

March 22, 2012  
No. 12

# STATE OF NEW HAMPSHIRE

Web Site Address: [www.gencourt.state.nh.us](http://www.gencourt.state.nh.us)



**Second Year of the 162<sup>nd</sup> Session of the  
New Hampshire General Court  
Legislative**

## SENATE CALENDAR

---

**THE SENATE WILL MEET IN SESSION ON WEDNESDAY,  
MARCH 28, 2012, AT 10:00 A.M.**

---

**LAID ON THE TABLE**

**SB 74-FN**, relative to the life settlements act. **01/25/12, pending motion Inexpedient to Legislate, Commerce, SJ 3, pg. 80**

**SB 163-FN**, relative to the New Hampshire health benefit exchange. **01/18/12, pending motion Committee Amendment (0164s), Commerce, SJ 2, pg. 36**

**SB 279-FN**, establishing registers of probate as clerks of the probate division of the circuit court. **03/07/12, pending motion Inexpedient to Legislate, Judiciary, SJ 6, pg. 164**

**SB 292-FN**, relative to property taxation of certain manufactured housing. **03/21/12, pending motion Committee Amendment (1217s), Ways and Means, SJ 7, pg. TBA**

**SB 293-FN**, relative to notice requirements and payment of interest by the department of revenue administration for overpayments and underpayments of tax. **03/21/12, pending motion Inexpedient to Legislate, Finance, SJ 7, pg. TBA**

**SB 350-FN**, relative to the sale of portable electronics insurance. **02/15/12, pending motion Inexpedient to Legislate, Commerce, SJ 5, pg. 129**

**SB 355**, clarifying the exemption for attorneys from licensing requirements for mortgage brokers or bankers. **02/15/12, pending motion Ought to Pass, Commerce, SJ 5, pg. 129**

**SB 359**, relative to civil actions involving accessibility standards for public buildings. **03/21/12, pending motion Floor Amendment (1344s), Judiciary, SJ 7, pg. TBA**

**SB 377-FN**, relative to unemployment compensation eligibility for participants in the return to work program. **02/15/12, pending motion Committee Amendment (0655s), Commerce, SJ 5, pg. 130**

**HB 518-FN-A**, changing the prospective repeal date for the research and development tax credit. **03/21/12, pending motion Ought to Pass, Ways and Means SJ 7, pg. TBA**

**CONSENT CALENDAR REPORTS**

**EDUCATION**

**SB 267**, relative to the establishment of school zones and school zone speed limits by municipalities. Inexpedient to Legislate, Vote 5-0.  
Senator Stiles for the committee.

This bill permits local authorities to decrease the speed limit in an area near a school that has not been approved as a school zone by the department of transportation. Senate Bill 267 was introduced based on a disagreements between a local school and the DOT. Since that time the disagreements have been resolved and the legislation is no longer necessary.

**SB 300**, relative to special education services in chartered public schools. Ought to Pass with Amendment, Vote 5-0.  
Senator Carson for the committee.

This bill establishes a procedure for the provision of special education and related services to a child with disability who is enrolled in a chartered public school and requires a chartered public school to provide due process. Senate Bill 300 adds clarifying language to the current law to ensure a child with disabilities has access to a free and appropriate public education.

**SB 408**, relative to a school district's policy informing parents of bullying incidents. Inexpedient to Legislate, Vote 5-0.  
Senator Forsythe for the committee.

This bill changes the procedure of a school's policy on granting a waiver from notifying parents of incidents of bullying and cyberbullying. The committee found that the current process is working and allows each school district to determine the procedures it deems necessary. We found that the waiver is rarely used and this change in law would be unnecessary.

## **ENERGY AND NATURAL RESOURCES**

**SB 388**, setting the natural mean high water mark of Silver Lake in Belmont and Tilton.  
Ought to Pass with Amendment, Vote 5-0.  
Senator Merrill for the committee.

This bill permits certain landowners of properties along Silver Lake that have deeds stating their land extends beyond the public trust boundary to use such property. Additionally, the bill requires the department of environmental services to reassess the high water mark of Silver Lake, and report its determination to the committee by November.

**SB 396**, declaring the Temple Mountain ski area a historic site.  
Inexpedient to Legislate, Vote 5-0.  
Senator Lambert for the committee.

This bill would have declared the Temple Run ski area a historic site. However, the committee understands that the management structure that is in place is working and the process has now been started for a historical highway marker through the Department of Cultural Resources to properly honor the historical significance of the site.

## **EXECUTIVE DEPARTMENTS AND ADMINISTRATION**

**HB 193**, relative to the Mount Washington commission.  
Ought to Pass with Amendment, Vote 5-0.  
Senator Carson for the committee.

As amended this bill requires that the Mount Washington Commission submit an annual report to the senate president and the speaker of the house of representatives detailing expenses incurred by the legislative members of the commission while in performance of their duties for the commission. This amendment also changes the term lengths for the members of the commission from 5 years to 4 years and as well establishes a quorum requirement of seven members.

**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.  
Ought to Pass with Amendment, Vote 5-0.  
Senator Carson for the committee.

This bill establishes a house member study committee to research the rulemaking authority of state agencies to establish fees.

## **HEALTH AND HUMAN SERVICES**

**HB 1349-L**, relative to the service of town health officers.  
Ought to Pass, Vote 5-0.  
Senator Sanborn for the committee.

Today, by statute, Municipal Health Officers are prohibited from assisting other communities. Passage of HB 1349 will expand jurisdictional powers, to empower health officers and communities to enter into or enjoy sharing the services of officers when needed to cover sick or unavailable officers or provide unique expertise. The Bill also contains guidelines to consider compensation mechanics.

## **INTERNAL AFFAIRS**

**HB 656**, relative to boundaries of wards.  
Inexpedient to Legislate, Vote 5-0.  
Senator Bragdon for the committee.

This bill contains a number of provisions dealing with ward boundaries, especially as they relate to state legislative districts. The provisions in this bill were incorporated into HB 592, which passed the Senate earlier this session, thus making this bill unnecessary.

**HB 1717**, apportioning county commissioner districts.  
Ought to Pass, Vote 5-0.  
Senator Lambert for the committee.

This legislation establishes new county commissioner districts in accordance with the latest federal decennial census. All county commissioners approve of the new districts.

**JUDICIARY**

**SB 275-FN**, relative to causing death or serious bodily injury by means of a fraudulent act.  
Interim Study, Vote 5-0.  
Senator Carson for the committee.

This bill was filed in response to a particular situation that, for reasons specific to the case, did not result in a penalty that was adequate from the family's perspective. However, the Committee - with consent of sponsor - recommends Interim Study to determine implications of amending existing criminal statute.

**PUBLIC AND MUNICIPAL AFFAIRS**

**SB 210**, relative to the default budget in school districts which have adopted the official ballot method of voting.  
Inexpedient to Legislate, Vote 5-0.  
Senator Barnes for the committee.

This bill would have provided that the default budget shall not exceed the operating budget in school districts which have adopted the official ballot method of voting. It was decided the subject matter would be appropriate for study by the committee established in SB 238, whose responsibilities include the assessment of current procedures.

**SB 353-L**, relative to establishing water and sewer infrastructure in the commercial district of a town.  
Interim Study, Vote 5-0.  
Senator Boutin for the committee.

This bill enabling municipalities to protect the water supply by establishing centralbusiness utility districts and providing utility services in compliance with various governmental requirements, is worthy of further research and analysis. Thus, the committee recommends Interim Study.

**HB 1134**, establishing a committee to study the construction of a permanent memorial to Governor John Gilbert Winant on state property other than the state house grounds.  
Ought to Pass, Vote 5-0.  
Senator Merrill for the committee.

This bill establishes a committee to study the construction of a permanent memorial to Governor John Gilbert Winant, including an appropriate site, design and private funding source. The memorial will be located on state property other than the State House grounds.

**HB 1420**, relative to the disposition of the remains of service members.  
Ought to Pass, Vote 5-0.  
Senator Boutin for the committee.

This bill declares that if a service member has designated an individual responsible for his or her remains in the event of the service member's death, such person shall have custody and control over the final disposition of the body and personal effects. The designation must be made on a US Department of Defense Record of Emergency Data Form, DD Form 93.

## **REGULAR CALENDAR REPORTS**

**COMMERCE**

**SB 205**, revising the New Hampshire business corporations act, RSA 293-A.  
Ought to Pass with Amendment, Vote 3-2.  
Senator Prescott for the committee.

**SB 251**, prohibiting certain games and contests in premises licensed by the liquor commission.  
Inexpedient to Legislate, Vote 4-1.  
Senator Sanborn for the committee.

**SB 341**, authorizing electronic payment of payroll.  
Inexpedient to Legislate, Vote 3-2.  
Senator De Blois for the committee.

## **EDUCATION**

**SB 401**, relative to reporting the average daily membership of pupils in the public schools.  
Ought to Pass with Amendment, Vote 4-1.  
Senator Forsythe for the committee.

## **ENERGY AND NATURAL RESOURCES**

**SB 215**, relative to the duties of the site evaluation committee.  
Ought to Pass with Amendment, Vote 5-0.  
Senator Bradley for the committee.

**SB 224**, relative to lead fishing sinkers and jigs.  
Ought to Pass with Amendment, Vote 4-1.  
Senator Odell for the committee.

**SB 258**, authorizing group net metering for limited electrical energy producers.  
Ought to Pass with Amendment, Vote 5-0.  
Senator Bradley for the committee.

## **EXECUTIVE DEPARTMENTS AND ADMINISTRATION**

**HB 449-FN**, relative to reports on information available on the state website.  
Ought to Pass, 5-0.  
Senator White for the committee.

**HB 458-FN-A**, establishing a sunset review process for executive agency and judicial programs and making an appropriation therefor.  
Inexpedient to Legislate, Vote 5-0.  
Senator White for the committee.

**HB 654-FN-L**, relative to credit for retirement system employer contribution overpayments.  
Inexpedient to Legislate, Vote 5-0.  
Senator Groen for the committee.

## **FINANCE**

**SB 203-FN-A**, relative to limited liability companies.  
Ought to Pass with Amendment, Vote 7-0.  
Senator Barnes for the committee.

**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, and making an appropriation therefor.  
Ought to Pass with Amendment, Vote 6-1.  
Senator Morse for the committee.

**SB 259**, relative to the appointment of the director of ports and harbors.  
Ought to Pass with Amendment, Vote 7-0.  
Senator Morse for the committee.

**SB 294-FN**, relative to dedicated funds administered by the department of labor, department of environmental services, banking department, and secretary of state.  
Interim Study, Vote 7-0.  
Senator D'Allesandro for the committee.

**SB 311-FN-A**, establishing a director of the division of weights and measures and relative to the enforcement of weights and measures rules and statutes.  
Ought to Pass with Amendment, Vote 7-0.  
Senator D'Allesandro for the committee.

**SB 314-FN**, relative to state-owned vehicle fleet management.  
Ought to Pass with Amendment, Vote 7-0.  
Senator Morse for the committee.

**SB 326-FN-L**, relative to state reimbursement of towns for upkeep of dams under the Merrimack River Flood Control Compact and the Connecticut River Flood Control Compact.  
Ought to Pass with Amendment, Vote 7-0.  
Senator Barnes for the committee.

**SB 343-FN**, establishing an independent board of psychologists.

Ought to Pass with Amendment, Vote 4-3.

Senator Gallus for the committee.

**SB 372-FN-L**, establishing an education tax credit.

Interim Study, Vote 4-3.

Senator Morse for the committee.

**SB 383-FN-L**, revising the distribution of school building aid grants.

Ought to Pass, Vote 7-0.

Senator Barnes for the committee.

**SB 386-FN-A**, authorizing the state treasurer to issue bonds for highway construction.

Interim Study, Vote 7-0.

Senator Barnes for the committee.

**SB 407-FN**, establishing an office of professional licensure and transferring administrative and clerical operations of certain professional licensing and certification boards to the office.

Ought to Pass with Amendment, Vote 7-0.

Senator Morse for the committee.

### **HEALTH AND HUMAN SERVICES**

**SB 402**, relative to the adoption of policies for the management of concussion and head injury in youth sports.

Ought to Pass with Amendment, Vote 4-0.

Senator Kelly for the committee.

**SB 409-FN**, relative to the use of marijuana for medicinal purposes.

Ought to Pass with Amendment, Vote 5-0.

Senator Sanborn for the committee.

**HB 1567**, establishing a committee to study the federal Youth Corrections Act.

Ought to Pass with Amendment, Vote 4-1.

Senator De Blois for the committee.

### **INTERNAL AFFAIRS**

**CACR 33**, relating to biennial legislative sessions. Providing that the general court shall meet biennially.

Ought to Pass, Vote 3-2.

Senator Lambert for the committee.

**SB 202**, apportioning congressional districts.

Ought to Pass, Vote 5-0.

Senator Bradley for the committee.

### **JUDICIARY**

**SB 270**, relative to civil commitment of persons found incompetent to stand trial.

Ought to Pass with Amendment, Vote 4-0.

Senator Forsythe for the committee.

**SB 273**, relative to vexatious litigants.

Ought to Pass, Vote 3-0.

Senator Groen for the committee.

**SB 276-FN**, establishing a criminal offense for vandalizing or defacing state, municipal, or commercial property.

Inexpedient to Legislate, Vote 5-0.

Senator Houde for the committee.

**SB 301**, relative to landlord-tenant remedies.

Ought to Pass with Amendment, Vote 2-1.

Senator Luther for the committee.

**SB 364**, relative to tenant guest practices.

Inexpedient to Legislate, Vote 2-1.

Senator Groen for the committee.

