which the marijuana plants will be cultivated or possessed, and the effective date of any change of

cultivation location. The confidential registry and the information contained in it shall be exempt from disclosure under RSA 91-A.

(b)(1) Except as specifically provided in this chapter, no person shall have access to any information about qualifying patients or designated caregivers in the department's confidential registry, or any information otherwise maintained by the department about providers, except for authorized employees of the department in the course of their official duties and local and state law enforcement personnel who have detained or arrested an individual who claims to be engaged in the medical use of marijuana.

(2) If a local or state law enforcement officer submits a sworn affidavit to the department affirming that they have probable cause to believe marijuana is possessed or cultivated at a specific address, an authorized employee for the department may disclose whether the location is associated with a qualifying patient, designated caregiver, or a cultivation location.

(3) If a local or state law enforcement officer submits a sworn affidavit to the department affirming that they have probable cause to believe a specific individual possesses or cultivates marijuana, an authorized employee for the department may disclose whether the person is a qualifying patient or a designated caregiver, provided that the law enforcement officer provides the person's name and address or name and date of birth.

(4) Counsel for the department may notify law enforcement officials about falsified or fraudulent information submitted to the department where counsel has made a legal determination that there is probable cause to believe the information is false or falsified.

X. Within 5 days of learning of the death of a qualifying patient, a surviving family member, caretaker, executor, or the patient's designated caregiver shall notify the department that the qualifying patient has died. Within 5 days of learning of the death of a qualifying patient, the surviving family member, caretaker, executor, or the patient's designated caregiver shall either request that the local law enforcement agency remove any remaining marijuana or shall dispose of the marijuana in a manner that is specified by the department by rule.

XI. The department shall submit to the legislature an annual report that shall not disclose any identifying information about qualifying patients, designated caregivers, or providers, but shall contain, at a minimum, the following information:

(a) The number of applications and renewals filed for registry identification cards.

(b) The number of qualifying patients and designated caregivers approved in the state.

(c) The nature of the debilitating medical conditions of the qualifying patients.

(d) The number of registry identification cards revoked.

(e) The number of providers providing written certifications for qualifying patients.

126-V:5 Affirmative Defense.

I. Except as provided in RSA 126-V:3, it is an affirmative defense to any prosecution for an offense involving marijuana or marijuana paraphernalia intended for medical use that:

(a) The defendant is a qualifying patient in possession of a valid registry identification card and at the time of arrest or prosecution was in possession of a quantity of marijuana that was not more than allowed under this chapter, and the qualifying patient was engaged in the medical use of marijuana in accordance with the provisions of this chapter; or

(b)(1) The defendant is a designated caregiver in possession of a valid registry identification card and at the time of arrest or prosecution was in possession of a quantity of marijuana that was not more than allowed under this chapter; and

(2) The designated caregiver was engaged in the medical use of marijuana on behalf of a qualifying patient in accordance with the provisions of this chapter.

(c) If a defendant proves the elements of the affirmative defense listed in subparagraph (I)(a) or (b), the charges shall be dismissed with prejudice.

II. A person who is arrested for possession, cultivation, or transportation of marijuana, or possession of marijuana paraphernalia, may raise as an affirmative defense that he or she is person with a debilitating medical condition who is not yet in possession of a valid registry identification card if:

(a) Prior to the arrest, the person submitted to the department a valid application to become a qualifying patient, complete with a written certification, but the person had not yet received a registry identification card from the department; and

(1) The person does not possess more than 2 ounces of usable marijuana and any amount of unusable marijuana, if the marijuana is not on the person's property; or

(2) If the marijuana is on the person's property, the person does not possess more than 6 ounces of usable marijuana and any amount of unusable marijuana and is not cultivating more than 4 mature marijuana plants and 12 seedlings, which shall be in a locked and enclosed location on the person's property.

(b) The affirmative defense under this section shall not be available to a person who has violated any of the provisions of RSA 126-V:3, I-IV.

(c) If a defendant proves the elements of the affirmative defense listed in this paragraph, the defendant shall be acquitted of any charge to which the defendant proved the affirmative defense.

