

CONSENT CALENDAR

February 9, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Education to which was referred HB
1222-FN,**

**AN ACT prohibiting coercion or interference in grading
and assessment procedures in public schools, colleges,
and universities. Having considered the same, report
the same with the following resolution: RESOLVED,
that it is INEXPEDIENT TO LEGISLATE.**

Rep. Rick Ladd

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Education
Bill Number:	HB 1222-FN
Title:	prohibiting coercion or interference in grading and assessment procedures in public schools, colleges, and universities.
Date:	February 9, 2022
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill establishes a criminal penalty for interference or for changing a student's earned grade within any public elementary or secondary school or public college or university. There are valid reasons that grades given in elementary or secondary schools may be changed after a teacher first records them. For example, a student may have done make-up work that should be included, an assignment or test may have been left out by accident, a child on long-term medical absence may be doing work through an alternative program, or a mathematical input error might need to be corrected. The vast majority of public school grade changes are made for these and similarly legitimate purposes. When the need to change a grade is necessary, a third party, often the guidance counselor or principal, will make the needed change. The committee also heard from public higher education that the University System New Hampshire has both written student protocols and university policy in place relative to student grades. The assignment of student grades at NH's educational institutions is a local district or higher education policy issue that should not be governed by another one size fits all statewide legislative mandate.

Vote 18-0.

Rep. Rick Ladd
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Education

HB 1222-FN, prohibiting coercion or interference in grading and assessment procedures in public schools, colleges, and universities. **INEXPEDIENT TO LEGISLATE.**

Rep. Rick Ladd for Education. This bill establishes a criminal penalty for interference or for changing a student's earned grade within any public elementary or secondary school or public college or university. There are valid reasons that grades given in elementary or secondary schools may be changed after a teacher first records them. For example, a student may have done make-up work that should be included, an assignment or test may have been left out by accident, a child on long-term medical absence may be doing work through an alternative program, or a mathematical input error might need to be corrected. The vast majority of public school grade changes are made for these and similarly legitimate purposes. When the need to change a grade is necessary, a third party, often the guidance counselor or principal, will make the needed change. The committee also heard from public higher education that the University System New Hampshire has both written student protocols and university policy in place relative to student grades. The assignment of student grades at NH's educational institutions is a local district or higher education policy issue that should not be governed by another one size fits all statewide legislative mandate. **Vote 18-0.**

Original: House Clerk

Cc: Committee Bill File

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 1222-FN

BILL TITLE: prohibiting coercion or interference in grading and assessment procedures in public schools, colleges, and universities.

DATE: February 9, 2022

LOB ROOM: 207

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Ladd

Seconded by Rep. Luneau

Vote: 18-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Melissa Litchfield, Clerk

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on Bill # 1222

BILL TITLE: ... Grading and Assessment procedures
DATE: 2/9/22
LOB ROOM: 207

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. Ladd Seconded by Rep. Luneau Vote: 18-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____


MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? _____ Yes No If yes, author, Rep: _____ Motion _____

Respectfully submitted:  _____
Rep. Melissa Litchfield, Clerk



2022 SESSION

Education

Bill #: 1222 Motion: ITL AM #: _____ Exec Session Date: 2/9/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Ladd, Rick M. Chairman <i>last</i>	18		
Cordelli, Glenn Vice Chairman <i>first</i>	1		
Litchfield, Melissa A. Clerk	2		
Boehm, Ralph G.	3		
Lekas, Alicia D.	4		
Moffett, Michael	5		
Hobson, Deborah L.	6		
Ford, Oliver J.	7		
Soti, Julius F.	8		
Nelson, Bill G.	9		
Myler, Mel-Walz, Mary Beth <i>second</i>	11		
Luneau, David J. <i>first</i>	10		
Cornell, Patricia			
Tanner, Linda L.	12		
Ellison, Arthur S.	13		
Mullen, Sue M.	14		
Woodcock, Stephen L.	15		
Porter, Marjorie	16		
A. Hall, Muriel C.	17		
TOTAL VOTE:	18	0	

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING on Bill # HB1222

BILL TITLE: prohibiting coercion or interference in grading and assessment procedures in public schools, colleges, and universities.