**SB 385**, relative to police investigations of motor vehicle accidents involving police officers.

Inexpedient to Legislate, Vote 3-0.

Senator Luther for the committee.

**SB 406**, establishing an early offer alternative in medical injury claims.  
Ought to Pass with Amendment, Vote 4-0.  
Senator Forsythe for the committee.

#### **PUBLIC AND MUNICIPAL AFFAIRS**

**SB 393**, relative to the definition of “meeting” under the right-to-know law.  
Inexpedient to Legislate, Vote 4-1.  
Senator Barnes for the committee.

**HB 1229**, declaring March 30 as Welcome Home Veterans Day to honor veterans of Vietnam.  
Inexpedient to Legislate, Vote 4-0.  
Senator Barnes for the committee.

**HB 1710**, establishing a commission to identify issues for legislation related to strengthening the role of fathers in families with divorced or unmarried parents.  
Inexpedient to Legislate, Vote 4-1.  
Senator Barnes for the committee.

#### **WAYS AND MEANS**

**HB 1221**, relative to the credit for the business enterprise tax against the business profits tax.  
Ought to Pass, Vote 5-0.  
Senator Boutin for the committee.

**HB 1302-FN**, relative to underpayment of estimated taxes and equalization of valuations administered by the department of revenue administration.  
Ought to Pass, Vote 5-0.  
Senator D’Allesandro for the committee.

## **AMENDMENTS**

**Senate Finance**  
**March 22, 2012**  
**2012-1411s**  
**03/05**

#### **Amendment to SB 203-FN-A**

Amend RSA 304-C:28, IV as inserted by section 2 of the bill by replacing it with the following:

IV. The document shall be in the English language. However, a limited liability company name need not be in English if written in English letters or Arabic or Roman numerals.

Amend RSA 304-C:28, VIII as inserted by section 2 of the bill by replacing it with the following:

VIII. Documents filed electronically must be accompanied by the correct filing fee, and any franchise tax, license fee, or penalty required by this act or other law.

Amend RSA 304-C:29, I(a) as inserted by section 2 of the bill by replacing it with the following:

(a) On the date and at the time it is filed, as evidenced by the secretary of state’s date endorsement of the original document; or

Amend RSA 304-C:31, I as inserted by section 2 of the bill by replacing it with the following:

I. In order to form a domestic limited liability company, one or more authorized persons shall deliver a certificate of formation and the certificate required by RSA 421-B:11, II(a) to the secretary of state for filing.

Amend RSA 304-C:32, I(a) as inserted by section 2 of the bill by replacing it with the following:

(a) Shall contain the words “limited liability company” or the abbreviation “L.L.C.” or “LLC” or any other similar abbreviation; and

Amend the introductory paragraph of RSA 304-C:32, III as inserted by section 2 of the bill by replacing it with the following:

III. Except as authorized by paragraph IV, V, or VI, a limited liability company name, based upon the records of the secretary of state, shall be distinguishable from, and not the same as, or not likely to be confused with or mistaken for:

Amend RSA 304-C:32, III(c) as inserted by section 2 of the bill by replacing it with the following:

- (c) The fictitious name of another foreign entity authorized to transact business in this state;

Amend RSA 304-C:32, III(e) as inserted by section 2 of the bill by replacing it with the following:

- (e) The name of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of the political organization; or

Amend RSA 304-C:32, V(a) as inserted by section 2 of the bill by replacing it with the following:

- (a) The holder or holders of the name as described in paragraph III gives written consent to use the name that is not distinguishable from, or likely to be confused with or mistaken for the name of the applying limited liability company; or if the name is the same, one or more words are added to the name to make the new name distinguishable from the other name; or

Amend RSA 304-C:142 as inserted by section 2 of the bill by replacing it with the following:

#### 304-C:142 Certificate of Cancellation of Certificate of Formation.

I. After the dissolution of the limited liability company under RSA 304-C:129, and the completion of its winding-up and liquidation, the limited liability company may file a certificate of cancellation with the secretary of state.

II. This certificate shall set forth:

- (a) The name of the limited liability company;
- (b) The reason for filing the certificate of cancellation;
- (c) The effective date, if it is not to be effective upon the filing; and
- (d) Any other information the members or managers filing the certificate shall deem proper.

III. If the certificate specifies a delayed effective time and date, the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document becomes effective at the time it is received on that date. A delayed effective date for a document may not be later than the ninetieth day after the date it is filed.

Amend RSA 304-C:175 as inserted by section 2 of the bill by replacing it with the following:

304-C:175 Requirement of Registration by Foreign Limited Liability Companies; Applications for Registration. Before doing business in New Hampshire, a foreign limited liability company shall register with the secretary of state. In order to register, a foreign limited liability company shall pay the fee required by RSA 304-C:191, II(h) and shall file the certificate required by RSA 421-B:11, II(a) and an application for registration as a foreign limited liability company, setting forth:

I. The name of the foreign limited liability company and, if different, the name under which it proposes to register and do business in New Hampshire;

II. The state, territory, possession, or other jurisdiction or country where formed, and the date of its formation;

III. The nature of the business or purposes to be conducted or promoted in New Hampshire;

IV. The address of the registered office and name and address of the registered agent for service of process required to be maintained under RSA 304-C:177, IV; and

V. The name and address of any manager or member signing the application.

Amend RSA 304-C:177, V(e) as inserted by section 2 of the bill by replacing it with the following:

- (e) If the current registered agent is to be changed, the name of its new registered agent; and

Amend RSA 304-C:197 as inserted by section 2 of the bill by replacing it with the following:

304-C:197 Filing of Certificates, Etc. Online. The secretary shall, with reasonable promptness, adopt and implement comprehensive regulations permitting online filing of certificates of formation and other documents required to be filed under the act.



**Commerce**  
**March 20, 2012**  
**2012-1347s**  
**03/04**

**Amendment to SB 205**

Amend RSA 293-A:1.20(e) as inserted by section 1 of the bill by replacing it with the following:

(e) The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals.

Amend RSA 293-A:1.20(i) as inserted by section 1 of the bill by replacing it with the following:

(i) The document must be delivered to the office of the secretary of state for filing and shall be accompanied by the correct filing fee, and any franchise tax, license fee, or penalty required by this chapter or other law. Delivery may be made by electronic transmission if and to the extent permitted by the secretary of state.

Amend RSA 293-A:1.20(j)(3)(ii) as inserted by section 1 of the bill by replacing it with the following:

(ii) "plan" means a plan of domestication, entity conversion, merger, or share exchange.

Amend RSA 293-A:1.22(a)(5)-(9) as inserted by section 1 of the bill by replacing it with the following:

(5) Articles of domestication	\$ 35
(6) Articles of charter surrender	\$ 35
(7) Articles of domestication and conversion	\$ 35
(8) Articles of entity conversion	\$ 35
(9) Statement of Abandonment of a Domestication	\$ 35
(9A) Statement of Abandonment of a Merger or Share Exchange	\$ 35

Amend RSA 293-A:1.24(a) as inserted by section 1 of the bill by replacing it with the following:

(a) A domestic or foreign corporation may correct a document filed with the secretary of state within one year of filing, if:

- (1) the document contains an inaccuracy; or
- (2) the document was defectively executed, attested, sealed, verified, or acknowledged.

Amend RSA 293-A:1.25(b) as inserted by section 1 of the bill by replacing it with the following:

(b) The secretary of state files a document by stamping or otherwise endorsing "Filed", together with his or her name and official title and the date of receipt on the filed document. After filing a document, except as provided in RSA 293-A:5.03 and RSA 293-A:15.09, the secretary of state shall deliver to the domestic or foreign corporation or its representative a copy of the document with an acknowledgement of the date of filing.

Amend RSA 293-A:1.28(b)(2)(i) as inserted by section 1 of the bill by replacing it with the following:

(i) the domestic corporation is duly incorporated under the law of this state and the date of its incorporation; or

Amend RSA 293-A:1.36 as inserted by section 1 of the bill by replacing it with the following:

293-A:1.36 Penalties Imposed. Each corporation, domestic or foreign, that fails or refuses to file its annual report or to pay all associated fees related thereto, or both, for any year on or before April 1 shall be subject to an additional fee as set out in RSA 293-A:1.22(a)(17).

Amend RSA 293-A:1.40(a)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) "Articles of incorporation" means the original articles of incorporation, all amendments thereof, and any other documents permitted or required to be filed by a domestic business corporation with the secretary of state under any provision of this chapter except RSA 293-A:16.21.

Amend RSA 293-A:1.40(a)(7D) as inserted by section 1 of the bill by replacing it with the following:

(7D) “Eligible entity” means a domestic or foreign unincorporated entity.

Amend RSA 293-A:1.40(a)(9) as inserted by section 1 of the bill by replacing it with the following:

(9) “Entity” includes domestic and foreign business corporation; estate; trust; domestic and foreign unincorporated entity; and state, United States, and foreign government.

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:1.40(a)(10A) and renumbering the original RSA 293-A:1.40(a)(10B) to read as RSA 293-A:1.40(a)(10A).

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:1.40(a)(14A) and renumbering the original RSA 293-A:1.40(a)(14B) to read as RSA 293-A:1.40(a)(14A).

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:1.40(a)(14C).

Amend RSA 293-A:1.40(a)(15B) as inserted by section 1 of the bill by replacing it with the following:

(15B) “Organic law” means the statute governing the internal affairs of a domestic or foreign business or unincorporated entity.

Amend the introductory paragraph of RSA 293-A:1.40(a)(15C) as inserted by section 1 of the bill by replacing it with the following:

(15C) “Owner liability” means personal liability for a debt, obligation, or liability of a domestic or foreign business or unincorporated entity that is imposed on a person:

Amend RSA 293-A:1.40(a)(22A) as inserted by section 1 of the bill by replacing it with the following:

(22A) “Sign” or “signature” means, with present intent to authenticate or adopt a document, to execute or adopt a tangible symbol to a document, including any manual, facsimile, or conformed signature, or electronic signature under RSA 294-E.

Amend RSA 293-A:2.01 as inserted by section 1 of the bill by replacing it with the following:

293-A:2.01 Incorporators. One or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation and the certificate required by RSA 421-B:11, II(a) to the secretary of state for filing.

Amend RSA 293-A:4.01(a)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) must contain the word “corporation,” “incorporated,” or “limited,” or the abbreviation “corp.,” “inc.,” or “ltd.,” or words or abbreviations of like import in another language; and

Amend RSA 293-A:4.01(b)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) the fictitious name adopted by a foreign entity authorized to transact business in this state because its real name is unavailable;

Amend RSA 293-A:4.01(c) as inserted by section 1 of the bill by replacing it with the following:

(c) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable from, or is the same as, or not likely to be confused with or mistaken for one or more of the names described in subsection (b) of this section, as determined from a review of the records of the secretary of state.

Amend RSA 293-A:4.02(a) as inserted by section 1 of the bill by replacing it with the following:

(a) A person may reserve the exclusive use of a corporate name by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available, the secretary of state shall reserve the name for the applicant’s exclusive use for a nonrenewable 120-day period.

Amend RSA 293-A:4.03(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this chapter, provided its corporation name is available as required by RSA 293-A:4.01.

Amend RSA 293-A:4.03(c) as inserted by section 1 of the bill by replacing it with the following:

(c) The name is registered for the applicant’s exclusive use upon the effective date of the application

until the close of the calendar year.

Amend RSA 293-A:4.03(e) as inserted by section 1 of the bill by replacing it with the following:

(e) A foreign corporation whose registration is effective may thereafter qualify the foreign corporation to transact business in New Hampshire under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this chapter or by another foreign corporation thereafter authorized to transact business in this state. The registration terminates when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

Amend RSA 293-A:5.01(a)(2)(ii) as inserted by section 1 of the bill by replacing it with the following:

(ii) a corporation organized or authorized under RSA 292, RSA 293-A, or RSA 294-A whose business office is identical with the registered office;

(iii) a limited liability company formed or authorized under RSA 304-C whose business office is identical with the registered office; or

(iv) a limited liability partnership formed or authorized under RSA 304-A:44 whose business office is identical with the registered office.

Amend RSA 293-A:5.03(b) as inserted by section 1 of the bill by replacing it with the following:

(b) After filing the statement the secretary of state shall mail the copy to the corporation at its principal office.

Amend RSA 293-A:8.60(a)(5)(v) as inserted by section 1 of the bill by replacing it with the following:

(v) a domestic or foreign (A) business (other than the corporation or an entity controlled by the corporation) of which the director is a director, (B) unincorporated entity of which the director is a general partner or a member of the governing body, or (C) individual, trust or estate for whom or of which the director is a trustee, guardian, personal representative, or like fiduciary; or

Amend RSA 293-A:9.22(b)-(c) as inserted by section 1 of the bill by replacing it with the following:

(b) The articles of domestication shall have attached articles of incorporation.

(c) The articles of domestication with articles of incorporation and the certificate required by RSA 421-B:11, II(a) shall be delivered to the secretary of state for filing, and shall take effect at the effective time provided in RSA 293-A:1.23.

Amend RSA 293-A:9.24(a)(6) as inserted by section 1 of the bill by replacing it with the following:

(6) the corporation is deemed to:

(i) be incorporated under and subject to the organic law of this state for all purposes;

(ii) be the same corporation without interruption as the corporation that existed under the laws of the foreign jurisdiction; and

(iii) have been incorporated on the date it was originally incorporated in the foreign jurisdiction.

