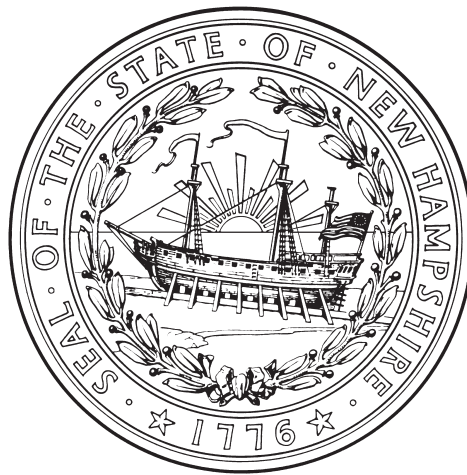


June 7, 2007
No. 21

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

PART II

HB 664-FN, relative to annual dam registration and permit application fees. Finance Committee. Ought to Pass, Vote 7-0. Senator Odell for the committee.

Senator D'Allesandro offered a floor amendment.

Sen. D'Allesandro, Dist. 20

June 5, 2007

2007-2078s

06/09

Floor Amendment to HB 664-FN

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

AN ACT relative to annual dam registration and permit application fees and authorizing the city of Manchester to establish a stormwater utility.

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

4 Stormwater Utility Authorized for City of Manchester.

I. In this section:

(a) "Stormwater" means stormwater runoff from precipitation, snow melt runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.

(b) "Stormwater utility" means a special assessment district established to generate funding specifically for stormwater management.

II. The formation of a stormwater utility in the city of Manchester is hereby authorized upon approval by a 2/3 vote of the Manchester board of mayor and aldermen. The board of mayor and aldermen may adopt bylaws and ordinances under RSA 38:26 to regulate the rate structure of fees and to promote the objectives of the utility.

III. The stormwater utility shall address flood and erosion control, water quality management, ecological preservation, annual pollutant load contained in stormwater discharge, rate structures for fees, and other issues related to stormwater.

2007-2078s

AMENDED ANALYSIS

This bill:

I. Increases annual dam registration and filing fees to cover the cost of inspecting existing dams and permitting the construction or reconstruction of dams.

II. Authorizes the city of Manchester to establish a stormwater utility.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 826-FN, relative to coverage of services and items under the medical assistance program. Finance Committee. Ought to Pass, Vote 7-0. Senator Sgambati for the committee.

The question is on the adoption of the committee report of ought to pass.

A roll call was requested by Senator Estabrook.

Seconded by Senator Hassan.

The following Senators voted Yes: Gallus, Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, DeVries, Letourneau, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: None.

Yeas: 24 - Nays: 0

Adopted.

Ordered to third reading.

HB 827-FN, relative to the reasonable cost of medical support for dependent children. Finance Committee. Ought to Pass, Vote 7-0. Senator Sgambati for the committee.

Adopted.

Ordered to third reading.

HB 383, relative to waterfront buffer and woodland buffer requirements in the comprehensive shoreland protection act. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 5-0. Senator Cilley for the committee.

Sen. Fuller Clark, Dist. 24

Rep. Brueggemann, Merr. 12

May 23, 2007

2007-1789s

06/09

Amendment to HB 383

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

1 New Paragraph; Definitions. Amend RSA 483-B:4 by inserting after paragraph VII the following new paragraph:

VII-a. "Impervious surface" means any modified surface that cannot effectively absorb or infiltrate water. Examples of impervious surfaces include but are not limited to, roofs, decks, patios, and paved, gravel, or crushed stone driveways, parking areas, and walkways unless designed to effectively absorb or infiltrate water.

2 New Paragraph; Definitions. Amend RSA 483-B:4 by inserting after paragraph X the following new paragraph:

X-a. "Natural ground cover" means any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Natural ground cover shall also include naturally occurring leaf or needle litter, stumps, decaying woody debris, stones, and boulders. Natural ground cover shall not include lawns, invasive species as listed by the department of agriculture, markets, and food in accordance with RSA 430:53, III, exotic species as designated by rule of the department of environmental services in accordance with RSA 487:24, VII, imported organic or stone mulches, or other artificial materials.

3 Definitions. Amend RSA 483-B:4, XI-a to read as follows:

XI-a. ***"Nonconforming lot of record" means an existing lot which does not conform to the provisions of this chapter.***

XI-b. "Nonconforming structure" means a structure that, either individually or when viewed in combination with other structures on the property, does not conform to the provisions of this chapter, including but not limited to the impervious surface limits of RSA 483-B:9, V(g).

XI-c. "Ordinary high water mark" means the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernable, the ordinary high water mark may be determined by the department of environmental services.

4 Definitions. Amend RSA 483-B:4, XVI(c) to read as follows:

(c) Rivers, meaning all year-round flowing waters of fourth order or higher [~~as shown on the now current version of the U.S. Geological Survey 7 1/2" x 2 1/2" topographic maps~~] ***and all rivers and river segments designated as protected under RSA 483:15.*** Stream order shall be determined using the [~~Strahler method, whereby the highest year-round streams in a watershed are first order streams, their juncture yields second order streams, the juncture of second order streams yields third order streams, et seq.~~] ***New Hampshire hydrography dataset archived by the geographically referenced analysis and information transfer system (GRANIT) at the complex systems research center of the university of New Hampshire, and developed by GRANIT in collaboration with the department of environmental services.*** A listing of the streams of fourth order and higher shall be prepared and [~~maintained~~] ***periodically updated*** by the [~~office of energy and planning~~] ***GRANIT at the complex systems research center of the university of New Hampshire*** and delivered to the commissioner 30 days after the effective date of this [act] ***section.***

5 Definitions. Amend RSA 483-B:4, XVI(c) to read as follows:

(c) Rivers, meaning all year-round flowing waters of ~~[fourth]~~ **third** order or higher and all rivers and river segments designated as protected under RSA 483:15. Stream order shall be determined using the New Hampshire hydrography dataset archived by the geographically referenced analysis and information transfer system (GRANIT) at the complex systems research center of the university of New Hampshire, and developed by GRANIT in collaboration with the department of environmental services. A listing of the streams of ~~[fourth]~~ **third** order and higher shall be prepared and periodically updated by the GRANIT at the complex systems research center of the university of New Hampshire and delivered to the commissioner 30 days after the effective date of this section.

6 New Paragraph; Definitions. Amend RSA 483-B:4 by inserting after paragraph XXIV the following new paragraph:

XXIV-a. "Undisturbed state" means native vegetation allowed to grow without interference.

7 Definitions. Amend RSA 483-B:4, XXVI to read as follows:

XXVI. "Water dependent structure" means a structure that ~~[services and supports activities that require direct access to, or contact with the water, or both, as an operational necessity and that requires a permit under RSA 482-A, including but not limited to]~~ **is** a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp **or other similar structure, or any part thereof, built over, on, or in the waters of the state.**

8 Prior Approval; Permits. Amend RSA 483-B:6 to read as follows:

483-B:6 ~~[Prior Approval; Permits]~~ **Other Required Permits and Approvals.**

I. Within the protected shoreland, any person intending to:

(a) Engage in any earth excavation activity shall obtain all necessary local approvals in compliance with RSA 155-E.

(b) Construct a water-dependent structure, alter the bank, or construct or replenish a beach shall obtain approval and all necessary permits pursuant to RSA 482-A.

(c) Install a septic system as described in RSA 483-B:9, V~~[(b)(1)-(3)]~~ **(c)** shall obtain all permits pursuant to RSA 485-A:29.

(d) Conduct an activity resulting in a contiguous disturbed area exceeding 50,000 square feet shall obtain a permit pursuant to RSA 485-A:17.

(e) Subdivide land as described in RSA 483-B:9, V~~[(d) and]~~ **(e) and (f)** shall obtain approval pursuant to RSA 485-A:29.

(f) Conduct an activity regulated under a local zoning ordinance shall obtain all necessary local approvals.

II. In applying for ~~[these]~~ approvals and permits, ~~[such persons]~~ **pursuant to paragraph I, applicants** shall demonstrate ~~[to the satisfaction of the department]~~ that the proposal meets or exceeds the development standards of this chapter. **The department shall develop minimum standards for information to be required on or with all applications under paragraph I.** The department **or municipality** shall grant, deny, or attach reasonable conditions to ~~[a permit]~~ **approvals or permits** listed in subparagraphs I(a)-~~(e)~~ **(f)**, to protect the public waters or the public health, safety or welfare. Such conditions shall be related to the purposes of this chapter.

III. The commissioner shall have the sole authority to issue variances and waivers of the provisions of this chapter as specifically authorized by this chapter.

IV. No variance, permit, or approval issued by a municipality shall exempt the owner from obtaining any other necessary permit or approval from the department as required by this chapter.

9 Minimum Protection Standards. Amend RSA 483-B:9, IV-b to read as follows:

IV-b. Public utility lines and associated structures and facilities, **public roads, and public water access facilities including boat ramps** shall be permitted by the commissioner as necessary~~;~~ **and** consistent with the purposes of this chapter and other state law.

10 Waterfront Buffer. Amend RSA 483-B:9, V to read as follows:

V. The following minimum standards shall apply to **areas and activities within** the protected shoreland ~~[provided that]~~ **with the exception of** forest management **that is** not associated with shoreland development or land conversion, and **is** conducted in compliance with RSA 227J:9; forestry ~~[involving]~~ **conducted by or under the direction of a water supplier for the purpose of managing a** water supply ~~[reservoir] watershed [management; or]; and~~ agriculture conducted in accordance with best management practices~~[- shall be exempt from the provisions of this chapter]~~ **as required by RSA 483-B:3, III:**

(a) MAINTENANCE OF A WATERFRONT BUFFER.

(1) The waterfront buffer shall be those protected shorelands within 50 feet of the reference line. The purpose of this buffer shall be to protect the quality of public waters while allowing homeowner discretion with regard to water access, safety, viewscape maintenance, and lot design.

(2) Within the waterfront buffer all of the following prohibitions and limitations shall apply:

(A) No chemicals, including pesticides of any kind or fertilizers of any kind except those specified in RSA 483-B:9, II(d), shall be applied.

(B) Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by the department, pursuant to RSA 482-A or RSA 483-B:11, II.

(C) No natural ground cover shall be removed except as necessary for a foot path to water as provided under RSA 483-B:9, V(a)(2)(D)(viii), cutting those portions that have grown over 3 feet in height for the purpose of providing a view, or as specifically approved by the department, pursuant to RSA 482-A or 483-B:11, II.

(D) Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into 50 by 50 foot segments. Within each segment a minimum combined tree and sapling score of at least 50 points shall be maintained. If for any reason there is insufficient area for a full segment, the number of points required to be maintained in that partial segment shall be proportional to that required of a full segment.

(i) Tree and sapling diameters shall be measured at 4½ feet above the ground and are scored as follows:

<u>Diameter</u>	<u>Score</u>
1 inch to 6 inches	1
greater than 6 inches to 12 inches	5
greater than 12 inches	10

(ii) Dead, diseased, or unsafe trees or saplings shall not be included in scoring.

(iii) If the total tree and sapling score in any 50 foot by 50 foot segment exceeds 50 points, then trees and saplings may be removed as long as the sum of the scores for the remaining trees and saplings in that segment does not total less than 50 points. Trees and saplings may be removed from partial segments provided that the sum of the scores for the remaining trees and saplings in that partial segment is equal to or greater than the proportional point requirement.

(iv) The department may approve applications pursuant to RSA 482-A that include the planting of native trees and saplings as necessary to at least maintain either the existing combined tree and sapling score or the minimum score required. The department shall not approve any application that would result in a combined tree and sapling score less than the minimum score required where the segment initially meets the minimum score or would result in any reduction of the combined tree and sapling score where the segment does not initially meet the minimum score.

(v) Owners of lots that were legally developed prior to April 1, 2008 may maintain but not enlarge cleared areas, including but not limited to existing lawns and beaches, within the waterfront buffer. Conversion to or planting of cleared areas with native species of ground cover, shrubs, saplings, and trees is encouraged but shall not be required unless it is necessary to meet the requirements of subparagraphs (g)(2) or (g)(3), or RSA 483-B:11, II.

(vi) *Normal trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views is permitted. Trimming, pruning, and thinning of branches for the purpose of providing views shall be limited to the bottom 1/2 of the trees or saplings.*

(vii) *When necessary for the completion of construction activities permitted in accordance with RSA 483-B:6, a temporary 12 foot wide access path shall be allowed. The access path shall be completely restored and replanted with native vegetation upon completion of construction except as allowed under subparagraph (viii).*

(viii) *A permanent 6-foot wide foot path to the water body, configured in a manner that will not concentrate storm water runoff or contribute to erosion, is allowed.*

~~[(a)]~~ **(b) MAINTENANCE OF A NATURAL WOODLAND BUFFER.**

(1) ~~[Where existing,]~~ A natural woodland buffer shall be maintained within 150 feet of the reference line. ***The first 50 feet of this buffer is designated the waterfront buffer and is subject to the additional requirements of subparagraph (a).*** The purpose of ~~[this]~~ ***the natural woodland*** buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrient and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland.

(2) Within the natural woodland buffer ~~[of the protected shoreland under conditions defined in RSA 483-B:9, V, all of the following prohibitions and limitations shall apply]~~ ***of a given lot:***

(A) ~~[Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period. A healthy, well-distributed stand of trees, saplings, shrubs, ground cover, and their living, undamaged root systems shall be left in place.]~~ ***At least 50 percent of the area outside of impervious surfaces shall be maintained in an undisturbed state. Owners of lots legally developed prior to April 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area maintained in an undisturbed state, except as required by the department under RSA 483-B:11, II. The percentage of area maintained in an undisturbed state on nonconforming lots shall not be decreased.***

(B) Any person applying to the department for a septic system construction approval or alteration of terrain permit pursuant to RSA 485-A, or an excavating and dredging permit pursuant to RSA 482-A, within the protected shoreland shall include photographic documentation of the natural woodland buffer.

(C) ~~[Structures, as defined in RSA 483-B:4, XXII, within the natural woodland buffer shall be afforded an opening for building construction that shall be excluded when computing the percentage limitations under subparagraph (a)(2)(A).]~~

~~[(D)]~~ Dead, diseased, ***or*** unsafe, ~~[or fallen]~~ trees, saplings, ***or*** shrubs~~[, or ground cover may be removed. Their removal shall not be used in computing the percentage limitations under subparagraph (a)(2)(A)]~~ ***that pose an imminent hazard to structures or have the potential to cause personal injury may be removed regardless of any requirements that pertain to the natural woodland buffer under this chapter. Such exemptions shall not be used to contravene the intent of the law.***

~~[(E)]~~ Stumps and their root systems, which are located within 50 feet of the reference line, shall be left intact in the ground, unless removal is specifically approved by the department under RSA 482-A.

~~[(F)]~~ **(D)** Preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged.

~~[(G)]~~ **(E)** *Native species* planting efforts that are beneficial to wildlife are encouraged.

~~[(b)]~~ **(c) SEPTIC SYSTEMS.**

(1) ~~[All new lots, including those in excess of 5 acres, created within the protected shoreland are]~~ ***The subdivision of a parcel of land shall be*** subject to subdivision approval by the department of environmental services under RSA 485-A:29 ***if any portion of the land to be subdivided is within the protected shoreland.***

(2) The following conditions, based on the characteristics of the receiving soil as they relate to U.S. Department of Agriculture, Natural Resources Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems, as follows:

(A) Adjacent to ponds, lakes, estuaries, and the open ocean.

(i) Where the receiving soil downgradient of the leaching portions of a septic system is a porous sand and gravel material with a percolation rate equal to or faster than 2 minutes per inch, the setback shall be at least 125 feet from the reference line;

(ii) For soils with restrictive layers within 18 inches of the natural soil surface, the setback shall be at least 100 feet from the reference line; and

(iii) For all other soil conditions, the setback shall be at least 75 feet from the reference line.

(B) Adjacent to rivers the setback shall be no less than 75 feet.

(3) The placement of all septic tanks and leaching portions of septic systems for replacement systems shall comply with the requirements of subparagraph ~~[(b)(2)]~~ **(c)(2)**, to the maximum extent feasible.

~~[(e)]~~ **(d)** EROSION AND SILTATION.

(1) All new structures, modifications to existing structures, and excavation or earth moving within protected shoreland shall be designed and constructed in accordance with rules adopted by the department under RSA 541-A for terrain alteration under RSA 485-A:17, to manage stormwater and control erosion and sediment, during and after construction.

(2) New structures and all modifications to existing structures within the protected shoreland shall be designed and constructed to prevent the release of surface runoff across exposed mineral soils.

(3) A permit under RSA 485-A:17, I shall be required for improved, developed, or subdivided land whenever there is a contiguous disturbed area exceeding 50,000 square feet that is either partially or wholly within protected shoreland.

~~[(d)]~~ **(e)** MINIMUM LOTS AND RESIDENTIAL DEVELOPMENT. In the protected shoreland:

(1) The minimum size for new lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as established by the department of environmental services under RSA 485-A and rules adopted to implement it.

(2) For projects in areas dependent upon on-site sewage and septic systems, the total number of residential units in the protected shoreland, whether built on individual lots or grouped as cluster or condominium development, shall not exceed:

(A) One unit per 150 feet of shoreland frontage; or

(B) For any lot that does not have direct frontage, one unit per 150 feet of lot width as measured parallel to the shoreland frontage that lies between the lot and the reference line.

(3) No lot ~~[dependent upon an on-site septic system,]~~ having frontage on public waters, shall be created with less than 150 feet of shoreland frontage.

~~(4) [Lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards, and shall not be subject to any shoreland frontage requirement, except as provided by municipal standards.]~~

~~(5) [Lots and residential units outside of the protected shoreland shall not be subject to this chapter.]~~

~~[(e)]~~ **(f)** MINIMUM LOTS AND NON-RESIDENTIAL DEVELOPMENT. In the protected shoreland:

(1) The minimum size for new non-residential lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as set forth under rules adopted under RSA 541-A.

~~(2) [Non-residential development requiring on-site water, sewage, and septic systems shall not be constructed on lots less than 150 feet in width.]~~ **No lot having frontage on public water shall be created with less than 150 feet of shoreland frontage.**

~~(3) [Non-residential lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards.]~~

~~(4) [Non-residential lots outside of the protected shoreland shall not be subject to this chapter.]~~

(g) IMPERVIOUS SURFACES.

(1) No more than 20 percent of the area of a lot located within the protected shoreland shall be composed of impervious surfaces, except as provided in subparagraphs (2) and (3).

(2) The impervious surface area shall not exceed 25 percent provided that in the waterfront buffer, in addition to any other provisions that apply to such area under this chapter, no trees or saplings shall be removed as provided for in RSA 483-B:9, V(a)(2)(D)(iii) and such restriction is recorded in the chain of title for the property. In addition, if the natural tree and sapling cover in the waterfront buffer does not meet the 50-point minimum score of RSA 483-B:9, V(a)(2)(D) in any segment, then such segment shall be planted, as determined by rule of the department, with native trees, saplings, or natural ground cover in sufficient quantity, type, and location either to meet the minimum score or to provide at least an equivalent level of protection as offered by the minimum score.

(3) The impervious surface area shall not exceed 30 percent provided the conditions of subparagraph (2) are satisfied and a stormwater management system designed to ensure that post-development total runoff volume shall not exceed the pre-development total runoff volume, and approved by the department, shall be implemented and maintained.

(4) Property owners and developers are encouraged to seek creative solutions that utilize low impact development techniques.

[(f)] (h) COMMON OWNERS AND RESIDENTIAL OR NON-RESIDENTIAL DEVELOPMENT. In the protected shoreland, waterfront parcels held in common by one or more owners of contiguous interior parcels may be developed, but only in a manner consistent with the provisions of this chapter. Care shall be taken for the adequate provision of parking, toilet facilities, and related support systems to minimize the project's impact on the public waters.

[(g)] (i) The commissioner shall have the authority to grant variances from the minimum standards of this section. Such authority shall be exercised subject to the criteria which govern the grant of a variance by a zoning board of adjustment under RSA 674:33, I(b).

11 Nonconforming Structures. Amend RSA 483-B:11 to read as follows:

483-B:11 Nonconforming Structures.

I. Except as otherwise prohibited by law, nonconforming structures~~[erected prior to July 1, 1994,]~~ located within the protected shoreland may be repaired, renovated, or replaced in kind using modern technologies, provided the result is a functionally equivalent use. Such repair or replacement may alter the interior design or existing foundation, but **shall result in** no expansion of the existing footprint ~~[or outside dimensions shall be permitted]~~ **except as authorized by the department pursuant to paragraph II.** An expansion that increases the sewerage load to an on-site septic system, or changes or expands the use of a septic system or converts a structure to condominiums or any other project identified under RSA 485-A:29-44 and rules adopted to implement it shall require approval by the department. Between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that the addition of a deck or open porch is permitted up to a maximum of 12 feet towards the reference line **for nonconforming structures erected prior to July 1, 1994.**

II. When reviewing requests for the redevelopment of sites that contain nonconforming structures ~~[erected prior to July 1, 1994,]~~ **or any expansions of nonconforming structures** the commissioner shall review proposals which are more nearly conforming than the existing structures, and may waive some of the standards specified in RSA 483-B:9, so long as there is at least the same degree of protection provided to the public waters. For the purposes of this section, a proposal that is "more nearly conforming" means a proposal for significant changes to the location or size of existing structures that bring the structures into greater conformity, or a proposal for changes to other aspects of the property, including but not limited to stormwater management, wastewater treatment or traffic volume or flow, or both types of proposal which significantly improve wildlife habitat or resource protection.

12 Rulemaking. Amend RSA 483-B:17, III-X to read as follows:

III. **Implementation and** enforcement of the minimum shoreland standards, including methods and timing of inspection and coordination with municipalities.

IV. Procedures and criteria for the placement of small accessory structures such as storage sheds and gazebos, the size, placement, and construction of which is consistent with the intent of this chapter, between the reference line and the primary building line.

V. Criteria governing the assessment of administrative fines.

VI. Criteria governing low phosphate, slow release nitrogen fertilizer.

~~[VII. Criteria governing maintaining a healthy, well-distributed stand of trees, saplings, shrubs, and ground covers.~~

~~VIII.] VII.~~ A methodology for identifying unsafe trees.

~~[IX.] VIII.~~ Defining the opening for building construction.

~~[X.] IX.~~ Definitions of terms not defined in this chapter.

13 Permit. Amend RSA 483-B:5-a, V is repealed and reenacted to read as follows:

V.(a) Within 30 days of receipt of an application for a permit or 75 days of receipt of an application for a permit that will require a variance of the minimum standard of RSA 483-B:9, V or a waiver of the minimum standards of RSA 483-B:9, the department shall request any additional information required to complete its evaluation of the application, and provide the applicant with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and notify the applicant that if all of the requested information is not received within 60 days of the request, the department shall deny the application.

(b) When the department requests additional information pursuant to subparagraph (a), the department shall, within 30 days of the department's receipt of the information:

- (1) Approve the application and issue a permit;
- (2) Deny the application, in whole or in part; or
- (3) Extend the time for response for good cause and with the written agreement of the applicant.

(c) Where no request for additional information is made, the department shall, within 30 days of receipt of the application for a permit or 75 days of receipt of an application for a permit that will require a variance of the minimum standard of RSA 483-B:9, V or a waiver of the minimum standards of RSA 483-B:9, approve or deny the application, in whole or in part.

(d) If the department fails to render a decision in the time frame provided in this paragraph, the application shall be deemed to be approved and a permit shall be issued.

14 Contingency. If HB 663-FN-A of the 2007 legislative session becomes law, section 13 of this act shall take effect April 1, 2008. If HB 663-FN-A does not become law, section 13 of this act shall not take effect.

15 Repeal. The following are repealed:

- I. RSA 483-B:19 relative to the applicability of the comprehensive shoreland protection act.
- II. RSA 483-B:20, relative to the exception of certain designated rivers.
- III. 2002, 114:2, relative to setback requirements.

16 Effective Date.

- I. Section 5 of this act shall take effect July 1, 2011.
- II. Section 12 of this act shall take effect July 1, 2007.
- III. Section 13 of this act shall take effect as provided in section 14 of this act.
- IV. Section 14 of this act shall take effect upon its passage.
- V. The remainder of this act shall take effect April 1, 2008.

2007-1789s

AMENDED ANALYSIS

This bill adds a waterfront buffer requirement and modifies the natural woodland buffer requirement of the comprehensive shoreland protection act. This bill also repeals the authorization for certain municipalities to maintain defined primary building lines.

Senator Burling Rule #42 on HB 383.

Senator Gottesman Rule #42 on HB 383.

Senator Reynolds Rule #42 on HB 383.

Amendment adopted.

Senator Barnes offered a floor amendment.

Sen. Barnes, Dist. 17

June 7, 2007

2007-2102s

01/03

Floor Amendment to HB 383

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

1 New Paragraph; Definitions. Amend RSA 483-B:4 by inserting after paragraph VII the following new paragraph:

VII-a. "Impervious surface" means any modified surface that cannot effectively absorb or infiltrate water. Examples of impervious surfaces include but are not limited to, roofs, decks, patios, and paved, gravel, or crushed stone driveways, parking areas, and walkways unless designed to effectively absorb or infiltrate water.

2 New Paragraph; Definitions. Amend RSA 483-B:4 by inserting after paragraph X the following new paragraph:

X-a. "Natural ground cover" means any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Natural ground cover shall also include naturally occurring leaf or needle litter, stumps, decaying woody debris, stones, and boulders. Natural ground cover shall not include lawns, invasive species as listed by the department of agriculture, markets, and food in accordance with RSA 430:53, III, exotic species as designated by rule of the department of environmental services in accordance with RSA 487:24, VII, imported organic or stone mulches, or other artificial materials.

