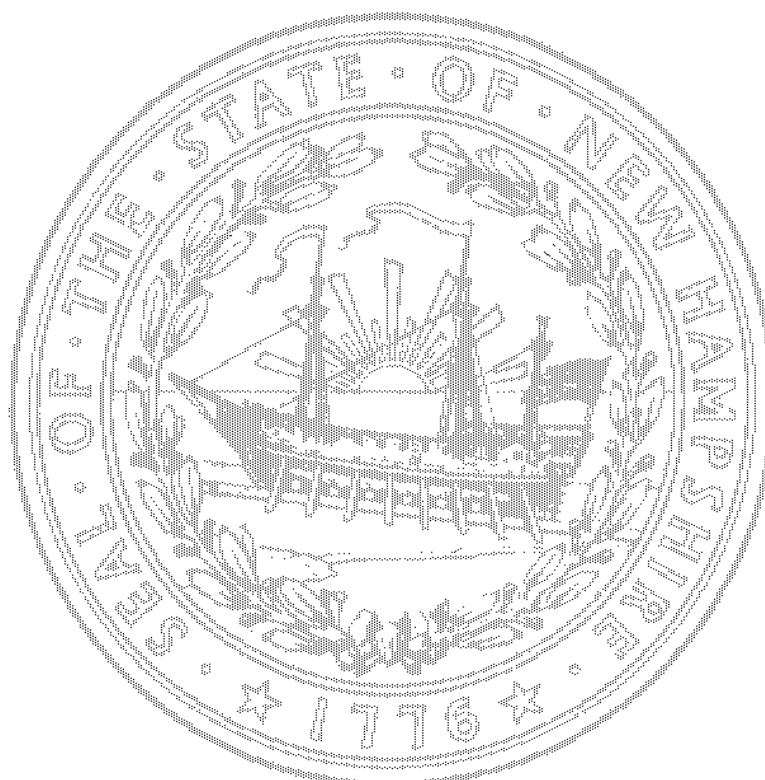


April 24, 2008
Nos. 13-14

STATE OF NEW HAMPSHIRE

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Legislative

SENATE JOURNAL

ADJOURNMENT – APRIL 17, 2008 SESSION
COMMENCEMENT – APRIL 24, 2008 SESSION

SENATE

JOURNAL 13 (continued)

April 17, 2008

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 142, relative to the regulation of real estate brokers and salespersons by the real estate commission.

SB 315, preventing the fraudulent use of the names of financial institutions.

SB 322, relative to lists of professional bondsmen.

SB 325-FN-A, relative to child care provider reimbursement rates.

SB 336-FN, relative to special number plates for veterans who are former prisoners of war.

SB 360, relative to local enforcement of the state building code.

SB 364, relative to vehicle weight tolerance.

SB 366, relative to the operation of the state suggestion and extraordinary service award program.

SB 367, relative to the date of the final property tax bill in municipalities that bill quarterly.

SB 368, relative to exemptions for toxics reduction in packaging.

SB 375-L, allowing veterinarians to inform town and city clerks about dogs that have been euthanized or died during treatment.

SB 404, allowing dental school graduates to practice in an approved dental residency program.

SB 409, relative to conservation and preservation restrictions.

SB 423, relative to cashing of bingo winnings checks.

SB 431, naming a small impoundment in Goffstown as Namaske Lake.

SB 461, relative to accessibility of genealogical records to the public.

SB 498, relative to state guarantees of certain municipal debt issues.

SB 502-FN, relative to unemployment compensation.

SB 520-FN-A, requiring the state veterans council to issue a state veterans handbook biennially and making an appropriation therefor.

SB 521-FN, increasing the maximum scholarship amount available from the national guard scholarship fund.

SB 529, changing certain references in the mental health laws.

SB 534-FN, eliminating the processing fee on court credit card transactions.

SCR 5, urging that federal, state, and local governments work with broadcasters and consumer groups to inform New Hampshire residents of the 2009 digital broadcast conversion.

SCR 8, urging the United States Department of Defense to restore the designations of Prisoner of War and Missing in Action to those servicemen and servicewomen who are missing in operations in Afghanistan and Iraq.

SCR 9, urging Congress to fund a community-based outpatient clinic for veterans in Keene.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 48, relative to removal of appointed highway agents from office.

SB 103-FN-L, establishing a committee to generate and evaluate solutions for maintaining emergency access on class VI and private roads.

SB 329, relative to payment of members of screening panels for medical injury claims.

SB 356-FN, prohibiting offenders against children from participating in or being a spectator at certain activities or events.

SB 365, relative to the commission to study childhood lead poisoning prevention laws, policies, and standards in New Hampshire.

SB 434, relative to providers of electronic communication services and an extension for compliance with the REAL ID Act of 2005.

SB 438, relative to contractor accountability and disclosure in the public works construction procurement process.

SB 493, allowing certain tax exempt organizations to be defined as charitable organizations for purposes of games of chance operations.