DATE: 2/9/22

ROOM: 205-207

Time Public Hearing Called to Order: 9:45 AM

Time Adjourned: 10:22 AM

Committee Members: Reps. Ladd, Cordelli, Boehm, A. Lekas, Moffett, Hobson, Ford, Soti, B. Nelson, Litchfield, Luneau, Cornell, Tanner, Ellison, Mullen, Woodcock, and Porter

Rep Ford, Prime Sponsor

This bill establishes a criminal penalty for interference with or falsification of student records.

Rep Walz, Why a Class B Felony, this is usually saved for violent crimes?

Response: Perhaps it is overstated. It just needs something that stops people from doing these actions.

Rep Walz, Did you know that even a Class A Misdemeanor can carry up to a year in jail?

Response: No I did not.

Rep Tanner, She read from "Rules" and "Code of Conduct" that we already have in NH. She feels this is already covered.

She further mentioned that at least in grades in k thru 12, this is an issue that would be handled at the local level. She has often seen Coaches approach teachers in classes where athletes were not doing well, and ask what the athlete needs to do to bring their grade up.

Rep Ford, This is to protect the teacher and the student. Let's say for example a major benefactor approaches the teacher, and puts them in a tough spot.

Rep Woodcock, Has concerns.

Rep Porter, This bill also mentions elementary and secondary students. Wondering what ramifications might be if a parent comes in and asks a teacher to change a grade. Would the teacher need to report the parents to the police?

Response: No, but teacher response should be, that is an improper request.

Rep Ladd, Shared a *Would You Believe?* He had to update grades over the years. It could be due to sickness of teachers or retirement. There could be make-up work that comes in, there could be an incomplete, and there could be a medical issue.

Response: He did not envision what Rep Ladd was stating when writing this bill. Yes, you are giving valid reasons to change a bill. This bill would need to be amended.

Rep Moffett, Gave a specific example and question.

Rep Nelson, Is there any warning in this? ... or is the Coach immediately fired.

Response: When this is a law, it should stop this issue. Although yes, there should be a warning.

Rep Lekas, Questions sending the definition of instructors on the bill.

Tom Cronin, University System of New Hampshire

Certainly appreciates and understands where the sponsor is coming from on this bill. He does oppose this bill.

He is most concerned about the words “persuade” or “interfere.”

A question regarding how an educational institution is defined. Feels if this is enacted in to law, should apply to all of the colleges within the state.

Agrees a Class B felony would be a harsh punitive punishment.

There is language in the bill regarding faculty suspensions, there are concerns regarding this and the contract language that the faculty have.

Rep Tanner, Concerns and Questions revolving around a student who eighteen years or older and parental involvement is.

Rep Woodcock, Does the faculty have a “Code of Ethics” that they follow.

Response: Yes

Rep Ladd, Do the students have a “Code of Ethics” as well.

Response: Yes

Russan Chester, supports this bill

She is speaking in favor of parental rights, since this bill does list elementary and secondary schools.