3 Definitions. Amend RSA 483-B:4, XI-a to read as follows:

XI-a. ***"Nonconforming lot of record" means an existing lot which does not conform to the provisions of this chapter.***

XI-b. "Nonconforming structure" means a structure that, either individually or when viewed in combination with other structures on the property, does not conform to the provisions of this chapter, including but not limited to the impervious surface limits of RSA 483-B:9, V(g).

XI-c. "Ordinary high water mark" means the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernable, the ordinary high water mark may be determined by the department of environmental services.

4 Definitions. Amend RSA 483-B:4, XVI(c) to read as follows:

(c) Rivers, meaning all year-round flowing waters of fourth order or higher [~~as shown on the now current version of the U.S. Geological Survey 7 1/2%2C topographic maps~~] ***and all rivers and river segments designated as protected under RSA 483:15.*** Stream order shall be determined using the [Strahler method, whereby the highest year-round streams in a watershed are first order streams, their juncture yields second order streams, the juncture of second order streams yields third order streams, et seq.] ***New Hampshire hydrography dataset archived by the geographically referenced analysis and information transfer system (GRANIT) at the complex systems research center of the university of New Hampshire, and developed by GRANIT in collaboration with the department of environmental services.*** A listing of the streams of fourth order and higher shall be prepared and [maintained] ***periodically updated*** by the [~~office of energy and planning~~] ***GRANIT at the complex systems research center of the university of New Hampshire*** and delivered to the commissioner 30 days after the effective date of this [act] ***section.***

5 New Paragraph; Definitions. Amend RSA 483-B:4 by inserting after paragraph XXIV the following new paragraph:

XXIV-a. "Undisturbed state" means native vegetation allowed to grow without interference.

6 Definitions. Amend RSA 483-B:4, XXVI to read as follows:

XXVI. "Water dependent structure" means a structure that [~~services and supports activities that require direct access to, or contact with the water, or both, as an operational necessity and that requires a permit under RSA 482-A, including but not limited to~~] ***is a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp or other similar structure, or any part thereof, built over, on, or in the waters of the state.***

7 Prior Approval; Permits. Amend RSA 483-B:6 to read as follows:

483-B:6 ~~[Prior Approval; Permits]~~ ***Other Required Permits and Approvals.***

I. Within the protected shoreland, any person intending to:

(a) Engage in any earth excavation activity shall obtain all necessary local approvals in compliance with RSA 155-E.

(b) Construct a water-dependent structure, alter the bank, or construct or replenish a beach shall obtain approval and all necessary permits pursuant to RSA 482-A.

(c) Install a septic system as described in RSA 483-B:9, V~~(b)(1)-(3)~~ (c) shall obtain all permits pursuant to RSA 485-A:29.

(d) Conduct an activity resulting in a contiguous disturbed area exceeding 50,000 square feet shall obtain a permit pursuant to RSA 485-A:17.

(e) Subdivide land as described in RSA 483-B:9, V~~(d) and~~ (e) **and (f)** shall obtain approval pursuant to RSA 485-A:29.

(f) Conduct an activity regulated under a local zoning ordinance shall obtain all necessary local approvals.

II. In applying for ~~[these]~~ approvals and permits, ~~[such persons]~~ ***pursuant to paragraph I, applicants*** shall demonstrate ~~[to the satisfaction of the department]~~ that the proposal meets or exceeds the development standards of this chapter. ***The department shall develop minimum standards for information to be required on or with all applications under paragraph I.*** The department ***or municipality*** shall grant, deny, or attach reasonable conditions to ~~[a permit]~~ ***approvals or permits*** listed in subparagraphs I(a)-~~(e)~~ (f), to protect the public waters or the public health, safety or welfare. Such conditions shall be related to the purposes of this chapter.

III. The commissioner shall have the sole authority to issue variances and waivers of the provisions of this chapter as specifically authorized by this chapter.

IV. No variance, permit, or approval issued by a municipality shall exempt the owner from obtaining any other necessary permit or approval from the department as required by this chapter.

8 Minimum Protection Standards. Amend RSA 483-B:9, IV-b to read as follows:

IV-b. Public utility lines and associated structures and facilities, ***public roads, and public water access facilities including boat ramps*** shall be permitted by the commissioner as necessary~~;~~ **and** consistent with the purposes of this chapter and other state law.

9 Waterfront Buffer. Amend RSA 483-B:9, V to read as follows:

V. The following minimum standards shall apply to ***areas and activities within*** the protected shoreland ~~[provided that]~~ ***with the exception of*** forest management ***that is*** not associated with shoreland development or land conversion, and ***is*** conducted in compliance with RSA 227J:9; forestry ~~[involving]~~ ***conducted by or under the direction of a water supplier for the purpose of managing a*** water supply ~~[reservoir] watershed [management; or]; and agriculture conducted in accordance with best management practices;~~ ***as required by RSA 483-B:3, III:***

(a) ***MAINTENANCE OF A WATERFRONT BUFFER.***

(1) ***The waterfront buffer shall be those protected shorelands within 50 feet of the reference line. The purpose of this buffer shall be to protect the quality of public waters while allowing homeowner discretion with regard to water access, safety, viewscape maintenance, and lot design.***

(2) ***Within the waterfront buffer all of the following prohibitions and limitations shall apply:***

(A) ***No chemicals, including pesticides of any kind or fertilizers of any kind except those specified in RSA 483-B:9, II(d), shall be applied.***

(B) ***Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by the department, pursuant to RSA 482-A or RSA 483-B:11, II.***

(C) *No natural ground cover shall be removed except as necessary for a foot path to water as provided under RSA 483-B:9, V(a)(2)(D)(viii), cutting those portions that have grown over 3 feet in height for the purpose of providing a view, or as specifically approved by the department, pursuant to RSA 482-A or 483-B:11, II.*

(D) *Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into 50 by 50 foot segments. Within each segment a minimum combined tree and sapling score of at least 50 points shall be maintained. If for any reason there is insufficient area for a full segment, the number of points required to be maintained in that partial segment shall be proportional to that required of a full segment.*

(i) *Tree and sapling diameters shall be measured at 4½ feet above the ground and are scored as follows:*

<u>Diameter</u>	<u>Score</u>
<i>1 inch to 6 inches</i>	<i>1</i>
<i>greater than 6 inches to 12 inches</i>	<i>5</i>
<i>greater than 12 inches</i>	<i>10</i>

(ii) *Dead, diseased, or unsafe trees or saplings shall not be included in scoring.*

(iii) *If the total tree and sapling score in any 50 foot by 50 foot segment exceeds 50 points, then trees and saplings may be removed as long as the sum of the scores for the remaining trees and saplings in that segment does not total less than 50 points. Trees and saplings may be removed from partial segments provided that the sum of the scores for the remaining trees and saplings in that partial segment is equal to or greater than the proportional point requirement.*

(iv) *The department may approve applications pursuant to RSA 482-A that include the planting of native trees and saplings as necessary to at least maintain either the existing combined tree and sapling score or the minimum score required. The department shall not approve any application that would result in a combined tree and sapling score less than the minimum score required where the segment initially meets the minimum score or would result in any reduction of the combined tree and sapling score where the segment does not initially meet the minimum score.*

(v) *Owners of lots that were legally developed prior to April 1, 2008 may maintain but not enlarge cleared areas, including but not limited to existing lawns and beaches, within the waterfront buffer. Conversion to or planting of cleared areas with native species of ground cover, shrubs, saplings, and trees is encouraged but shall not be required unless it is necessary to meet the requirements of subparagraphs (g)(2) or (g)(3), or RSA 483-B:11, II.*

(vi) *Normal trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views is permitted. Trimming, pruning, and thinning of branches for the purpose of providing views shall be limited to the bottom 1/2 of the trees or saplings.*

(vii) *When necessary for the completion of construction activities permitted in accordance with RSA 483-B:6, a temporary 12 foot wide access path shall be allowed. The access path shall be completely restored and replanted with native vegetation upon completion of construction except as allowed under subparagraph (viii).*

(viii) *A permanent 6-foot wide foot path to the water body, configured in a manner that will not concentrate storm water runoff or contribute to erosion, is allowed.*

~~[(a)]~~ (b) **MAINTENANCE OF A NATURAL WOODLAND BUFFER.**

(1) ~~[Where existing,]~~ A natural woodland buffer shall be maintained within 150 feet of the reference line. ***The first 50 feet of this buffer is designated the waterfront buffer and is subject to the additional requirements of subparagraph (a).*** The purpose of ~~[this]~~ ***the natural woodland*** buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrient and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland.

(2) Within the natural woodland buffer ~~[of the protected shoreland under conditions defined in RSA 483-B:9, V, all of the following prohibitions and limitations shall apply]~~ **of a given lot:**

(A) ~~[Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period. A healthy, well-distributed stand of trees, saplings, shrubs, ground cover, and their living, undamaged root systems shall be left in place.]~~ **At least 50 percent of the area outside of impervious surfaces shall be maintained in an undisturbed state. Owners of lots legally developed prior to April 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area maintained in an undisturbed state, except as required by the department under RSA 483-B:11, II. The percentage of area maintained in an undisturbed state on nonconforming lots shall not be decreased.**

(B) Any person applying to the department for a septic system construction approval or alteration of terrain permit pursuant to RSA 485-A, or an excavating and dredging permit pursuant to RSA 482-A, within the protected shoreland shall include photographic documentation of the natural woodland buffer.

(C) ~~[Structures, as defined in RSA 483-B:4, XXII, within the natural woodland buffer shall be afforded an opening for building construction that shall be excluded when computing the percentage limitations under subparagraph (a)(2)(A).]~~

~~(D)~~ **(D)** Dead, diseased, **or** unsafe, ~~[or fallen]~~ trees, saplings, **or** shrubs~~[, or ground cover may be removed. Their removal shall not be used in computing the percentage limitations under subparagraph (a)(2)(A)]~~ **that pose an imminent hazard to structures or have the potential to cause personal injury may be removed regardless of any requirements that pertain to the natural woodland buffer under this chapter. Such exemptions shall not be used to contravene the intent of the law.**

~~(E)~~ Stumps and their root systems, which are located within 50 feet of the reference line, shall be left intact in the ground, unless removal is specifically approved by the department under RSA 482-A.

~~(F)~~ **(D)** Preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged.

~~(G)~~ **(E)** *Native species* planting efforts that are beneficial to wildlife are encouraged.

~~(b)~~ **(c)** SEPTIC SYSTEMS.

(1) ~~[All new lots, including those in excess of 5 acres, created within the protected shoreland are]~~ **The subdivision of a parcel of land shall be** subject to subdivision approval by the department of environmental services under RSA 485-A:29 **if any portion of the land to be subdivided is within the protected shoreland.**

(2) The following conditions, based on the characteristics of the receiving soil as they relate to U.S. Department of Agriculture, Natural Resources Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems, as follows:

(A) Adjacent to ponds, lakes, estuaries, and the open ocean.

(i) Where the receiving soil downgradient of the leaching portions of a septic system is a porous sand and gravel material with a percolation rate equal to or faster than 2 minutes per inch, the setback shall be at least 125 feet from the reference line;

(ii) For soils with restrictive layers within 18 inches of the natural soil surface, the setback shall be at least 100 feet from the reference line; and

(iii) For all other soil conditions, the setback shall be at least 75 feet from the reference line.

(B) Adjacent to rivers the setback shall be no less than 75 feet.

(3) The placement of all septic tanks and leaching portions of septic systems for replacement systems shall comply with the requirements of subparagraph ~~[(b)(2)]~~ **(c)(2)**, to the maximum extent feasible.

~~(e)~~ **(d)** EROSION AND SILTATION.

(1) All new structures, modifications to existing structures, and excavation or earth moving within protected shoreland shall be designed and constructed in accordance with rules adopted by the department under RSA 541-A for terrain alteration under RSA 485-A:17, to manage stormwater and control erosion and sediment, during and after construction.

(2) New structures and all modifications to existing structures within the protected shoreland shall be designed and constructed to prevent the release of surface runoff across exposed mineral soils.

(3) A permit under RSA 485-A:17, I shall be required for improved, developed, or subdivided land whenever there is a contiguous disturbed area exceeding 50,000 square feet that is either partially or wholly within protected shoreland.

~~[(d)]~~ **(e) MINIMUM LOTS AND RESIDENTIAL DEVELOPMENT.** In the protected shoreland:

(1) The minimum size for new lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as established by the department of environmental services under RSA 485-A and rules adopted to implement it.

(2) For projects in areas dependent upon on-site sewage and septic systems, the total number of residential units in the protected shoreland, whether built on individual lots or grouped as cluster or condominium development, shall not exceed:

(A) One unit per 150 feet of shoreland frontage; or

(B) For any lot that does not have direct frontage, one unit per 150 feet of lot width as measured parallel to the shoreland frontage that lies between the lot and the reference line.

(3) No lot ~~[dependent upon an on-site septic system]~~ having frontage on public waters, shall be created with less than 150 feet of shoreland frontage.

(4) ~~[Lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards, and shall not be subject to any shoreland frontage requirement, except as provided by municipal standards.]~~

(5) Lots and residential units outside of the protected shoreland shall not be subject to this chapter.

~~[(e)]~~ **(f) MINIMUM LOTS AND NON-RESIDENTIAL DEVELOPMENT.** In the protected shoreland:

(1) The minimum size for new non-residential lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as set forth under rules adopted under RSA 541-A.

(2) ~~[Non-residential development requiring on-site water, sewage, and septic systems shall not be constructed on lots less than 150 feet in width.]~~ ***No lot having frontage on public water shall be created with less than 150 feet of shoreland frontage.***

(3) ~~[Non-residential lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards.]~~

(4) Non-residential lots outside of the protected shoreland shall not be subject to this chapter.

(g) IMPERVIOUS SURFACES.

(1) No more than 20 percent of the area of a lot located within the protected shoreland shall be composed of impervious surfaces, except as provided in subparagraphs (2) and (3).

(2) The impervious surface area shall not exceed 25 percent provided that in the waterfront buffer, in addition to any other provisions that apply to such area under this chapter, no trees or saplings shall be removed as provided for in RSA 483-B:9, V(a)(2)(D)(iii) and such restriction is recorded in the chain of title for the property. In addition, if the natural tree and sapling cover in the waterfront buffer does not meet the 50-point minimum score of RSA 483-B:9, V(a)(2)(D) in any segment, then such segment shall be planted, as determined by rule of the department, with native trees, saplings, or natural ground cover in sufficient quantity, type, and location either to meet the minimum score or to provide at least an equivalent level of protection as offered by the minimum score.

(3) The impervious surface area shall not exceed 30 percent provided the conditions of subparagraph (2) are satisfied and a stormwater management system designed to ensure that post-development total runoff volume shall not exceed the pre-development total runoff volume, and approved by the department, shall be implemented and maintained.

(4) Property owners and developers are encouraged to seek creative solutions that utilize low impact development techniques.

~~[(f)]~~ **(h) COMMON OWNERS AND RESIDENTIAL OR NON-RESIDENTIAL DEVELOPMENT.** In the protected shoreland, waterfront parcels held in common by one or more owners of contiguous interior parcels may be developed, but only in a manner consistent with the provisions of this chapter. Care shall be taken for the adequate provision of parking, toilet facilities, and related support systems to minimize the project's impact on the public waters.

~~(g)~~ (i) The commissioner shall have the authority to grant variances from the minimum standards of this section. Such authority shall be exercised subject to the criteria which govern the grant of a variance by a zoning board of adjustment under RSA 674:33, I(b).

10 Nonconforming Structures. Amend RSA 483-B:11 to read as follows:

483-B:11 Nonconforming Structures.

I. Except as otherwise prohibited by law, nonconforming structures~~[-erected prior to July 1, 1994,]~~ located within the protected shoreland may be repaired, renovated, or replaced in kind using modern technologies, provided the result is a functionally equivalent use. Such repair or replacement may alter the interior design or existing foundation, but **shall result in** no expansion of the existing footprint ~~[or outside dimensions shall be permitted]~~ **except as authorized by the department pursuant to paragraph II.** An expansion that increases the sewerage load to an on-site septic system, or changes or expands the use of a septic system or converts a structure to condominiums or any other project identified under RSA 485-A:29-44 and rules adopted to implement it shall require approval by the department. Between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that the addition of a deck or open porch is permitted up to a maximum of 12 feet towards the reference line **for nonconforming structures erected prior to July 1, 1994.**

II. When reviewing requests for the redevelopment of sites that contain nonconforming structures ~~[erected prior to July 1, 1994,]~~ **or any expansions of nonconforming structures** the commissioner shall review proposals which are more nearly conforming than the existing structures, and may waive some of the standards specified in RSA 483-B:9, so long as there is at least the same degree of protection provided to the public waters. For the purposes of this section, a proposal that is "more nearly conforming" means a proposal for significant changes to the location or size of existing structures that bring the structures into greater conformity, or a proposal for changes to other aspects of the property, including but not limited to stormwater management, wastewater treatment or traffic volume or flow, or both types of proposal which significantly improve wildlife habitat or resource protection.

11 Rulemaking. Amend RSA 483-B:17, III-X to read as follows:

III. **Implementation and** enforcement of the minimum shoreland standards, including methods and timing of inspection and coordination with municipalities.

IV. Procedures and criteria for the placement of small accessory structures such as storage sheds and gazebos, the size, placement, and construction of which is consistent with the intent of this chapter, between the reference line and the primary building line.

V. Criteria governing the assessment of administrative fines.

VI. Criteria governing low phosphate, slow release nitrogen fertilizer.

~~[VII. Criteria governing maintaining a healthy, well-distributed stand of trees, saplings, shrubs, and ground covers.~~

~~VIII.] VII.~~ A methodology for identifying unsafe trees.

~~[IX.] VIII.~~ Defining the opening for building construction.

~~[X.] IX.~~ Definitions of terms not defined in this chapter.

12 Permit. RSA 483-B:5-a, V is repealed and reenacted to read as follows:

V.(a) Within 30 days of receipt of an application for a permit or 75 days of receipt of an application for a permit that will require a variance of the minimum standard of RSA 483-B:9, V or a waiver of the minimum standards of RSA 483-B:9, the department shall request any additional information required to complete its evaluation of the application, and provide the applicant with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and notify the applicant that if all of the requested information is not received within 60 days of the request, the department shall deny the application.

(b) When the department requests additional information pursuant to subparagraph (a), the department shall, within 30 days of the department's receipt of the information:

- (1) Approve the application and issue a permit;
- (2) Deny the application, in whole or in part; or
- (3) Extend the time for response for good cause and with the written agreement of the applicant.

(c) Where no request for additional information is made, the department shall, within 30 days of receipt of the application for a permit or 75 days of receipt of an application for a permit that will require a variance of the minimum standard of RSA 483-B:9, V or a waiver of the minimum standards of RSA 483-B:9, approve or deny the application, in whole or in part.

(d) If the department fails to render a decision in the time frame provided in this paragraph, the application shall be deemed to be approved and a permit shall be issued.

13 Contingency. If HB 663-FN-A of the 2007 legislative session becomes law, section 12 of this act shall take effect April 1, 2008. If HB 663-FN-A does not become law, section 12 of this act shall not take effect.

14 Repeal. The following are repealed:

I. RSA 483-B:19 relative to the applicability of the comprehensive shoreland protection act.

II. RSA 483-B:20, relative to the exception of certain designated rivers.

III. 2002, 114:2, relative to setback requirements.

15 Effective Date.

I. Section 11 of this act shall take effect July 1, 2007.

II. Section 12 of this act shall take effect as provided in section 13 of this act.

III. Section 13 of this act shall take effect upon its passage.

IV. The remainder of this act shall take effect April 1, 2008.

2007-2102s

AMENDED ANALYSIS

This bill adds a waterfront buffer requirement and modifies the natural woodland buffer requirement of the comprehensive shoreland protection act. This bill also repeals the authorization for certain municipalities to maintain defined primary building lines.

Senator Burling Rule #42 on HB 383.

Senator Gottesman Rule #42 on HB 383.

Senator Reynolds Rule #42 on HB 383.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

A roll call was requested by Senator Fuller Clark.

Seconded by Senator Gottesman.

The following Senators voted Yes: Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gottesman, Foster, Larsen, Barnes, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Clegg, Gatsas, Letourneau, Downing.

Yeas: 19 - Nays: 5

Senator Burling Rule #42 on HB 383.

Senator Gottesman Rule #42 on HB 383.

Senator Reynolds Rule #42 on HB 383.

Adopted.

Ordered to third reading.

HB 663-FN-A, relative to the protected shoreland permitting process and establishing and funding positions within the department of environmental services. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Cilley for the committee.

Energy, Environment, and Economic Development
May 16, 2007
2007-1672s
06/10

Amendment to HB 663-FN-A

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

1 New Section; Permit Required. Amend RSA 483-B by inserting after section 5 the following new section:

483-B:5-a Permit Required; Exemption.

I.(a) No person shall commence construction, excavation or filling activities within the protected shoreland without obtaining a permit from the department to ensure compliance with this chapter.

(b) The permit application fee shall be \$100 plus \$.10 per square foot of area affected by the proposed activities and shall be deposited in the wetlands and shorelands review fund established under RSA 482-A:3, III. Such fees shall be capped as follows:

- (1) For projects of 0-9,999 square feet, \$750.
- (2) For projects of 10,000 – 24,999 square feet, \$1,875.
- (3) For projects of 25,000 square feet or more, \$3,750.

II. Timber harvesting operations permitting requirements shall be in accordance with RSA 485A:17, IV and therefore shall be exempt from the permitting requirement under paragraph I.

III. Construction of public roads, public utility lines and associated structures and facilities, and public water access facilities shall be exempt from the permitting fees of paragraph I.

IV. Impacts in the protected shoreland that receive a permit in accordance with RSA 482-A shall not require a permit under this section.

V.(a) Within 75 days of receipt of an application for a permit the department shall request any additional information required to complete its evaluation of the application, and provide the applicant with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and notify the applicant that if all of the requested information is not received within 120 days of the request, the department shall deny the application.

(b) When the department requests additional information pursuant to subparagraph (a), the department shall, within 30 days of the department's receipt of the information:

- (1) Approve the application and issue a permit;
- (2) Deny the application, in whole or in part; or
- (3) Extend the time for response for good cause and with the written agreement of the applicant.

(c) Where no request for additional information is made, the department shall, within 75 days of receipt of the application, approve or deny the application, in whole or in part.

2 New Paragraph; Rulemaking. Amend RSA 483-B:17 by inserting after paragraph X the following new paragraph:

XI. Procedures and criteria for permitting under RSA 483-B:5-a, including permit by notification and the identification of those activities that may be conducted without obtaining a permit, all consistent with the provisions of this chapter.

3 Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-A:3, III to read as follows:

III. The filing fees collected pursuant to paragraphs I, V(c), XI(h), and XII(c) **and RSA 483-B:5-a** are **continually** appropriated to and shall be expended by the department for paying per diem and expenses of the public members of the council, hiring additional staff, reviewing applications and activities relative to the wetlands of the state **and protected shorelands under RSA 483-B**, conducting field investigations, and holding public hearings. Such fees shall be held by the treasurer in a nonlapsing fund identified as the wetlands **and shorelands** review fund.

4 Application of Receipts. Amend RSA 6:12, I(b)(131) to read as follows:

- (131) Moneys deposited in the wetlands **and shorelands** review fund under RSA 482A:3, III.

5 Positions Established. The department of environmental services may hire up to 6 additional staff positions to implement RSA 483-B and to perform education and outreach. Authorized positions include, at a

minimum, 2 environmentalist II and 2 environmental III positions for implementation of RSA 483-B, and one environmentalist II position for education and outreach. Funding for the positions and associated costs shall be drawn from the wetlands and shorelands review fund under RSA 482-A:3, III.

6 Funding Transfer and Repayment. The state treasurer shall transfer \$375,000 from the general fund to the wetlands and shorelands review fund under RSA 482-A:3, III for the biennium ending June 30, 2009. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated. Notwithstanding any provision of law to the contrary, 1/2 of the permit fees collected under RSA 483-B:5-a shall be deposited in the general fund until such time as the \$375,000 is repaid.

7 Excavating and Dredging Permit; Reference Deleted. Amend RSA 482-A:3, III to read as follows:

III. The filing fees collected pursuant to paragraphs I, V(c), XI(h), and XII(c), [~~and RSA 483-B:5-a~~] are continually appropriated to and shall be expended by the department for paying per diem and expenses of the public members of the council, hiring additional staff, reviewing applications and activities relative to the wetlands of the state and protected shorelands under RSA 483-B, conducting field investigations, and holding public hearings. Such fees shall be held by the treasurer in a nonlapsing fund identified as the wetlands and shorelands review fund.

8 Repeal. The following are repealed:

I. RSA 483-B:5-a, I(b), relative to permit application fees.

II. RSA 483-B:5-a, III, relative to exemptions from permit application fees.

9 Effective Date.

I. Section 1 of this act shall take effect April 1, 2008.

II. Sections 7-8 of this act shall take effect July 1, 2011.

III. The remainder of this act shall take effect July 1, 2007.

Senator Burling Rule #42 on HB 663.

Senator Gottesman Rule #42 on HB 663.

Senator Reynolds Rule #42 on HB 663.

Amendment adopted.

The question is on the adoption of the bill as amended.

Senator Burling Rule #42 on HB 663.

Senator Gottesman Rule #42 on HB 663.

Senator Reynolds Rule #42 on HB 663.

Adopted.

Ordered to third reading.

HB 672, establishing a commission to study requirements for safe and secure landfills. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Barnes for the committee.