Amend RSA 293-A:9.25(b) as inserted by section 1 of the bill by replacing it with the following:

(b) If a domestication is abandoned under subsection (a) after articles of charter surrender have been filed with the secretary of state but before the domestication has become effective, a statement that the domestication has been abandoned in accordance with this section, signed by an officer or other duly authorized representative, shall be delivered to the secretary of state for filing prior to the effective date of the domestication with the fee required under RSA 293-A:1.22(a)(9). The statement shall take effect upon filing and the domestication shall be deemed abandoned and shall not become effective.

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:9.30 through RSA 293-A:9.43 and the subdivision headings preceding RSA 293-A:9.30 and RSA 293-A:40.

Amend the subdivision heading preceding RSA 293-A:9.50 as inserted by section 1 of the bill by replacing it with the following:

Amend RSA 293-A:10.04(a) as inserted by section 1 of the bill by inserting after the introductory paragraph the following new subparagraph and renumbering the original subparagraphs (1)-(8) to read as (2)-(9), respectively:

- (1) increase or decrease the aggregate number of authorized shares of the class;

Amend RSA 293-A:10.05(a)(5) as inserted by section 1 of the bill by replacing it with the following:

- (5) to change the corporate name by substituting the word “corporation,” “incorporated,” “limited,” or the abbreviation “corp.,” “inc.,” or “ltd.,” for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name;

Amend RSA 293-A:10.05(a)(7) as inserted by section 1 of the bill by replacing it with the following:

- (7) to delete a class of shares from the articles of incorporation, as a result of the operation of RSA 293-A:6.31(b), when there are no remaining outstanding shares of the class because the corporation has acquired all shares of the class and the articles of incorporation prohibit the reissue of the acquired shares; or

Amend RSA 293-A:11.02(d)(4) as inserted by section 1 of the bill by replacing it with the following:

- (4) the articles of incorporation of any domestic or foreign business, or the organic documents of any domestic or foreign unincorporated entity, to be created by the merger, or if a new domestic or foreign business or unincorporated entity is not to be created by the merger, any amendments to the survivor’s articles of incorporation or organic documents; and

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:11.02(g).

Amend RSA 293-A:11.06(a) as inserted by section 1 of the bill by replacing it with the following:

- (a) After a plan of merger or share exchange has been adopted and approved as required by this chapter, articles of merger or share exchange shall be signed on behalf of each party to the merger or share exchange in accordance with RSA 293-A:1.20(f). The articles shall set forth:

- (1) either:

- (i) the plan of merger or share exchange, or

- (ii) a statement that the plan of merger or share exchange will be made available to any shareholder entitled to vote on the merger or share exchange upon the request of such shareholder to the president or secretary of the corporation;

- (2) the names of the parties to the merger or share exchange;

- (3) if the articles of incorporation of the survivor of a merger are amended, the amendments to the survivor’s articles of incorporation, or if a new corporation is created as a result of a merger, the articles of incorporation of the new corporation and the certificate required by RSA 421-B:11, II(a);

- (4) if the plan of merger or share exchange required approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation;

- (5) if the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement to that effect; and

- (6) as to each foreign corporation or eligible entity that was a party to the merger or share exchange, a statement that the participation of the foreign corporation or eligible entity was duly authorized as required by the organic law of the corporation or eligible entity.

Amend RSA 293-A:13.02(a)(6)-(8) as inserted by section 1 of the bill by replacing it with the following:

- (6) consummation of a domestication if the shareholder does not receive shares in the foreign corporation resulting from the domestication that have terms as favorable to the shareholder in all material respects, and represent at least the same percentage interest of the total voting rights of the outstanding shares of the corporation, as the shares held by the shareholder before the domestication; or

- (7) consummation of a conversion of the corporation to an unincorporated entity pursuant to RSA 293-A:9.50 through RSA 293-A:9.56.

Amend the introductory paragraph of RSA 293-A:13.02(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Notwithstanding RSA 293-A:13.02(a), the availability of appraisal rights under RSA 293-A:13.02(a) (1), (2), (3), (4), (6), and (7) shall be limited in accordance with the following provisions:

Amend RSA 293-A:13.02(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Notwithstanding any other provision of RSA 293-A:13.02, the articles of incorporation as originally filed or any amendment thereto may limit or eliminate appraisal rights for any class or series of preferred shares, except that (i) no such limitation or elimination shall be effective if the class or series does not have the right to vote separately as a voting group (alone or as part of a group) on the action or if the action is a conversion to an unincorporated entity under RSA 293-A:9.50 through RSA 293-A:9.56, or a merger having a similar effect, and (ii) any such limitation or elimination contained in an amendment to the articles of incorporation that limits or eliminates appraisal rights for any of such shares that are outstanding immediately prior to the effective date of such amendment or that the corporation is or may be required to issue or sell thereafter pursuant to any conversion, exchange or other right existing immediately before the effective date of such amendment shall not apply to any corporate action that becomes effective within one year of that date if such action would otherwise afford appraisal rights.

Amend RSA 293-A:14.21(a)-(b) as inserted by section 1 of the bill by replacing it with the following:

(a) If the secretary of state determines that one or more grounds exist under RSA 293-A:14.20 for dissolving a corporation, the secretary of state shall notify the corporation in writing of such determination and shall mail such notice to the corporation at its principal address as listed in the records of the secretary of state.

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 60 days after notification, the secretary of state shall administratively dissolve the corporation by mailing a notice of dissolution to the corporation at its principal address as listed in the records of the secretary of state, together with an application for reinstatement. Such notice shall recite the grounds for dissolution and the effective date thereof.

Amend RSA 293-A:14.23(a)-(b) as inserted by section 1 of the bill by replacing it with the following:

(a) If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, the secretary of state shall notify the corporation in writing of such denial. Such notice shall set forth the reason or reasons for denial and shall be mailed to the corporation at its principal address as listed in the records of the secretary of state.

(b) The corporation may appeal the denial of reinstatement to the superior court of the county in which its principal office (or, if none in this state, its registered office) is located within 30 days after notification of denial. The corporation shall appeal by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

Amend RSA 293-A as inserted by section 1 of the bill by deleting RSA 293-A:15.03(b).

Amend RSA 293-A:15.06 as inserted by section 1 of the bill by replacing it with the following:

#### 293-A:15.06 Corporate Name of Foreign Corporation.

(a) If the corporate name of a foreign corporation does not satisfy the requirements of RSA 293-A:4.01, the foreign corporation to obtain or maintain a certificate of authority to transact business in this state:

(1) may add the word "corporation," "incorporated," or "limited," or the abbreviation "corp.," "inc.," or "ltd." to its corporate name for use in this state; or

(2) may use an available fictitious name to transact business in this state if its real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(b) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of RSA 293-A:4.01, it may not transact business in this state under the changed name until it adopts a name satisfying the requirements of subsection (a) and obtains an amended certificate of authority under RSA 293-A:15.04.

Amend RSA 293-A:15.07 as inserted by section 1 of the bill by replacing it with the following:

293-A:15.07 Registered Office and Registered Agent of Foreign Corporation.

(a) Each foreign corporation authorized to transact business in this state shall continuously maintain in this state:

(1) a registered office that may be the same as any of its places of business; and

(2) a registered agent, who may be:

(i) an individual who resides in this state and whose business office is identical with the registered office;

(ii) a corporation organized or authorized under RSA 292, RSA 293-A, or RSA 294-A whose business office is identical with the registered office;

(iii) a limited liability company formed or authorized under RSA 304-C whose business office is identical with the registered office; or

(iv) a limited liability partnership formed or authorized under RSA 304-A:44 whose business office is identical with the registered office.

Amend RSA 293-A:15.21 as inserted by section 1 of the bill by replacing it with the following:

293-A:15.21 Automatic Withdrawal Upon Certain Conversions. A foreign corporation authorized to transact business in this state that converts to any form of domestic filing entity shall be deemed to have withdrawn on the effective date of the conversion.

Amend the introductory paragraph of RSA 293-A:15.23(a) as inserted by section 1 of the bill by replacing it with the following:

(a) A foreign business corporation authorized to transact business in this state that converts to any form of foreign unincorporated entity that is required to obtain a certificate of authority or make a similar type of filing with the secretary of state if it transacts business in this state shall file with the secretary of state an application for transfer of authority signed by any officer or other duly authorized representative. The application shall set forth:

Amend RSA 293-A:15.31 as inserted by section 1 of the bill by replacing it with the following:

293-A:15.31 Procedure for and Effect of Revocation.

(a) If the secretary of state determines that one or more grounds exist under RSA 293-A:15.30 for revocation of a certificate of authority, the secretary of state shall notify the foreign corporation in writing of such determination and shall mail such notice to the corporation at its principal office listed on the records of the New Hampshire secretary of state.

(b) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 60 days after notification, the secretary of state may revoke the foreign corporation's certificate of authority by issuing a notice of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall mail such notice to the corporation at its principal office listed on the records of the New Hampshire secretary of state.

(c) The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

(d) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

Amend RSA 293-A:15.32(a) as inserted by section 1 of the bill by replacing it with the following:

(a) A foreign corporation may appeal the secretary of state's revocation of its certificate of authority to the superior court for Merrimack county within 30 days after revocation. The foreign corporation appeals by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the secretary of state's certificate of revocation.

Amend RSA 293-A:16.21 as inserted by section 1 of the bill by replacing it with the following:

293-A:16.21 Annual Report for Secretary of State.

(a) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report that sets forth:

- (1) the name of the corporation and the state or country under whose law it is incorporated;
- (2) the address of its registered office and the name of its registered agent at that office in this state;
- (3) the address of its principal office;
- (4) names and business addresses of its directors and principal officers; and
- (5) a brief description of the nature of its business.

(b) Information in the annual report must be current as of January 1 of the year the report is due.

(c) The first annual report must be delivered to the secretary of state between January 1 and April 1 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business; provided, however, that a foreign corporation that has received its certificate of authority at any time between December 1 of the preceding year and April 1, or a domestic corporation which has received its certificate of incorporation during the same period shall not be required to file an annual report during that year. Subsequent annual reports must be delivered to the secretary of state between January 1 and April 1 of the following calendar years.

(d) If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the secretary of state within 30 days after the effective date of notice, it is deemed to be timely filed.

### **Energy and Natural Resources**

**March 22, 2012**

**2012-1398s**

**09/10**

### **Amendment to SB 215**

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

AN ACT establishing a study committee on updating and improving the procedures and criteria for review of projects by the site evaluation committee.

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

#### **1 Committee Established.**

I. There is established a committee to study and develop recommendations for proposed legislation to update and improve the procedures and criteria for review and siting of energy facilities.

II.(a) The members of the committee shall be as follows:

(1) Two members of the senate, including one member of the energy and natural resources committee, appointed by the president of the senate.

(2) Two members of the house of representatives, including one member of the science, technology, and energy committee, appointed by the speaker of the house of representatives.

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

III. The committee shall:

(a) Study whether existing procedures and criteria for review of renewable energy facilities, large transmission facilities, and electric generating facilities having a capacity of 100 megawatts or greater, are adequate or could be altered to reflect the size and impact of different sized projects, while assuring that such facilities are in the public interest, that the impacts of such facilities on the state's environment, economic development, and energy resources are comprehensively evaluated, and that all reasonable alternatives to such facilities are fully considered.

(b) Study whether RSA 162-H should be further updated in light of the Energy Policy Act of 2005; the New Hampshire Electric Industry Restructuring Act, RSA 374-F; and recent actions of the Federal Energy Regulatory Commission regarding electric transmission projects.

(c) Determine how the site evaluation committee can assess charges for the costs of its proceedings, including evaluating how costs incurred by public counsel should be assessed.

(d) Solicit testimony from any person or organization with relevant information or expertise, including the members of the site evaluation committee.

(e) Develop recommendations for proposed legislation, if appropriate, to address concerns relative to subparagraphs (a), (b), and (c).

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 30 days of the effective date of this section.

V. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2012.

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

**2012-1398s**

#### AMENDED ANALYSIS

This bill establishes a study committee on updating and improving the procedures and criteria for review of projects by the site evaluation committee.

**Energy and Natural Resources**

**March 19, 2012**

**2012-1309s**

**04/09**

#### Amendment to SB 224

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

1 Lead Fishing Sinkers and Jigs. RSA 211:13-b, IV is repealed and reenacted to read as follows:

IV. For purposes of this section, “lead sinker” is defined as any sinker made from lead that weighs one ounce or less. A “lead jig” is defined as a lead weighted hook that measures less than 2 and 1/2 inches along its longest axis. Prohibited tackle includes lead sinkers weighing one ounce or less and lead jigs that measure less than 2 and 1/2 inches along the longest axis, including those painted or coated with another substance, or those with attached skirts. Lead sinkers and lead jigs shall not include lead fishing-related items including, but not limited to, lead core line, spinnerbaits, buzzbaits, spoons, poppers, plugs, or flies.

2 Effective Date. This act shall take effect January 1, 2015.

**Senate Finance**

**March 22, 2012**

**2012-1413s**

**03/09**

#### Amendment to SB 229-FN

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

AN ACT 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.

Amend the bill by replacing section 2 with the following:

2 Expenditures. The commission established in RSA 100-A:56-a as inserted by this act is authorized to accept and expend private sector grants, gifts, or donations of any kind for the purpose of the duties required in this act. Any moneys collected shall be continually appropriated to the commission for the purposes of this act.

**2012-1413s**

#### AMENDED ANALYSIS

This bill establishes 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. The bill allows the commission to accept and expend private sector grants, gifts, or donations for purposes of the duties of the commission.