III. A person who is arrested for possession, cultivation, or transportation of marijuana, or possession of marijuana paraphernalia, prior to the date on which the department begins accepting registry identification card applications may raise as an affirmative defense that he or she is a person with a debilitating medical condition who is not yet in possession of a valid registry identification card if:

(a) The person produces a written statement signed by a provider stating that in the provider's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a provider-patient relationship of at least 3 months duration, unless the person's debilitating medical condition is of recent or sudden onset in which case the 3-month time requirement shall not apply, the person has a debilitating medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the person; and

(1) The person does not possess more than 2 ounces of usable marijuana and any amount of unusable marijuana, if the marijuana is not on the person's property; and

(2) If the marijuana is on the person's property, the person does not possess more than 6 ounces of usable marijuana and any amount of unusable marijuana, and does not possess or is not cultivating more than 4 mature marijuana plants and 12 seedlings which shall be in a locked and enclosed location.

(b) The affirmative defense under this section shall not be available to a person who has violated any of the provisions of RSA 126-V:3, I-IV.

(c) If a defendant proves the elements of the affirmative defense listed in this paragraph, the defendant shall be acquitted of any charge to which the defendant proved the affirmative defense.

126-V:6 Rulemaking.

I. Not later than 90 days after the effective date of this chapter, the department shall adopt rules, pursuant to RSA 541-A, governing the manner in which it shall consider applications for issuance and renewals of registry identification cards for qualifying patients and designated caregivers and procedures for applications and renewals for registry identification cards.

II. The department may accept gifts, grants, donations, or other funds from private sources without the approval of the governor and council.

126-V:7 Registry Identification Card Fund. There is hereby established in the office of the state treasurer a fund to be known as the registry identification card fund which shall be kept separate and distinct from all other funds. The fund is established to pay for the operational expenses of the program for permitting the use of marijuana for medicinal purposes as established in this chapter. The moneys in this fund shall be nonlapsing and continually appropriated to the department. Interest on fund balances shall accrue to the fund. All fines received by the department and all monetary gifts, grants, or donations received by the department pursuant to this chapter shall be deposited in the fund.

2 New Subparagraph; Application of Receipts; Registry Identification Card Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (307) the following new subparagraph:

(308) Moneys deposited in the registry identification card fund established in RSA 126-V:7.

3 New Paragraph; Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2 by inserting after paragraph I-a the following new paragraph:

I-b. It shall be unlawful for a qualifying patient or designated caregiver as defined under RSA 126-V:1 to sell marijuana to another person who is not a qualifying patient or designated caregiver. A conviction for the sale of marijuana to a person who is not a qualifying patient or designated caregiver shall not be construed to preclude or limit a prosecution or conviction of any person for sale of marijuana or any other offense defined in this chapter.

4 New Paragraph; Controlled Drug Act; Penalties. Amend RSA 318-B:26 by inserting after paragraph IX the following new paragraph:

IX-a. A qualifying patient or designated caregiver as defined in RSA 126-V:1 who is convicted of selling marijuana to a person who is not a qualifying patient or designated caregiver shall be guilty of a class B felony and shall be sentenced to a maximum term of imprisonment of not more than 7 years, a fine of not more than \$300,000, or both.

5 Repeal. The following are repealed:

I. RSA 126-V:1 through RSA 126-V:7, relative to use of marijuana for medicinal purposes.

II. RSA 6:12, I(b)(308), relative to the registry identification card fund.

III. RSA 318-B:2, I-b, relative to selling marijuana to a person who is not a qualifying patient or a designated caregiver.

IV. RSA 318-B:26, IX-a, relative to the penalty for selling marijuana to a person who is not a qualifying patient or a designated caregiver.

6 Applicability. The provisions of RSA 126-V:1-4 as inserted by section 1 of this act shall take effect upon certification by the commissioner of the department of health and human services to the secretary of state and the director of the office of legislative services that sufficient funds are available in the registry identification card fund established in RSA 126-V:7 to meet the expenses of the use of marijuana for medicinal purposes program established in RSA 126-V.

7 Effective Date.

I. RSA 126-V:1-4 as inserted by section 1 of this act shall take effect as provided in section 6 of this act.

II. Section 5 of this act shall take effect July 1, 2015.

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