Energy, Environment and Economic Development

May 30, 2007

2007-1964s

08/09

Amendment to HB 672

Amend paragraph I(b)-(c) of section 2 of the bill by replacing them with the following:

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

(c) One member from the New Hampshire Municipal Association, appointed by the association.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 699, establishing a commission to study methods and costs of sewage, sludge, and septage disposal. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 3-0. Senator Cilley for the committee.

Energy, Environment and Economic Development

May 30, 2007

2007-1970s

08/01

Amendment to HB 699

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

1 Commission Established. There is established a sewage, sludge, and septage disposal commission.

2 Membership and Compensation.

I. The members of the sewage, sludge, and septage disposal commission shall be as follows:

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

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

(c) One member from the division of water of the department of environmental services, appointed by the commissioner of the department of environmental services.

(d) One member from the division of waste management, appointed by the commissioner of the department of environmental services.

(e) The director of the office of energy and planning, or designee.

(f) The commissioner of the department of agriculture, markets, and food, or designee.

(g) The state epidemiologist, or designee.

(h) A member representing the university of New Hampshire college of engineering and physical sciences appointed by the dean of the college.

(i) A member representing the university of New Hampshire college of life sciences and agriculture, appointed by the dean of the college.

(j) A member representing the institute for the study of earth, oceans, and space, appointed by the director of the institute.

(k) A member representing the University of New Hampshire Thompson school of applied science, appointed by the dean of the school.

(l) A member representing the University of New Hampshire cooperative extension, appointed by the director.

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

III. The commission shall choose a chairperson, a vice-chairperson and a clerk from its membership.

3 Duties. The sewage, sludge, and septage disposal commission shall study:

I. The costs involved with the disposal of sewage, sludge, and septage.

II. The options used for sewage, sludge, and septage disposal.

III. The technological alternatives to disposal methods used in New Hampshire and their costs.

IV. The economic feasibility of alternatives to current disposal methods.

V. The environmental impact of current and alternative disposal methods.

VI. The public health effect of current and alternative disposal methods.

VII. The definition of biosolids.

4 Meetings. The sewage, sludge, and septage disposal commission shall meet at least quarterly to discuss pending legislation and at such times as the chairperson may call.

5 Report. The commission shall make an interim report on its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2007, and shall make a final report on its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2008.

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

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 812, relative to making permanent certain exceptions to limits on land application of septage and sludge. Energy, Environment and Economic Development Committee. Ought to pass with amendment, Vote 4-0. Senator Cilley for the committee.

Energy, Environment and Economic Development

May 30, 2007

2007-1960s

08/09

Amendment to HB 812

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

1 Temporary Use Authorization; Time Extended. Amend 1998, 56:6 as amended by 2003, 43:14, 2003, 302:3, and 2005, 141:2 to read as follows:

56:6 Temporary Use Authorization.

I. The septage and sludge land application restrictions contained in RSA 483:9, VI(c), RSA 483:9-a, VII(b), RSA 483:9-aa, VII(b), and RSA 483:9-b, VII(b) shall not apply until ~~July 1, 2007~~ **January 1, 2010** to any land upon which septage or sludge has been spread in accordance with all applicable rules adopted by the federal Environmental Protection Agency and the New Hampshire department of environmental services, during any portion of the 3-year period prior to January 1, 1998. In addition, there shall be no termination of this restriction exemption for qualifying land that is used for scientific research on septage or sludge. Any continued application of septage and sludge pursuant to this section shall comply with all applicable federal and state laws and any best management practices published by the university of New Hampshire cooperative extension.

II. Upon the effective date of this paragraph, the department of environmental services shall work with the local river management advisory committees for the upper Merrimack, Connecticut, and Pemigewasset Rivers to develop appropriate testing protocols at each eligible site under paragraph I to test for groundwater contamination and surface water contamination from sludge and septage land application during the temporary use authorization specified in paragraph I.

2 Effective Date. This act shall take effect July 1, 2007.

2007-1960s

AMENDED ANALYSIS

This bill extends the exemption of certain uses of land application of septage and sludge within certain distances of natural, rural, rural-community, and community rivers.

Amendment failed.

Senator Fuller Clark offered a floor amendment.

Sen. Fuller Clark. Dist. 24

June 6, 2007

2007-2100s

04/05

Floor Amendment to HB 812

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

AN ACT relative to certain exceptions to limits on land application of septage and sludge.

Amend the bill by replacing section 1 with the following:

1 Temporary Use Authorization; Time Extended. Amend 1998, 56:6 as amended by 2003, 43:14, 2003, 302:3, and 2005, 141:2 to read as follows:

56:6 Temporary Use Authorization. The septage and sludge land application restrictions contained in RSA 483:9, VI(c), RSA 483:9-a, VII(b), RSA 483:9-aa, VII(b), and RSA 483:9-b, VII(b) shall not apply until ~~July 1, 2007~~ **January 1, 2012** to any land upon which septage or sludge has been spread in accordance with all applicable rules adopted by the federal Environmental Protection Agency and the New Hampshire department of environmental services, during any portion of the 3-year period prior to January 1, 1998. In addition, there shall be no termination of this restriction exemption for qualifying land that is used for scientific research on septage or sludge. Any continued application of septage and sludge pursuant to this section shall comply with all applicable federal and state laws and any best management practices published by the university of New Hampshire cooperative extension.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Kenney.

Seconded by Senator Barnes.

The following Senators voted Yes: Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Clegg, Gatsas, Barnes, Letourneau, Downing.

Yeas: 17 - Nays: 7

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 815-FN-A, requiring the display of boater education decals on vessels registered in other states. Energy, Environment and Economic Development Committee. Inexpedient to Legislate, Vote 4-0. Senator Fuller Clark for the committee.

Committee report of inexpedient to legislate is adopted.

HB 134, relative to electronic prescribing for prescription drugs. Health and Human Services Committee. Ought to pass with amendment, Vote 2-0. Senator Estabrook for the committee.

Health and Human Services

May 30, 2007

2007-1980s

01/09

Amendment to HB 134

Amend RSA 318:47-c, II(e) as inserted by section 2 of the bill by replacing it with the following:

(e) No person who has access to an electronic prescription solely by transmitting or facilitating the transmission of prescriptions electronically between the licensed prescriber generating the prescription and the pharmacy receiving the prescription, or any intermediary, shall retain the prescription or any information it contains for longer than is mandated by federal law or state statute, or 15 days if no mandate requires a longer period of time, after which time the prescription and the information it contains shall be destroyed. No such person shall sell, use, or otherwise make available the prescription or the information it contains for any purpose other than transmission and verification.

Senator Fuller Clark Rule #42 on HB 134.

Amendment adopted.

The question is on the adoption of the bill as amended.

Senator Fuller Clark Rule #42 on HB 134.

Adopted.

Ordered to third reading.

HB 140, establishing the New Hampshire commission on deafness and hearing loss. Health and Human Services Committee. Ought to pass with amendment, Vote 2-0. Senator Estabrook for the committee.

Health and Human Services
May 30, 2007
2007-1977s
01/04

Amendment to HB 140

Amend RSA 125-P:1, I as inserted by section 1 of the bill by replacing it with the following:

I. A commission, to be known as the New Hampshire commission on deafness and hearing loss is hereby created and established. The commission shall consist of the following members:

(a) Two members of the house of representatives, one of whom shall be from the health, human services and elderly affairs committee, appointed by the speaker of the house of representatives.

(b) One member from the governor's commission on disabilities, appointed by the governor.

(c) Two representatives of the department of health and human services, appointed by the commissioner.

(d) One representative of the department of employment security, appointed by the commissioner.

(e) Two representatives of the department of education, appointed by the commissioner.

(f) One representative of the administrative office of the courts, appointed by the chief justice of the New Hampshire superior court.

(g) The president of the New Hampshire Association of the Deaf, or designee.

(h) One representative of the New Hampshire Association of the Deaf, appointed by the president of the association, or designee.

(i) The president of the New Hampshire chapter of the Hearing Loss Association of America, or designee.

(j) One representative from the New Hampshire chapter of the Hearing Loss Association of America, appointed by the president of such association, or designee.

(k) One representative of the New Hampshire Registry of Interpreters for the Deaf, appointed by the president of the New Hampshire Registry of Interpreters for the Deaf, or designee.

(l) The attorney general, or designee.

(m) The commissioner of the department of safety, or designee.

(n) The commissioner of the department of corrections, or designee.

(o) The executive director of Granite State Independent Living, or designee.

(p) The executive director of the governor's commission on disability.

(q) The executive director of Northeast Deaf and Hard of Hearing Services, Inc.

(r) The executive director of the Disabilities Rights Center.

Amend RSA 125-P:2, I as inserted by section 1 of the bill by replacing it with the following:

I. The commission shall be convened by the first-named member of the house of representatives, and shall hold its first meeting no later than 30 days after the effective date of this chapter.

Amendment adopted.

Senator Estabrook offered a floor amendment.

Sen. Estabrook, Dist. 21
May 6, 2007
2007-2098s
01/09

Floor Amendment to HB 140

Amend RSA 125-P:1, I as inserted by section 1 of the bill by inserting after subparagraph (r) the following new subparagraph:

(s) One representative of the New Hampshire Academy of Audiology, appointed by the president of the academy.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 148, establishing a commission to study pharmaceutical costs and the 340B Drug Pricing Program. Health and Human Services Committee. Ought to pass with amendment, Vote 2-0. Senator Estabrook for the committee.

Health and Human Services

May 30, 2007

2007-1976s

01/03

Amendment to HB 148

Amend subparagraph I(m) as inserted by section 2 of the bill by replacing it with the following:

(m) The governor, or designee.

Senator Fuller Clark Rule #42 on HB 148.

Amendment adopted.

The question is on the adoption of the bill as amended.

Senator Fuller Clark Rule #42 on HB 148.

Adopted.

Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Senator Foster moved to have HB 205 removed from the table.

Adopted.

HB 205, relative to procedures for certain court ordered out-of-district placements.

The question is on the adoption of the committee amendment (#1662).

Amendment failed.

Senator Foster offered a floor amendment.

Sen. Foster, Dist. 13

Sen. Estabrook, Dist. 21

June 5, 2007

2007-2079s

04/09

Floor Amendment to HB 205

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

1 New Paragraph; Delinquent Children; Adjudicatory Hearing. Amend RSA 169-B:16 by inserting after paragraph V the following new paragraph:

VI. Whenever a court contemplates a placement which will require educational services outside the child's home school district, the court shall notify the school district and give the district the opportunity to send a representative to the hearing at which such placement is contemplated. In cases where immediate court action is required to protect the health or safety of the child or of the community, the court may act without providing for an appearance by the school district, but shall make reasonable efforts to solicit and consider input from the school district before making a placement decision.

2 New Paragraph; Delinquent Children; Dispositional Hearing. Amend RSA 169-B:19 by inserting after paragraph VII the following new paragraph:

VIII. Prior to any placement which will require educational services outside the minor's home school district, the court shall notify the school district and give the district the opportunity to send a representative to the hearing at which such placement is contemplated. At such hearing the court shall consider the recommendations of the school district and if such an out-of-district placement is ordered the court shall make written findings that describe the reasons for the placement.

3 New Paragraph; Child Protection Act; Adjudicatory Hearing. Amend RSA 169-C:18 by inserting after paragraph VII the following new paragraph:

VIII. Whenever a court contemplates a placement which will require educational services outside the child's home school district, the court shall notify the school district and give the district the opportunity to send a representative to the hearing at which such placement is contemplated. In cases where immediate court action is required to protect the health or safety of the child or of the community, the court may act without providing for an appearance by the school district, but shall make reasonable efforts to solicit and consider input from the school district before making a placement decision.

4 New Paragraph; Child Protection Act; Dispositional Hearing. Amend RSA 169-C:19 by inserting after paragraph V the following new paragraph:

VI. Prior to any placement which will require educational services outside the child's home school district, the court shall notify the school district and give the district the opportunity to send a representative to the hearing at which such placement is contemplated. At such hearing the court shall consider the recommendations of the school district and if such an out-of-district placement is ordered the court shall make written findings that describe the reasons for the placement.

5 New Paragraph; Children in Need of Services; Adjudicatory Hearing. Amend RSA 169-D:14 by inserting after paragraph V the following new paragraph:

VI. Whenever a court contemplates a placement which will require educational services outside the child's home school district, the court shall notify the school district and give the district the opportunity to send a representative to the hearing at which such placement is contemplated. In cases where immediate court action is required to protect the health or safety of the child or of the community, the court may act without providing for an appearance by the school district, but shall make reasonable efforts to solicit and consider input from the school district before making a placement decision.

6 New Paragraph; Children in Need of Services; Adjudicatory Hearing. Amend RSA 169-D:17 by inserting after paragraph VI the following new paragraph:

VII. Prior to any placement which will require educational services outside the child's home school district, the court shall notify the school district and give the district the opportunity to send a representative to the hearing at which such placement is contemplated. At such hearing the court shall consider the recommendations of the school district and if such an out-of-district placement is ordered the court shall make written findings that describe the reasons for the placement.

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

2007-2079s

AMENDED ANALYSIS

This bill requires the court to notify a school district anytime the court is considering an out-of-district placement to give the school district an opportunity to send a representative to the placement hearing.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Senator Estabrook moved to have HB 87 removed from the table.

Adopted.

HB 87, relative to the exceptions to compulsory school attendance.

The question is on the adoption of ought to pass.

Senator Estabrook offered a floor amendment.

Sen. Estabrook, Dist. 21

May 16, 2007

2007-1690s

04/05

Floor Amendment to HB 87

Amend the introductory paragraph RSA 193:1, I as inserted by section 1 of the bill by replacing it with the following:

I. A parent of any child at least 6 years of age and under ~~[16]~~ **18** years of age shall cause such child to attend the public school to which the child is assigned in the child's resident district. Such child shall attend full time when such school is in session unless:

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION OF RECONSIDERATION

Senator Foster having voted with the prevailing side, moved reconsideration of **HB 2-FN-A**, whereby it was ordered to third reading.

Adopted.

HB 2-FN-A, relative to state fees, funds, revenues, and expenditures.

Senator Foster offered a floor amendment.

Sen. Foster, Dist. 13

June 7, 2007

2007-2122s

04/05

Floor Amendment to HB 2-FN-A

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

1 Office of Information Technology; Increase Purchase Amount Requiring Approval of Chief Information Officer. Amend RSA 21-I:11, XI and XII to read as follows:

XI. Requiring, prior to an agency's submission of a request for proposal for state data processing equipment, software, or services exceeding ~~[\$250]~~ **\$500** in total cost, that the agency obtain approval of the proposal by the chief information officer to ensure that the procurement is consistent with the state information technology plan.

XII. Requiring agencies to submit the approval from the chief information officer in support of requests for purchases of information technology equipment or software in excess of ~~[\$250]~~ **\$500**.

2 Department of Safety; Motor Vehicle Registration Fees Increased. Amend RSA 261:141, III(g) and (h) to read as follows:

(g) For all motor vehicles other than those in RSA 261:141, I:

0-3000 lbs. ~~[\$25.20]~~ **\$31.20** (~~[\$2.10]~~ **\$2.60** per month)

3001-5000 lbs. ~~[\$37.20]~~ **\$43.20** (~~[\$3.10]~~ **\$3.60** per month)

5001-8000 lbs. ~~[\$49.20]~~ **\$55.20** (~~[\$4.10]~~ **\$4.60** per month)

8001-73,280 lbs. ~~[\$.84]~~ **\$.96** per hundred lbs. gross weight.

(h) Truck-tractors to be used in conjunction with a semi-trailer, gross weight shall include the weight of such tractors, the weight of the heaviest semi-trailer to be used therewith, and the weight of the maximum load to be carried thereby: up to 73,280 pounds ~~[\$.84]~~ **\$.96** per 100 pounds gross weight, over 73,280 pounds - \$1.44 shall be charged for each 100 pounds gross weight or portion thereof in excess of 73,280 pounds.

3 Department of Safety; Motor Vehicle Registration Fees Increased. Amend RSA 261:141, III(o) to read as follows:

(o) For each motorcycle—~~[\$12]~~ **\$15**.

4 Sweepstakes Commission; Maximum Ticket Price Prior to July 1, 2009. Amend RSA 284:21-i, II(c)(1) to read as follows:

(1) The price for which tickets for drawings and sweepstakes races shall be sold; not to exceed ~~[\$20]~~ **\$30** per ticket.

5 Sweepstakes Commission; Maximum Ticket Price; July 1, 2009 Version. RSA 284:21-i, II(c)(1) is repealed and reenacted to read as follows:

(1) The price for which tickets for drawings shall be sold; not to exceed \$30 per ticket.

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

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of ~~[\$.80]~~ **\$1.08** for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

7 Tobacco Tax; Applicability. Section 6 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 20 days after the effective date of this act. The tax rate effective July 1, 2007 shall apply to such inventory. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

8 New Section; Health and Human Services; Homeless Housing Access Fund Established. Amend RSA 126-A by inserting after section 62 the following new section:

126-A:63 Homeless Housing and Access Revolving Loan Fund. There is hereby established a non-lapsing and continually appropriated homeless housing and access revolving loan fund. The fund shall be administered by the department of health and human services with advice and recommendations from the governor's interagency council on homelessness. To be eligible, an applicant shall have no permanent address and shall be residing temporarily in a shelter for the homeless, a hotel, a motel, the home of another household designed for occupancy by only one household, or entirely without shelter. Funds shall be used solely to provide loans for the first months' rent and security deposit for homeless individuals and families transitioning from state-sponsored shelters to rental housing. Repayment terms of the loans shall be determined by the department in consultation with the interagency council and shall be based on need. Such repayments shall commence no later than 120 days after the loan is disbursed.

9 New Subparagraph; Special Accounts. Amend RSA 6:12, I(b) by inserting after subparagraph (252) the following new subparagraph:

(253) Moneys deposited in the homeless housing and access revolving loan fund, established in RSA 126-A:63.

10 Long-Term Care Assistance Fund; ServiceLink New Hampshire. Notwithstanding RSA 167:94, III, the balance of funds in the long-term care assistance fund, established in RSA 167:94, on June 30, 2007 is hereby transferred and appropriated to the department of health and human services to support operation of the ServiceLink New Hampshire program in the fiscal year ending June 30, 2008.

11 Liquor Commission; Revenue. Notwithstanding RSA 176:16, II, for the biennium ending June 30, 2009, all gross revenue derived by the liquor commission from the sale of liquor, or from license fees, shall be deposited into the general funds of the state.

12 Name Change from Glencliff Home for the Elderly to Glencliff Home. Amend the following RSA provisions by replacing "Glencliff home for the elderly" with "Glencliff home": RSA 10:1; 94:1-a, I(b); 94:5, I(c); 94:8; 99:2-a; 99:11, I; 99:12; 99:13; 126-A:5, V and VI; 126-A:34, I(a); 135:21-b; 135-C:4, I; 135-C:6, I; 318:58, III(c); and 611:5-a.

13 County Payments of Funds for Persons Eligible to Receive Nursing Facility Services; Limitation on County Payments. Amend RSA 167:18-b, IV to read as follows:

IV. The total billings by all counties made pursuant to this section for persons who have been determined eligible to receive nursing facility services shall not exceed 50 percent of the non-federal share of the combined

long-term care Medicaid spending for which the counties are obligated and in no instance shall the billings for the 12-month period of the state fiscal year, dated between July 1, [2004] **2005** and June 30, 2007, **and for the 6-month period of fiscal year 2008 ending December 31, 2007**, exceed:

- (a) State fiscal year [2004] **2006** – [\$60,000,000] **\$68,000,000**.
- (b) State fiscal year [2005] **2007** – [\$64,000,000] **\$70,000,000**.
- (c) **The 6-month period of** state fiscal year [2006] **2008 ending December 31, 2007** – [\$68,000,000] **\$35,750,000**.
- [(d) State fiscal year 2007—\$70,000,000.]

14 County State Finance Commission; Reference Changed. Amend RSA 28-B:3, V to read as follows:

V. Develop a process for managing individual county payment limits under RSA [167:18-b, IV] **167:18-a, II**. In no event shall the individual county payment limit reduce or alter the total county obligation under RSA[167:18-b, IV] **167:18-a, II**.

15 Long-Term Care; Reference Changed. Amend RSA 151-E:6-b to read as follows:

151-E:6-b Memorandum of Agreement. The department of health and human services shall establish, by means of a memorandum of agreement with the New Hampshire Association of Counties, a mechanism for the receipt of input from the Association of Counties regarding the type, cost, utilization, and procedures relative to payments which the counties are obligated to make pursuant to RSA [167:18-b] **167:18-a**. The memorandum of agreement shall be reviewed annually and amended as may be determined to be necessary by the parties.

16 Long-Term Care; Reference Changed. Amend RSA 151-E:15, IV to read as follows:

IV. Notwithstanding the provisions of RSA [167:18-b, I] **167:18-a**, no county shall be required to make any contribution to the distribution under this section.

17 County Reimbursements; Limitation on Payments. RSA 167:18-a is repealed and reenacted to read as follows:

167:18-a County Reimbursement of Funds; Limitations on Payments.

I. All expenditures in carrying out the purposes of this chapter and RSA 161 relative to recipients of old age assistance and aid to the permanently and totally disabled shall in the first instance be made by the state, but each county shall make monthly payments to the state for the amounts due under this section within 45 days from notice thereof.

(a) Counties shall reimburse the state for expenditures for recipients for whom such county is liable who are eligible for nursing home care and are receiving services from a nursing facility, or in another New Hampshire setting as an alternative to a nursing facility placement and are supported under the Medicaid home and community-based care waiver for the elderly and chronically ill, as such waiver may be amended from time to time, to the extent of 100 percent of the non-federal share of such expenditures. Expenditures shall not include payments made for skilled care.

(b) Counties shall not be liable for Medicaid recipients in state institutions and intermediate care facilities for the mentally retarded (ICF-MR) approved by the department of health and human services and servicing developmentally impaired persons.

II. The total reimbursements by all counties made pursuant to this section shall not exceed the amounts set forth below for state fiscal year 2008 beginning January 1, 2008 and for the state fiscal years 2009-2011:

- (a) State fiscal year 2008, \$50,000,000.
- (b) State fiscal year 2009, \$103,000,000.
- (c) State fiscal year 2010, \$105,000,000.
- (d) State fiscal year 2011, \$107,000,000.

III.(a) The counties shall have an aggregate credit of \$2,500,000 against amounts due under this section for the 6-month period of January 1, 2008 to June 30, 2008. The credit amount shall be allocated among the counties based upon the proportion each paid for such expenditures in the prior fiscal year. Provided, however, that no county shall be liable for total reimbursements for the 6-month period of January 1, 2008 to June 30, 2008 in an amount which would be greater than the amount of liability projected for the period using the methodology for the period July 1, 2007 to December 31, 2007.

(b) The counties shall have an aggregate credit of \$5,000,000 against amounts due under this section for each fiscal year beginning July 1, 2008. The credit shall be allocated as follows:

(1) For fiscal year 2009, \$4,000,000 shall be allocated among the counties based upon the proportion each paid for such expenditures in the prior fiscal year, and \$1,000,000 shall be allocated among the counties based upon their relative proportions of residents age 65 or older who are Medicaid recipients.

(2) For fiscal year 2010, \$2,000,000 shall be allocated among the counties based upon the proportion each paid for such expenditures in the prior fiscal year, and \$3,000,000 shall be allocated among the counties based upon their relative proportions of residents age 65 or older who are Medicaid recipients.

(3) For fiscal year 2011 and for each fiscal year thereafter, \$5,000,000 shall be allocated among the counties based upon their relative proportions of residents age 65 or older who are Medicaid recipients.

(c) The credit shall be made available as soon as possible after the start of the fiscal year. The department shall adopt county credit criteria in consultation with the county-state finance commission and in accordance with the provisions of RSA 541-A. The credit under this paragraph shall not reduce total reimbursements due under paragraph II.

IV.(a) Any shortfall between the state audited Medicaid allowances incurred by the state's county operated nursing homes and amounts otherwise reimbursed by federal 50 percent Medicaid matching funds or other income, shall be certified as a public expenditure and be eligible for additional federal funding match.

(b) The department of health and human services shall seek federal Medicaid assistance match for any state audited county nursing home Medicaid expense which is not fully reimbursed through rates. Any revenue realized through such a match shall be paid to the nursing homes which incurred the unreimbursed expense, provided, however, that no state general funds are expended directly or indirectly for this purpose.

18 Delinquent Payments. Amend RSA 167:18-e to read as follows:

167:18-e Delinquent Payments. Delinquent payments due under RSA 167:18-a~~[-167:18-b and 167:18-f]~~ with interest at the rate of 12 per centum per annum, may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the state.

19 Medical Parole. Amend RSA 651-A:10-a, VII to read as follows:

VII. Notwithstanding RSA ~~[167:18-b]~~ **167:18-a**, the state shall be responsible for all medicaid costs incurred, net of federal reimbursement, for any inmate granted medical parole under this section, until the earliest date on which parole could have been granted had the inmate not been granted medical parole.

20 Delinquent Children Orders; County Liability Removed. Amend RSA 169-B:40 to read as follows:

169-B:40 Liability of Expenses and Hearing on Liability.

I.(a) Whenever an order creating liability for expenses is issued by the court under this chapter or whenever a voluntary service plan is developed and provided for the minor and the minor's family by the department, any expenses incurred for services, placements, and programs the providers of which are certified pursuant to RSA 170-G:4, XVIII, shall be payable by the department of health and human services.

(b) Subparagraph (a) shall not apply to expenses incurred for special education and educationally related services, or to expenses incurred for evaluation, care, and treatment of the minor at the Philbrook center.