Respectfully submitted,

Rep. Melissa Litchfield, Clerk

House Remote Testify

Education Committee Testify List for Bill HB1222 on 2022-02-09

Support: 7 Oppose: 6 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Frostholm, Margaret	Concord, NH pfrostholm@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 6:52 AM
Doherty, David	Pembroke, NH ddoherty0845@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 8:23 AM
Dellisola, David	Derry, NH daviddellisola@hotmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 9:40 AM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Support	No	No	2/7/2022 11:49 AM
Brackett, Glenn	Hooksett, NH communications@nhaficio.org	A Lobbyist	NH AFL-CIO	Oppose	No	No	2/7/2022 12:10 PM
Vincent, Laura	Loudon, NH lvlauravincen5@gmail.com	An Elected Official	Myself	Oppose	No	No	2/7/2022 4:06 PM
OKHUYSEN, CATHERINE	Portsmouth, NH cathomusic@gmail.com	A Member of the Public	Myself	Support	No	No	2/7/2022 7:28 PM
Robinson, Steven	Northwood, NH Nikkiandme@yahoo.com	A Member of the Public	Myself	Support	No	No	2/7/2022 8:31 PM
Robinson, Karen	Northwood, NH Bdabng12@yahoo.com	A Member of the Public	Myself	Support	No	No	2/7/2022 8:32 PM
Richardson, Bryan	Alexandria, NH marks-dad@ipatriots.us	A Member of the Public	Myself	Support	No	No	2/8/2022 1:35 AM
Lewis, Elizabeth	Nashua, NH ecop.lewis@gmail.com	A Member of the Public	Myself	Support	No	No	2/8/2022 7:34 AM
Sharfstein, Ann	Lebanon, NH ann.sharfstein@gmail.com	A Member of the Public	Myself	Support	No	No	2/8/2022 11:30 AM
Reid, Shannon	Concord, NH sreid@ccsnh.edu	A Lobbyist	Community College System of New Hampshire	Oppose	No	No	2/8/2022 4:49 PM



Community College System of New Hampshire (CCSNH)
Testimony in opposition to **HB1222**, *prohibiting coercion or interference in grading and
assessment procedures in public schools, colleges, and universities*
House Committee on Education
February 9, 2022

Thank you for the opportunity to provide testimony on House Bill 1222, establishing a criminal penalty for interference with or falsification of student records. Although we recognize the intent of the bill is to prevent improper coercion with respect to grading, CCSNH must oppose the bill as written.

While coercion or other undue attempts to alter earned grades is improper, we would strongly caution against putting the language of HB1222 into law. Placing grading improprieties in the criminal code, and classifying such conduct as a class B felony, is extreme and excessive. The bill could also create great uncertainty over legitimate attempts to improve a grade such as making a case to an instructor for extra credit or seeking a reassessment of an assignment. In fact, CCSNH has a grade appeal process that begins with the student meeting with his or her instructor to discuss the appeal, followed, if unresolved, by meetings with department heads and college administrators. Such meetings could clearly fall within the conduct described in HB1222 and would be subject to the criminal penalties the bill outlines. Assuming this is not the intent of the bill, we would ask the committee to look closely at the language to avoid that unintended consequence.

While broadly we do not believe that grading improprieties belong in the NH criminal code, we also find it of great concern that the intent of HB1222 is to classify such conduct in the same way the state classifies as class B felonies offenses such as distribution of child sexual abuse images, second degree assault, felonious sexual assault, reckless conduct with use of a deadly weapon, and driving under the influence with injury resulting. The penalty for class B offenses is a 3 ½ to 7-year sentence in state prison.

We are not aware of instances of coercion or improper acts related to grades within our institutions. We ask that if legislators have any specific or general concerns about grading practices, they contact us as a first step. CCSNH administration is more than willing to discuss any questions or concerns from our elected officials.

Thank you for your consideration.

Contact: Shannon Reid, CCSNH Director of Government Affairs and Communications, sreid@ccsnh.edu, 603-230-3504

Archived: Wednesday, February 9, 2022 9:31:40 AM

From: [Shannon Reid](#)

Sent: Tuesday, February 8, 2022 5:08:42 PM

To: ~House Education Committee

Cc: [Jennifer Foor](#)

Subject: Note from Community College System re: HB1222, prohibiting coercion or interference in grading and assessment procedures

Importance: Normal

Attachments:

CCSNH Testimony HB1222 House Education Feb 9 2022.pdf ;

Good Afternoon Members of House Education,

On Wednesday Feb. 9 at 9:45 AM you will hear HB1222, prohibiting coercion or interference in grading and assessment procedures in public schools, colleges, and universities. After speaking with the sponsor, Rep. Ford, my understanding is that this bill was filed in light of situations that have arisen in other states with athletics programs. I appreciate the time Rep. Ford took today to speak with me and provide that context.

As I noted to the sponsor, CCSNH has concerns with this bill as written. Unfortunately, I will be out of state when the bill is heard. However, I hope you will review my testimony, attached, and also submitted through the portal. CCSNH would be happy to engage in additional conversations on this bill should any members wish to do so.