Energy and Natural Resources  
 March 22, 2012  
 2012-1401s  
 06/01

### Amendment to SB 258

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

1 Limited Electrical Energy Producers; Definitions. Amend RSA 362-A:1-a, II-b to read as follows:

II-b. "Eligible customer-generator" ~~or~~, "customer-generator", **or "customer-generator group"** means an electric utility customer **or group of customers** who ~~owns~~ **own** or ~~operates an~~ **operate** electrical generating ~~facility~~ **facilities** either powered by renewable energy or which ~~employs~~ **employ** a heat led combined heat and power system, with a total peak generating capacity of ~~[not more than 100 kilowatts, or that first begins operation after July 1, 2010 and has a total peak generating capacity of 100 kilowatts or more]~~ up to one megawatt, that is located behind a retail meter on the customer's premises ~~[is]~~ **or, in the case of a customer-generator group, on the premises of a customer who is a member of the group, are** interconnected and ~~operates~~ **operate** in parallel with the electric grid, and ~~[is]~~ **are** used in the first instance to offset the customer's own electricity requirements. **A customer generator may be incremental generation added to an existing generation facility, that does not itself qualify for net metering, as long as such incremental generation meets the qualifications of this paragraph and is metered separately from the nonqualifying facility. An eligible customer-generator group shall only include customers located in the same municipality and served by the same electric distribution utility.**

2 Net Energy Metering. Amend RSA 362-A:9, I to read as follows:

I. Standard tariffs providing for net energy metering shall be made available to eligible customer-generators, **or customer-generator groups**, by each electric distribution utility in conformance with net metering rules adopted and orders issued by the commission. Each net energy metering tariff shall be identical, with respect to rates, rate structure, and charges, to the tariff under which a customer-generator would otherwise take default generation supply service from the distribution utility. Such tariffs shall be available on a first-come, first-served basis within each electric utility service area under the jurisdiction of the commission until such time as the total rated generating capacity owned or operated by eligible customer-generators, **or customer-generator groups**, totals a number equal to 50 megawatts multiplied by each such utility's percentage share of the total 2010 annual coincident peak energy demand distributed by all such utilities as determined by the commission. No more than 2 megawatts of such total rated generating capacity shall be from a combined heat and power system as defined in RSA 362-A:1-a, I-d.

3 Net Energy Metering. Amend RSA 362-A:9, III through VI(a) to read as follows:

III. Metering shall be done in accordance with normal metering practices. A single net meter that shows the customer's net energy usage by measuring both the inflow and outflow of electricity internally shall be the extent of metering that is required at facilities with a total peak generating capacity of not more than 100 kilowatts. A bi-directional metering system that records the total amount of electricity that flows in each direction from the customer premises, either instantaneously or over intervals of an hour or less, shall be required at facilities with a total peak generating capacity of more than 100 kilowatts. Customer-generators **or customer-generator groups** shall not be required to pay for the installation of net meters, but shall pay for the installation of all bi-directional metering systems as outlined in utility interconnection tariffs or rules.

IV.(a) For facilities with a total peak generating capacity of not more than 100 kilowatts, when billing a customer-generator **or customer-generator group** under a net energy metering tariff that is not time-based, the utility shall apply the customer's net energy usage when calculating all charges that are based on kilowatt hour usage. Customer net energy usage shall equal the kilowatt hours supplied to the customer over the electric distribution system minus the kilowatt hours generated by the customer-generator and fed into the electric distribution system over a billing period.

(b) For facilities with a total peak generating capacity of more than 100 kilowatts, the customer-generator shall pay all applicable charges on all kilowatt hours supplied to the customer over the electric distribution system, less a credit on default service charges equal to the metered energy generated by the customer-generator and fed into the electric distribution system over a billing period.

V. When a customer-generator's **or customer-generator group's** net energy usage is negative (more electricity is fed into the distribution system than is received) over a billing period, such surplus shall either:

(a) Be credited to the customer-generator's *or customer-generator group's* account on an equivalent basis for use in subsequent billing cycles as a credit against the customer's net energy usage or bill in a manner consistent with either subparagraph IV(a) or IV(b), as applicable; or

(b) Except as provided in paragraph VI, the customer-generator may elect to be paid or credited by the electric distribution utility for its excess generation at rates that are equal to the utility's avoided costs for energy and capacity to provide default service as determined by the commission consistent with the requirements of the Public Utilities Regulatory Policy Act of 1978 (PURPA). The commission shall determine reasonable conditions for such an election, including the frequency of payment and how often a customer-generator may choose this option versus the option in subparagraph (a).

VI. Instead of the option in subparagraph V(b), an electric distribution utility providing default service to customer-generators may voluntarily elect, annually, on a generic basis, by notification to the commission, to purchase or credit such excess generation from customer-generators at a rate that is equal to the generation supply component of the applicable default service rate, provided that payment is issued at least as often as whenever the value of such credit, in excess of amounts owed by the customer-generator, is greater than \$50.

4 Net Energy Metering. Amend RSA 362-A:9, IX to read as follows:

IX. Renewable energy credits shall remain the property of the customer-generator *or customer-generator groups* until such credits are sold or transferred. If an electric distribution utility acquires renewable energy credits from a customer-generator in conjunction with purchasing excess generation, it may apply such generation and credits to its renewable energy source default service option under RSA 374-F:3, V(f).

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

**Senate Finance**  
**March 22, 2012**  
**2012-1417s**  
**05/01**

#### **Amendment to SB 259**

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 and relative to transfer of land within the Pease development authority.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Transfer of Regulatory Authority from Pease Development Authority to Municipalities. Amend RSA 12-G:13, VIII to read as follows:

VIII. In any event, regulatory power over all land use controls at Pease Air Force Base, except for the airport district and all property west of McIntyre Road designated as a wildlife preserve, shall revert exclusively to the municipalities no later than January 1, [2020] **2050**, or sooner at the election of the authority.

**2012-1417s**

#### **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.

This bill is a request of the Pease development authority.

**Senate Judiciary**  
**March 22, 2012**  
**2012-1407s**  
**04/01**

#### **Amendment to SB 270**

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

1 Commitment to Hospitals; Notification Authorized. Amend RSA 135:17-b to read as follows:

135:17-b Notification Authorized.

**I.** Notwithstanding any provision of law to the contrary, in the event that a person who has been charged with ~~[murder, pursuant to RSA 630:1, I-a, or I-b, manslaughter, or aggravated felonious sexual assault,]~~ **a violent crime**, found incompetent to stand trial pursuant to RSA 135:17-a, and civilly committed pursuant to RSA 135-C **or RSA 171-B, or committed pursuant to RSA 651:9-a**, is **transferred to another facility** **or** discharged to the community, either conditionally or absolutely, the department of health and human services shall immediately notify the attorney general, who shall notify the ~~[family of the]~~ victim~~[, or the victim of aggravated felonious sexual assault if an adult,]~~ **as defined in RSA 21-M:8-k, I(a) and, in the event of a discharge**, the law enforcement agency in the community to which the person is being discharged. For purposes of this section, discharge shall include the initial authorization by the administrative review committee of New Hampshire hospital to allow a person to leave the grounds of the hospital unaccompanied by a hospital staff member.

**II. For purposes of this section, the term “violent crime” includes those crimes listed in RSA 651:5, XIII and the following:**

- (a) RSA 173-B:9, violation of protective order.**
- (b) RSA 631:2, second degree assault.**
- (c) RSA 631:3, felony reckless conduct.**
- (d) RSA 631:4, criminal threatening involving the use of a deadly weapon.**
- (e) RSA 633:3-a, stalking.**
- (f) RSA 635:1, burglary.**
- (g) RSA 641:5, tampering with witnesses and informants.**
- (h) RSA 650-A:1, felonious use of firearms.**

2 New Section; Commitment to Hospitals; Information Related to Competency Determinations. Amend RSA 135 by inserting after section 17-b the following new section:

135:17-c Information Related to Competency Determinations. All evaluation reports, recommendations, medical records, or other documents related to the court's determinations under RSA 135:17-a, I, II, and III shall be kept separately from the public court file and shall not be disclosed except as follows:

- I.** The court may order release with the written consent of the parties.
- II.** The competency report may be provided to the receiving facility or the secure psychiatric unit pursuant to RSA 135:17-a, VII.
- III.** In any case in which the court finds that the defendant is not competent to stand trial pursuant to RSA 135:17-a, I, or has not been restored to competency pursuant to RSA 135:17-a, IV, the court shall make written findings which describe the evidence which was relied upon to make its determination. Such written findings shall be part of the public court file. The prosecutor shall provide a copy of the written findings to the victim, as defined in RSA 21-M:8-k.

3 New Paragraph; Involuntary Admission for Persons Found Not Competent to Stand Trial; Transfers. Amend RSA 171-B:15 by inserting after paragraph II the following new paragraph:

**III.** In the event a person is transferred pursuant to this section, the commissioner or designee shall provide notice to the attorney general pursuant to RSA 135:17-b.

4 New Subparagraph; Secure Psychiatric Unit; Discharge. Amend RSA 622:48, I by inserting after subparagraph (c) the following new subparagraph:

**(d)** When a person is transferred to another facility pursuant to subparagraphs (b) or (c), the commissioner or designee shall provide notice to the attorney general in accordance with RSA 135:17-b.

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

**2012-1407s**

AMENDED ANALYSIS

This bill:

I. Amends the notification procedures for persons charged with a violent crime and found incompetent to stand trial.

II. Requires the court to keep all reports, recommendations, medical records, or other documents related to the court's determination of competency separate from the public file, and permits release of such documents in certain circumstances.

III. Requires notice to the attorney general whenever any person who is involuntarily admitted is transferred to another facility.

**Senate Education**  
**March 20, 2012**  
**2012-1363s**  
**04/09**

### **Amendment to SB 300**

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

1 Chartered Public School; Funding. Amend RSA 194-B:11, III to read as follows:

III.(a) In accordance with current department of education standards, the funding and educational decision-making process for children with disabilities attending a chartered public school shall be the responsibility of the [school] **resident** district and shall retain all current options available to the parent and to the school district.

***(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. In this subparagraph, the chartered public school in which the child is enrolled shall be considered the least restrictive environment:***

***(1) The resident district may send staff to the chartered public school; or***

***(2) The resident district may contract with a service provider to provide the services at the chartered public school; or***

***(3) The resident district may provide the services at the resident district school; or***

***(4) The resident district may provide the services at the service provider's location; or***

***(5) The resident district may contract with a chartered public school to provide the services; and***

***(6) If the child requires transportation to and/or from the chartered public school before, after, or during the school day in order to receive special education and related services as provided in the IEP, the child's resident district shall provide transportation for the child.***

***(c) Consistent with Section 5210(1) of the Elementary and Secondary Education Act and Section 300.209 of the Individuals With Disabilities Education Act, when a parent enrolls a child with a disability in a chartered public school, the child and the child's parents shall retain all rights under federal and state special education law, including the child's right to be provided with a free and appropriate public education, which includes all of the special education and related services included in the child's IEP. The child's resident district shall have the responsibility, including financial responsibility, to ensure the provision of the special education and related services in the child's IEP, and the chartered public school shall cooperate with the child's resident district in the provision of the child's special education and related services.***

2 Chartered Public Schools; Requirements. Amend RSA 194-B:8, I to read as follows:

I. A chartered public school shall not discriminate nor violate individual civil rights in any manner prohibited by law. A chartered public school shall not discriminate against any child with a disability as defined in RSA 186-C. ***A chartered public school shall provide due process in accordance with state and federal laws and rules.***

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

**2012-1363s****AMENDED ANALYSIS**

This bill establishes a procedure for the provision of special education and related services to a child with a disability who is enrolled in a chartered public school and requires chartered public schools to provide due process in the provision of special education and related services to children with disabilities.

**Senate Judiciary****March 22, 2012****2012-1409s****05/04****Amendment to SB 301**

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

AN ACT relative to the amendment of pleadings in landlord-tenant actions.

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

1 New Section; Landlord-Tenant Actions; Amendment of Pleadings. Amend RSA 540 by inserting after section 13-d the following new section:

540:13-e Amendment. Within 7 days of filing the writ of summons, the landlord may file a motion to amend the writ to correct a procedural or technical defect. The motion shall be granted in matters of form and may be granted in matters of substance under such terms as justice may require; provided, however, that the return day may not be amended.

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

**2012-1409s****AMENDED ANALYSIS**

This bill allows the landlord to amend a writ of summons to correct minor procedural defects.

**Senate Finance****March 22, 2012****2012-1412s****08/09****Amendment to SB 311-FN-A**

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

AN ACT relative to the authority of the commissioner of the department of agriculture, markets, and food to set certain fees.

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

1 New Subparagraphs; Commissioner of the Department of Agriculture, Markets, and Food; Authority to Set Fees. Amend RSA 438:8, I (h) by inserting after subparagraph (4) the following new subparagraphs:

(5) Testing and certification.

(6) Licenses, including application, initial issuance, replacement and duplication.

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

**2012-1412s****AMENDED ANALYSIS**

This bill allows the commissioner of the department of agriculture, markets, and food to set fees for testing, certification, and licenses.

**Senate Finance****March 22, 2012****2012-1420s****05/10****Amendment to SB 314**

Amend RSA 21-I:19-j as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. Exemptions under this section may be submitted to and granted by the governor and executive council.

**Senate Finance**  
**March 22, 2012**  
**2012-1406s**  
**08/09**

**Amendment to SB 326-FN-A-LOCAL**

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

AN ACT relative to state reimbursement of towns.

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

1 Reimbursement of Towns. Amend RSA 122:4, II to read as follows:

II. Notwithstanding paragraph I, the commissioner of revenue administration shall reduce the amount of reimbursement thus determined by any amount paid or due the state on behalf of a town or city for that year by or from the United States, another state, an interstate flood control agency or other source, because of such loss of taxable valuation. Any subsequent payments received by the state from the United States, another state, an interstate flood control agency, or other source [~~shall first be applied to outstanding amounts due the state, and any remainder~~] shall be apportioned to the towns.