(c) The state shall have a right of action over for such expenses against the parents or the people chargeable by law for the minor's support and necessities and the right to require parents or other people chargeable by law for the minor's support and necessities to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents or other people chargeable by law for the minor's support and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the individual chargeable by law for the minor's support and necessities to submit a financial statement annually to the court upon which the court shall make an order as to reimbursement to the state as may be reasonable and just, based on the person's ability to pay. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per month or per week basis and shall continue from the time the services begin until 4 years beyond the time such services end, unless such reimbursement

is fully paid prior to the end of the 4-year period. The court's jurisdiction to order reimbursement shall continue until the court-ordered obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered.

(d) Liability for placement expenses for any court ordered placement of any minor mother under this chapter shall include liability for placement expenses for the child or children of such minor mother if the minor mother and child or children are placed at the same facility.

(e) Payments due under this section for the care of children in foster homes shall commence within 60 days of the child's placement in the foster home and shall be made every 30 days thereafter.

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

III. The office of reimbursements acting on behalf of Laconia developmental services and the New Hampshire hospital is authorized to compromise or reduce any expense to be charged to the state.

IV. ~~[Notwithstanding paragraph I, the county in which the court is located which issued the order creating liability for expenses for the child shall be responsible for reimbursing the state for up to 25 percent of the costs incurred under this chapter. If the court's jurisdiction crosses county lines, then the county from which the child was referred to the court shall be responsible for such reimbursement. When determining the amount of reimbursement, all services for which the county would be liable if it were the legally liable unit shall be included, except services which are already the responsibility of the appropriate school district under RSA 186-C.]~~

~~V.] The *department may enter into an agreement with a* county ~~[which is responsible for reimbursing the state under paragraph IV is authorized]~~ to collect, on behalf of the department, payments from persons or entities which are ordered to reimburse the ~~[department]~~ *state* under paragraph I, or which are chargeable by law for the minor's support and necessities. *An agreement may authorize the county to deduct reasonable administrative costs from the amounts collected. The balance of* any amount collected by the county pursuant to this paragraph shall be forwarded to the department~~[, which, in turn, shall apply 25 percent of the amounts collected to reduce the county's liability under paragraph IV. The county may deduct reasonable administrative expenses directly associated with collections under this paragraph, subject to the approval of the commissioner of the department of health and human services. The commissioner may adopt rules, pursuant to RSA 541-A, relative to this paragraph.]~~~~

VI. ~~Notwithstanding any subsequent acts of delinquency or other acts committed by the minor which bring the minor to the attention of a district court, the county having liability for the minor pursuant to paragraph IV shall remain the county liable for the minor until the person reaches 18 years of age or the court's jurisdiction is ended, whichever comes first.]~~

~~[VH] V.~~ If the person responsible for paying reimbursements to the ~~[county]~~ *department* under paragraph ~~[V]~~ *IV* is financially able to pay such reimbursements but fails to make such payments, the ~~[county]~~ *department* may apply to the district court for a lien on such person's real or personal property for the amount of reimbursements due.

~~[VHH] VI.~~(a) For the adoptive parent or prospective adoptive parent of a child in the custody of the state whose birth parents have consented to the adoption, relinquished their parental rights to the department, or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, authorized agency, or foster parent, pursuant to RSA 170-C:4, the state shall have no right of action against such adoptive parent or prospective adoptive parent for the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption.

(b) If the department determines that the adoptive parent has been convicted of sexual or physical abuse of the adopted child pursuant to RSA 631 or 632-A, or the adoptive parent has misappropriated adoption subsidy moneys, the adoptive parent shall be responsible for payment for subsequent services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption. A determination of misappropriation is subject to the provisions of RSA 126-A:5, VIII.

~~[IX. Notwithstanding any provision of law to the contrary, no county government shall be charged per diem rates for its portion of costs of placement of juveniles at the youth development center, the youth detention services unit, and, when applicable, the Tobey School, which are based upon an annual average daily census at each unit which is less than 80 percent of the unit's capacity.]~~

21 Abuse and Neglect Orders; County Liability Removed. Amend RSA 169-C:27 to read as follows:

169-C:27 Liability of Expenses and Hearing on Liability.

I.(a) Whenever an order creating liability for expenses is issued by the court under this chapter or whenever a voluntary service plan is developed and provided for a minor and the minor's family by the department, any expenses incurred for services, placements, and programs the providers of which are certified pursuant to RSA 170-G:4, XVIII, shall be payable by the department of health and human services.

(b) Subparagraph (a) shall not apply to expenses incurred for special education and educationally related services, or to expenses incurred for evaluation, care, and treatment of the child at the Philbrook center.

(c) The state shall have a right of action over for such expenses against the parents or the people chargeable by law for the child's support and necessities and the right to require parents or other people chargeable by law for the minor's support and necessities to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents or people chargeable by law for the minor's support and necessities and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the individual chargeable by law for the child's support and necessities to submit a financial statement annually to the court upon which the court shall make an order as to reimbursement to the state as may be reasonable and just, based on the person's ability to pay. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per month or per week basis and shall continue from the time the services begin until 4 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 4-year period. The court's jurisdiction to order reimbursement shall continue until the court-ordered obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered.

(d) Liability for placement expenses for any court ordered placement of any minor mother under this chapter shall include liability for placement expenses for the child or children of such minor mother if the minor mother and child or children are placed at the same facility.

(e) Payments due under this section for the care of children in foster homes shall commence within 60 days of the child's placement in the foster home and shall be made every 30 days thereafter.

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

III. The office of reimbursements acting on behalf of Laconia developmental services and the New Hampshire hospital is authorized to compromise or reduce any expense to be charged to the state.

IV. [~~Notwithstanding paragraph I, the county in which the court is located which issued the order creating liability for expenses for the child shall be responsible for reimbursing the state for up to 25 percent of the costs incurred under this chapter. If the court's jurisdiction crosses county lines, then the county from which the child was referred to the court shall be responsible for such reimbursement. When determining the amount of reimbursement, all services for which the county would be liable if it were the legally liable unit shall be included, except services which are already the responsibility of the appropriate school district under RSA 186-C.~~]

V]. The **department may enter into an agreement with a** county [~~which is responsible for reimbursing the state under paragraph IV is authorized~~] to collect, on behalf of the department, payments from persons or entities which are ordered to reimburse the [~~department~~] **state** under paragraph I, or which are chargeable by law for the minor's support and necessities. **An agreement may authorize the county to deduct reasonable administrative costs from the amounts collected. The balance of** any amounts collected by the county pursuant to this paragraph shall be forwarded to the department[, ~~which, in turn, shall apply 25 percent of the amounts collected to reduce the county's liability under paragraph IV. The county may deduct reasonable administrative expenses directly associated with collections under this paragraph, subject to the approval of the commissioner of the department of health and human services. The commissioner may adopt rules, pursuant to RSA 541-A, relative to this paragraph.~~].

~~[VI. Notwithstanding any subsequent acts committed by the child which bring him to the attention of a district court, the county having liability for the child pursuant to paragraph IV shall remain the county liable for the child until the person reaches 18 years of age or the court's jurisdiction is ended, whichever comes first, unless the court's jurisdiction has been extended pursuant to RSA 169-C:4, II.~~

VH] V. If the person responsible for paying reimbursements to the [county] **department** under paragraph [V] **IV** is financially able to pay such reimbursements but fails to make such payments, the [county] **department** may apply to the district court for a lien on such person's real or personal property for the amount of reimbursements due.

[VH] VI.(a) For the adoptive parent or prospective adoptive parent of a child in the custody of the state whose birth parents have consented to the adoption, relinquished their parental rights to the department, or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, authorized agency, or foster parent, pursuant to RSA 170-C:4, the state shall have no right of action against such adoptive parent or prospective adoptive parent for the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption.

(b) If the department determines that the adoptive parent has been convicted of sexual or physical abuse of the adopted child pursuant to RSA 631 or 632-A, or the adoptive parent has misappropriated adoption subsidy moneys, the adoptive parent shall be responsible for payment for subsequent services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption. A determination of misappropriation is subject to the provisions of RSA 126-A:5, VIII.

~~[IX. Notwithstanding any provision of law to the contrary, no county government shall be charged per diem rates for its portion of costs of placement of juveniles at the youth development center, the youth detention services unit, and, when applicable, the Tobey School, which are based upon an annual average daily census at each unit which is less than 80 percent of the unit's capacity.]~~

22 Children in Need of Services; County Liability Removed. Amend RSA 169-D:29 to read as follows:

169-D:29 Liability of Expenses and Hearing on Liability.

I.(a) Whenever an order creating liability for expenses is issued by the court under this chapter or whenever a voluntary service plan is developed and provided for a minor and the minor's family by the department, any expenses incurred for services, placements, and programs the providers of which are certified pursuant to RSA 170-G:4, XVIII, shall be payable by the department of health and human services.

(b) Subparagraph (a) shall not apply to expenses incurred for special education and educationally related services, or to expenses incurred for evaluation, care, and treatment of the child at the Philbrook center.

(c) The state shall have a right of action over for such expenses against the parents or the people chargeable by law for the child's support and necessities and the right to require parents or other people chargeable by law for the minor's support and necessities to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents or people chargeable by law for the minor's support and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the individual chargeable by law for the child's support and necessities to submit a financial statement annually to the court upon which the court shall make an order as to reimbursement to the state as may be reasonable and just, based on the person's ability to pay. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per month or per week basis and shall continue from the time the services begin until 4 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 4-year period. The court's jurisdiction to order reimbursement shall continue until the court-ordered obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered.

(d) Liability for placement expenses for any court ordered placement of any minor mother under this chapter shall include liability for placement expenses for the child or children of such minor mother if the minor mother and child or children are placed at the same facility.

(e) Payments due under this section for the care of children in foster homes shall commence within 60 days of the child's placement in the foster home and shall be made every 30 days thereafter.

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

III. The office of reimbursements acting on behalf of Laconia developmental services and the New Hampshire hospital is authorized to compromise or reduce any expense to be charged to the state.

IV. [~~Notwithstanding paragraph I, the county in which the court is located which issued the order creating liability for expenses for the child shall be responsible for reimbursing the state for up to 25 percent of the costs incurred under this chapter. If the court's jurisdiction crosses county lines, then the county from which the child was referred to the court shall be responsible for such reimbursement. When determining the amount of reimbursement, all services for which the county would be liable if it were the legally liable unit shall be included, except services which are already the responsibility of the appropriate school district under RSA 186-G.~~]

V]. The *department may enter into an agreement with a* county [~~which is responsible for reimbursing the state under paragraph IV is authorized~~] to collect, on behalf of the department, payments from persons or entities which are ordered to reimburse the [~~department~~] *state* under paragraph I, or which are chargeable by law for the minor's support and necessities. *An agreement may authorize the county to deduct reasonable administrative costs from the amounts collected. The balance of* any amounts collected by the county pursuant to this paragraph shall be forwarded to the department[, ~~which, in turn, shall apply 25 percent of the amounts collected to reduce the county's liability under paragraph IV. The county may deduct reasonable administrative expenses directly associated with collections under this paragraph, subject to the approval of the commissioner of the department of health and human services. The commissioner may adopt rules, pursuant to RSA 541-A, relative to this paragraph.~~].

[VI. ~~Notwithstanding any subsequent acts committed by the child which bring him to the attention of a district court, the county having liability for the child pursuant to paragraph IV shall remain the county liable for the child until the person reaches 18 years of age or the court's jurisdiction is ended, whichever comes first.~~]

VH] V. If the person responsible for paying reimbursements to the [~~county~~] *department* under paragraph [V] *IV* is financially able to pay such reimbursements but fails to make such payments, the [~~county~~] *department* may apply to the district court for a lien on such person's real or personal property for the amount of reimbursements due.

[VH] VI. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

(a) For the adoptive parent or prospective adoptive parent of a child in the custody of the state whose birth parents have consented to the adoption, relinquished their parental rights to the department, or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, authorized agency, or foster parent, pursuant to RSA 170-C:4, the state shall waive its right of action against such adoptive parent or prospective adoptive parent for the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption.

(b) If the department determines that the adoptive parent has been convicted of sexual or physical abuse of the adopted child pursuant to RSA 631 or 632-A, or the adoptive parent has misappropriated adoption subsidy moneys, the adoptive parent shall be responsible for payment for subsequent services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption. A determination of misappropriation is subject to the provisions of RSA 126-A:5, VIII.

[IX. ~~Notwithstanding any provision of law to the contrary, no county government shall be charged per diem rates for its portion of costs of placement of juveniles at the youth development center, the youth detention services unit, and, when applicable, the Tobey School, which are based upon an annual average daily census at each unit which is less than 80 percent of the unit's capacity.~~]

23 Repeal; January 1, 2008. The following are repealed:

- I. RSA 167:18-b, relative to county reimbursement for nursing home services.
- II. RSA 167:18-f, relative to local medical assistance contribution.
- III. RSA 167:20, relative to establishing the public assistance fund.

24 Repeal; June 30, 2007. The following are repealed:

- I. 1998, 388:16, I and II, relative to the repeal of RSA 167:18-b and 18-f.
- II. 1998, 388:17, II, as amended by 2003, 223:8, 2004, 260:9, and 2005, 177:10 relative to the effective date of the repeal of RSA 167:18-b and 18-f.

25 Prospective Repeal; July 1, 2011. RSA 167:18-a, relative to county reimbursement of funds, is repealed.

26 Department of Health and Human Services; Limitation on Mental Health Services. For the biennium ending June 30, 2009, the department of health and human services shall maintain a limit on benefits of \$4,000 per person per year for adults with low service utilization of community mental health services, as identified in He-M 401.07; provided, that the department also shall establish, by rule under RSA 541-A, a procedure for such persons or community mental health providers to request a waiver of the \$4,000 limit based on legitimate treatment considerations. Upon request by the commissioner of the department of health and human services, the fiscal committee of the general court may authorize a higher per person per year limit.

27 Department of Health and Human Services; Program Eligibility; Additional Revenues; Transfer Among Accounts.

I. For the biennium ending June 30, 2009, the department of health and human services shall not authorize, without prior approval of the fiscal committee of the general court and governor and council, any change to program eligibility standards or benefit levels that might be expected to increase enrollment in the program or increase expenditures from any source of funds; provided, however, that no such prior approval shall be required if a change to a federal program in which the state is participating as of the effective date of this section is required by federal law.

II. Notwithstanding any provision of the law to the contrary, for the biennium ending June 30, 2009, the fiscal committee of the general court and the governor and council may authorize the commissioner of the department of health and human services to accept and expend additional revenues in excess of \$50,000, that are in addition to the budgeted amounts, from any source, which become available to the department. Such additional revenues shall be available to the department of health and human services to supplement funds in the following programs and services: provider payments, provider rate increases, and any other program or service that requires deficit reduction or for which revenue has been specifically obtained to improve program operations; provided, that such improvements do not increase eligibility standards or benefit levels.

III. Notwithstanding the provisions of RSA 9:17-a or any other provision of law to the contrary and subject to the approval of the fiscal committee of the general court and governor and council, for the biennium ending June 30, 2009 the commissioner of the department of health and human services is hereby authorized to transfer funds within and among all PAUs within the department, as the commissioner deems necessary and appropriate to address present or projected budget deficits, or to respond to changes in federal laws, regulations, or programs, and otherwise as necessary for the efficient management of the department.

28 Medical Assistance; Memorandum of Understanding Between the Departments of Revenue Administration and Health and Human Services.

I. For the purpose of determining and reviewing eligibility for medical assistance pursuant to Titles XIX and XXI of the Social Security Act and eligibility for Temporary Assistance to Needy Families (TANF), the commissioner of the department of health and human services (DHHS) and the commissioner of the department of revenue administration (DRA) shall renew the existing memorandum of understanding for the period of July 1, 2007 through June 30, 2009 under which:

(a) DHHS may supply DRA with financial information of applicants for and recipients of Titles XIX or XXI medical assistance, or TANF.

(b) DRA shall verify the accuracy of such financial information to the applicant or recipient and not to DHHS.

(c) DRA shall notify DHHS that the verification has been provided to the applicant or recipient.

(d) DHHS shall request the DRA verification be furnished to the DHHS by the applicant or recipient.

(e) DHHS shall comply with all applicable laws for timely case processing.

II. Nothing in the arrangement shall be construed to change the protections of confidentiality provided to individuals and information relating to them under applicable laws, and DRA and DHHS each shall at all times maintain the confidential nature of the records in its possession.

III. DHHS and DRA shall report annually to the fiscal committee of the general court on the benefits and costs of this program.

29 Department of Environmental Services; Fee for Department Review of Plan for Terrain Alteration. Amend RSA 485-A:17, II to read as follows:

II. The department shall charge a fee for each review of plans, including project inspections, required under this section. The fee shall be based on the extent of contiguous area to be disturbed. Except for RSA 483-B:9, the fee for plans encompassing an area of at least 100,000 square feet but less than 200,000 square feet shall be ~~[\$500]~~ **\$1,250**. For the purposes of RSA 483-B:9, the fee for plans encompassing an area of at least 50,000 square feet but less than 200,000 square feet shall be ~~[\$500]~~ **\$1,250**. An additional fee of ~~[\$200]~~ **\$500** shall be assessed for each additional area of up to 100,000 square feet to be disturbed. No permit shall be issued by the department until the fee required by this paragraph is paid. All fees required under this paragraph shall be paid when plans are submitted for review and shall be deposited in the ~~[treasury as unrestricted funds]~~ **terrain alteration fund established in paragraph II-a.**

II-a. There is hereby established the terrain alteration fund into which the fees collected under paragraph II shall be deposited. The fund shall be a separate, nonlapsing fund, continually appropriated to the department for the purpose of paying all costs and salaries associated with the terrain alteration program.

II-b. In processing an application for permits under RSA 485-A:17, the department shall:

(a) Within 50 days of receipt of the application, request any additional information required to complete its evaluation of the application, together with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if all of the requested information is not received within 120 days of the request, the department shall deny the application.

(b) If the department requests additional information pursuant to subparagraph (a), the department shall, within 30 days of the department's receipt of the information:

(1) Approve and issue a permit; or

(2) Deny the application, in whole or in part; or

(3) Extend the time for response for good cause and with the written agreement of the applicant.

(c) If no request for additional information is made pursuant to subparagraph (b), the department shall, within 50 days of receipt of the application, approve or deny the application, in whole or in part.

(d) If the department fails to render a decision within the time limits provided in this paragraph, the application shall be deemed to be approved and a permit shall be issued.

(e) The time limits under this paragraph shall not apply to an application from an applicant that has previously been found in violation of this chapter pursuant to RSA 485-A:22-a or an application that does not otherwise comply with the department's rules relative to the permit application process.

II-c. Beginning October 1, 2007 and each fiscal quarter thereafter, the department shall submit a quarterly report to the fiscal committee of the general court relative to administration of the terrain alteration review program.

30 New Subparagraph; Dedicated Fund; Terrain Alteration Fund Added. Amend RSA 6:12, I(b) by inserting after subparagraph (252) the following new subparagraph:

(253) Moneys deposited in the terrain alteration fund, under RSA 485-A:17, II-a.

31 Department of Environmental Services; Wetlands Fees Prior to July 1, 2010. Amend RSA 482A:3, I to read as follows:

I.(a) No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The

permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire. ~~[The permit application fee shall be \$100 for minimum impact projects under this chapter.]~~

(b) The permit application fee for minor and major shoreline structure projects shall be ~~[\$100]~~ **\$200** plus an impact fee, based on the area of dredge, fill, or dock surface area proposed, or a combination. The shoreline structure impact fee shall be ~~[\$1]~~ **\$2** per square foot for permanent dock surface area; ~~[\$.50]~~ **\$1** per square foot for seasonal dock surface area; and ~~[\$.10]~~ **\$.20** per square foot for dredge or fill surface area or both. ***For projects involving only the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be \$200.***

(c) ***The permit application fee shall be \$200 for minimum impact dredge and fill projects under this chapter.*** ~~[The permit application fees for minor or major projects shall be \$.10 per square foot of proposed impact for all other projects under this chapter. For projects involving the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be \$100.]~~ ***The permit application fee shall be \$.20 per square foot of proposed impact for all minor and major impact dredge and fill projects under this chapter and there shall be a minimum fee of \$200 for all such projects that impact fewer than 1,000 square feet.***

(d) At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed \$10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

(e) ***Beginning October 1, 2007, and each quarter of the fiscal year thereafter, the department shall submit a quarterly report to the fiscal committee of the general court relative to administration of the wetlands fees permit process established by this section.***

32 Department of Environmental Services; Wetlands Fees; Version Effective July 1, 2010. RSA 482-A:3, I is repealed and reenacted to read as follows:

I.(a) No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire.

(b) The permit application fee for minor and major shoreline structure projects shall be \$200 plus an impact fee, based on the area of dredge, fill, or dock surface area proposed, or a combination. The shoreline structure impact fee shall be \$2 per square foot for permanent dock surface area; \$1 per square foot for seasonal dock surface area; and \$.20 per square foot for dredge or fill surface area or both. For projects involving only the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be \$200.

(c) The permit application fee shall be \$200 for minimum impact dredge and fill projects under this chapter. The permit application fee shall be \$.20 per square foot of proposed impact for all minor and major impact dredge and fill projects under this chapter and there shall be a minimum fee of \$200 for all such projects that impact fewer than 1,000 square feet.

(d) At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then

immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed \$10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

(e) Beginning October 1, 2007, and each quarter of the fiscal year thereafter, the department shall submit a quarterly report to the fiscal committee of the general court relative to administration of the wetlands fees permit process established by the section.

33 Department of Environmental Services; Revising the Laboratory Fee Schedule for Environmental Tests. RSA 131:3-a is repealed and reenacted to read as follows:

131:3-a Fee Required.

I. Notwithstanding the provisions of RSA 131:4, the commissioner of environmental services shall collect a fee for analyses made pursuant to RSA 131:3.

(a) Fees for analyses offered as a service shall be set from the following schedule:

(1) Agricultural Pesticides	\$200
(2) Alkalinity	\$15
(3) Ammonia	\$30
(4) Asbestos	\$35
(5) Bacteria as cts/100mL (all types)	\$20
(6) Bacteria as MPN (all types)	\$30
(7) Bacteria as P/A (all types)	\$15
(8) Biosuitability	\$145
(9) Biochemical Oxygen Demand	\$35
(10) Carbamates	\$120
(11) Chloride	\$12
(12) Chlorine Residual	\$16
(13) Chlorophenoxy Herbicides	\$130
(14) Cyanide	\$35
(15) Diquat	\$125
(16) Ethylene dibromide/Dibromochloropropane	\$75
(17) Fluoride	\$12
(18) Glycols	\$150
(19) Glyphosate	\$100
(20) Gross Alpha	\$60
(21) Haloacetic Acids	\$100
(22) Heterotropic Plate Count	\$25
(23) Iron Bacteria	\$25
(24) Metals (each)	\$15
(25) Metals Preparation Charge	\$20
(26) Methyl-tert-butyl ether	\$75
(27) Nitrate	\$12

(28) Nitrite	\$12
(29) Oil & Grease (HEM)	\$60
(30) pH	\$9
(31) PolyaromaticHydrocarbons	\$150
(32) Phosphorus (all forms)	\$20
(33) Radium 226	\$150
(34) Radon	\$25
(35) Semivolatile Compounds	\$225
(36) Solids (all forms)	\$30
(37) Special Study (per hour)	\$50
(38) Specific Conductance	\$10
(39) Sulfate	\$20
(40) Sulfide	\$20
(41) Thermometer Calibration	\$15
(42) Total Organic Carbon	\$40
(43) Total Kjeldahl Nitrogen	\$25
(44) Total Petroleum Hydrocarbons (DRO)	\$125
(45) Total Petroleum Hydrocarbons (GRO)	\$125
(46) Total Trihalomethanes	\$75
(47) Toxaphene	\$75
(48) Turbidity	\$12
(49) Uranium (activity)	\$150
(50) UV-254	\$30
(51) Volatile Organic Compounds	\$120

(b) Fees for analyses of the following special parameter groupings required by the federal Safe Drinking Water Act shall be:

(1) Drinking Water Bacteria	\$15
(2) Haloacetic Acids	\$100
(3) Inorganic Chemicals	\$335
(4) Inorganic Chemicals (new system)	\$395
(5) Lead/Copper	\$30
(6) Nitrate/Nitrite	\$12
(7) Radiological Chemicals	\$75
(8) Synthetic Organic Chemicals	\$650
(9) Total Trihalomethanes	\$75
(10) Volatile Organic Compounds	\$120
(11) Water Quality Parameters	\$40

(c) Fees for analyses of the following parameters in support of the department's private homeowner initiative shall be:

(1) Bacteria/Nitrate/Chloride	\$30
(2) Drinking Water Bacteria	\$15
(3) Fluoride	\$12
(4) Methyl-tert-butyl ether	\$60

(5) Radon	\$20
(6) Standard Analysis	\$85
(7) Homeowner Radiologicals	\$80
(8) Volatile Organic Compounds	\$120

II. All such fees collected by the commissioner of environmental services from federal or state grants or from other state agencies shall be credited against the operating costs of the laboratory. Fees collected from public or private clients shall be deposited with the state treasurer as unrestricted revenue, with the exception that 50 percent of every analysis fee shall be deposited with the state treasurer and reserved in a special nonlapsing fund to be used by the commissioner of environmental services for the purchase of replacement or new laboratory equipment designed to improve service. The commissioner may, with prior approval of the governor and council, use funds in the nonlapsing account for unanticipated personnel or supply expenditures made necessary by unexpected changes in or additions to federal or state required laboratory analyses, or unusual volume of samples.