Regards,

Shannon Reid

Executive Director of Government Affairs and Communications
Community College System of NH

CHOOSE COMMUNITY

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Community College System of New Hampshire (CCSNH)
Testimony in opposition to **HB1222**, *prohibiting coercion or interference in grading and
assessment procedures in public schools, colleges, and universities*
House Committee on Education
February 9, 2022

Thank you for the opportunity to provide testimony on House Bill 1222, establishing a criminal penalty for interference with or falsification of student records. Although we recognize the intent of the bill is to prevent improper coercion with respect to grading, CCSNH must oppose the bill as written.

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We are not aware of instances of coercion or improper acts related to grades within our institutions. We ask that if legislators have any specific or general concerns about grading practices, they contact us as a first step. CCSNH administration is more than willing to discuss any questions or concerns from our elected officials.

Thank you for your consideration.

Contact: Shannon Reid, CCSNH Director of Government Affairs and Communications, sreid@ccsnh.edu, 603-230-3504



House Education Committee

February 9, 2022

HB 1222, prohibiting coercion or interference in grading and assessment procedures
in public schools, colleges, and universities

Testimony of Tom Cronin, Director of Government Relations, UNH/USNH

The University System of New Hampshire and its component institutions are committed to honest, fair, and clear grading practices that appropriately reflect a student's mastery of knowledge, their effort, and their engagement with coursework. Academic honesty is a core value on our campuses, and our institutions have clear policies and procedures in place to address potential violations.

While we appreciate the intentions behind HB 1222, prohibiting coercion or interference in grading and assessment procedures in public schools, colleges, and universities, it is important to raise a few concerns with the bill as drafted.

First, sections two and three of the legislation use the word "persuade" in the list of prohibited activities. We are concerned the inclusion of that word, alongside others with traditionally more nefarious intent, may stifle the legitimate grading appeals processes at our colleges and universities. As drafted, the bill could prevent a student from advocating for their own grade appeal or could prevent them from involving an advisor, student advocate, or other administrator in a grade appeal.

Second, as this bill is amending the state's criminal code, we question why the prohibitions and penalties related to the falsification of student records would only apply to the state's public colleges and universities. If the legislature agrees with the necessity of including this issue in the criminal code it should do so in a way that protects academic honesty at all institutions of learning.

Third, while we agree with the importance of this issue, we are concerned the penalties required by the legislation are incredibly punitive. A Class B felony in New Hampshire is punishable by up to seven years in prison. For faculty under contract, we are concerned that the required suspension and other penalties in the proposal would be contrary to collectively bargained discipline and grievance procedures.

Fourth and finally, this appears to be a solution without a problem. We are unaware of significant issues regarding grade interference in New Hampshire. Our institutions of higher education have the cultures and processes in place that both dissuade this behavior and appropriately address it should it arise. We would ask the committee to consider whether state law is truly needed on this issue.

Contact: Tom Cronin, Director of Government Relations
thomas.cronin@unh.edu | 603-264-5659

Archived: Wednesday, February 9, 2022 9:31:39 AM

From: [Thomas Cronin](#)

Sent: Tuesday, February 8, 2022 9:11:22 PM

To: ~House Education Committee

Cc: [Jennifer Foor](#)

Subject: USNH Testimony on HB 1222

Importance: Normal

Attachments:

[Testimony on HB 1222 \(2022\) House Education Committee.docx](#) 

Good evening committee members,

On behalf of USNH, attached please find written testimony on HB 1222, prohibiting coercion or interference in grading and assessment procedures in public schools, colleges, and universities.

I plan to attend the hearing tomorrow morning and look forward to speaking further with you all on this bill at that time.

Thank you,

Tom

Thomas P. Cronin

Executive Director of Government Relations

University of New Hampshire, University System of New Hampshire

thomas.cronin@unh.edu | 603.264.5659

HB 1222-FN - AS INTRODUCED

2022 SESSION

22-2292

04/05

HOUSE BILL **1222-FN**

AN ACT prohibiting coercion or interference in grading and assessment procedures in public schools, colleges, and universities.