SB 503-FN, relative to authorizing temporary registrations of off-highway recreational vehicles for nonresidents.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 1295, establishing a commission to study issues relating to stormwater.

HB 1584-FN-A, creating a commission to study the recycling and disposal of electronic waste.

HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following entitled Bills sent down from the Senate:

SB 300-FN-A, relative to death benefits for corrections officers killed in the line of duty.

SB 316-FN, expanding a death benefit for police officers and firefighters to emergency medical technicians.

April 17, 2008
2008-1363-EBA
03/10

Enrolled Bill Amendment to HB 717

The Committee on Enrolled Bills to which was referred HB 717

AN ACT allowing municipalities to establish local community services and care planning boards.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 717

This enrolled bill amendment corrects certain grammatical and typographical errors.

Enrolled Bill Amendment to HB 717

Amend RSA 678:2, II as inserted by section 1 of the bill by replacing line 1 with the following:

II. "Community services master plan" or "CSMP" means an assessment of the availability,

Amend RSA 678:2, II(c) as inserted by section 1 of the bill by replacing line 2 with the following:

important barriers that must be overcome to achieve each improvement, and an assessment of the

Amend RSA 678:2, IV as inserted by section 1 of the bill by replacing lines 3-4 with the following:

that is adopted by the board for use in its annual assessment and state of the community report and to develop its CSMP. The index may include measures of the health of residents and their quality

Amend RSA 678:4, I(a) as inserted by section 1 of the bill by replacing lines 3-4 with the following:

publish and distribute copies of the community services master plan, or copies of any report relating to the community services master plan, hold public forums and meetings, and employ such other means of publicity and education as it

Amend RSA 678:4, I(b) as inserted by section 1 of the bill by replacing line 3 with the following:

and social services and support systems, and necessary recommendations.

Adopted.

**April 18, 2008
2008-1423-EBA
05/10**

Enrolled Bill Amendment to HB 740-FN

The Committee on Enrolled Bills to which was referred HB 740-FN

AN ACT relative to mental health services.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 740-FN

This enrolled bill amendment corrects a statutory reference.

Enrolled Bill Amendment to HB 740-FN

Amend RSA 135-C:19-a, II-a as inserted by section 2 of the bill by replacing line 3 with the following:

admitted pursuant to RSA 135-C:27 - RSA 135-C:54 and the consent of the person admitted cannot

Adopted.

**April 16, 2008
2008-1401-EBA
04/09**

Enrolled Bill Amendment to HB 1245

The Committee on Enrolled Bills to which was referred HB 1245

AN ACT relative to insurance department records, investigations, and enforcement.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 1245

This enrolled bill amendment makes 2 references gender neutral.

Enrolled Bill Amendment to HB 1245

Amend RSA 400-A:16, V as inserted by section 1 of the bill by replacing lines 2 and 3 with the following:

of this title for which criminal prosecution is provided, he ***or she*** shall so inform the attorney general. The attorney general shall promptly institute such action or proceedings against such person as in his ***or her***

Adopted.

Out of Recess.

LATE SESSION

Senator Foster moved that the Senate adjourn from the late session.

Adopted.

Adjournment.

SENATE

JOURNAL 14

April 24, 2008

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend Celeste Hemingson, from St. Paul's Church, guest chaplain to the Senate, offered the prayer:

Gracious God, You have given us a world in which there is enough for everyone. We give You thanks for these our Senators who are willing stewards of Your bounty. Enrich them with wisdom, with vision and with compassion, so that in the decisions that they make there will be a world in which everybody has enough. Amen

Senator Clegg led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

SPECIAL ORDER

Senator Larsen moved that, without objection, HB 1601-FN-A be Special-Ordered to the end of the Calendar.

HB 1601-FN-A, relative to funding for certain capital projects of the Pease development authority. Capital Budget Committee. Ought to Pass with Amendment, Vote 4-0. Senator D'Allesandro for the committee.

HB 1352, relative to the comprehensive state development plan. Capital Budget Committee. Ought to Pass with Amendment, Vote 4-0. Senator Kelly for the committee.

Capital Budget
April 15, 2008
2008-1378s
05/10

Amendment to HB 1352

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

2 Comprehensive Development Plan. Amend RSA 9-A:1, V to read as follows:

V. The comprehensive development plan shall be renewed or revised every 4 years, beginning on October 1, 2003, ***and the plan transmitted to the general court.***
2008-1378s

AMENDED ANALYSIS

This bill repeals the requirement that the governor transmit the comprehensive development plan to the general court by July 1 of each even numbered year. The bill requires the plan to be transmitted to the general court once every 4 years, following its renewal or revision.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 461, relative to purchasing alliances. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 6-0. Senator DeVries for the committee.

Committee report of Inexpedient to Legislate is adopted.

HB 858-FN, relative to a discount medical plan organization. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 6-0. Senator Reynolds for the committee.