34 School Money; Determination of Grants. Notwithstanding the provisions of RSA 198:40-a, 198:40-b, 198:40-c and 198:41, for the fiscal year beginning July 1, 2007, each municipality shall receive total education grants in an amount that equals the greater of either: a 5 percent increase in the education grant amount received by the municipality pursuant to RSA 198:41, I(b)(2) for the fiscal year beginning July 1, 2006, or 94.6596522 percent of the education grant amount to be received by the municipality pursuant to RSA 198:41, I(b)(2) for the fiscal year beginning July 1, 2007. For the fiscal year beginning July 1, 2008, each municipality shall receive the same grant amount as determined for the fiscal year beginning July 1, 2007.

35 Highway and Bridge Betterment Program; Funding. Amend RSA 235:23-a, II to read as follows:

II. The program shall be funded from [~~\$.03~~] **\$.02** per gallon of the road toll imposed under RSA 260:32; of these revenues, in each fiscal year 88 percent shall be deposited into a separate account established in the highway fund called the highway and bridge betterment account, to be allocated as provided in paragraph III. The amount deposited into the highway and bridge betterment account is hereby continually appropriated and shall be nonlapsing. The remaining 12 percent shall be distributed in accordance with the formula in RSA 235:23, I, and shall be in addition to any amounts to be allocated under that paragraph.

36 Highway and Bridge Betterment Program; Funding Effective July 1, 2009. Amend RSA 235:23-a, II to read as follows:

II. The program shall be funded from [~~\$.02~~] **\$.03** per gallon of the road toll imposed under RSA 260:32; of these revenues, in each fiscal year 88 percent shall be deposited into a separate account established in the highway fund called the highway and bridge betterment account, to be allocated as provided in paragraph III. The amount deposited into the highway and bridge betterment account is hereby continually appropriated and shall be nonlapsing. The remaining 12 percent shall be distributed in accordance with the formula in RSA 235:23, I, and shall be in addition to any amounts to be allocated under that paragraph.

37 New Paragraph; Retirement System; Coordination with Administrative Services. Amend RSA 100-A:14 by inserting after paragraph XIV the following new paragraph:

XV. The board of trustees shall, consistent with RSA 21-I:13, V, provide the commissioner of the department of administrative services with information necessary for the commissioner to carry out the responsibilities set forth in RSA 21-I:27, including such information as the name and social security number of each covered retiree, spouse, and dependent; the retiree agency-identifying information in a format compatible with the billing needs of the department; and such other information that the commissioner of the department of administrative services shall request in order to carry out the retiree health benefits program administration.

38 New Section; Administrative Services; Employee Benefit Risk Management Fund Established. Amend RSA 21-I by inserting after section 30-d the following new section:

21-I:30-e Employee Benefit Risk Management Fund.

I. There is hereby established the employee benefit risk management fund, which shall be administered by the department of administrative services. The fund shall be nonlapsing and continually appropriated to the department of administrative services.

II. All funds accumulated from any source for active state employee health benefits shall be accounted for in the fund established in paragraph I. The fund shall be used to pay for active state employee health care expenses and any administrative costs related thereto pursuant to RSA 21-I:30, and for expenses related to the production of the biennial actuarial valuation report, and shall not be used for any other purpose.

III. All funds accumulated from any source for state retiree health benefits also shall be accounted for in the fund established in paragraph I. The fund shall be used to pay for state retiree health care expenses and any administrative costs related thereto pursuant to RSA 21-I:30, and for expenses related to the production of the biennial actuarial valuation report, and shall not be used for any other purpose.

IV. At the end of each fiscal year, the state treasurer shall credit the fund with interest and any other income earned.

39 New Subparagraph; Application of Receipts; Employee Benefit Risk Management Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (252) the following new subparagraph:

(253) All funds deposited in the employee benefit risk management fund established pursuant to RSA 21-I:30-e.

40 New Section; New Hampshire Retirement System; Medical Benefits; State Retiree Health Plan Commission. Amend RSA 100-A by inserting after section 55 the following new section:

100-A:56 State Retiree Health Plan Commission.

I. There is hereby established a state retiree health plan commission consisting of the following members:

- (a) One member of the house of representatives, appointed by the speaker of the house of representatives.
- (b) One member of the senate, appointed by the president of the senate.
- (c) One member appointed by the governor.
- (d) The state treasurer.
- (e) The commissioner of the department of administrative services.

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

III. The commission shall:

(a) Determine the actuarial assumptions to be used in the actuarial valuation of liabilities relative to state retiree health benefits.

(b) Ensure that an actuarial valuation report is completed by a qualified, independent actuary and submitted to the speaker of the house of representatives, the president of the senate, and the governor, on or before December 1 of every even-numbered year.

IV. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the member appointed by the speaker of the house of representatives. The first meeting of the commission shall be held within 45 days of the effective date of this section. Three members of the commission shall constitute a quorum. The terms of the members of the commission shall be coterminous with their terms of office.

41 Transfers Among Accounts; Office of Information Technology. Notwithstanding the provisions of RSA 9:17-a or any other provision of law to the contrary, the office of information technology may, subject to the approval of the fiscal committee, transfer funds within and among all PAU's within said office as necessary for the efficient management of the office.

42 New Paragraph; Tobacco Tax; Stamps; Alternative to Bonding Requirements for Wholesalers. Amend RSA 78:9 by inserting after paragraph II the following new paragraph:

III. At the sole discretion of the commissioner, the commissioner may place a lien on property of the licensed wholesaler in lieu of the bond requirement under paragraph I, provided that:

(a) The licensed wholesaler submits a written request for the lien and detailed proposal acceptable to the commissioner; and

(b) The property on which the proposed lien shall be placed is of adequate value, marketability, and liquidity to protect the state's interests to the same degree or greater than a bond.

43 Committee on LCHIP Funding Established.

I. There is established a committee to examine alternatives and recommend a dedicated source of funding to sustain the land and community heritage investment program trust fund for the biennium and beyond.

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

(a) Three members of the senate, appointed by the president of the senate.

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

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

IV. The members of the 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 45 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 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, 2007.

44 Commission Relative to Court Security Issues Established.

I. There is established a commission to study court security issues.

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

(a) A representative of the courts, appointed by the chief justice of the supreme court.

(b) A representative of the New Hampshire Sheriff's Association, appointed by the association.

(c) Three members of the house of representatives, appointed by the speaker of the house of representatives, one of whom shall be a member of the criminal justice and public safety committee, one of whom shall be a member of the judiciary committee, and one of whom shall be a member of the finance committee.

(d) Two members of the senate, appointed by the president of the senate, one of whom shall be a member of the judiciary committee and one of whom shall be a member of the finance committee.

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

IV. The commission shall study issues relative to court security, including assessing the adequacy of the current security system, identifying potential improvements to current court security measures, and estimating the cost of such improvements. The commission shall develop an implementation plan relative to its recommendations.

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

VI. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2007.

45 Medicaid Enhancement Tax; Imposition of Tax. Amend RSA 84-A:2 to read as follows:

84-A:2 Imposition of Tax. A tax is imposed at a rate of [6] **5.5** percent upon the net patient services revenue of every hospital for the hospital's fiscal year ending during the first full calendar year preceding the taxable period.

46 Nursing Facility Quality Assessment; Imposition of Fee. Amend RSA 84-C:2 to read as follows:

84-C:2 Imposition of Fee. An assessment of [6] **5.5** percent of net patient services revenues is hereby imposed on all nursing facilities on the basis of patient days in each nursing facility. The fee shall be implemented in accordance with the provisions of 42 C.F.R. part 433.

47 Department of Health and Human Services; Authority to Fill Unfunded Positions. Notwithstanding any provision of law to the contrary, the commissioner of the department of health and human services may fill any unfunded positions during the biennium ending June 30, 2009, provided that the total expenditure for such positions shall not exceed the amount appropriated for personal services, permanent, and personal services, unclassified.

48 New Paragraph; Family Mutual Support Services; Requests for Proposals. Amend RSA 126-P:2 by inserting after paragraph IV the following new paragraph:

V. The New Hampshire developmental disabilities council shall assist the department in developing any requests for proposals for family mutual support services, which shall include adult services, before they are released for competitive bidding, and shall participate in selection.

49 Nursing Facility Rates; Report by Department of Health and Human Services. For the biennium ending June 30, 2009, the department of health and human services shall provide a report to the fiscal committee of the general court detailing assumptions used by the department to calculate acuity-based rates paid to nursing facilities. Said report shall be filed with the committee prior to the effective date of any rate change, and shall include, but not be limited to, the average monthly nursing facility bed days used to calculate rates, the projected surplus or deficit in current operating budget appropriations for nursing services, and the budget neutrality factor that will be applied to the rates, if any. The budget neutrality factor shall be defined as the adjustment to rates made by the department to accommodate the difference between the allowable Medicaid costs and acuity-based rates, derived from the nursing facility Medicaid acuity rate setting system, which nursing facilities incur in providing care to Medicaid residents, and the amount which the state has budgeted in order to fund that care. The budget neutrality factor shall not consider amounts appropriated in the operating budget for the Medicaid quality incentive program (MQIP) or the proportionate share program (Proshare).

50 New Paragraph; Recovery of Assistance. Amend RSA 167:13 by inserting after paragraph III the following new paragraph:

IV. There is established in the state treasury an estate administration fund for use as a depository account by the department of health and human services for the purpose of estate administration conducted pursuant to RSA 553:2, III. The fund shall be used to receive and temporarily hold estate funds subject to supervision of the probate court until funds are disbursed, in accordance with RSA 554:19, to creditors, including the state, for public assistance provided under this chapter.

51 New Subparagraph; Treasury; Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (252) the following new subparagraph:

(253) Moneys deposited in the estate administration fund established under RSA 167:13, IV.

52 Legal Services Study Commission Established.

I. There is established a commission to study the consolidation and centralization at the department of justice of legal services by the department of health and human services and other departments.

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

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

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

(c) Two members appointed by the governor.

(d) The attorney general, or designee.

(e) The commissioner of the department of health and human services, or designee.

(f) One member of the New Hampshire Bar Association who has both government service experience and experience in the private sector management of a large law firm, appointed by the attorney general.

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

IV. The commission shall study the employment of attorneys by the department of health and human services and other state agencies to determine whether transfer of those employees and responsibility for those legal service functions to the attorney general's office would improve the efficiency and effectiveness of legal services by the state. The study shall address whether centralization and consolidation of legal services within the state would allow the state to:

(a) More effectively and efficiently hire and retain highly qualified legal professionals.

(b) Standardize management, supervision, and accountability of attorneys and legal support staff working for the state.

(c) Establish a consistent and uniform training program for all attorneys and legal staff employed by the state.

(d) Provide more timely and consistent legal advice to state departments and officials.

(e) Eliminate duplication of legal services currently being performed by attorneys working at different departments.

(f) Establish uniform standards for attorneys appearing on behalf of the state before courts or administrative proceedings.

V. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. A simple majority of the members of the commission shall constitute a quorum.

VI. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2007.

53 Fish and Game; Game Management Account; HB 623-FN; Effective Date Changed. Amend section 8 of HB 623-FN of the 2007 legislative session to read as follows:

8 Effective Date. This act shall take effect [~~January 1, 2008~~] **July 1, 2007.**

54 Accounts Transferred; Game Management Account. All moneys existing in the moose management fund, the bear management fund, the wild turkey account, and the waterfowl conservation account as of June 30, 2007 shall be transferred to the game management account established in RSA 206:34-b as inserted by HB 623-FN of the 2007 legislative session.

55 Game Management Account; Application of Receipts.

I. Notwithstanding any other provision of law, between July 1, 2007 and December 31, 2008, all moneys collected from the sale of moose, bear, turkey, and waterfowl stamps, licenses, applications, and permits shall be deposited in the fish and game fund and shall be used for purposes specified in RSA 206:34-a.

II. On and after January 1, 2009, all moneys collected from the sale of moose, bear, turkey, and waterfowl stamps, licenses, applications, and permits shall be deposited in the fish and game fund and a portion transferred to the game management account pursuant to RSA 206:34-b, as inserted by HB 623-FN of the 2007 legislative session.

56 Off Highway Recreational Vehicles; Registration Fees; Funds Appropriated to Fish and Game Department. Amend RSA 215-A:23, VIII(f) to read as follows:

(f) Contracting with state, county, and local law enforcement agencies to enforce the provisions of this chapter relative to ATV use. [~~Ten dollars of each resident trail bike and other OHRV registration fee appropriated to the department of fish and game under RSA 215-A:23, I(b), and \$19 of each nonresident trail bike and other OHRV registration fee appropriated to the department of fish and game under RSA 215-A:23, III(b) shall be used exclusively for such contracting and shall not be transferred or diverted to any other purpose.~~]

57 Fish and Game; Use of Funds Relative to ATVs. All moneys required by RSA 215-A:23, VIII(f) prior to July 1, 2007 to be used specifically for contracting with law enforcement agencies to enforce ATV laws and held by the fish and game department for that purpose on July 1, 2007, shall be retained by the department and used for the purposes listed in RSA 215-A:23, VIII.

58 Moose; Permit Fees; Nonresident Minimum Fee. Amend RSA 208:1-a, II to read as follows:

II. The executive director, with the consent of the commission, shall also adopt rules under RSA 541-A to regulate the issuance of licenses or permits, including the establishment of a lottery for awarding of permits to applicants, and to set fees for applications, licenses, or permits for both resident and nonresident applicants, ***provided the fee for nonresident permits shall be at least \$450.***

59 Wild Turkey; Nonresident Fee. Amend RSA 214:9, XI to read as follows:

XI. If the applicant ***is a resident and*** wishes to hunt wild turkeys, [~~\$5~~] ***\$15, and if the applicant is a nonresident and wishes to hunt wild turkeys, \$30,*** and the fish and game department shall thereupon issue a wild turkey license or permit which shall entitle the licensee to hunt, shoot, kill and take turkey, except by the use of traps.

60 Motor Vehicle Fines; Review. The house criminal justice and public safety committee shall review fines for motor vehicle violations, as they have been amended by 2005, 177 and 2006, 259. The committee shall consider the appropriateness of the fine amounts and the advisability of reducing the fine amounts upon passage of the state operating budget. The committee shall report its findings to the speaker of the house of representatives and to the chairman of the house ways and means committee by November 1, 2007.

61 Repeal. 2006, 259, relative to reducing certain fines for motor vehicle violations, is repealed.

62 Regional Community-Technical College System; Authority to Accept Funds and Exemption from Hiring Freeze; Prospective Repeal Extended to July 1, 2009. Amend 2005; 227:6, I to read as follows:

I. Section 4 of this act shall take effect July 1, [2007] **2009**.

63 Regional Community-Technical Colleges; Contracts with the Community-Technical College Foundation; Prospective Repeal Extended. Amend 2004, 9:5, I to read as follows:

I. Section 3 of this act shall take effect July 1, [2007] **2009**.

64 Lease Agreements. Notwithstanding RSA 6:35, for the biennium ending June 30, 2009, the fish and game department, the department of transportation, and the department of regional community-technical colleges may enter into lease agreements for vehicles and equipment at the discretion of the agency head. In this section, "lease" includes a lease-purchase, sale and lease back, installment sale, or other similar agreement.

65 New Section; Compensation for Retired Full-Time Justices for Service after Retirement. Amend RSA 493-A by inserting after section 1-a the following new section:

493-A:1-b Compensation. Any retired full-time justice of the supreme, superior, district, or probate court who serves after retirement as a senior active status justice or a judicial referee shall be allowed his or her expenses and a per diem compensation determined by the supreme court upon recommendation by the judicial branch administrative council and based on the daily equivalent of the annual salary the retired justice would then be earning pursuant to RSA 491-A:1; provided however, that in any calendar year the total of the service retirement benefits that the retired justice receives pursuant to RSA 100-C:5 plus the compensation provided by this section shall not exceed the annual salary the retired justice would then be earning pursuant to RSA 491-A:1.

66 Appropriation. There is hereby appropriated to the judicial branch the sum of \$200,000 for the fiscal year ending June 30, 2008, and the sum of \$200,000 for the fiscal year ending June 30, 2009, for the purpose of compensating retired, full-time justices for service after retirement. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

67 New Section; Governor's Commission on Disability; Newline for the Blind. Amend RSA 275-C by inserting after section 8 the following new section:

275-C:8-a Newline for the Blind; Funding. Beginning July 1, 2007, and in each fiscal year thereafter, the sum of \$28,000 is hereby appropriated to the governor's commission on disability for the purpose of funding the National Federation of the Blind's "Newline for the Blind," an information and news service that provides individuals who are otherwise unable to read newsprint with access to existing newspapers and other printed materials. Said funds shall be a charge against the telecommunications relay service trust fund established by the public utilities commission.

68 New Hampshire Housing Finance Authority; Maximum Bond Debt. Amend the introductory paragraph of RSA 204-C:28, II to read as follows:

II. In addition to the obligations which the authority may have outstanding under paragraph I, the authority may issue notes and bonds not in excess of [~~\$200,000,000~~] **\$800,000,000** for the purposes specified in this paragraph. Such notes and bonds shall constitute general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues. The purposes for which such notes and bonds may be issued pursuant to this paragraph shall be to provide sufficient funds for any one or more of the following:

69 Rehiring of Laid Off State Employees.

I. For purposes of this section, "laid off" means any person who receives written notice of the state's intent to lay him or her off or who is laid off between July 1, 2007 and June 30, 2009, as a result of reorganization or downsizing of state government.

II. It is the intent of the general court that any position which becomes available in a department or establishment, as defined in RSA 9:1, shall be filled, if possible, by a state employee laid off, as defined in paragraph I, if such person is not currently employed by the state of New Hampshire and if he or she meets the minimum qualifications for the position.

III. The head of each department or agency shall submit the name and classification of any individual laid off between July 1, 2007 and June 30, 2009, to the director of the division of personnel within 10 days of the layoff.

IV. Any full-time state employee who was laid off as defined in this section, who before the layoff was receiving state-paid medical benefits under the provisions of RSA 21-I:26-36, who is not eligible to retire and receive post-retirement medical benefits under the provisions of RSA 21-I:26-36 or RSA 100-A:52-55, and who is not eligible for employer-paid medical or health care coverage under the plan of any other employer, or as the spouse of a person covered under the plan of any other employer, or under the state plan as the spouse of a state employee, shall continue to receive such state-paid benefits, as if continuing in active employment, for a period not to exceed 6 months after the date of termination of state employment. For the first 3 months of this 6-month period, the state shall pay the full costs of continuing medical and health care coverage. For the latter 3 months of the 6-month period, the state shall pay $\frac{1}{2}$ the cost and the laid-off state employee shall pay $\frac{1}{2}$ the cost of continuing medical and health care coverage. This 6-month period shall be included in the calculation of the entitlements required under the Consolidated Omnibus Budget Reconciliation Act of 1986 and any amendments thereto.

70 Division of Personnel; Training Programs. RSA 21-I:42, XIV is repealed and reenacted to read as follows:

XIV. Providing training programs to state agencies under this paragraph and paragraph XVII and developing and implementing a training information management system to collect and record data on agency training efforts.

(a) All state agencies shall utilize training programs offered or sponsored by the division of personnel, if appropriate training programs are available. Fees for such training programs shall be paid out of the agency's budget for training.

(b) All state agencies shall notify the division of personnel of training needs and of planned training programs for classified employees. The division may develop training programs based on such notification of training needs and make this information available to all state agencies on a regular basis to encourage efficient use of training programs.

71 Scenic and Cultural Byways System; Funds. Amend RSA 238:23, I to read as follows:

I. The ~~[director of the office of energy and planning, with the advice of the]~~ commissioner of the department of transportation ~~[and]~~, **with the advice of** the commissioner of the department of resources and economic development, is authorized to apply for and accept gifts, grants, donations and contributions from any source, public or private, in the name of the state and to provide for technical and administrative support consistent with the resources provided to the program under this section. Any moneys accepted shall be continually and solely appropriated for the purpose of this subdivision.

72 Court Fees and Fines. Amend RSA 490:26-a to read as follows:

490:26-a Court Fees and Fines; Credit Card Payments.

I. The supreme court shall establish by rule an equitable fee schedule for all courts in the state.

II.(a) Except as provided in subparagraph (b), a \$40 surcharge shall be added to each civil filing fee for all courts. This surcharge shall be deposited in the general fund.

(b) The following shall be exempt from the surcharge under subparagraph (a):

(1) Actions relating to children under RSA 169-B, RSA 169-C, and RSA 169-D.

(2) Domestic violence actions under RSA 173-B.

(c) Small claims actions under RSA 503.

(d) Landlord/tenant actions under RSA 540, RSA 540-A, RSA 540-B, and RSA 540C.

III. All court fees, **surcharges**, and ~~[aH]~~ fines paid into any court may be paid by credit card in lieu of cash payment. The courts shall collect a \$3 processing fee in addition to each fee, **surcharge**, or fine paid by credit card.

73 Repeal. RSA 281-A:59, VI, relative to a credit against the premium tax for payments made by insurance carriers to the workers' compensation administration fund, is repealed.

74 Repeal. RSA 82-A:5, relative to communications services tax exemption, is repealed.

75 New Section; Department of Transportation; Deputy Commissioner. Amend RSA 21-L by inserting after section 5 the following new section:

21-L:5-a Deputy Commissioner.

I. The commissioner of transportation shall nominate a deputy commissioner for appointment by the governor, with the consent of the council. The deputy commissioner shall serve a term of 4 years. The deputy commissioner shall be qualified to hold that position by reason of education and experience.

II. The deputy commissioner shall perform such duties as are assigned by the commissioner or assistant commissioner and, in accordance with applicable laws, shall be responsible for the following functions:

(a) Long and short range department level planning in areas of strategic, financial, and human capital programs.

(b) Policies, practices, and procedures to ensure compliance with laws and high standards of continuous quality improvement.

(c) Evaluations and audits of financial, human capital, environmental, and safety practices and internal audits.

(d) Policy development.

(e) Adjudicative hearings procedures.

(f) Public information.

(g) Liaison with the office of information technology.

III. The position shall be unclassified, and the salary of the deputy commissioner shall be as specified in RSA 94:1-a.

76 Department of Transportation; Division of Administration Changed to Division of Finance. RSA 21-L:6 is repealed and reenacted to read as follows:

21-L:6 Division of Finance. There is established within the department the division of finance, under the supervision of an unclassified director of finance, who shall, in accordance with applicable laws, be responsible for the following functions:

I. Financial management systems.

II. Bonding activities, including Garvee and turnpike bonds.

III. Budget control.

IV. Accounts payable and receivable systems.

V. Federal billing.

VI. Purchasing.

VII. Contracts and grants management.

VIII. Control of department inventory.

IX. Department printing.

77 Department of Transportation; Duties of Commissioner; Reference Change. Amend RSA 21-L:4, IV to read as follows:

IV. Require the director of the division of ~~administration~~ **finance**, in consultation with the commissioner of administrative services and the state treasurer, to provide for a system of accounts and reports which will insure the integrity and lawful use of all revenues collected by the department, the use of which is restricted by state or federal law.

78 Unclassified Salaries; Department of Transportation; Deputy Commissioner. There is hereby established within the department of transportation, office of the commissioner, the unclassified position of deputy

commissioner, which shall replace the position of director of public works. Pursuant to 94:1-d, the commissioner of transportation shall submit his or her recommendation relative to the appropriate letter grade in RSA 94:1-a, I(b) for the position of deputy commissioner to the commissioner of administrative services, who shall submit the recommendation to an outside consultant for the purpose of assessing the appropriate letter grade for unclassified officers. The commissioner of administrative services shall submit the consultant's report to the joint committee established in RSA 14:14-c, for its review and temporary letter grade allocation.

79 Unclassified Salaries, Department of Transportation; Director of Finance. There is hereby established within the department of transportation, office of the commissioner, the unclassified position of director of finance, which shall replace the position of director of administration. Pursuant to RSA 94:1-d, the commissioner of transportation shall submit his or her recommendation relative to the appropriate letter grade in RSA 94:1-a, I(b) for the position of director of finance to the commissioner of administrative services, who shall submit the recommendation to an outside consultant for the purpose of assessing the appropriate letter grade for unclassified officers. The commissioner of administrative services shall submit the consultant's report to the joint committee established in RSA 14:14-c, for its review and temporary letter grade allocation.

80 Unclassified Salaries; Department of Transportation. Amend RSA 94:1-a, I(b) by deleting:

GG	Department of transportation	director of administration
HH	Department of transportation	director of public works

81 Transfers Authorized. Notwithstanding the provisions of RSA 9:16, RSA 9:16-a, RSA 9:17, RSA 9:17-a, and RSA 9:17-c, the commissioner of administrative services, upon the request of the commissioner of safety, is authorized to transfer within and among any and all components and class codes of the budget of the division of state police for the biennium ending June 30, 2009, regardless of funding source or mix, sufficient funds to cover overtime obligations for state police activities within the traffic bureau and detective bureau, witness fees, and the accompanying benefits. The total amount transferred shall not exceed \$300,000. When making the transfers, every effort shall be made to maintain the original funding sources for the amounts transferred.

82 Unclassified Salaries, Forensic Toxicologist Deleted. Amend RSA 94:1-a, I(b) by deleting the following:

FF	Department of safety	forensic toxicologist
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83 Unclassified Salary; Chief of Policy and Planning. There is hereby established within the department of safety, office of the commissioner, the unclassified position of chief of policy and planning. Pursuant to RSA 94:1-d, the commissioner of safety shall submit his or her recommendation relative to the appropriate letter grade in RSA 94:1-a, I(b) for the position to the commissioner of administrative services, who shall submit the recommendation to an outside consultant for the purpose of assessing the appropriate letter grade for unclassified officers. The commissioner of administrative services shall submit the consultant's report to the joint committee established in RSA 14:14-c, for its review and temporary letter grade allocation.

84 New Section; Unclassified Position Established; Chief of Policy and Planning. Amend RSA 21-P by inserting after section 5-a the following new section:

21-P:5-b Chief of Policy and Planning. The commissioner of safety shall nominate a chief of policy and planning for appointment by the governor, with the consent of the council. The chief of policy and planning shall serve at the pleasure of the commissioner and shall be qualified to hold that position by reason of education and experience and shall perform such duties as are assigned.