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

**2012-1406s**

**AMENDED ANALYSIS**

This bill requires payments received from the United States, another state, or interstate flood control agency, or other source, because of loss of taxable valuation to be apportioned directly to the towns involved.

**Senate Finance**  
**March 22, 2012**  
**2012-1410s**  
**05/04**

**Amendment to SB 343-FN**

Amend the bill by replacing section 14 with the following:

14 Effective Date. This act shall take effect July 1, 2013.

**Energy and Natural Resources**  
**March 22, 2012**  
**2012-1402s**  
**06/01**

**Amendment to SB 388**

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

AN ACT relative to the use of land along Silver Lake that is below the public trust boundary.

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

1 Silver Lake; Definition. In this act, "Silver Lake" means the body of water located in the towns of Belmont and Tilton bounded on the north and south by the Winnepesaukee River.

2 Use of Land Below the Public Trust Boundary. To the extent that deeds related to certain properties along Silver Lake purport to convey interests in land that may be located below the public trust boundary, the state hereby grants to any owner of such property along Silver Lake, and any successor in interest, the right to use such property to the boundaries as set forth in any pre-existing deeds for any purpose that does not negatively impact public trust uses subject to the restrictions of this section. No new structures shall be constructed on public trust land other than water-related structures. Existing structures may be repaired and replaced in-kind. Nothing in this section shall impact any right of the state to flow water in or near Silver Lake. Nothing in this section shall relieve a property owner of the need to obtain any required state, local, or federal permit or other authorization.

3 Report. The department of environmental services shall reassess the current high water mark for Silver Lake as set by the department, taking into consideration existing structures that are below such high water mark. The department of environmental services shall report its determination to the energy and natural resources committee by November 1, 2012.

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

**2012-1402s**

#### AMENDED ANALYSIS

This bill:

I. Permits certain landowners of properties along Silver Lake that are below the public trust boundary to use such property for certain purposes.

II. Prohibits construction of new structures on public trust land.

III. Requires the department of environmental services to reassess the high water mark of Silver Lake, and report its determination to the energy and natural resources committee.

**Senate Education**

**March 20, 2012**

**2012-1362s**

**04/10**

#### Amendment to SB 401

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

AN ACT relative to reporting the average daily membership of pupils in the public schools and relative to adjustments to adequate education grants.

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

1 Adequate Education; Definitions. Amend RSA 198:38, I to read as follows:

I. "Average daily membership in attendance" or "ADMA" means the average daily membership in attendance of pupils in kindergarten through grade 12, as defined in RSA 189:1-d, III of the ~~[second school year preceding the]~~ ***school year*** in which the calculation is made, provided that no kindergarten pupil shall count as more than 1/2 day attendance per calendar year.

2 Adequate Education; Definitions. Amend RSA 198:38, IV to read as follows:

IV. "Determination year" means the ~~[fiscal year that was 3 years prior to the fiscal year for which aid is to be determined]~~ ***school year immediately preceding the school year for which aid is determined.*** Unless otherwise indicated, determination year data shall be used to calculate aid.

3 Distribution Schedule for Adequate Education Grants. Amend RSA 198:42, I to read as follows:

I. The adequate education grant determined in RSA 198:41 shall be distributed to each municipality's school district or districts legally responsible for the education of the pupils who attend approved public schools within the district or in other districts or who attend approved programs for children with disabilities, as the case may be, from the education trust fund in 4 payments of 20 percent on September 1, 20 percent on November 1, 30 percent on January 1, and 30 percent on April 1 of each school year; provided that for a dependent school district, the grant determined in RSA 198:41 shall be distributed to the municipality, which shall appropriate and transfer the grant funds to its dependent school department. ***During the course of the school year, the commissioner may make adjustments in grant payments necessitated by variations in the ADMA data for a school district for any fiscal year in which the ADMA calculation is made.***

4 School Money; Cost of an Opportunity for an Adequate Education. Amend RSA 198:40-a, IV(a) to read as follows:

(a) The sum total calculated under paragraphs I-III of this section shall be used to determine the cost of an adequate education ~~[which shall be used in each year of the biennium]~~.

5 School Money; Cost of an Opportunity for an Adequate Education. Amend RSA 198:40-a, V to read as follows:

V. The department shall notify school districts of the estimated amounts of grants by the November 15 preceding the [fiscal] **school** year for which aid is determined. The commissioner shall provide to the general court all data or reports requested by the general court in a form which the general court determines will facilitate the calculations required in this section.

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. Notwithstanding RSA 32:11, 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 Applicability. The provisions of this act shall apply beginning with the 2013-2014 school year and not before.

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

**2012-1362s**

#### AMENDED ANALYSIS

This bill amends the definition of "determination year" for the purpose of calculating adequate education grants and authorizes the commissioner of the department of education to make adjustments in adequate education grants based on variations in the average daily membership in attendance data.

#### **Health and Human Services**

**March 22, 2012**

**2012-1408s**

**04/01**

#### **Amendment to SB 402**

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

1 Legislative Findings. The general court finds that:

I. Concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities. The Centers for Disease Control and Prevention estimates that as many as 3,900,000 sports-related and recreation-related concussions occur in the United States each year.

II. 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.

III. Concussions are a type of mild brain injury that can disrupt the way the brain normally works. Concussions can occur in any organized or unorganized sport or recreational activity and 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.

IV. Continuing to play with a concussion or symptoms of head injury leaves the young athlete especially vulnerable to greater injury and even death. The general court recognizes that, despite having generally recognized return to play standards for concussion and head injury, some affected youth athletes are prematurely returned to play resulting in actual or potential physical injury or death to youth athletes in the state of New Hampshire.

2 New Subdivision; Health and Sanitation; Head Injury Policies for Youth Sports. Amend RSA 200 by inserting after section 48 the following new subdivision: Head Injury Policies for Youth Sports

200:49 Head Injury Policies for Youth Sports. Education is the key to identification and appropriate management of all concussions. The school board of each school district shall work in cooperation with the New Hampshire Interscholastic Athletic Association to develop guidelines and other pertinent information and forms to inform and educate coaches, youth athletes, and athletes' parents or guardians of the nature and risk of concussion and head injury including continuing to play after concussion or head injury. Such guidelines should be based on the sports-related concussion consensus statement of the New Hampshire Advisory



Council on Sport-Related Concussion. On an annual basis, a concussion and head injury information sheet shall be distributed by the school district to all youth athletes. The form shall be signed by the youth athlete and the athlete's parent or guardian and returned to the school prior to initiating practice or competition.

**200:50 Removal of Youth Athlete.**

I. A coach, official, licensed athletic trainer, or health care provider who suspects that a youth athlete has sustained a concussion or head injury in a practice or game shall remove the youth athlete from play immediately.

II. A youth athlete who has been removed from play shall not return to play until he or she is evaluated by a health care provider and receives written authorization from that health care provider to return to play.

III. No person who authorizes a youth 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 youth 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 and youth programs that take place on school property and during the delivery of services of the youth program.

II. No youth group shall be liable for an injury to or the death of a youth athlete due to the action or inaction of persons employed by, or under contract with, a youth program if:

(a) The action or inaction takes place on school property and during the delivery of services of the youth program; and

(b) The youth program provides to the school district proof of insurance, under an accident and liability policy issued by an insurance company authorized to do business in this state, that covers any injury or damage arising from delivery of its services. Coverage for a policy meeting the requirements of this section shall be at least \$50,000 for the bodily injury or death of one person in any incident, or at least \$100,000 for the bodily injury or death of 2 or more persons in any incident. The youth program shall provide proof of such insurance before the use of any school district facilities; and

(c) The youth program provides to the school district a written statement certifying compliance with school district policies for the management of concussion and head injury in youth sports as set forth in RSA 200:49.

**200:52 Definitions. As used in this subdivision:**

I.(a) "Youth group" and "youth program" mean any program or service offered by a private, nonprofit entity, that is operated primarily to provide persons under 18 years of age with opportunities to participate in services or programs.

(b) "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.

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

**Senate Judiciary**

**March 22, 2012**

**2012-1418s**

**10/04**

**Amendment to SB 406**

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 wait for an uncertain recovery while medical providers are 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 diverted from health care and spent on litigation costs and defensive medicine. The result is a system that has higher than necessary health care costs, higher liability insurance premiums, higher health insurance premiums, and ultimately reduced access to care.

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) Access to care: The testimony before the general court has established that access to care in New Hampshire can be compromised by the negative aspects of the current medical injury system as physicians and other providers avoid high risk medical specialties and/ or high risk treatments in order to avoid exposure to liability.

(e) 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.

III. “Early offer” means an offer to pay an injured person’s economic loss, and a reasonable attorney fee related to a medical injury. 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, 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 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, 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. “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.

VI. “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.

VII. “Notice of injury” means written notice provided to the medical care provider alleged to have caused a medical injury, and containing:

- (a) The name and address of the claimant;
- (b) The date and place of the medical injury;
- (c) The nature of the injury;
- (d) An explanation, if known, as to how the injury is alleged to have been caused;
- (e) The severity of the injury using the National Practitioner Data Bank severity scale;
- (f) Medical records and medical bills associated with the injury or a limited authorization allowing the medical care provider to obtain medical records and medical bills associated with the injury;
- (g) Evidence of lost wages or income from self-employment or contract work for the individual suffering a medical injury, which may be supplied through income tax returns or paycheck stubs for the year prior to the injury and any subsequent records up to the date of the notice of injury, or a limited authorization allowing the medical care provider to obtain such records;
- (h) A demand for economic loss resulting from the injury, that includes only medical expenses, replacement services, reasonable attorney fees, and lost wages, or income from self-employment or contract work; and
- (i) A request that the medical care provider extend an early offer of settlement of the claim.

VIII. “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.

IX. “Reasonable attorney fee” means 20 percent of the present value of the claimant’s economic loss.

X. “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.

XI. “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 injured claimant or personal representative 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 an individual who alleges a medical injury submit to an examination by a qualified physician chosen by the medical care provider at a time and place reasonably convenient for the claimant. The examining physician shall not be affiliated 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 the responsibility of the medical care provider. 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. The claimant may request a video recording of the examination at his or her own expense.

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 the offer being made to the claimant. 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 insurance commissioner.

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 does not accept the medical care provider's early offer as provided by paragraphs IX and X, the early offer shall be considered rejected by the claimant 60 days after the medical care provider made the early offer. When an early offer is rejected, a claimant may pursue an action for medical injury against the medical care provider pursuant to RSA 507-E and RSA 519-B. However, in order to prevail against a medical care provider that extended an early offer pursuant to this chapter, the claimant shall prove by clear and convincing evidence that the medical care provider acted with gross negligence in causing the injury.

519-C:3 Unrepresented Claimant. If the claimant is not represented by legal counsel, upon receiving notice of the claim for medical injury, the medical care provider shall provide a neutral mediator, at the medical care provider's expense, to offer assistance to the claimant and medical care provider under this chapter.

#### 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. 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 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, future economic losses incurred by the claimant shall be payable by the medical care provider 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 30 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 30 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 30 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.

(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.

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.

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: \$1,700.
- (c) For a temporary injury involving minor harm: \$6,500.
- (d) For a temporary injury involving major harm: \$26,250.
- (e) For a permanent injury involving minor harm: \$29,750.
- (f) For a permanent injury involving significant harm: \$68,250.
- (g) For a permanent injury involving major harm: \$107,000.
- (h) For a permanent injury involving grave harm: \$117,500.
- (i) For an injury resulting in death: \$57,000.

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. The parties to the action shall pay the injured individual all reasonable costs associated with such reasonable cooperation and testimony.

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 insurance commissioner 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 complete statement of the issue or issues to be resolved in the hearing, and shall be served upon the opposing party. 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 solely by this section and by any rules specific to this chapter that the commissioner may adopt pursuant to RSA 519-C:15. Hearings under this section shall not be subject to the requirements of RSA 541, RSA 541-A, RSA 400-A, the rules of evidence, or any other statute or rule that is not specific to this chapter.

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 not more than one day in length, divided equally among the parties, however the hearing length may be extended at the discretion of the hearing officer. A record of the hearing shall be maintained, including an audio recording of all testimony.

X. Parties to a hearing under this section shall exchange exhibits and witness lists at least 3 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 paragraph 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 paragraph II(b) of this section, if the hearing officer determines the medical care provider's position to be frivolous, the medical care provider shall 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 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 Department of Insurance 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. However, if I reject the early offer, I may only sue for gross negligence and will be required to prove my case by clear and convincing evidence.

**I UNDERSTAND THAT WHEN I SUBMIT A NOTICE OF INJURY AND SUBSEQUENTLY RECEIVE AN EARLY OFFER, I WILL HAVE RELINQUISHED MY RIGHT TO SUE FOR ORDINARY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF WARRANTY OR ANY OTHER CLAIM CONNECTED TO THE INJURY DESCRIBED IN THE NOTICE OF INJURY.**

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 Department of Insurance at my request or the request of the medical care provider. If, after submitting disputes to the Department of Insurance, either party believes that the result 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; or

II. The medical care provider elects not to extend an early offer pursuant to this chapter in response to the notice of injury.

519-C:15 Rulemaking. The insurance commissioner shall adopt rules, pursuant to RSA 541-A, necessary to carry out this chapter.