SPONSORS: Rep. Ford, Rock. 4

COMMITTEE: Education

ANALYSIS

This bill establishes a criminal penalty for interference with or falsification of student records.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~in brackets and struck through.~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT prohibiting coercion or interference in grading and assessment procedures in public schools, colleges, and universities.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Falsification in Official Matters; Interference With or Falsification of Student
2 Records. Amend RSA 641 by inserting after section 8 the following new section:

3 641:9 Interference With or Falsification of Student Records.

4 I. In this section:

5 (a) "Educational institution" means any public elementary or secondary school or public
6 college, university, or other postsecondary institution operating in this state.

7 (b) "Instructor" means any full-time or part-time employee working as a substitute, or
8 adjunct teacher or administrator at an educational institution.

9 II. A person shall be guilty of a class B felony if such person intimidates, coerces, persuades,
10 or otherwise interferes with, or attempts to intimidate, coerce, persuade, or otherwise interfere with
11 an official assessment or grading process in an educational institution, including any effort or
12 attempted effort to change or cause the student's instructor to change a legitimate, earned grade
13 from the student's earned grade or to a higher grade.

14 III. Any instructor who acquiesces to an effort to intimidate, coerce, persuade, or otherwise
15 interfere with an official assessment or grading process in an educational institution, or who is
16 aware of such effort and fails to report it to the proper authorities, shall be guilty of a class B felony.

17 IV. A person shall be guilty of a class B felony if such person causes a student to believe that
18 benefits will accrue to a student that such person is not authorized to offer, or that such person can
19 modify the student's official academic transcript to reflect academic success regardless of academic
20 performance.

21 V.(a) Any person convicted under paragraph II or III shall be suspended from employment
22 as an instructor at an educational institution in New Hampshire for a period of one year and shall
23 have their professional credentials suspended by the appropriate licensing board for one year. If the
24 convicted offender is not employed at an educational institution, the person shall be sentenced to a
25 minimum of 7 days of incarceration.

26 (b) Any person convicted under paragraph IV shall be suspended from employment as an
27 instructor at an educational institution in New Hampshire for a period of 3 years and shall have
28 their professional credentials suspended by the appropriate licensing board for 3 years. If the
29 convicted offender is not employed at an educational institution, the person shall be sentenced to a
30 minimum of 7 days of incarceration.

HB 1222-FN - AS INTRODUCED

- Page 2 -

1 2 Effective Date. This act shall take effect 60 days after its passage.

**HB 1222-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT prohibiting coercion or interference in grading and assessment procedures in public schools, colleges, and universities.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill establishes a criminal penalty relative to coercion or interference with grading and assessment procedures in public schools, colleges, and universities, which may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures, if any, in FY 2023 and each year thereafter. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Council	FY 2022	FY 2023
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. Beginning in March of 2021, the public defender program has had to close intake to new cases due to excessive caseloads. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). Due to these closures, the contract and assigned		

counsel program have had to absorb significantly more cases. The system is experiencing significant delays in appointing counsel and the costs of representation have increased due to travel time and multiple appointments. The situation may improve by the bill becomes law, but at this time criminalizing new conduct will have a significant fiscal impact on an over-burdened system.		
Department of Corrections	FY 2022	FY 2023
FY 2021 Average Cost of Incarcerating an Individual	\$54,386	\$54,386
FY 2021 Annual Marginal Cost of a General Population Inmate	\$5,715	\$5,715
FY 2021 Average Cost of Supervising an Individual on Parole/Probation	\$603	\$603
NH Association of Counties	FY 2022	FY 2023
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

This bill contains penalties that may have an indeterminable impact on the Judicial Branch system. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. In the past the Judicial Branch has used averaged caseload data based on time studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine criminal cases currently available to the Judicial Branch are based on studies of judicial and clerical weighted caseload times for processing average routine criminal cases that are more than fifteen years old so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department may be able to absorb the cost within its existing budget. However, if the Department needs to prosecute significantly more cases or handle more appeals, then costs will increase by an indeterminable amount.

AGENCIES CONTACTED:

Judicial Branch, Departments of Corrections and Justice, Judicial Council, and New Hampshire Association of Counties