85 Classified Position Established; Forensic Toxicologist. There is established within the department of safety, division of state police, forensic laboratory, toxicology laboratory, an additional criminalist position to serve as state toxicologist at such labor grade and step as shall be determined by the director of state personnel. The comptroller, upon request of the commissioner of safety, is authorized to transfer sufficient funds from PAU 02-15-04-16-03, class 12, personnel services -unclassified, allocated to the unclassified position of state toxicologist in the operating budget to class 10, personal services - permanent, to support the salary of the new classified position.

86 Personnel Reallocations Authorized. For the biennium ending June 30, 2009, the commissioner of safety, whenever he or she deems it will improve the efficiency and effectiveness of the delivery of service within the department, may, with approval of the fiscal committee of the general court and governor and council and further subject to approval of the position classifications by the director of personnel, eliminate certain personnel positions that may become vacant during the biennium and establish in their place other personnel positions from the same funding source, provided the cost of the new positions does not exceed the amounts budgeted for the positions being eliminated. The commissioner of safety shall submit reports on or before December 1, 2007, June 30, 2008, and December 1, 2008 to the chairs of the house and senate executive departments and administration committees on any actions taken as a result of this authorization.

87 Fish and Game; Powers and Duties of the Executive Director. Based on the legislative budget assistant's performance audit of the department of fish and game, and notwithstanding any other provision of law and subject to the approval of the fiscal committee of the general court and governor and council, for the biennium ending June 30, 2009, the executive director of fish and game is hereby authorized to:

I. Transfer funds within and among all PAUs within the department, as the executive director deems necessary and appropriate to address present or projected budget deficits, or to respond to changes in federal laws, regulations, or programs, and otherwise as necessary for the efficient management of the department.

II. Transfer or reassign personnel within and between any division, office, unit, or other component of the department.

III. Delegate, transfer, or assign the authority to administer and operate any program or service of the department to any employee, division, office, bureau, or other component of the department. Such delegation, transfer, or assignment shall include the authority to conduct or perform any act necessary to administer the program or service so assigned.

88 Approval of Charter Schools by State Board of Education; Repeal Date Amended. Amend RSA 2003, 273:9 to read as follows:

273:9 Effective Date.

I. Section 7 of this act shall take effect July 1, ~~2013~~ **2007**.

II. The remainder of this act shall take effect July 1, 2003.

89 Charter and Open Enrollment Schools; Funding. Amend RSA 194-B:11, I to read as follows:

I. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school authorized by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department. For any charter school ~~authorized~~ **approved directly** by the state board of education ~~pursuant to RSA 194-B:3-a~~ **prior to July 1, 2007**, the state shall pay tuition directly to the charter school for each pupil who is a resident of this state in attendance at such charter school as follows:

(a) For the fiscal year beginning July 1, 2006, \$3,598 annual tuition.

(b) For every fiscal year thereafter, the department of education shall determine the tuition rate by adjusting for the average annual percentage rate of inflation based on the northeast region consumer price index for all urban consumers as published by the Bureau of Labor Statistics, United States Department of Labor. The average shall be based on the 4 calendar years ending 18 months before the beginning of the fiscal year for which the tuition rate is to be determined.

(c) The commissioner of the department of education shall calculate and distribute charter school tuition payments as set forth herein. The first payment shall be 30 percent of the per pupil amount multiplied by the number of eligible pupils present on the first day of the current school year. Such payment shall be made no later than 15 days after the department of education receives the attendance report. The December 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on November 1, and the March 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on February 1. To calculate the final payment, the commissioner of the department of education shall multiply the per pupil amount by the average daily membership in attendance for the full school year, and subtract the total amount of the first 3 payments made. The remaining balance shall be the final payment. Eligible charter schools shall report membership in accordance with RSA 189:1-d. In this subparagraph, "membership" shall be as defined in RSA 189:1-d, II. Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year.

(d) The source of funds for payments under this section shall be moneys from the education trust fund established in RSA 198:39.

90 Applicability. The provisions of sections 88 and 89 of this act shall not affect the validity of a charter school approved by the state board of education under RSA 194-B:3-a prior to July 1, 2007.

91 New Paragraph; Committee for the Protection of Human Subjects; Fees. Amend RSA 171-A:19-a by inserting after paragraph VIII the following new paragraph:

IX. The commissioner may establish fees, through rules adopted under RSA 541-A, as deemed necessary, after consultation with the committee, to offset departmental costs of providing assistance to the committee pursuant to paragraph VIII. Fee revenue shall not be deposited into the general fund, but may be used by the department to offset such costs.

92 Committee for the Protection of Human Subjects. Amend RSA 171-A:19-b to read as follows:

171-A:19-b Rulemaking. The commissioner may adopt rules, pursuant to RSA 541-A, relative to the operation of the committee for the protection of human subjects, established in RSA 171-A:19-a, [~~and~~] the procedures, conditions, and criteria for the conduct and approval of research, **and fees charged by the committee.**

93 New Subdivision; New Hampshire Comprehensive Cancer Plan. Amend RSA 126-A by inserting after section 62 the following new subdivision:

New Hampshire Comprehensive Cancer Plan

126-A:63 Comprehensive Cancer Plan Fund.

I. There is established in the office of the state treasurer the comprehensive cancer plan fund, to be administered by the department of health and human services. This fund shall be nonlapsing and appropriated as designated in paragraphs II and III of this section.

II. The sum of \$2,500,000 shall be deposited into the comprehensive cancer plan fund for the fiscal year ending June 30, 2008 from the strategic contribution fund payments as agreed to in the master settlement agreement. No sums shall be deposited into the comprehensive cancer plan fund if such strategic contribution fund payments are not received. The amounts shall be expended for the following purposes:

(a) Up to \$1,683,989 towards the state tobacco use prevention program which shall be expended by the department for tobacco use prevention and cessation programs as provided in RSA 126K:15.

(b) Up to \$61,866 towards diet and exercise programs.

(c) Up to \$148,477 towards early detection and screening programs for breast and cervical cancer.

(d) Up to \$439,248 towards early detection and screening programs for colorectal cancer.

(e) Up to \$30,933 to survivorship and cancer support for those affected by prostate cancer.

(f) Up to \$55,061 to identify and promote treatment and support services for survivors.

(g) Up to \$80,426 to minority oversampling data for information on behavioral risk and cancer rates.

III. The sum of \$4,000,000 shall be deposited into the comprehensive cancer plan fund for the fiscal years ending June 30, 2009, June 30, 2010, and June 30, 2011 from the strategic contribution fund payments as agreed to in the master settlement agreement. No sums shall be deposited into the comprehensive cancer plan fund if such strategic contribution fund payments are not received. The amounts shall be expended for the following purposes:

(a) Up to \$2,694,383 towards the state tobacco use prevention program which shall be expended by the department for tobacco use prevention and cessation programs as provided in RSA 126K:15.

(b) Up to \$98,985 towards diet and exercise programs.

(c) Up to \$237,565 towards early detection and screening programs for breast and cervical cancer.

(d) Up to \$702,796 towards early detection and screening programs for colorectal cancer.

(e) Up to \$49,493 to survivorship and cancer support for those affected by prostate cancer.

(f) Up to \$88,097 to identify and promote treatment and support services for survivors.

(g) Up to \$128,681 to minority oversampling data for information on behavioral risk and cancer rates.

126-A:64 Comprehensive Cancer Plan Oversight Board. There is established a comprehensive cancer plan oversight board to oversee the department of health and human services' allocation of moneys from the comprehensive cancer fund.

I. The members of the board of directors of the comprehensive cancer plan oversight board shall be as follows:

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

(b) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(c) Two members from the department of health and human services, appointed by the commissioner.

(d) Two members from the American Cancer Society, appointed by that organization.

(e) Two members from the Dartmouth Hitchcock Healthcare System, appointed by that organization.

(f) Two members from the New Hampshire Hospital Association, appointed by the association.

(g) Two members of the public who are cancer survivors, appointed by the American Cancer Society.

II. The board of directors may appoint other members to the comprehensive cancer plan oversight board.

III. Legislative members of the board shall receive mileage at the legislative rate when attending to the duties of the board.

IV. The board shall report 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 of each year of the appropriation.

94 New Subparagraph; Application of Receipts; Comprehensive Cancer Plan Fund. Amend RSA 6:12, II(b) by inserting after subparagraph (252) the following new subparagraph:

(253) Moneys deposited in the comprehensive cancer plan fund established under RSA 126-A:63, I.

95 Repeal. The following are repealed:

I. RSA 126-A:63, relative to the comprehensive cancer plan.

II. RSA 126-A:64, relative to the comprehensive cancer plan oversight board.

III. RSA 6:12, II (b)(253), relative to the comprehensive cancer plan fund.

96 Study Required. The board of trustees of the judicial retirement plan under RSA 100-C shall study the inclusion of service of all judges not covered by or not eligible to receive benefits under the judicial retirement plan.

97 Report. The board of trustees 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, 2007.

98 Hackett Hill Road in the Town of Hooksett; Classification Changed to Class V. The class II portion of Hackett Hill Road in the town of Hooksett, beginning at the junction of Route 3-A continuing to the west approximately 7/10 miles to the present town portion of Hackett Hill Road, shall be reclassified as a class V highway. The reclassification shall not occur until the signing of all agreements necessary to build the proposed improvements and the acceptance of the completed improvements and the roadway by the town of Hooksett and the department of transportation.

99 Securities; Administrative Penalty; Investor Education. Amend RSA 421-B:26, IV to read as follows:

IV. All moneys collected as an administrative penalty under this chapter and all moneys collected pursuant to **RSA 421-B:31, I(g) and** RSA 421-B:31, I(h) shall be credited to an investor education fund to be maintained by the state treasurer. Funds in excess of \$725,000 at the end of each fiscal year shall be credited to the general fund. The secretary of state, after deducting administrative costs, shall use moneys credited to that fund to provide information to residents of this state about investments in securities, to help investors and potential investors evaluate their investment decisions, protect themselves from unfair, inequitable, or fraudulent offerings, choose their broker-dealers, agents, or investment advisers more carefully, be alert for false or misleading advertising or other harmful practices, and know their rights as investors.

100 New Hampshire Clean Lakes Program. Amend RSA 487:17 to read as follows:

487:17 Program Established.

I. A program for the preservation and restoration of New Hampshire lakes and ponds eligible under RSA 487:20 shall be established and administered within the department of environmental services. Said program shall function to limit the eutrophication process in New Hampshire lakes by reducing nuisance growths of macrophyton and phytoplankton. It shall reinforce and complement the program authorized by the federal program and shall serve 3 basic purposes:

(a) To diagnose degraded lakes and ponds and implement long-term solutions for the purpose of restoring water quality where such solutions are feasible and cost effective.

(b) To diagnose lakes and ponds and implement methods for long-term preservation of the water quality when such measures can be shown to be feasible and cost effective.

(c) To provide short-term remedial actions which can effectively maintain water quality conditions adequate for public recreation and enjoyment, including, but not limited to, the control **or eradication** of exotic aquatic weeds pursuant to paragraphs II and III.

II. The department is directed to prevent the introduction and further dispersal of exotic aquatic weeds and to manage [~~or~~], control, **or eradicate** exotic aquatic weed infestations in the surface waters of the state. The department is authorized to:

(a) Display and distribute promotional material and engage in educational efforts informing boaters of the problems with exotic aquatic weed control.

(b) Control **or eradicate** infestations of exotic aquatic weeds, according to the following criteria:

(1) The department shall have determined that the exotic aquatic weed can in fact be controlled **or eradicated** in the waterbody.

(2) The most environmentally sound treatment technique relative to the specific infestation will be used, which also meets the requirements of state rules, including rules adopted under RSA 430. ***Notwithstanding any law or interagency agreement to the contrary, the department's decision to use herbicide applications shall be made in consultation with the fish and game department and shall be implemented only if the department of agriculture, markets and food issues the permit pursuant to RSA 430:33, with or without the concurrence of the department of fish and game.***

(c) Develop an emergency response protocol to control **or eradicate** small new infestations. The protocol may include contractual agreements with one or more licensed pesticide applicators that would enable the prompt treatment of exotic aquatic weeds with herbicides consistent with the criteria provided in subparagraph (b).

(d) Designate, in consultation with the department of fish and game and the division of safety services, department of safety, restricted use of exotic aquatic weed control areas.

III. After notice and opportunity for hearing and comment, the department may make financial grants to lakefront associations, private businesses, citizens, and local governmental agencies for the management of exotic aquatic weeds where eradication is deemed impossible. All applications for grants by such groups shall be approved by [~~both~~] the department [~~and~~], ***in consultation with*** the fish and game department, and shall meet state rule requirements.

101 Project Prioritization. Amend RSA 487:18 to read as follows:

487:18 Project Prioritization. Project approval shall be based upon prioritization factors to be established by rules adopted under RSA 541-A. Such rules shall give first priority for expenditure of available funds to the control **or eradication** of new infestations of exotic aquatic weeds pursuant to RSA 487:17, II(b). Otherwise, preference shall be given to lakes that have public access or that serve as a public drinking water supply. Implementation measures shall be based upon an assessment of potential success, technical feasibility, practicability, and cost effectiveness. Restoration and preservation projects shall include watershed management plans to control and reduce incoming nutrients wherever possible through best management practices. Repeated short-term solutions shall be discouraged where long-term solutions are feasible and cost effective. Treatments shall be designed to minimize any adverse effect upon fish and wildlife, their habitats, and the environment.

102 Requirements for the Display of Fireworks; Permit Fee. Amend RSA 160-B:7, V to read as follows:

V. An application for a display permit shall be made in writing at least 15 days in advance of the date of the display. The town, city, or village district may charge a reasonable fee for a permit to display fireworks. No display permit granted under this section shall be transferable, and each display permit shall be valid for only one display to be held on the date permitted. If, in the opinion of the chief of the fire department, conditions deteriorate during the 15 days before the date for which such permit is granted so that a fire hazard exists, the chief may revoke the permit. ***At least 72 hours prior to the date of display, the operator of the display shall transmit a copy of the completed display permit, with proof of insurance for the display, approved by the town, city, or village district, to the department of safety.***

103 Fireworks Inspector. Amend the introductory paragraph of RSA 160-C:17 to read as follows:

160-C:17 [~~Permissible~~] Fireworks Inspector. There is hereby established in the office of the state fire marshal the [~~seasonal~~] **full-time classified** position of [~~permissible~~] fireworks inspector. The [~~permissible~~] fireworks inspector **shall be under the direction and supervision of the state fire marshal and** shall:

104 Fireworks Inspector; Duties. Amend RSA 160-C:17, I to read as follows:

I. Inspect [~~permissible~~] fireworks sales outlets.

I-a. Inspect sites and facilities for the display or storage of display fireworks, as defined in RSA 160-B:1, X.

I-b. Coordinate enforcement activities relative to illegal sales, including the disposal or proper storage of illegal fireworks.

105 Fire Standards and Training and Emergency Medical Services Fund. Amend RSA 21-P:12-d to read as follows:

21-P:12-d Fire Standards and Training and Emergency Medical Services Fund. There is established in the office of the state treasurer a separate, nonlapsing fund to be known as the fire standards and training and emergency medical services fund from which the state treasurer shall pay expenses incurred in the administration of the division of fire standards and training and emergency medical services, under RSA 21-P:12-a, the division of fire safety, under RSA 21-P:12, [~~and~~] the bureau of emergency management in the division of emergency services, communications, and management under RSA 21-P:36, **and the position of fireworks inspector under RSA 160-C:17.** If the expenditure of additional funds over budget estimates is necessary for the proper functioning of the division of fire standards and training and emergency medical services, the division of fire safety, or the bureau of emergency management in the division of emergency services, communications, and management, the department of safety may request, with prior approval of the fiscal committee of the general court, the transfer of funds from the fire standards and training and emergency medical services funds to the department of safety for such purposes.

106 New Section; Division of Economic Development; Technology Development and Telecommunications Planning. Amend RSA 12-A by inserting after section 50 the following new section:

12-A:51 Technology Development and Telecommunications Planning. There is established within the division of economic development, a technology development and telecommunication planning function, which is intended to promote technology development and telecommunication planning in the state. Under the supervision of the director of the division of economic development, the division shall:

I. Coordinate state telecommunications policy planning initiatives by providing support for the telecommunications planning and development advisory committee established in RSA 12-A:46, maintaining a state telecommunications resource website, and working with regional partners from the private and public sector to coordinate efforts to provide increased interoperable advanced telecommunications systems throughout the state with the goal of providing affordable and accessible broadband to residents of this state.

II. Encourage and facilitate collaboration between public and private research and development efforts in New Hampshire relative to technology development and telecommunications planning.

III. With the assistance of the University of New Hampshire and other partners, seek resources such as grants from government and non profit entities to develop a state technology development and telecommunications plan.

107 Appropriation; Department of Resources and Economic Development; Technology Development and Telecommunications Planning. In addition to any other sums appropriated to the department of resources and economic development, there is hereby appropriated to the department of resources and economic development, division of economic resources, the sum of up to \$20,000 for the fiscal year ending June 30, 2008 for the purpose of securing a grant writer to establish a technology development and telecommunications plan. The governor shall draw a warrant for such sums from any money in the treasury not otherwise appropriated.

108 New Subparagraph; Department of Safety; Division of State Police. Amend RSA 21-P:7, I by inserting after subparagraph (e) the following new subparagraph:

(f) Approving professional standards of conduct and standard operating procedures of the division of state police.

109 Health and Human Services; Medical Assistance Program.

I. The department of health and human services shall include disposable incontinence supplies as medical assistance under the Medicaid state plan.

II. The department of health and human services shall explore opportunities to utilize innovative purchasing and distribution methodologies such as bulk purchasing and electronic benefit cards to provide disposable incontinence supplies to Medicaid recipients, as in provided in HB 826-FN of the 2007 legislative session.

110 Health and Human Services; Independent Case Management. Independent case management shall be provided to all beneficiaries receiving services under the Home and Community-Based Care for the Elderly and Chronically Ill (HCBC-ECI) waiver program, except beneficiaries living in an assisted living facility licensed in accordance with department of health and human services rule He-P 803. The commissioner of the department of health and human services shall grant waivers to allow independent case management to be provided to the excluded beneficiaries as necessary to protect their health and safety.

111 Department of Health and Human Services; Rate Setting. For the biennium ending June 30, 2009, the commissioner of the department of health and human services shall set rates paid to providers consistent with the operating budget appropriations allotted to pay providers in each program including any rate increases provided in the operating budget. Notwithstanding any law to the contrary relative to rate setting, the commissioner shall establish rates that reflect appropriations for the current fiscal year by August 1, 2007. Such rates shall reflect legislative decisions to provide specific rate increases as footnoted in the operating budget. The commissioner shall report quarterly to the fiscal committee of the general court, the governor, the speaker of the house of representatives, and the president of the senate concerning the status of appropriations for payments to providers and the rates established by the department.

112 Revenue Stabilization Reserve Account. Notwithstanding RSA 9:13-e, any budget surplus in excess of \$15,000,000, for the close of the fiscal biennium ending June 30, 2007, shall not be deposited in the revenue stabilization reserve account but shall remain in the general fund.

113 Education Trust Fund; Transfer to General Fund. Notwithstanding RSA 198:39, any funds remaining in the education trust fund as of June 30, 2007, June 30, 2008, and June 30, 2009 shall be transferred to the general fund as undesignated surplus.

114 Tobacco Use Prevention Funds. Notwithstanding any provision of law to the contrary, for the biennium ending June 30, 2009, no funds shall be deposited into the tobacco use prevention fund established pursuant to RSA 126-K:15 except as provided in RSA 126-A:63.

115 Minimum Hourly Rate; Effective Date. Amend 2007, 24:2 to read as follows:

24:2 Effective Date. This act shall take effect ~~[60 days after its passage]~~ **September 1, 2007.**

116 Minimum Wage Law; Definitions. Amend RSA 279:1 by inserting after paragraph XI the following new paragraph:

XII. "Tip" means money given to an employee by a customer, in cash or its equivalent, or transferred to the employee by the employer pursuant to directions from a credit card customer who designates a sum to be added to the bill as a tip, or added as a gratuity or service charge to a customer's bill, in recognition of service performed.

117 New Section; Tip Pools. Amend RSA 279 by inserting after section 26-a the following new section:

279:26-b Tip Pools.

I. Tips are wages and shall be the property of the employee receiving the tip and shall be retained by the employee, unless the employee voluntarily and without coercion agrees to participate in a tip pool which is not required and not controlled in any manner by the employer.

II. If the employee agrees to participate, the employer is not precluded from administering a valid tip pool in which participation is voluntary, not coerced, and the employer exercises no control over the manner in which tips are pooled other than for accounting and bookkeeping purposes.

118 Community Reinvestment and Opportunity Zones; Economic Revitalization Zone Tax Credits. RSA 162-N is repealed and reenacted to read as follows:

CHAPTER 162-N

ECONOMIC REVITALIZATION ZONE TAX CREDITS

162-N:1 Definition. In this chapter, “economic revitalization zone” means a zone designated by the commissioner of resources and economic development as an economic revitalization zone in accordance with the provisions of this chapter.

162-N:2 Designation of Economic Revitalization Zone.

I. “Economic revitalization zone” means a zone with a single continuous boundary, comprised of one or more contiguous census tracts or blocks or smaller recognizable physical areas, designated in accordance with the rules adopted under RSA 162-N:8, and certified by the commissioner of resources and economic development as being a brownfields site as defined under RSA 147-F, or having at least one of the following characteristics:

(a) The population of the municipality or municipalities in which the zone is located, according to the most recent federal census, decreased during the 20 years prior to the census.

(b) The median household income in the census tract or tracts in which the zone is located is less than \$40,500 according to the most recent federal decennial census.

(c) At least 20 percent of households in the census tract or tracts in which the zone is located have a median income below the federal poverty level.

(d)(1) The zone contains either:

(A) Unused or underutilized industrial parks; or

(B) Vacant land or structures previously used for industrial, commercial, or retail purposes but currently not so used due to demolition, age, obsolescence, deterioration, relocation of the former occupant’s operations, or cessation of operation resulting from unfavorable economic conditions either generally or in a specific economic sector; and

(2) Certification of the zone as an economic revitalization zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the zone.

II. Economic revitalization zones shall be designated by the commissioner of resources and economic development only upon petition by the local governing body, as defined by RSA 672:6, or the town council. The commissioner of resources and economic development shall certify that the economic revitalization zone meets the criteria required in paragraph I.

III. The commissioner of resources and economic development is authorized to establish an advisory board for each economic revitalization zone established under this chapter.

162-N:3 Eligibility Requirements for Business Tax Credits. No economic revitalization zone tax credits shall be allowed to any taxpayer unless the taxpayer’s project receives written certification from the commissioner of resources and economic development that it will expand the commercial or industrial base in a designated economic revitalization zone and will create new jobs in the state.

162-N:4 Economic Revitalization Zone Tax Credit Agreement.

I. The commissioner of resources and economic development shall enter into a written economic revitalization zone tax credit agreement with each taxpayer; such agreement to be certified by the commissioner of resources and economic development under this section. The agreement shall contain such provisions as the commissioner of resources and economic development determines to be in the public interest, which shall include, but not be limited to:

(a) Quality and quantity of jobs to be created.

(b) Duration of the taxpayer’s commitments with respect to the economic revitalization zone.

(c) The amount of the taxpayer’s investment in the project.

(d) A precise definition of the location of the facility eligible for the credit.

(e) The maximum amount of the economic revitalization zone tax credit that will be allowed to the business under this agreement for jobs created and for construction or reconstruction expenses.

II. A certified copy of each agreement signed by the commissioner of resources and economic development and the taxpayer shall be provided to the commissioner of revenue administration.

162-N:5 Limit On Total Economic Revitalization Zone Credits. The aggregate value of all of economic revitalization zone tax credit agreements that the commissioner of resources and economic development enters into shall not exceed the limit of \$825,000 in any fiscal year. Notwithstanding RSA 162-N:6, the maximum credit awarded to a taxpayer in any fiscal year shall not exceed \$40,000.

162-N:6 Determination of Economic Revitalization Zone Tax Credits Eligible Amount.

I. For the purpose of determining the economic revitalization zone tax credit that the taxpayer is eligible to receive, the amount of the credit to be taken shall be the lesser of the following:

(a) The maximum amount of the economic revitalization zone tax credit as stated in the agreement as specified by RSA 162-N:4, I(e); or

(b) The sum of the following:

(1) 4 percent of the salary for each new job created in the fiscal year with a wage less than or equal to 1.75 times the then current state minimum wage.

(2) 5 percent of the salary for each new job created in the fiscal year with a wage greater than 1.75 times the then current state minimum wage and less than or equal to 2.5 times the then current state minimum wage.

(3) 6 percent of the salary for each new job created in the fiscal year with a wage greater than 2.5 times the then current state minimum wage.

(4) 4 percent of the lesser of the following:

(A) The actual cost incurred in the fiscal year of creating a new facility or renovating an existing facility, and expenditures for machinery, equipment, or other materials, except inventory.

(B) \$20,000 for each new job created in the fiscal year.

162-N:7 Application of Economic Revitalization Zone Tax Credit. The economic revitalization zone tax credit shall be applied against the business profits tax under RSA 77-A, and any unused portion thereof may be applied against the business enterprise tax under RSA 77-E. Any unused portion of the credit allowed under this chapter may be carried forward and allowed against taxes due under RSA 77-A or RSA 77-E for 5 taxable periods from the taxable period in which the tax was paid.