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

**Senate Finance**  
**March 22, 2012**  
**2012-1415s**  
**04/09**

### **Amendment to SB 407-FN**

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

AN ACT relative to the purchasing policy of the department of information technology and relative to the transfer of federal grant funds.

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

1 Department of Information Technology; Duties of Commissioner. Amend RSA 21-R:4, XII to read as follows:

XII. Developing, in concert with the department of administrative services, director of plant and property management, specifications for the procurement of computer ~~[equipment and]~~ **hardware, software, *related licenses, media, documentation, support and maintenance services, and other related services.***

2 Department of Information Technology; Purchasing Policy. The introductory paragraph of RSA 21-R:8-a, I is repealed and reenacted to read as follows:

I. Purchases of computer hardware, software, related licenses, media, documentation, support and maintenance services, and other related services that require an expenditure of \$500 or less, or that are included on an approved standards list established by the department and require an expenditure of more than \$500, up to \$5,000, may be made by an agency without the approval of the chief information officer or his or her designee. To ensure that the procurement is consistent with the state information technology plan, no purchase of computer hardware, software, related licenses, media, documentation, support and maintenance services, and other related services, that requires an expenditure of more than \$5,000, or any such purchase that is not included on an approved standards list established by the department which requires an expenditure of more than \$500, up to \$5,000, shall be made by an agency without the approval of the chief information officer or his or her designee:

3 Department of Administrative Services; Division of Plant and Property Management. Amend RSA 21-I:11, XI-XII to read as follows:

XI. Requiring, prior to an agency's submission of a request for purchase of computer hardware, software, related licenses, media, documentation, ~~[and standard off-site]~~ support and maintenance ~~[generally offered to the public for such computer hardware or software exceeding \$500 in total cost]~~ ***services, and other related services that either require an expenditure of more than \$5,000, or involve a purchase that is not on an approved standards list established by the department of information technology which requires an expenditure of more than \$500, up to \$5,000,*** that the agency obtain approval of the proposal by the chief information officer ***or his or her designee*** to ensure that the procurement is consistent with the state information technology plan.

XII. Requiring agencies to submit the approval ~~[from]~~ ***issued under RSA 21-R:8-a, I*** by the chief information officer ***or his or her designee*** in support of requests for purchases of ~~[information technology equipment or software in excess of \$500]~~ ***computer hardware, software, related licenses, media, documentation, support and maintenance services, and other related services that either require an expenditure of more than \$5,000, or involve a purchase that is not on an approved standards list established by the department of information technology which requires an expenditure of more than \$500, up to \$5,000.***

4 New Section; Budget and Appropriations. Amend RSA 9 by inserting after section 16-b the following new section:

**9:16-c Transfer of Federal Grant Funds.**

I. In order to maximize the use of federal grant funds and to avoid lapsing such funds where changes in the state or federal accounting systems, changes in federal grant guidelines, or overestimation or underestimation of funds required in various class codes due to program needs or requirements have occurred subsequent to the passage of the budget, every department as defined in RSA 9:1 may, subject to the prior approval of the fiscal committee of the general court and the approval of governor and council, transfer funds in or out of any class code and to create new class codes within federally funded areas of the department's operating budget if such transfers do not result in an over-expenditure of any grant.

II. In order to maximize the use of federal grant funds and not lapse such funds, every department as defined in RSA 9:1 may, subject to the approval of the commissioner of the department of administrative services, carry forward into future state fiscal years any budgeted appropriation balances in class from federal grants for the duration of the federal grant award.

5 Repeal. 2011, 224:203, and 2011, 224:204 relative to the transfer of federal funds are repealed.

6 Effective Date. This act shall take effect July 1, 2013.

**2012-1415s**

**AMENDED ANALYSIS**

This bill amends the purchasing policy of the department of information technology for computer hardware, software, and related support and maintenance services. The bill also authorizes the transfer of certain federal grant funds.

**Health and Human Services**

**March 22, 2012**

**2012-1416s**

**04/09**

**Amendment to SB 409-FN**

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. "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.

II. "Debilitating medical condition" means the presence of either:

(a) 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, or post-traumatic stress disorder; or

(b) Symptoms or treatment results that include at least one of the following: wasting syndrome, severe pain that has not responded to prescribed medication or surgical measures for more than 3 months, or for which other treatment options produced serious side effects, severe nausea, severe vomiting, seizures, or severe, persistent muscle spasms.

III. "Department" means the department of health and human services.

IV. "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

V. “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.

VI. “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.

VII. “Physician” means an individual licensed to prescribe drugs to humans under RSA 329 and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances, except that in relation to a visiting qualifying patient, “physician” 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. If the qualifying patient’s debilitating medical condition is post-traumatic stress disorder, the physician who signs the qualifying patient’s written certification shall also be a psychiatrist.

VIII. “Qualifying patient” means an individual who has been diagnosed by a physician as having a debilitating medical condition and who possesses a valid registry identification card issued pursuant to RSA 126-V:4.

IX. “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.

X. “Seedling” means a marijuana plant that has no flowers and is less than 12 inches in height and less than 12 inches in diameter.

XI. “Unusable marijuana” means any marijuana, other than usable marijuana, including the seeds, stalks, and roots of the plant.

XII. “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.

XIII. “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.

XIV. “Written certification” means a document signed by a physician stating that in the physician’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 bona fide physician-patient relationship as defined in RSA 329:1-c 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 physician is primarily responsible for the patient’s care related to his or her debilitating medical condition, the 3-month requirement for the bona-fide physician-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 Restrictions on the Possession of Medical Marijuana by a Qualifying Patient or Designated Care-giver.

I. A qualifying patient 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, for the medical use of marijuana in accordance with this chapter, if the qualifying patient possesses or cultivates an amount of marijuana that does not exceed the following:

(a) If the qualifying patient does not have a designated caregiver and the qualifying patient is 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) Six mature marijuana plants and 12 seedlings.
- (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) Six mature marijuana plants and 12 seedlings
- (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 physician 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 physician's professional opinion, 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 physician 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 physician stating that the visiting qualifying patient has a debilitating medical condition as defined in RSA 126-V:1, II; and

(b) A visiting qualifying patient shall not cultivate marijuana in New Hampshire.

XI. Any qualifying patient or registered caregiver who sells or transfers marijuana to another person who is not a qualifying patient or registered caregiver under this chapter shall be guilty of a class B felony, shall have his or her registry identification card revoked, and shall be subject to other penalties as provided in RSA 318-B:26. The department may revoke the registry identification card of any qualifying patient or registered caregiver who violates any 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.

#### 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;

(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;

(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 fee not to exceed \$200.
- (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 physician.
- (e) Name, address, and date of birth of the applicant's designated caregiver, if any.
- (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 their 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.

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 fee not to exceed \$200
- (2) Name, residential and mailing address, and date of birth of the applicant, except that if the applicant is homeless, no residential address is required.
- (3) Name, residential and mailing address, and date of birth of the qualifying patient for whom the applicant will act as designated caregiver.
- (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 physician 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 and 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) 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 physician 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; or

(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.(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 physician notifies the department in writing that either the qualifying patient no longer suffers from a debilitating medical condition or that the physician 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 and a \$10 fee.

(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 registered caregiver loses his or her registry identification card, he or she shall notify the department and submit a \$10 fee 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.

VII. 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.

VIII.(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 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 physicians, 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) Local and state law enforcement personnel shall have access to the information within the department's confidential registry only for the purpose of conducting a criminal investigation relating to the medical use of marijuana.

(3) 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.

IX. 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 passed away. 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.



X. The department shall submit to the legislature an annual report that shall not disclose any identifying information about qualifying patients, designated caregivers, or physicians, 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 physicians 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 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 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 6 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 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 physician stating that in the physician'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 bona fide physician-patient relationship as defined in RSA 329:1-c 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 6 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 paragraph II, the defendant shall be acquitted of any charge to which the defendant proved the affirmative defense.

#### 126-V:6 Rulemaking.

I. Not later than one year 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.

II. The department may accept gifts, grants, donations, or other funds from private sources without the approval of the governor and council in order to reduce the application and renewal fees.

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 fees and fines received by the department and all monetary gifts, grants, and 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 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.

4 Applicability. The provisions of RSA 126-V:1-5 as inserted by section 1 of this act shall take effect on the earlier of July 1, 2013 or 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 from the effective date of this section until July 1, 2013.

#### 5 Effective Date.

I. RSA 126-V:1-5 as inserted by section 1 of this act shall take effect as provided in section 4 of this act.

II. Section 3 of this act shall take effect July 1, 2015.

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

### Senate Executive Departments and Administration

March 22, 2012

2012-1399s

04/09

### Amendment to HB 193

Amend RSA 227-B:3, II as inserted by section 1 of the bill by replacing it with the following:

[V-] **II.** All such members so appointed shall serve a term of [5] 4 years [~~commencing with the effective date of this chapter~~]. ***The terms of the members of the legislature shall be coterminous with their terms in office. Members of the commission shall continue to serve until a successor is appointed by the appointing authority.*** [Vacancies] ***In the case of a vacancy other than by expiration of term, the vacancy shall be filled for the unexpired term in the same manner and by the same body as the original appointment was made. Seven members of the commission shall constitute a quorum.***

Amend the bill by inserting after section 3 the following and renumbering the original sections 4-6 to read as 5-7, respectively:

4 New Paragraph; Mount Washington Commission; Powers and Duties. Amend RSA 227-B:6 by inserting after paragraph VIII the following new paragraph:

IX. Submit an annual report beginning January 1, 2013 to the senate president and the speaker of the house of representatives detailing the expenses incurred by the legislative members of the commission while in the performance of their duties for the commission.

**Senate Executive Departments and Administration**

**March 22, 2012**

**2012-1396s**

**05/04**

**Amendment to HB 624**

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

AN ACT establishing a committee to study the rulemaking authority of state agencies to establish fees.

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

**1 Committee Established.**

I. There is established a committee to study the rulemaking authority of state agencies to establish fees.

II.(a) The committee shall consist of 7 members of the house of representatives, appointed by the speaker of the house of representatives.

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

**III. The committee shall:**

(a) Review statutes that authorize fees to be set in administrative rules.

(b) Review the frequency of changes to fees established by state agencies and boards.

(c) Examine whether establishing statutory or other parameters would positively impact fee changes.

(d) Evaluate the process of setting fees to cover agency expenses or budgets.

(e) Review and recommend policy changes resulting from the study committee.

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 15 days of the effective date of this section. Four members of the committee shall constitute a quorum.

V. 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, and the senate clerk on or before October 20, 2012.

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

**2012-1396s**

**AMENDED ANALYSIS**

This bill establishes a committee to study the rulemaking authority of state agencies to establish fees.

**Health and Human Services**

**March 15, 2012**

**2012-1278s**

**05/04**

**Amendment to HB 1567**

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

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

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

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

# HEARINGS

***TUESDAY, MARCH 27, 2012***

**COMMERCE**, Room 102, LOB

Sen. Prescott (C), Sen. Sanborn (VC), Sen. De Blois, Sen. Houde, Sen. White

- 9:00 a.m. **HB 408**, clarifying the exemption for attorneys from licensing requirements for mortgage brokers or bankers.
- 9:10 a.m. **HB 171**, relative to restrictions on liquor licenses.
- 9:25 a.m. **HB 247**, relative to seller financing of mortgages and making changes to the laws regulating mortgage bankers and brokers and debt adjustment services.
- 9:40 a.m. **HB 236**, establishing a committee to study workers' compensation benefits for illegal aliens.
- 9:50 a.m. **HB 420-FN**, relative to the definition of employee and clarifying the criteria for exempting workers from employee status.

**EXECUTIVE SESSION MAY FOLLOW**

**PUBLIC AND MUNICIPAL AFFAIRS**, Room 101, LOB

Sen. Barnes (C), Sen. Forrester (VC), Sen. Boutin, Sen. Merrill, Sen. Stiles

- 9:00 a.m. **HB 1354**, relative to a person's residence for voting and all other legal purposes.
- 9:30 a.m. **HB 1664-FN**, establishing a committee to study transferring election law enforcement to the secretary of state.
- 9:50 a.m. **HB 1673-FN**, relative to complaints of election law violations.
- 10:10 a.m. **HB 1719**, relative to the filing period for elections.
- 10:30 a.m. **HB 1224**, allowing municipalities to send tax, water, and sewer bills electronically.
- 11:00 a.m. **HB 137-FN-L**, relative to the state fire code and the state building code.

**EXECUTIVE SESSION MAY FOLLOW**

***THURSDAY, MARCH 29, 2012***

**ENERGY AND NATURAL RESOURCES**, Room 102, LOB

Sen. Odell (C), Sen. Gallus (VC), Sen. Bradley, Sen. Lambert, Sen. Merrill

- 9:00 a.m. **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.
- 9:15 a.m. **HB 1133**, relative to membership of the enhanced 911 commission.
- 9:30 a.m. **HB 1296**, relative to net energy metering.
- 9:45 a.m. **HB 1356**, classifying certain land in Litchfield as land to be retained by the state.
- 10:00 a.m. **HB 1392**, relative to oyster aquaculture licenses.
- 10:15 a.m. **HB 1455-FN**, relative to special licenses for taking lobster while engaged in recreational scuba diving.

**EXECUTIVE SESSION MAY FOLLOW**

**EXECUTIVE DEPARTMENTS AND ADMINISTRATION**, Room 100, SH

Sen. Carson (C), Sen. Groen (VC), Sen. Larsen, Sen. Luther, Sen. White

- 9:00 a.m. **HB 1127**, relative to barbering apprentices.
- 9:10 a.m. **HB 1431**, relative to requirements for a barber to obtain a license and for a licensed barber, cosmetologist, manicurist, or esthetician to obtain a shop license.
- 9:25 a.m. **HB 1351**, relative to disclosure of information by the board of funeral directors and embalmers and governing boards of allied health professionals.

9:40 a.m. **HB 1185-FN-A**, relative to the police standards and training council.

10:00 a.m. **HB 1593-FN**, relative to the department of information technology.

**EXECUTIVE SESSION MAY FOLLOW**

**FINANCE**, Room 103, SH

Sen. Morse (C), Sen. Odell (VC), Sen. Barnes, Sen. Bragdon, Sen. D'Allesandro, Sen. Forrester, Sen. Gallus

1:00 p.m. **HB 652-FN**, establishing a commission relative to Medicaid managed care.

**Following the hearing will be an update presented by the Department of Health and Human Services on Managed Care.**

**EXECUTIVE SESSION MAY FOLLOW**

**HEALTH AND HUMAN SERVICES**, Room 102, LOB

Sen. Bradley (C), Sen. De Blois (VC), Sen. Kelly, Sen. Lambert, Sen. Sanborn

1:00 p.m. **HB 602-FN**, relative to funding the law requiring reporting of health care acquired infections.

1:15 p.m. **HB 1281**, establishing a committee to study alternative medical insurance coverage for elected state officials.

1:30 p.m. **HB 1596**, relative to the membership of the advisory council on child care.

1:40 p.m. **HB 1618**, relative to types of community living facilities.

1:50 p.m. **HB 1644**, relative to the regulation of individual home health care service providers by the department of health and human services.

**EXECUTIVE SESSION MAY FOLLOW**

**JUDICIARY**, Room 101, LOB

Sen. Houde (C), Sen. Carson (VC), Sen. Groen, Sen. Luther, Sen. Forsythe

1:00 p.m. **HB 514**, relative to entry on private land.

1:15 p.m. **HB 574**, relative to the taking of private property during a state of emergency.

1:30 p.m. **HB 1298**, relative to the definition of "public use" under the eminent domain procedure act.

1:45 p.m. **HB 1394**, relative to appeals of eminent domain decisions.

2:00 p.m. **HB 1532-FN**, relative to trespass on land which is not posted.

2:15 p.m. **HB 1311**, changing a statutory reference to reflect the current homestead exemption amounts.

**EXECUTIVE SESSION MAY FOLLOW**

**TRANSPORTATION**, Room 103, LOB

Sen. Rausch (C), Sen. Boutin (VC), Sen. Forsythe, Sen. Kelly, Sen. Stiles

9:00 a.m. **HB 1157**, relative to signage at fuel service stations.

9:30 a.m. **HB 1307**, relative to agricultural plates.

9:45 a.m. **HB 1434**, relative to display of antique motor vehicle plates.

10:00 a.m. **HB 1495-FN**, establishing a Purple Heart Trail along U. S. Route 3.

10:30 a.m. **HB 1585-FN**, relative to inspections of trucks and buses.

10:45 a.m. **HJR 22**, supporting the use of an aversive agent in certain engine coolants and antifreeze to render them impalatable.

**EXECUTIVE SESSION MAY FOLLOW**

**THURSDAY, APRIL 5, 2012**

**HEALTH AND HUMAN SERVICES**, Room 100, SH

Sen. Bradley (C), Sen. De Blois (VC), Sen. Kelly, Sen. Lambert, Sen. Sanborn

1:00 p.m. **HB 228-FN**, prohibiting the use of public funds for abortion services.

**EXECUTIVE SESSION MAY FOLLOW**

**JUDICIARY, Room 101, LOB**

Sen. Houde (C), Sen. Carson (VC), Sen. Groen, Sen. Luther, Sen. Forsythe

1:00 p.m. **HB 283-FN**, relative to impaired drivers.1:15 p.m. **HB 486-FN**, relative to penalties for alcohol ignition interlock circumvention.1:30 p.m. **HB 1240**, relative to license suspensions for refusal to consent to an alcohol test.1:45 p.m. **HB 1699-FN**, relative to driving under the influence of drugs.**EXECUTIVE SESSION MAY FOLLOW****MEETINGS*****FRIDAY, MARCH 23, 2012*****ASSESSING STANDARDS BOARD (RSA 21-J:14-a)**

9:30 a.m. Room 305, LOB Regular Meeting

**NEW HAMPSHIRE RAIL TRANSIT AUTHORITY (RSA 238-A:2)**

10:00 a.m. Room 203, LOB Regular Meeting

***MONDAY, MARCH 26, 2012*****OIL FUND DISBURSEMENT BOARD (RSA 146-D:4)**

9:00 a.m. Room 308, LOB Regular Meeting

**ECONOMIC STRATEGIC COMMISSION TO REVIEW THE RELATIONSHIP BETWEEN NEW HAMPSHIRE BUSINESSES AND STATE GOVERNMENT (RSA 359-K:2)**

2:30 p.m. Room 103, LOB Subcommittee Meeting

***FRIDAY, MARCH 30, 2012*****JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2)**

9:00 a.m. Room 103, SH Regular Meeting

***MONDAY, APRIL 2, 2012*****MEDICAL MALPRACTICE PANEL AND INSURANCE OVERSIGHT COMMITTEE (RSA 519-B:11)**

10:00 a.m. Room 100, SH Regular Meeting

**STATE COMMITTEE ON AGING (RSA 161-F:7, I)**10:00 a.m. DHHS, Brown Building Regular Meeting  
129 Pleasant Street  
Concord, NH***TUESDAY, APRIL 3, 2012*****LONG RANGE CAPITAL PLANNING AND UTILIZATION COMMITTEE (RSA 17-M:1)**

3:30 p.m. Room 201, LOB Regular Business

***WEDNESDAY, APRIL 4, 2012*****ADVISORY COMMITTEE ON THE EDUCATION OF CHILDREN/STUDENTS WITH DISABILITIES (RSA 186-C:3-b)**4:30 p.m. NH Department of Education Regular Meeting  
Londergan Hall, Room 15  
101 Pleasant Street  
Concord, NH***FRIDAY, APRIL 6, 2012*****ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION (RSA 282-A:128)**9:00 a.m. NH Employment Security Regular Meeting  
32 South Main Street  
Concord, NH

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

10:00 a.m.                      Room 205, LOB                      Regular Meeting

***THURSDAY, APRIL 12, 2012*****INDUSTRIAL TECHNOLOGY RESEARCH AND INNOVATION CENTER OVERSIGHT COMMITTEE (RSA 187-A:32)**

2:00 p.m.                      UNH School of Law                      Regular Meeting  
    The Franklin Center Board Room  
    Room 175  
    2 White Street  
    Concord, NH

***FRIDAY, APRIL 13, 2012*****WORKERS' COMPENSATION ADVISORY COUNCIL (RSA 281-A:62)**

9:00 a.m.                      Room 303, LOB                      Regular Meeting

**FISCAL COMMITTEE OF THE GENERAL COURT (RSA 14:30-a)**

10:00 a.m.                      Rooms 210-211, LOB                      Regular Business

***MONDAY, APRIL 16, 2012*****BOARD OF MANUFACTURED HOUSING (RSA 205-A:25)**

1:00 p.m.                      Room 201, LOB                      Regular Meeting

***FRIDAY, APRIL 20, 2012*****JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES (RSA 541-A:2)**

9:00 a.m.                      Rooms 305-307, LOB                      Regular Meeting

**GUARDIAN AD LITEM BOARD (RSA 490-C:1)**

1:00 p.m.                      Room 101, LOB                      Regular Meeting

***MONDAY, APRIL 23, 2012*****OIL FUND DISBURSEMENT BOARD (RSA 146-D:4)**

9:00 a.m.                      Room 305, LOB                      Regular Meeting

***FRIDAY, APRIL 27, 2012*****NEW HAMPSHIRE RAIL TRANSIT AUTHORITY (RSA 238-A:2)**

10:00 a.m.                      Room 203, LOB                      Regular Meeting

\* \* \* \* \*

**SENATE BILLS AMENDED BY THE HOUSE**

**SB 49**, relative to tip pooling arrangements.

**SB 152-FN**, relative to participation in state employees' group insurance by members of the general court.

**SB 153-FN**, relative to the regulation of real estate appraisers by the New Hampshire real estate appraiser board.

**SB 188-FN**, establishing a committee to study establishing an office of the inspector general.

**SB 190**, relative to the duties and membership of the executive branch ethics committee.

\* \* \* \* \*

**FISCAL NOTE ADDITIONS AND UPDATES HAVE BEEN AMENDED TO THE BILLS ON THE WEB SITE AND ARE AVAILABLE IN THE SENATE CLERK'S OFFICE FOR THE FOLLOWING 2012 BILLS:**

**SENATE BILLS:** 19, 48, 71, 74, 83, 84, 132, 142, 152, 153, 155, 159, 160, 163, 168, 185, 186, 188, 198, 203, 212, 217, 219, 225, 227, 234, 239, 244, 247, 271, 272, 275, 276, 279, 285, 289, 294, 303, 305, 307, 309, 311, 312, 313, 320, 321, 324, 326, 330, 338, 343, 348, 358, 366, 370, 372, 375, 381, 399, 405, 407, 409

**HOUSE BILLS:** 72, 110, 186, 210, 222, 225, 228, 242, 247, 269, 325, 330, 351, 378, 420, 449, 466, 479, 508, 518, 520, 528, 652, 654, 1155, 1251, 1302, 1366, 1383, 1455, 1495, 1505, 1510, 1526, 1534, 1593, 1611, 1698

\* \* \* \* \*

**ENROLLED BILL AMENDMENTS ARE AVAILABLE IN THE SENATE CLERK'S OFFICE FOR 2012 BILLS:**

**HOUSE BILLS:** 648

\* \* \* \* \*

## NOTICES

### STATE HOUSE COMPLEX DISPOSAL BOXES

The General Court is exploring the issue of the disposal of dirty syringes, needles, and any other sharps into the proper disposal boxes.

During the first phase of exploration, we will have a sharps box for collection in the Health Services Department to place all sharps in. This will assist us in planning if there is any viability of placing like containers in the complex.

Senator Jeb Bradley, Senate Majority Leader

\* \* \* \* \*

The components of the NH Dental Society will be inviting legislators to events in their area in order to share information regarding oral health issues in New Hampshire. Please watch for invitations in the mail.

Senator Jeb Bradley, Senate Majority Leader  
Senator Sylvia B. Larsen, Senate Minority Leader

\* \* \* \* \*

### TUESDAY, MARCH 27, 2012

The members of the Coalition of Insurance and Financial Producers cordially invite all Senators and staff to a reception in the State House cafeteria on Tuesday, March 27, 2012 from 7:30 a.m. to 9:30 a.m. where a breakfast will be served. We look forward to seeing you there.

Senator Jeb Bradley, Senate Majority Leader  
Senator Sylvia B. Larsen, Senate Minority Leader

\* \* \* \* \*

### WEDNESDAY, MARCH 28, 2012

Breathe New Hampshire invites all legislators and staff to attend a Breakfast Reception on Wednesday, March 28, 2012 from 7:30 a.m. to 9:00 a.m. at the State House Cafeteria. Please join Breathe New Hampshire staff, board members, and volunteers for breakfast, conversation, and door prizes. Please RSVP by March 16, 2012 at [info@breathenh.org](mailto:info@breathenh.org) or by calling 603-669-2411.

Senator Sylvia B. Larsen, Senate Minority Leader

\* \* \* \* \*



### WEDNESDAY, MARCH 28, 2012

All legislators are cordially invited to join the New Hampshire State Alliance of YMCAs in the State House cafeteria on Wednesday, March 28<sup>th</sup> during the lunch break for an informal luncheon reception. Sandwiches, hot and cold drinks, and desserts will be provided.

Senator Peter Bragdon, Senate President

\* \* \* \* \*

### WEDNESDAY, MARCH 28, 2012

All legislators and staff are cordially invited to join members of the New Hampshire Automobile Dealers Association (NHADA) for a Crossover Reception on Wednesday, March 28<sup>th</sup> at 3:00 p.m. or following the House session, whichever is later, at the Concord Holiday Inn, 172 North Main Street. NHADA has historically hosted this event which offers legislators a wonderful opportunity to unwind and enjoy the company of fellow legislators and staff in a fun, social gathering. This year in particular we want to recognize all of you for your support of New Hampshire automotive members and their 14,000 employees.

Senator Jim B. Rausch

\* \* \* \* \*

### SATURDAY, MARCH 31, 2012

All members of the Senate are invited to the 4<sup>th</sup> Annual Local Energy Solutions Conference set for Saturday, March 31, 2012 from 8:30 a.m. to 4:15 p.m. at the Merrimack Valley High School in Penacook. Registration is free to members of the NH General Court. Keynote speaker is Mike Breen, Vice President with the Truman National Security Project. Originally from New Hampshire, Mr. Breen is an expert voice on America's security challenges and has appeared in numerous national and regional media outlets on a wide range of issues, particularly energy security, counterinsurgency, and counterterrorism. Mr. Breen will speak about energy use in the United States and at a local level and how that has direct and serious impact on the national security challenges we face abroad. In addition, more than 250 attendees, instructional workshops on energy solutions for local government, and peer-to-peer networking make this conference a "don't miss" event. For a complete listing of workshop sessions and speakers, go to [2012 Local Energy Solutions Conference](#). An RSVP would be appreciated.

Senator Gary E. Lambert

\* \* \* \* \*

### THURSDAY, APRIL 12, 2012

The City and Town Clerks Association would like to invite all Senators to breakfast on Thursday, April 12<sup>th</sup> from 8:00 a.m. to 9:30 a.m. in the cafeteria. Come and meet your clerk.