162-N:8 Rules. The commissioner of revenue administration shall adopt rules, under RSA 541-A, relative to documentation of the credits claimed under this chapter. The commissioner of resources and economic development shall, in consultation with the executive director of the community development finance authority, adopt rules, under RSA 541-A, relative to the administration and implementation of this chapter. The rules adopted by the commissioner of resources and economic development shall include provisions relative to:

I. Establishment and certification of economic revitalization zones.

II. Criteria for and approval of projects in economic revitalization zones, including jobs per dollar thresholds.

III. Fees which the commissioner of resources and economic development may charge to each applicant to cover the reasonable costs of the state's administration of the applicant's participation in the economic revitalization zone tax credit program.

162-N:9 Reports. The commissioner of resources and economic development shall file an annual report with the governor, the senate president, the speaker of the house of representatives, and the fiscal committee. The report shall describe the results of the economic revitalization zone tax credit program and shall include any recommendations for further legislation regarding the economic revitalization zone tax credit program.

119 Business Profits Tax; Economic Revitalization Zone Tax Credit. RSA 77-A:5, XII is repealed and reenacted to read as follows:

XII. The economic revitalization zone tax credit, as computed in RSA 162-N:6.

120 Business Enterprise Tax; Economic Revitalization Zone Tax Credit. RSA 77-E:3-a is repealed and reenacted to read as follows:

77-E:3-a Credit. The economic revitalization zone tax credit, as computed in RSA 162-N:6, shall be allowed against the tax due under this chapter.

121 Repeal. The following are repealed:

- I. RSA 162-N, relative to the economic revitalization zone tax credit program.
- II. RSA 77-A:5, XII, relative to the economic revitalization zone tax credit.
- III. RSA 77-E:3-a, relative to the economic revitalization zone tax credit.

122 Department of Health and Human Services; Medical Assistance Program; Selective Contracting. The department of health and human services shall discontinue the bid process for the Medicaid GraniteCare Select Contracting Pilot Program, 07-OMBP-GCS-03, and take no action on any responses to the request for proposal received until the federal Centers for Medicare and Medicaid Services provides written approval of the department's request to waive Section 1915(b)(4) of the Social Security Act and the fiscal committee of the general court, upon request by the commissioner of the department of health and human services, authorizes the completion of the bid process for this program.

123 Effective Date.

- I. Section 5 of this act shall take effect July 1, 2009 at 12:01 a.m.
- II. Section 36 of this act shall take effect July 1, 2009.
- III. Sections 43, 44, 60, 61, 96, 97, 102-105, and 115-117 of this act shall take effect upon its passage.
- IV. Sections 14-23, 45, 46, 58, and 59 of this act shall take effect January 1, 2008.
- V. Sections 24, 62, and 113 of this act shall take effect June 30, 2007.
- VI. RSA 485-A:17, II-b as inserted by section 29 of this act shall take effect January 1, 2008.
- VII. Sections 25 and 121 of this act shall take effect July 1, 2011.
- VIII. Section 95 of this act shall take effect June 30, 2011.
- IX. The remainder of this act shall take effect July 1, 2007.

2007-2122s

AMENDED ANALYSIS

This bill:

- I. Increases the minimum purchase price for agency hardware and software that requires approval by the office of information technology.
- II. Increases certain motor vehicle registration fees.
- III. Increases the limit for sweepstakes ticket prices from \$20 to \$30.
- IV. Increases the tobacco tax by 28 cents.
- V. Establishes the homeless housing and access revolving loan fund.
- VI. Transfers the balance of the long-term care assistance fund on June 30, 2007 to the department of health and human services to support ServiceLink New Hampshire.
- VII. Provides that, for the biennium ending June 30, 2009, all revenue from the sale of liquor and from liquor licensing fees shall be deposited in the general fund.
- VIII. Changes the name of the Glencliff home for the elderly to the Glencliff home.
- IX. Establishes the liability of counties for nursing home costs and removes county liability for payment of certain youth services costs.
- X. Establishes a \$4,000 cap on community mental health services benefits available to persons identified as adults with low service utilization of such services, and requires the department to establish, by rule, a procedure to waive the financial cap.
- XI. Limits the ability of the department of health and human services to change program eligibility standards and rates in the biennium ending June 30, 2009.
- XII. Provides that, for the biennium ending June 30, 2009, the department of health and human services may accept and expend additional revenues above budgeted amounts for provider payments and certain other programs and services, subject to approval of the fiscal committee and governor and council.

XIII. Authorizes the department of health and human services to transfer funds within and among all PAUs within the department for certain purposes, subject to approval of the fiscal committee and governor and council.

XIV. Directs the department of revenue administration and the department of health and human services to renew the existing memorandum of understanding between the agencies relative to eligibility for public assistance.

XV. Increases certain department of environmental service fees for the review of terrain alteration plans and wetlands or shoreline structure impact fees.

XVI. Revises the laboratory fee schedule for environmental tests.

XVII. Establishes that each municipality shall receive total education grants in an amount that equals the greater of either: a 5 percent increase in the education grant amount received by the municipality pursuant to RSA 198:41, I(b)(2) for the fiscal year beginning July 1, 2006, or 94.6596522 percent of the education grant amount to be received by the municipality pursuant to RSA 198:41, I(b)(2) for the fiscal year beginning July 1, 2007.

XVIII. Decreases the percentage of the road toll used to fund the highway and bridge betterment program until July 1, 2009.

XIX. Directs the New Hampshire retirement system to provide the department of administrative services with certain information relative to retirees for the retiree health benefits program.

XX. Establishes an employee benefit risk management fund and state retiree health plan commission.

XXI. Permits the office of information technology to transfer funds within the office with the approval of the fiscal committee.

XXII. Grants the commissioner of revenue administration authority to place a lien on the property of wholesalers of tobacco products rather than a bond.

XXIII. Establishes a committee relative to LCHIP funding and a commission relative to court security issues.

XXIV. Reduces the Medicaid enhancement tax and the nursing facility quality assessment fee from 6 percent to 5.5 percent.

XXV. Authorizes the commissioner of the department of health and human services to fill any unfunded position for the biennium ending June 30, 2009 within the limits of the appropriations for personal services, permanent, and personal services, unclassified.

XXVI. Requires the developmental disabilities council to assist the department of health and human services in developing any requests for proposal for family mutual support services.

XXVII. Directs the department of health and human services to file a report relative to the calculation of acuity-based rates for nursing facilities with the fiscal committee prior to implementing a rate change.

XXVIII. Establishes an estate administration fund for the department of health and human services to hold estate funds before disbursement by the probate court.

XXIX. Establishes a commission to study the consolidation and centralization at the department of justice of legal services by the department of health and human services and other departments.

XXX. Changes the effective date of the establishment of the game management account, and deposits the funds collected into the fish and game fund until December 31, 2008.

XXXI. Sets a required minimum moose permit fee for nonresidents and increases the nonresident wild turkey license or permit fee issued by the fish and game department.

XXXII. Repeals the prospective change in motor vehicle fines.

XXXIII. Extends the department of regional community-technical colleges' authority to accept certain funds without the approval of the governor and council and their exemption from a hiring freeze or delay until July 1, 2009.

XXXIV. Extends the prospective repeal of the regional community-technical college system's contracting authority with the community-technical college foundation.

XXXV. For the biennium ending June 30, 2009, allows the fish and game department, the department of transportation, and the department of regional community-technical colleges to lease vehicles and equipment at the discretion of the agency head.

XXXVI. Allows certain limited compensation for retired full-time justices for service after retirement, and makes an appropriation therefor.

XXXVII. Establishes an annual appropriation for Newsline for the Blind.

XXXVIII. Increases the maximum debt limit for the New Hampshire housing finance authority from \$200,000,000 to \$800,000,000 for bonds issued for the purpose of funding certain housing loans and mortgage costs.

XXXIX. Establishes certain protections for state employees who have been laid off as a result of the reorganization or downsizing of state government.

XL. Requires state agencies to utilize training programs offered or sponsored by the division of personnel if appropriate training programs are available.

XLI. Establishes the department of transportation as the agency that accepts funds and provides administrative support to the scenic and cultural byways program.

XLII. Establishes a \$40 surcharge to be added to each civil filing fee.

XLIII. Repeals the credit against the premium tax for payments made by insurance carriers to the workers' compensation administration fund.

XLIV. Repeals the communications services tax exemption for residential customers.

XLV. Establishes the position of deputy commissioner of the department of transportation and renames the division of administration the division of finance, under the supervision of a director of finance.

XLVI. Allows the department of safety to transfer funds appropriated for the biennium ending June 30, 2009 within the budget of the division of state police.

XLVII. Eliminates the unclassified position of forensic toxicologist in the department of safety and establishes classified toxicologist and chief of policy and planning positions in the department, and authorizes the commissioner of safety to make certain personnel reallocations.

XLVIII. Authorizes the executive director of the fish and game department to transfer funds, employees, and services within the department for the biennium ending June 30, 2009.

XLIX. Repeals the direct approval of charter schools by the state board of education.

L. Permits the department of health and human services to adopt rules under RSA 541-A relative to fees charged by the committee for the protection of human subjects.

LI. Establishes the comprehensive cancer plan fund and oversight board.

LII. Requires the board of trustees of the judicial retirement plan to study and report on the inclusion of service of all judges who are not members of the judicial retirement plan.

LIII. Reclassifies a portion of Hackett Hill Road as a class V highway.

LIV. Credits certain securities fees to the investor education fund.

LV. Permits the department of environmental services to determine the appropriate method to manage, control, or eradicate exotic aquatic weeds in the surface waters of the state, provided that the department consults with the fish and game department and the department of agriculture, markets and food issues the necessary permit.

LVI. Requires that a fireworks display permit be submitted to the department of safety at least 48 hours prior to the display and makes the position of fireworks inspector a full-time, rather than seasonal, position, responsible for permissible and display fireworks, and funded by the fire standards and training and emergency medical services fund.

LVII. Requires the department of resources and economic development, division of economic development to coordinate and supervise the development of a state technology development and telecommunications plan and makes an appropriation to the department.

LVIII. Makes the director of the division of state police responsible for approving professional standards of conduct and standard operating procedures for the division of state police.

LIX. Requires the department of health and human services to include disposable incontinence supplies under the Medicaid state plan.

LX. Requires that independent case management be provided to all beneficiaries receiving services under the Home and Community-Based Care for the Elderly and Chronically Ill (HCBC-ECI) waiver provision, except beneficiaries living in an assisted living facility licensed in accordance with department rules.

LXI. Establishes criteria for rate setting by the department of health and human services.

LXII. Provides that any budget surplus in excess of \$15,000,000, at the close of the fiscal biennium ending June 30, 2007, shall remain in the general fund.

LXIII. Provides that any funds remaining in the education trust fund as of June 30, 2007, June 30, 2008, and June 30, 2009 shall be transferred to the general fund as undesignated surplus.

LXIV. Provides that for the biennium ending June 30, 2009, no funds shall be deposited in the tobacco use prevention fund.

LXV. Provides that the minimum hourly rate shall take effect September 1, 2007, and inserts definitions of "tip" and "tip pools" into the minimum wage law.

LXVI. Establishes a economic revitalization zone tax credit against the business profits tax and the business enterprise tax. The credit is based on the creation of jobs in areas that have been identified by the commissioner of resources and economic development as economic revitalization zones. The economic revitalization zone tax credit program replaces the CROP zone tax credit program.

LXVII. Discontinues the bid process for the Medicaid GraniteCare Select Contracting Pilot Program pending approval from the Centers for Medicare and Medicaid Services and the fiscal committee of the general court.

SPECIAL ORDER

Senator Burling moved to Special Order HB 2 to the end of the Calendar.

Senator Larsen moved that without objection HB 2-FN-A be Special Ordered to the end of Session.

HB 2-FN-A, relative to state fees, funds, revenues, and expenditures.

HB 51, permitting adoption by 2 unmarried adults in a familial relationship. Judiciary Committee. Inexpedient to Legislate, Vote 3-2. Senator Foster for the committee.

MOTION TO TABLE

Senator Burling moved to have HB 51 laid on the table.

The question is on the adoption of the motion to lay on the table.

A roll call was requested by Senator Barnes.

Seconded by Senator Letourneau.

The following Senators voted Yes: Gallus, Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Kelly, Gottesman, Foster, Clegg, Larsen, DeVries, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: Kenney, Roberge, Bragdon, Gatsas, Barnes, Letourneau.

Yeas: 18 - Nays: 6

Adopted.

LAIID ON THE TABLE

HB 51, permitting adoption by 2 unmarried adults in a familial relationship.

HB 94, relative to overpayments of child support. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Reynolds for the committee.

Senate Judiciary
May 31, 2007
2007-2012s
05/04

Amendment to HB 94

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Child Support Guidelines; Overpayment. Amend RSA 458-C:7 by inserting after paragraph II the following new paragraph:

III. Whenever the court, pursuant to this chapter, modifies a support order which results in an overpayment of support, the court shall order, absent a showing of undue hardship, the obligee to directly reimburse the obligor for such overpayment of support or order an adjustment to the modified support order until reimbursement of the overpayment has been satisfied. Any reimbursement ordered shall be only for an overpayment that occurs after the date that notice of the petition for modification of support order was given to the respondent. The court shall enter an order for reimbursement as a provision of the modified order, which order for reimbursement shall take effect 30 days after issuance, unless either the obligor or obligee requests, within such 30-day period, a separate hearing to determine the amount and frequency of reimbursement.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 184, repealing the parental notification law. Judiciary Committee. Ought to Pass, Vote 3-2. Senator Foster for the committee.

Senator Roberge offered a floor amendment.

Sen. Clegg, Dist. 14
Sen. Gatsas, Dist. 16
Sen. Gallus, Dist. 1
Sen. Kenney, Dist. 3
Sen. Roberge, Dist. 9
Sen. Bragdon, Dist. 11
Sen. Barnes, Dist. 17
Sen. Letourneau, Dist. 19
Sen. Downing, Dist. 22
June 5, 2007
2007-2076s
01/03

Floor Amendment to HB 184

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

AN ACT relative to the parental notification law.

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

1 New Paragraph; Definition Added. Amend RSA 132:24 by inserting after paragraph V the following new paragraph:

V-a. "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

2 Medical Emergency Provision Added. RSA 132:26, I(a) is repealed and reenacted to read as follows:

(a) The attending abortion provider certifies in the pregnant minor's medical record that there exists a medical emergency, as defined in RSA 132:24, V-a; or

3 Waiver of Notice; 24-Hour Access. Amend RSA 132:26, II to read as follows:

II. If such a pregnant minor elects not to allow the notification of her parent or guardian or conservator, any judge of a court of competent jurisdiction shall, upon petition, or motion, and after an appropriate hearing, authorize an abortion provider to perform the abortion if said judge determines that the pregnant minor

is mature and capable of giving informed consent to the proposed abortion. If said judge determines that the pregnant minor is not mature, or if the pregnant minor does not claim to be mature, the judge shall determine whether the performance of an abortion upon her without notification of her parent, guardian, or conservator would be in her best interests and shall authorize an abortion provider to perform the abortion without such notification if said judge concludes that the pregnant minor's best interests would be served thereby. ***Access to a judge for the purposes of this paragraph shall be afforded such a pregnant minor 24 hours a day, 7 days a week. All proceedings conducted pursuant to this section shall be confidential.***

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

2007-2076s

AMENDED ANALYSIS

This bill adds a medical emergency exception to the parental notification prior to abortion law. This bill also affords the pregnant minor 24-hour access to a judge for waiver of notification purposes.

Senator Gottesman moved the question.

Without objection Senator Larsen moved to close debate.

The question is on the adoption of the floor amendment.

A roll call was requested by Senator Barnes.

Seconded by Senator Bragdon.

The following Senators voted Yes: Gallus, Kenney, Roberge, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Downing.

The following Senators voted No: Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Kelly, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

Yeas: 9 - Nays: 15

Floor amendment failed.

The question is on the adoption of ought to pass.

A roll call was requested by Senator Clegg.

Seconded by Senator Gatsas.

The following Senators voted Yes: Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Kelly, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Roberge, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Downing.

Yeas: 15 - Nays: 9

Adopted.

Ordered to third reading.

HB 194, relative to laboratories conducting alcohol concentration tests. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Gottesman for the committee.

Senate Judiciary

May 31, 2007

2007-2011s

03/05

Amendment to HB 194

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

AN ACT relative to laboratories conducting alcohol concentration tests and relative to the alcohol ignition interlock program.

Amend the bill by replacing all after section 1 with the following:

2 Alcohol Ignition Interlock Program; Mandatory Installation. Amend RSA 265A:36, I-I-a to read as follows:

I. Any person whose license or permission to drive has been revoked or suspended for an aggravated DWI offense under RSA 265-A:18, I(b)[;] **or** I(c), or a subsequent DWI offense under RSA 265A:18, IV

[may] **shall** be required by the court after the period of revocation or suspension to install an ignition interlock device as defined in RSA 259:43-a in any vehicle registered to that person or used by that person on a regular basis, for not less than [6] **12** months nor more than 2 years. Installation and monitoring costs shall be paid by the offender. A certificate proving installation of the device shall be provided to the division of motor vehicles as a condition precedent to reinstatement of the individual's license to drive, and the division may mark the person's license **and the person's number plate by use of a striping sticker** accordingly.

I-a. Any person who is convicted of driving while under suspension or revocation resulting from a DWI offense shall be required by the court to install an ignition interlock device in any vehicle registered to that person or used by that person on a regular basis, for the remaining period of suspension or revocation plus an additional period not less than [6] **12** months nor more than 2 years. The court may order such installation on a temporary basis prior to conviction as a condition of bail.

3 Effective Date.

I. Section 1 of this act shall take effect January 1, 2008.

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

2007-2011s

AMENDED ANALYSIS

This bill:

I. Requires that laboratories conducting alcohol concentration tests be accredited by any nationally recognized accrediting body.

II. Increases the minimum period of installation for ignition interlock devices.

III. Makes installation of an ignition interlock device mandatory for certain offenses.

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 539-FN, relative to manslaughter. Judiciary Committee. Re-refer to committee, Vote 5-0. Senator Gottesman for the committee.

Adopted.

HB 539-FN is re-referred to the Judiciary Committee.

HB 707, relative to the time frames for hearings in domestic violence cases. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Reynolds for the committee.

Senate Judiciary

May 31, 2007

2007-2022s

05/04

Amendment to HB 707

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

1 Protection of Persons from Domestic Violence; Hearing. Amend RSA 173-B:3, VII to read as follows:

VII.(a) The court shall hold a hearing within 30 days of the filing of a petition under this section or within 10 days of service of process upon the defendant, whichever occurs later.

(b) The time frame established in this paragraph may be extended for an additional 10 days upon motion by either party for good cause shown. If an extension is granted, the court shall reschedule the hearing in an expeditious manner. A recusal of the available judge or any act of God that interferes with the originally scheduled hearing shall not be cause for the dismissal of the petition.

2 Effective Date. This act shall take effect January 1, 2008.

2007-2022s

AMENDED ANALYSIS

This bill permits the court to extend the hearing date in a domestic violence case for good cause.

Floor Amendment adopted.

Senator Foster offered a floor amendment.

Sen. Foster, Dist. 13

June 5, 2007

2007-2080s

04/09

Floor Amendment to HB 707

Amend RSA 173-B:3, VII(b) as inserted by section 1 of the bill by replacing it with the following:

(b) The time frame established in this paragraph may be extended for an additional 10 days upon motion by either party for good cause shown. A recusal by the judge or any act of God or closing of the court that interferes with the originally scheduled hearing shall not be cause for the dismissal of the petition. The court shall reschedule any hearing under this section in an expeditious manner.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 377-FN-L, relative to the right-to-know law. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 3-0. Senator Hassan for the committee.

Sen. Hassan, Dist. 23

May 25, 2007

2007-1891s

09/10

Amendment to HB 377-FN-LOCAL

Amend RSA 91-A:4 and RSA 91-A:5 as inserted by section 4 of the bill by replacing them with the following:

91-A:4 Minutes and Records Available for Public Inspection.

I. Every citizen during the regular or business hours of all ~~[such]~~ **public** bodies or agencies, and on the regular business premises of such **public** bodies or agencies, has the right to inspect all ~~[public]~~ **governmental** records **in the possession, custody, or control of such public bodies or agencies**, including minutes of meetings of the **public** bodies ~~[or agencies]~~, and to **copy and** make memoranda~~;~~ **or** abstracts~~;~~ ~~and photographic or photostatic copies~~ of the records or minutes so inspected, except as otherwise prohibited by statute or RSA 91-A:5. **In this section, "to copy" means the reproduction of original records by whatever method, including but not limited to photography, photostatic copy, printing, or electronic or tape recording.**

I-a. Records of any payment made to an employee of any public body or agency listed in RSA 91-A:1-a, ~~[F] VI(a)-(d)~~, or to the employee's agent or designee, upon the resignation, discharge, or retirement of the employee, paid in addition to regular salary and accrued vacation, sick, or other leave, shall immediately be made available without alteration for public inspection. All records of payments shall be available for public inspection notwithstanding that the matter may have been considered or acted upon in nonpublic session pursuant to RSA 91-A:3.

II. After the completion of a meeting of ~~[such]~~ **a public** ~~[bodies or agencies]~~ **body**, every citizen, during the regular or business hours of ~~[all]~~ such **public** ~~[bodies or agencies]~~ **body**, and on the regular business premises of such **public** ~~[bodies or agencies]~~ **body**, has the right to inspect all notes, materials, tapes, or other sources used for compiling the minutes of such meetings, and to make memoranda~~;~~ **or** abstracts~~;~~ ~~photographic or photostatic copies, or tape record~~ **or to copy** such notes, materials, tapes, or sources inspected, except as otherwise prohibited by statute or RSA 91-A:5.

III. Each **public** body or agency shall keep and maintain all [public] **governmental** records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the [public] **governmental** records pertaining to such **public** body or agency shall be kept in an office of the political subdivision in which such **public** body or agency is located or, in the case of a state agency, in an office designated by the secretary of state.

III-a. Governmental records created or maintained in electronic form shall remain accessible for the same retention or archival periods as their paper counterparts. Methods that may be used to accomplish this requirement include, but are not limited to, copying to microfilm or paper or to durable electronic media using standard or common file formats.

III-b. A governmental record in electronic form shall no longer be subject to disclosure pursuant to this section after it has been initially and legally deleted. For purposes of this paragraph, a record in electronic form shall be considered to have been deleted only if it is no longer readily accessible to the public body or agency itself. The mere transfer of an electronic record to a readily accessible "deleted items" folder or similar location on a computer shall not constitute deletion of the record.

IV. Each public body or agency shall, upon request for any [public] **governmental** record reasonably described, make available for inspection and copying any such [public] **governmental** record within its files when such records are immediately available for such release. If a public body or agency is unable to make a [public] **governmental** record available for immediate inspection and copying, it shall, within 5 business days of request, make such record available, deny the request in writing with reasons, or furnish written acknowledgment of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied. If a **computer**, photocopying machine, or other device maintained for use by a **public** body or agency is used by the **public** body or agency to copy the [public] **governmental** record [or document] requested, the person requesting the copy may be charged the actual cost of providing the copy, which cost may be collected by the **public** body or agency. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of [public] **governmental** records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

V. In the same manner as set forth in RSA 91-A:4, IV, any **public** body or agency which maintains [its] **governmental** records in [a computer storage system] **electronic format** may, in lieu of providing original [documents] **records**, [provide a printout of any record reasonably described and which the agency has the capacity to produce] **copy governmental records requested to electronic media using standard or common file formats** in a manner that does not reveal information which is confidential under this chapter or any other law. **If copying to electronic media is not reasonably practicable, or if the person or entity requesting access requests a different method, the public body or agency may provide a printout of governmental records requested, or may use any other means reasonably calculated to comply with the request in light of the purpose of this chapter as expressed in RSA 91-A:1.** Access to work papers, personnel data, and other confidential information under RSA 91-A:5, IV shall not be provided.

VI. Every agreement to settle a lawsuit against a governmental unit, threatened lawsuit, or other claim, entered into by any political subdivision or its insurer, shall be kept on file at the municipal clerk's office and made available for public inspection for a period of no less than 10 years from the date of settlement.

VII. Nothing in this chapter shall be construed to require a public body or agency to compile, cross-reference, or assemble information into a form in which it is not already kept or reported by that body or agency.

91-A:5 Exemptions. The following **governmental** records are exempted from the provisions of this chapter:

- I. Records of grand and petit juries.
- II. Records of parole and pardon boards.
- III. Personal school records of pupils.

IV. Records pertaining to internal personnel practices; confidential, commercial, or financial information; test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examinations; and personnel, medical, welfare, library user, videotape sale or rental, and other files whose disclosure would constitute invasion of privacy. Without otherwise compromising the confidentiality of the files, nothing in this paragraph shall prohibit a **public** body or agency from releasing information relative to health or safety from investigative files on a limited basis to persons whose health or safety may be affected.

V. Teacher certification records~~[, both hard copies and computer files,]~~ in the department of education, provided that the department shall make available teacher certification status information.

VI. Records pertaining to matters relating to the preparation for and the carrying out of all emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

VII. Unique pupil identification information collected in accordance with RSA 193-E:5.

VIII. Any notes or other materials made for personal use that do not have an official purpose, including **but not limited to**, notes and materials made prior to, during, or after a ~~[public]~~ **governmental** proceeding.

IX. Preliminary drafts, notes, and memoranda and other documents not in their final form and not disclosed, circulated, or available to a quorum or a majority of ~~[those entities defined in RSA 91-A:1-a]~~ **the members of a public body**.