Senator Jeb Bradley, Senate Majority Leader

\* \* \* \* \*

### WEDNESDAY, APRIL 18, 2012

Members of the General Court and staff are invited to join UNH President Mark W. Huddleston on Wednesday, April 18<sup>th</sup> 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 April 11<sup>th</sup> at [www.unh.edu/universityevents](http://www.unh.edu/universityevents) or call (603) 862-3660.

Senator Amanda Merrill

\* \* \* \* \*

### WEDNESDAY, APRIL 25, 2012

“Banding Together for Oral Health” – All Senators and their staff are invited to join the NH Oral Health Coalition for breakfast and displays in the State House Cafeteria on Wednesday, April 25<sup>th</sup> from 7:30 a.m. to 9:00 a.m. Breakfast will be served starting at 7:30 a.m. and will be provided by Elizabeth’s at the State House. We hope to see you there! RSVP to: [gbrown@nhoralhealth.org](mailto:gbrown@nhoralhealth.org)

Senator Jeb Bradley, Senate Majority Leader  
Senator Sylvia B. Larsen, Senate Minority Leader

\* \* \* \* \*

### THURSDAY, APRIL 26, 2012

All Legislators and staff are invited to the Biennial Legislative Health Screening Day presented by Health Services. This event will be held on Thursday, April 26<sup>th</sup> on the 3<sup>rd</sup> floor of the LOB from 12:00 p.m. to 4:00 p.m. There will be blood pressure screenings, blood sugar screenings, glaucoma screenings, fall prevention/balance screenings, even a chair massage by Hesser College, and lots more! Got questions? Bring them to our participating professionals - including medical doctors, dentists, pharmacists, and ophthalmologists - for quick and up-to-date information. Contact State House Health Services at 271-2757 for more information.

Senator Jeb Bradley, Senate Majority Leader

\* \* \* \* \*

### LEGISLATIVE ETHICS COMMITTEE

The Legislative Ethics Committee has voted to issue the following advisory opinion, which is printed below in its entirety.

#### Advisory Opinion 2012-2 Response to a Request for an Advisory Opinion from Representative Kenneth Kreis (March 16, 2012)

Pursuant to RSA 14-B:3, I (c), Rep. Kenneth Kreis has requested an Advisory Opinion whether, consistent with applicable statutes and the Ethics Guidelines, he may participate in official activities regarding 2012 HB 1219, relative to the definition of wildlife for purposes of regulation by the Fish and Game Department.

According to information provided to the Committee by Rep. Kreis, he is licensed as a “wildlife propagator” by the Fish and Game Department, for which he pays a fee of \$35.00. In that capacity, he has assisted friends in preparing farmed red deer and elk for market. Rep. Kreis has stated that neither he nor any family member has received any compensation of any kind for such activity. HB 1219 would redefine “wildlife” to exclude farmed red deer and elk from that category.

Specifically, Rep. Kreis asks whether on the basis of this information, he would have a reportable financial interest or conflict of interest that would bear on his ability to participate in official activities regarding HB 1219, or similar legislation.

Relevant provisions of applicable law are:

#### Ethics Guidelines

- 1 Principles of Public Service, Paragraphs I and II
  - 2 Definitions, Paragraphs II. “Conflict Of Interest”, V. “Financial Interest”, and X. “Official Activities”
  - 3 Legislator’s Financial Disclosure Form, Introduction and Paragraph 2
  - 4 Prohibited Activities, Paragraphs II, III. and V.
  - 5 Conflict of Interest Procedure (all)
- (See full text set out in Appendix)

We advise as follows:

Based on Rep. Kreis’s representations, we assume that his purpose in proposing legislation involving the Fish and Game Department is not to pursue any private interest that would be incompatible with the public

good. If that were otherwise, his participation in official activity concerning the Bill, and other legislation involving the Department, could implicate *Guidelines*, Section 1, Principles of Public Service, Paragraph I, which prohibits legislators from using the powers and resources of public office to attain personal benefits or pursue any other private interest incompatible with the public good. See also *Guidelines* Section 4, Prohibited Activities, Paragraphs II and III.

Rep. Kreis has given assurances that neither he nor any family member has received any financial benefit or effect from his activities as a licensed wildlife propagator, and therefore none from the potential enactment of HB 1219. Based on these assurances, we conclude that there would be no “conflict of interest” within the meaning of the specific financial conflict of interest provisions of the Guidelines that would affect his participation in official activity concerning the Bill.

However, because Rep. Kreis pays a fee for his license as a wildlife propagator, he might well have a reportable financial interest in future legislation that would change the licensing fee. To avoid violation of the Guidelines that might result from his participation in official activity in connection with such a bill, he should list his position as wildlife propagator under Item II(a) in the Financial Disclosure Form required of legislators by Section 3 of the Guidelines.

Because the questions raised by Rep. Kreis’s request may be of general interest to legislators beyond the specific facts provided by Rep. Kreis, we offer the following observations to promote better understanding of the relevant provisions of the Guidelines.

Principle I of the Guidelines requires legislators generally to use the powers and resources of public office only to advance public interests, and not to obtain personal benefits or pursue *any other private interest* incompatible with the public good. Similarly, Principle II of the Guidelines requires legislators to decide all matters on the merits free from conflicts of interest and both *real and apparent improper influences*. These are principles of public service that legislators should always bear in mind and abide by, in addition to the specific provisions of the Guidelines relating to financial conflict of interest. Also, the Prohibited Acts set forth in Section 4 of the Guidelines broadly proscribe official activity that is motivated by pursuit of personal or private benefit, financial or otherwise. See this Committee’s *Special Report to the Speaker Regarding Complaint 97-1, (re Rep. Roland Hemon)* decided July 1, 1997. <http://gencourt.state.nh.us/ethics/Complaints/priordecisions/1997-1%20Special%20Report.pdf>

Those broad prohibitions on pursuit of private interest are distinct from the specific financial conflict of interest provisions of the Guidelines, which are triggered only by the presence of financial interest in the outcome of an official activity. As the Guidelines definitions state:

II. “Conflict Of Interest” is the condition in which a legislator has a financial interest in any official activity. \* \* \*

V. “Financial Interest” is a reasonably foreseeable direct material financial effect which is greater on the legislator, legislative officer, legislative employee, or a family member than on the general public. \* \* \*

[Emphasis added].

Furthermore, even where a legislator may have a financial interest in an official activity (and therefore a conflict of interest as defined), the financial conflict of interest provisions of the Guidelines do not require a legislator to recuse, or decline to participate in the matter, or authorize anyone else to require the legislator to do so. In this respect, the Guidelines are patterned after the traditional British Parliamentary standard, recognizing that in a citizen legislature, members must earn a living and therefore may have private financial interests of one kind or another that may be affected by legislation. Accordingly, instead of disqualification, in the case of financial conflict of interest what the Guidelines require is disclosure, so that the legislator’s colleagues and the voters can be made aware of the legislator’s potential motivations, and respond accordingly.

The Guidelines provide two specific mechanisms for disclosure:

(1) Annually filing the Financial Disclosure Form specified by Section 3, which requires disclosure of the legislator’s primary sources of substantial income, as well as membership in groups that may be specially affected by legislation; and

(2) where the Financial Disclosure Form may not adequately disclose a special interest with respect to a specific official activity, filing a Declaration of Intent Form disclosing the interest as specified in Section 5 of the Guidelines, and stating whether the legislator will either participate, or not participate, in the official activity in question. The decision to participate or recuse is for the legislator to make, not others. In the succinct

words of the Guidelines, the point of the Declaration is to “permit clear public awareness and understanding of the nature and extent of the conflict,” thereby allowing colleagues and the electorate to judge the legislator’s conduct accordingly.

Where a legislator is aware that he or she has a reportable conflict but is uncertain whether to file a Declaration of Intent Form, the better practice would be to file the form, because it will better serve the purpose of disclosure. Similarly, filing a Declaration of Intent form is also appropriate where a legislator might reasonably be thought to have a special, private but non-financial interest influencing the official activity. See Advisory Opinion 2010-5, *Request of Rep. Alida Millham*, September 20, 2010 (membership on board of directors of not-for-profit organization specially affected by proposed official activity requires filing Declaration of Intent). [http://gencourt.state.nh.us/ethics/Advisory\\_Opinions/2010-5.pdf](http://gencourt.state.nh.us/ethics/Advisory_Opinions/2010-5.pdf) . The Ethics Committee’s Executive Administrator is available to assist legislators in filing the form.

We appreciate the opportunity to be of assistance.

For the Committee,  
Martin L. Gross  
Chairman

[Vote: 6 - 0]

{The full texts of relevant provisions of the Ethics Guidelines are set forth in an Appendix to this Advisory Opinion, available at [http://gencourt.state.nh.us/ethics/Advisory\\_Opinions/AO\\_Blurbs.htm](http://gencourt.state.nh.us/ethics/Advisory_Opinions/AO_Blurbs.htm) }

\* \* \* \* \*

## SENATE SCHEDULE

Thursday, March 29, 2012	Last Day to ACT on all Senate bills. (Crossover)
Thursday, May 03, 2012	Deadline for Policy Committees to ACT on all House bills with a fiscal impact, except bills exempted pursuant to Senate Rule 4-3 (b).
Thursday, May 17, 2012	Last Day to ACT on all House bills.
Thursday, May 24, 2012	Last Day to FORM Committees of Conference.
Monday, May 28, 2012	Memorial Day (State Holiday)
Thursday, May 31, 2012	Last Day to SIGN Committee of Conference Reports.
Thursday, June 07, 2012	Last Day to ACT on Committee of Conference Reports.
Wednesday, July 04, 2012	Independence Day (State Holiday)
Monday, September 03, 2012	Labor Day (State Holiday)
Monday, November 12, 2012	Veterans’ Day (State Holiday)
Thursday, November 22, 2012	Thanksgiving Day (State Holiday)
Friday, November 23, 2012	Day after Thanksgiving (State Holiday)
Tuesday, December 25, 2012	Christmas Day (State Holiday)
Tuesday, January 01, 2013	New Year’s Day (State Holiday)

\* \* \* \* \*

## VISITORS’ CENTER SCHEDULE – MARCH & APRIL

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

Virginia J. Drew, Director  
Deborah Rivers, Public Information Administrator

<b>DATE</b>	<b>TIME</b>	<b>GROUP</b>	<b>Group#/Grade</b>
March 23	9:30/11:00 SH/HM	Henry Wilson School – Farmington	120/4
March 23	12:00	Presentation of Mary School – Hudson	42/4
March 26	10:30/12:00 SH/HM	Milford Elementary School @Heron Pond	100/4
March 26	1:00	Gilford Parks & Recreation	
March 27	10:00	Maplewood School – Somersworth	48/4
March 27	11:00/12:30	Beaver Meadow School – Concord	74/4
March 27	1:30	World Affairs Council Visitors	
March 28	9:00/10:30 SH/HM	Barnstead Elementary School	63/4
March 28	9:15	Breathe NH student group	
March 28	10:15	Pollard School – Plaistow	40/4
March 29	9:30/11:00 SH/HM	Lincoln St. School – Exeter	88/4
March 29	10:30	Pollard School – Plaistow	40/4
March 30	9:30	Trinity Christian School – Keene	10/4
March 30	9:30/11:00 SH/F&G	Symonds School – Keene	60/4
April 2	9:30	Maple Ave. School – Goffstown	50/4
April 2	11:00	Paul School – Sanbornville/Wakefield	45/4
April 2	1:00	Brain Injury Assoc. of NH	25
April 3	9:30/11:00 SH/HM	Maple Ave. School – Goffstown	75/4
April 3	11:30	Sapulding High School – Rochester	15/HS
April 4	10:00/11:30	Newmarket Elementary School	80/4
April 4	1:30	Active Outdoor Adults – Wolfeboro	30/Srs
April 5	9:00	Stevens High School German Exchange students - Claremont	25/HS
April 5	10:00	East Kingston Elementary School	40/4
April 5	11:30	North Hampton Elementary School	45/4
April 6	12:00	Merrimack Valley Middle School	10/MS
April 6	10:00/11:15	Paul Smith School – Franklin	100/4
April 6	11:45	Goshen-Lempster Cooperative School	22/4
April 6	1:30	Fire Academy Trainees	25
April 9	9:15	Chichester Elementary School	34/4
April 9	10:00/11:30 SH/HM	Nottingham West School – Hudson	70/4
April 9	3:00	Teen Pact	
April 10	10:00/11:30 SH/HM	Nottingham West School – Hudson	70/4
April 11	10:15/11:30 SH/HM	Crescent Lake School – Wolfeboro	80/4
April 11	9:15	Holy Family Academy – Manchester	24/7&8
April 11	1:00	Alvirne High School – French Exchange	40/HS
April 12	9:30/11:00 SH/HM	Hillsboro-Deering School	90/4
April 13	9:30/10:30 SH/HM	DAR	100
April 13	11:00	Thornton Ferry School – Merrimack	50/4
April 13	12:30	Teen Pact Family Day	
April 16	9:45/11:00 SH/HM	Richards Elementary School – Newport	80/4
April 17	9:00	Henniker Community School	43/4
April 17	10:00/11:30 SH/HM	Garrison School – Dover	100/4
April 17	12:30	Hopkinton High School French Exchange students	30/HS
April 18	9:45/11:00 SH/HM	Horne St. School – Dover	80/4
April 19	9:30	Epsom Central School	50/4
April 19	11:00	Gilmanton Elementary School	50/4
April 20	9:30/11:00 SH/SC	Thornton Ferry School – Merrimack	100/4