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

5 Violation. Amend RSA 91-A:7 to read as follows:

91-A:7 Violation. Any person aggrieved by a violation of this chapter may petition the superior court for injunctive relief. ***In order to satisfy the purposes of this chapter***, the courts shall give proceedings under this chapter **high** priority on the court calendar. Such a petitioner may appear with or without counsel. The petition shall be deemed sufficient if it states facts constituting a violation of this chapter, and may be filed by the petitioner or his counsel with the clerk of court or any justice thereof. Thereupon the clerk of court or any justice shall order service by copy of the petition on the person or persons charged. When any justice shall find that time probably is of the essence, he **or she** may order notice by any reasonable means, and he **or she** shall have authority to issue an order ex parte when he **or she** shall reasonably deem such an order necessary to insure compliance with the provisions of this chapter.

6 Remedies. Amend RSA 91-A:8, I and I-a to read as follows:

I. If any **public** body or agency or employee or member thereof, in violation of the provisions of this chapter, refuses to provide a ~~[public]~~ **governmental** record or refuses access to a ~~[public]~~ **governmental** proceeding to a person who reasonably requests the same, such **public** body, **public** agency, or person shall be liable for reasonable attorney's fees and costs incurred in a lawsuit under this chapter provided that the court finds that such lawsuit was necessary in order to make the information available or the proceeding open to the public. Fees shall not be awarded unless the court finds that the **public** body, **public** agency, or person knew or should have known that the conduct engaged in was a violation of this chapter or where the parties, by agreement, provide that no such fees shall be paid. In any case where fees are awarded under this chapter, upon a finding that an officer, employee, or other official of a public body or agency has acted in bad faith in refusing to allow access to a ~~[public]~~ **governmental** proceeding or to provide a ~~[public]~~ **governmental** record, the court may award such fees personally against such officer, employee, or other official.

I-a. The court may award attorneys' fees to a ~~[board, agency]~~ **public body or public agency** or employee or member thereof, for having to defend against a person's lawsuit under the provisions of this chapter, when the court makes an affirmative finding that the lawsuit is in bad faith, frivolous, unjust, vexatious, wanton, or oppressive.

7 Reference Change. Amend RSA 42:1-a, II(a) to read as follows:

(a) A public body properly voted to withhold that information from the public by a vote of 2/3, as required by RSA 91-A:3, III, and if divulgence of such information would constitute an invasion of privacy, or would adversely affect the reputation of some person other than a member of the public body ~~[or agency,]~~ or would render proposed municipal action ineffective; or

8 New Section; Communications Outside Meetings. Amend RSA 91-A by inserting after section 2 the following new section:

91-A:2-a Communications Outside Meetings.

I. Unless exempted from the definition of "meeting" under RSA 91-A:2, I, a quorum of a public body, where a quorum is defined, or a majority of its members, shall deliberate on matters over which they have supervision, control, jurisdiction, or advisory power only in meetings held pursuant to and in compliance with the provisions of RSA 91-A:2, II.

II. Communications among a quorum of a public body, where a quorum is defined, or a majority of its members, outside a meeting, including, but not limited to, sequential communications among members of a public body, are prohibited and shall not be used to circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

III. Notwithstanding paragraphs I and II of this section, communications among a quorum of a public body, where a quorum is defined, or a majority of its members concerning only purely administrative matters such as for the delivery of public records or materials for a meeting, or to confirm the time or location of a meeting or the attendance of members at a meeting, are not prohibited under RSA 91-A.

9 Effective Date. This act shall take effect July 1, 2007.

2007-1891s

AMENDED ANALYSIS

This bill clarifies the manner in which the right-to-know law applies to both governmental records kept in electronic form and electronic communication used to transact governmental business.

This bill also clarifies communications outside a meeting for the purposes of RSA 91-A.

MOTION TO TABLE

Senator Barnes moved to have HB 377-FN-L laid on the table.

The question is on the adoption of the motion to lay on the table.

A roll call was requested by Senator Reynolds.

Seconded by Senator Burling.

The following Senators voted Yes: Gallus, Odell, Roberge, Clegg, Gatsas, Barnes, Letourneau, Downing.

The following Senators voted No: Reynolds, Kenney, Sgambati, Burling, Cilley, Janeway, Kelly, Bragdon, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

Yeas: 8 - Nays: 16

Motion failed.

The question is on the adoption of the committee amendment.

A roll call was requested by Senator Barnes.

Seconded by Senator Burling.

The following Senators voted Yes: Reynolds, Sgambati, Burling, Cilley, Janeway, Kelly, Bragdon, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Odell, Roberge, Clegg, Gatsas, Barnes, Letourneau.

Yeas: 16 - Nays: 8

Amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 229, relative to licensing requirements for operators of games of chance. Ways and Means Committee. Ought to pass with amendment, Vote 4-0. Senator D'Allesandro for the committee.

Senate Ways and Means

May 31, 2007

2007-2025s

08/04

Amendment to HB 229

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

1 Ice Outs. Amend RSA 287-D:1, II to read as follows:

II. "Games of chance" means any game involving gambling as defined by RSA 647:2, II, or any lottery prohibited by RSA 647:1, but shall not include any game involving the use of a slot machine or any other device in the nature of a slot machine, ~~or 50/50 raffles as defined in RSA 287-A:1, III[, or ice-out contests as defined in RSA 287-D:1, IV].~~

2 Charitable Organization; Definition. Amend the introductory paragraph of RSA 287-D:1, III(a) to read as follows:

(a) "Charitable organization" means any bona fide religious, charitable, civic, **social, business league**, veterans', or fraternal or church organization, including police and firemen's organizations which shall have been registered with the secretary of state for at least 2 years and in existence for at least 2 years in a town or city in this state, provided that the primary activities conducted by the organization were for the purpose for which the organization was established and have not included charitable gambling operations; which ~~[is organized under the laws of this state; and to which contributions are exempt from federal income tax]~~ **possesses a tax exempt status under Internal Revenue Code section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19), or is covered under a group ruling issued by the Internal Revenue Service under authority of those sections.** To be eligible for licensure under this chapter, a charitable organization shall do all of the following:

3 New Paragraph; Ice Outs. Amend RSA 287-D:2 by inserting after paragraph VI the following new paragraph:

VII. The requirements of this chapter shall not apply if the only game being conducted by the charitable organization is an ice-out contest.

4 License Applications. Amend RSA 287-D:2-a, V(c) to read as follows:

(c) That neither the applicant nor any person who will be participating in the operation of the games of chance has been convicted of a felony **or a class A misdemeanor** within the previous 10 years which has not been annulled by a court, or a **class B** misdemeanor ~~[involving falsehood or dishonesty]~~ within the previous 5 years which has not been annulled by a court, or has violated any statutes or rules governing charitable gambling **in New Hampshire or any other state.**

5 License Applications; Charitable Organizations. Amend RSA 287-D:2-a, VI to read as follows:

VI. If a charitable organization intends to **use**, lease, or rent premises for the conduct of any game of chance from an entity other than a charitable organization or governmental subdivision, the entity leasing or renting out **or otherwise allowing a charitable organization to use** the premises shall be licensed by the pari-mutuel commission. **Any entity other than a charitable organization or governmental subdivision with a facility at which games of chance are held for no more than 3 game dates per calendar year shall be exempt from the licensing requirement of this paragraph.** The license shall be applied for by filing an application supplied by the pari-mutuel commission. The pari-mutuel commission may issue a license for a period of one year which shall expire on June 30 of each year unless sooner revoked or suspended for just cause by the pari-mutuel commission.

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

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

7 License Applications. Amend RSA 287-D:2-b, II-IV to read as follows:

II. No compensation shall be paid to operators of a game of chance unless agreed to in advance in writing by the charity. Compensation shall include, but is not necessarily limited to, money or any other thing of value. ~~[If the paid game operator's compensation is contingent upon the amount of revenue received from a game of chance, the compensation shall be a fixed percentage of the gross revenue from the game of chance excluding the paid game operator's expenses. If the compensation of a paid game operator is not contingent upon the amount of revenue received, the compensation shall be a reasonable estimate, expressed as a percentage of the gross revenue. The contract shall clearly disclose the assumptions upon which the estimate is based. The stated assumptions shall be based upon all of the relevant facts known to the paid game operator regarding the services to be provided and the past performance of games of chance operated by the paid game operator.]~~

II-a. Unless otherwise agreed to in advance, pursuant to paragraph II, in writing by the charitable organization, operators of games of chance may be reimbursed for their out-of-pocket expenses in an amount not to exceed \$25 per game date, provided that such expenses are itemized and submitted in writing to the charitable organization.

III. No one under the age of 18 years shall be admitted to the premises on which games of chance are being conducted, except when the games are being conducted at a carnival. Proof of age shall be produced

upon request of the ~~[lottery]~~ **pari-mutuel** commission. When games of chance are conducted at a carnival, persons under the age of 18 years may be admitted to the premises on which the games are being conducted when accompanied and supervised by a parent or legal guardian; but persons under the age of 18 shall not be permitted to play games of chance at a carnival.

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

8 Operation of Games of Chance. Amend RSA 287-D:2-b, VII to read as follows:

VII. Only the treasurer of the charitable organization or a bona fide member of the charitable organization designated by the treasurer, shall ~~[handle]~~ **be responsible for** any monetary transactions related to the game of chance **when the charitable organization does not use the services of a game operator licensed pursuant to RSA 287-D:2-c.**

9 Licensing of Game Operators. Amend RSA 287-D:2-c, I to read as follows:

I. As used in this section, game operators means any consultant or any person other than a bona fide member of the charitable organization involved in conducting, managing, supervising, directing, or running the games of chance, and those involved in such tasks as dealing, running a roulette wheel, **or** handling chips~~[, and serving beverages or food].~~

10 Licensing of Game Operators. Amend RSA 287-D:2-c, II(a) to read as follows:

(a) The name **and social security number** of the game operator **or for an organization the name and federal tax identification number. The pari-mutuel commission shall not disclose any social security number submitted.**

11 Licensing of Game Operators. Amend RSA 287-D:2-c, III(b) to read as follows:

(b) Has submitted a background and criminal **record** check pursuant to RSA 287-D:8; and

12 Equipment; Inspection. Amend RSA 287-D:3, II-VII to read as follows:

II. Any and all devices and equipment used to conduct said games of chance shall be subject to inspection by duly authorized law enforcement **or pari-mutuel** officials.

III. No mechanism or device, which can be used to regulate odds, will be permitted to operate said games of chance and no progression in any form shall be permitted in the operation of any such game.

IV. A player of any game of chance and only a player shall activate any and all devices used for the purposes of wagering on said games of chance.

V. No single wager by a player, on any game of chance, **where chips have monetary value**, shall exceed the amount of ~~[\$2]~~ **\$5**.

VI. ~~[Any contract for the rental of a facility for a game of chance shall be independent of any contract for the rental of equipment. Those contracts shall not be contingent upon the charitable organization's agreement that it will contract with a particular business for a particular facility or equipment.]~~

VII. ~~A charitable organization shall only rent a facility by means of a fixed rental payment. The fixed rental payment shall not be based on a percentage of what the charitable organization receives from the game of chance and it shall reflect fair rental value of the property for any use not just as a place to hold a game of chance. Any rental entered into by the charitable organization shall be submitted with the charitable organization's license application for review by the pari-mutuel commission.~~

VIII. ~~The charitable organization shall retain no less than 35 percent of the gross revenues from any game of chance minus any prizes paid on any game date in which game operators licensed under RSA 287-D:2-c are involved in any capacity.]~~ **In games where chips have no monetary value, a minimum of 6 percent of the first \$25,000 and a minimum of 8.75 percent of all funds exceeding \$25,000 collected from players on each game date in which game operators are involved in any capacity shall be retained by the charity. The money retained by the charity shall not be used for any expenses associated with the operation of the games of chance.** Such revenues shall be used by the organization to advance its charitable purpose.

VII. In games where chips have no monetary value, 1.25 percent of all funds collected from players shall be paid to the state treasurer to be deposited into the education trust fund. Such payments must be made within 5 business days of the game date the funds were collected.

VIII. In games where chips do have monetary value, the charity shall retain not less than 35 percent of rake or house winnings. The money retained by the charity shall not be used for any expenses associated with the operation of games of chance. Such revenues shall be used by the organization to advance its charitable purpose.

IX. In games where chips do have monetary value, 5 percent of rake or house winnings and other monies collected by the game operator that are not paid out as prizes to players shall be paid to the state treasurer for deposit into the education trust fund. Such payments shall be made within 5 business days of the game date the funds were collected.

13 License Fees and Specifications. Amend RSA 287-D:2-d, I to read as follows:

I. An applicant for a charitable organization license under RSA 287-D:2-a shall apply to the pari-mutuel commission, and upon payment of a fee of \$25 per game date and if the applicant meets all other requirements of this chapter, a license shall be issued. Only one license shall be issued to each applicant per year to operate games of chance for 10 days, which 10 days need not be consecutive. **A charitable organization that has been licensed for and played 10 game dates in a calendar year and whose total retained revenue from all those game dates is less than \$50,000 may apply to the pari-mutuel commission for additional game dates. The pari-mutuel commission may approve up to 5 additional game dates for the same calendar year for the sole purpose of allowing the charitable organization to have the opportunity for additional revenue on those game dates to reach a total retained revenue amount of \$50,000 for all game dates. The charitable organization shall pay a fee of \$25 for each additional game date authorized by the commission.** A license issued under RSA 287-D:2-a shall expire on December 31. The pari-mutuel commission shall notify the attorney general and police chief of any city or town where games of chance are held of any applications approved.

14 Background and Criminal Records Check. Amend RSA 287-D:8, III to read as follows:

III. All applicants shall also be subject to a **national criminal** background check, **including the submission of fingerprints to the Federal Bureau of Investigation for a criminal history background check**, by the pari-mutuel commission to determine if they are eligible for licensure under this chapter.

15 New Paragraph; Background and Criminal Records Check. Amend RSA 287-D:8 by inserting after paragraph III the following new paragraph:

IV. The pari-mutuel commission shall bill the applicant for any cost associated with the criminal or background record check to cover any fee charged by the department of safety for the criminal records check in paragraph I or by the Federal Bureau of Investigation for the background check in paragraph III.

16 License Applications; Charitable Organizations. Amend RSA 287-D:2-a, II(f) to read as follows:

(f) If any of the proposed games are to be held in a location licensed pursuant to RSA 287-D:2-a, VI, the name and address of the person or business from whom the space is being rented **or permission for use has been granted**.

17 Reporting Date Extended. Amend 2006, 311:16, V to read as follows:

V. The games of chance study commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, **the chairman of the senate ways and means committee, the chairman of the house executive departments and administration committee**, and the state library on or before [July 1, 2007] **November 1, 2007**.

18 Licensing of Game Operators. Amend RSA 287-D:2-c, V to read as follows:

V. The game operator or the game operator's employer shall submit a [\$20,000] bond **conditioned upon the game operator running games of chance in conformity with this chapter and with the rules and regulations prescribed by the commission, in the amount of up to \$100,000** to the pari-mutuel commission with the application form. **The pari-mutuel commission shall adopt rules pursuant to RSA 541-A to specify the amount of the bond and requirements of the bond.**

VI. Game operators who operate games of chance on behalf of a charitable organization shall be held responsible for all requirements that the charitable organization would otherwise be responsible for if they were operating the games of chance themselves.

19 License Fees and Specifications; New Paragraph. Amend RSA 287-D:2-d by inserting after paragraph VI the following new paragraph:

VII. Any game operator licensed pursuant to RSA 287-D:2-c shall be issued, as part of the yearly license, an identification badge by the pari-mutuel commission. The fee for such badge shall be established by the commission. The commission shall adopt rules pursuant to RSA 541-A to specify badge requirements.

20 New Paragraphs; Penalties. Amend RSA 287-D:6 by inserting after paragraph III the following new paragraphs:

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

V. The commission may impose an administrative fine scaled to reflect the violator's prior history and the scope and severity of the violation, after notice and hearing, pursuant to rules adopted under RSA 541-A, for any violation of this subdivision, any rule adopted under this subdivision, any license issued pursuant to this chapter or any order issued pursuant to this subdivision, or upon any person who makes or certifies a material false statement relative to any application or report required by this subdivision. Any administrative fine imposed under this paragraph shall not preclude the imposition of other penalties under this chapter. Rehearings and appeals from a decision of the commission under this paragraph shall be in accordance with RSA 541. Fines imposed by the commission shall be determined based on the following:

(a) For a minor deviation from a requirement, the fine shall be not less than \$25 and not more than \$1,500 per violation.

(b) For a moderate deviation from a requirement, the fine shall be not less than \$100 and not more than \$2,500 per violation.

(c) For a major deviation from a requirement, the fine shall be not less than \$250 and not more than \$5,000 per violation.

(d) For repeat violations, the commission may assess an additional fine.

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

21 New Subparagraph; Bank Accounts. Amend RSA 287-D:2-c, II by inserting after subparagraph (h) the following new subparagraph:

(g) The name of the financial institution with at least one branch in New Hampshire and the corresponding bank account number for the account in which money from the game of chance will be deposited and withdrawn.

22 New Paragraph; Bank Accounts. Amend RSA 287-D:2-c by inserting after paragraph V the following new paragraph:

VI. To be eligible for licensure under this chapter, a licensed game operator shall maintain an account at a financial institution with at least one branch in New Hampshire solely in the name of the licensed game operator in which the money from games of chance shall be deposited and withdrawn.

23 Operation of Games. RSA 284-D:2-b, VIII is repealed and reenacted to read as follows:

VIII.(a) On game dates where the charitable organization operates the games, the charitable organization shall deposit cash and proceeds from a game of chance into the account required by RSA 287-D:2-a, VII(e). All expenses, including prizes of more than \$500 and equipment and hall rental fees shall be paid by check from the account required by RSA 287-D:2-a, VII(e). The treasurer of the charitable organization shall document all prizes awarded as prescribed in rules adopted by the pari-mutuel commission.

(b) On game dates where the licensed game operator operates the games, the licensed game operator shall deposit cash and proceeds from a game of chance into the account required by RSA 287-D:2-c, VI. All expenses, including prizes of more than \$500 and equipment and hall rental fees shall be paid by check from the account required by RSA 287-D:2-c, VI. The licensed game operator shall document all prizes awarded as prescribed in rules adopted by the pari-mutuel commission.

24 Pari-Mutuel Commission; Positions Established. The following classified positions are hereby established in the pari-mutuel commission:

I. One internal auditor II, labor grade 23.

II. One supervisor II, labor grade 21.

25 Repeal. The following are repealed:

- I. RSA 287-D:2-b, XIII, relative to relative to submission of information to the pari-mutuel commission.
- II. RSA 287-D:2-d, IV, relative to authorization of specific games.
- III. RSA 284:23, V, relative to tax rates for Rockingham Park.

26 Effective Date.

I. RSA 287-D:2-b, II as inserted by section 7 of this act, and RSA 287-D:2-c, V as inserted by section 18 of this act shall take effect January 1, 2008.

II. Sections 8, 12, 13, 21, 22, and 23 of this act shall take effect January 1, 2008.

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

2007-2025s

AMENDED ANALYSIS

This bill:

- I. Expands the definition of “charitable organization” for the purposes of games of chance.
- II. Expands the information about a game operator that must be submitted to the parimutuel commission.
- III. Makes certain changes to rules of licensure for operators of games of chance.
- IV. Repeals a tax expiration provision relative to Rockingham Park.
- V. Establishes the positions of supervisor II and internal auditor II in the pari-mutuel commission.

Senator Gottesman moved the question.

Without objection Senator Larsen moved to close debate.

Amendment adopted.

Senator Odell offered a floor amendment.

Sen. Odell, Dist. 8

June 5, 2007

2007-2067s

08/09

Floor Amendment to HB 229

Amend the bill by replacing section 24 with the following:

24 Pari-Mutuel Commission; Positions Established. The following classified positions are hereby established in the pari-mutuel commission:

- I. One internal auditor III, labor grade 23.
- II. One supervisor II, labor grade 21.

2007-2067s

AMENDED ANALYSIS

This bill:

- I. Expands the definition of “charitable organization” for the purposes of games of chance.
- II. Expands the information about a game operator that must be submitted to the parimutuel commission.
- III. Makes certain changes to rules of licensure for operators of games of chance.
- IV. Repeals a tax expiration provision relative to Rockingham Park.
- V. Establishes the positions of supervisor II and internal auditor III in the pari-mutuel commission.

Senator Gottesman moved the question.

Without objection Senator Larsen moved to close debate.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 393, relative to information filed by utilities paying the utility property tax. Ways and Means Committee. Ought to Pass, Vote 4-0. Senator D'Allesandro for the committee.

Adopted.

Ordered to third reading.

HB 511, increasing the total prize value of a bingo game or series of games. Ways and Means Committee. Ought to pass with amendment, Vote 4-0. Senator Reynolds for the committee.

Senate Ways and Means

May 31, 2007

2007-2021s

08/03

Amendment to HB 511

Amend RSA 287-E:7, XI as inserted by section 1 of the bill by replacing it with the following:

XI. Except as provided in paragraphs XIII and XV, all prizes, tokens, or awards used, given, offered or awarded in connection with any game or series of games conducted on one game date shall not exceed the total value of [~~\$3,500~~] ***\$4,000, up to \$500 of which may be provided by the commercial hall.***

Amendment adopted.

Senator Odell offered a floor amendment.

Sen. Odell, Dist. 8

June 6, 2007

2007-2085s

08/03

Floor Amendment to HB 511

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

3 New Paragraph; Definitions. Amend RSA 287-E:1 by inserting after paragraph V the following new paragraph:

V-a. "Commercial hall" means any hall owned or leased by an individual, corporation, realty trust, partnership, association, or any other person who rents or leases the hall to a charitable organization for the operation of bingo games, excluding halls owned by any charitable organization or governmental subdivision as specified in RSA 287-E:5, VI.

Floor amendment adopted.

The question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SPECIAL ORDER

HB 2, relative to state fees, funds, revenues, and expenditures.

The question is on the adoption of the floor amendment (#2122).

Floor amendment adopted.

The question is on the adoption of the bill as amended.

A roll call was requested by Senator Barnes.

Seconded by Senator Gatsas.

The following Senators voted Yes: Gallus, Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Kelly, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

The following Senators voted No: Kenney, Roberge, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Downing.

Yeas: 16 - Nays: 8

Adopted.

Ordered to third reading.

MOTION TO REMOVE FROM THE TABLE

Senator Hassan moved to have HB 457 from the table.

Adopted.

HB 457, allowing local governing bodies to restrict lawn watering during declared droughts.

The question is on the adoption of the committee report of ought to pass.

Senator Gottesman moved the question.

Without objection Senator Larsen moved to close debate.

A roll call was requested by Senator Clegg.

Seconded by Senator Barnes.

The following Senators voted Yes: Reynolds, Sgambati, Burling, Cilley, Janeway, Odell, Roberge, Kelly, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Downing, Hassan, Fuller Clark.

The following Senators voted No: Gallus, Kenney, Bragdon, Clegg, Gatsas, Barnes, Letourneau.

Yeas: 17 - Nays: 7

Adopted.

Ordered to third reading.

AMENDMENT TO SENATE RULES

Senator Foster offered the following change:

PROPOSED SENATE RULE CHANGE

Amendment to Senate Rule 48 (h)

Amend Senate Rule 48 (h.) by replacing with the following:

48.

h) Thursday, June 21, 2007, 3:00 p.m. - Last day to SIGN Committee of Conference Reports

Adopted by the necessary 2/3 vote.

RESOLUTION

Senator Foster moved that the Senate adjourn from the early session, that the business of the late session be in order at the present time, that all bills and resolutions ordered to third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 1-A, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 2008 and June 30, 2009.

HB 2-FN-A, relative to state fees, funds, revenues, and expenditures.

HB 87, relative to the exceptions to compulsory school attendance.

HB 94, relative to overpayments of child support.

HB 134, relative to electronic prescribing for prescription drugs.

HB 140, establishing the New Hampshire commission on deafness and hearing loss.

HB 143, relative to the apportionment of damages in civil actions.

HB 148, establishing a commission to study pharmaceutical costs and the 340B Drug Pricing Program.

HB 184, repealing the parental notification law.

HB 194, relative to laboratories conducting alcohol concentration tests.

HB 205, relative to procedures for certain court ordered out-of-district placements.

HB 229, relative to licensing requirements for operators of games of chance.

HB 377-FN-L, relative to the right-to-know law.

HB 383, relative to waterfront buffer and woodland buffer requirements in the comprehensive shoreland protection act.

HB 393, relative to information filed by utilities paying the utility property tax.

HB 457, allowing local governing bodies to restrict lawn watering during declared droughts.

HB 488-FN-A-L, relative to the state chief medical examiner and medico-legal death investigations and making an appropriation to the department of justice for autopsy costs.

HB 498-FN-A, dedicating certain OHRV and snowmobile unrefunded road tolls to the fish and game department.

HB 511, increasing the total prize value of a bingo game or series of games.

HB 517, establishing a commission to investigate cost drivers in providing health care.

HB 663-FN-A, relative to the protected shoreland permitting process and establishing and funding positions within the department of environmental services.

HB 664-FN, relative to annual dam registration and permit application fees.

HB 672, establishing a commission to study requirements for safe and secure landfills.

HB 699, establishing a commission to study methods and costs of sewage, sludge, and septage disposal.

HB 707, relative to the time frames for hearings in domestic violence cases.

HB 812, relative to making permanent certain exceptions to limits on land application of septage and sludge.

HB 826-FN, relative to coverage of services and items under the medical assistance program.

HB 827-FN, relative to the reasonable cost of medical support for dependent children.

ANNOUNCEMENTS

RESOLUTION

Senator Foster moved that the Senate recess to the Call of the Chair for the sole purpose of sending and receiving messages, processing enrolled bill reports and amendments, and forming Committees of Conference.

Adopted.

In recess to the Call of the Chair.