Sen. Gottesman, Dist. 12

March 27, 2008

2009-1141s

01/09

Amendment to HB 858

Amend RSA 415-I:3, IV as inserted by section 1 of the bill by replacing it with the following:

IV. "Discount medical plan organization" means an entity that, in exchange for fees, dues, charges, or other consideration, provides access for discount medical plan members to providers of medical or ancillary services and the right to receive medical or ancillary services from those providers at a discount. "Discount medical plan organization" is the organization that contracts with providers, provider networks, or other discount medical plan organizations to offer access to medical or ancillary services at a discount and determines the charge to discount medical plan members. "Discount medical plan organization" does not include a provider that offers discounts to its own patients without any cost or fee of any kind to the patient.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1244, relative to auditable basis policies. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 6-0. Senator Cilley for the committee.

Sen. Gottesman, Dist. 12

April 3, 2008

2008-1225s

01/09

Amendment to HB 1244

Amend the bill by replacing section 1 with the following:

1 Auditable Basis Policies. Amend RSA 412:35 to read as follows:

412:35 Auditable Basis Policies.

I. All workers' compensation policies issued in this state shall be issued on an auditable basis. A final premium shall be charged based upon actual exposure existing during the term of the policy coverage.

II. Audits shall be conducted by either physical inspection of an insured's records and operations, or by telephone or mail request by the insurer to the insured.

III. Audits shall be completed promptly, no more than 120 days after the expiration or cancellation of the policy, provided that there is no bona fide dispute.

IV. In cases where there is a bona fide dispute, the insurer shall notify the insured in writing that there is a bona fide dispute and this notice shall toll the 120-day time period until the dispute is resolved. Upon resolution of the dispute, the insurer shall proceed to complete the audit within the time remaining in the 120-day time period. A bona fide dispute includes the insured's failure to cooperate with the audit, provided the insurer has notified the insured of:

(a) The acts or omissions that constitute the insured's failure to cooperate; and

(b) The consequences of the insured's failure to cooperate, including delay in the completion of the audit.

V. Gross unearned premium shall be returned pursuant to RSA 402:81.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1378, relative to insurance taxes and fees. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 6-0. Senator Barnes for the committee.

Adopted.

Ordered to Third Reading.

HB 1457, allowing smoking in cigar bars. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 4-2. Senator Gottesman for the committee.

MOTION TO TABLE

Senator Gottesman moved to have HB 1457 laid on the table.

The question is on the motion to lay on the table.

A roll call was requested by Senator Foster.

Seconded by Senator Barnes.

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

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

Yeas: 14 - Nays: 10

Adopted.

LAIID ON THE TABLE

HB 1457, allowing smoking in cigar bars.

HB 91-FN, relative to lobbyist registration and statements, repealing the restriction on simultaneous employment and public service, and relative to regulation of volunteer public service. Election Law and Internal Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator Cilley for the committee.

Election Law and Internal Affairs

April 16, 2008

2008-1390s

10/04

Amendment to HB 91-FN

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

AN ACT relative to lobbyist registration, executive branch ethics, volunteer public service, and legislative financial disclosure forms.

Amend the bill by replacing section 4 with the following:

4 Lobbyist Statements. Amend RSA 15:6, II to read as follows:

II. Lobbyists shall file statements no later than the ~~[second Friday]~~ **last Wednesday** of each ~~[month]~~ **January, April, July, and October** covering all fees received and expenditures, contributions, honorariums, or expense reimbursements made ~~[during the previous month.]~~ **since the last required filing**, from fees received at any time from a lobbying client or employer or from funds otherwise provided by the lobbyist, partnership, firm, or corporation, or from the client or employer. ***The first statement filed by persons who register as lobbyists pursuant to RSA 15:1, I(a)(3) shall cover all fees received and expenditures or expense reimbursements made from such fees received and funds provided during the 75 hours worked prior to registration.***

Amend the bill by replacing all after section 9 with the following:

10 Financial Disclosure; Filing. Amend RSA 15-A:3 to read as follows:

15-A:3 Persons Required to File.

I. The following persons shall file a statement of financial interests as required by this chapter:

~~[I.]~~ **(a)** All candidates who file for state or county office.

~~[II.]~~ **(b)** All persons filing an acceptance of nomination form for state or county office.

~~[III.]~~ **(c)** Every person appointed by the governor, governor and council, president of the senate, or the speaker of the house of representatives to any board, commission, committee, board of directors, authority, or equivalent state entity whether regulatory, advisory, or administrative in nature.

~~[IV.]~~ **(d)** All agency heads.

~~[V.]~~ **(e)** Any public official designated, due to the responsibilities of the position, by the agency head.

~~[VI.]~~ **(f)** The secretary of state and the treasurer, and any of their subordinates designated, due to the responsibilities of the position, by the secretary of state or treasurer.

~~[VII.]~~ **(g)** All persons elected to state or county office, and all persons appointed to such elective office to fill a vacancy; and

~~[VIII.]~~ **(h)** Any person, not employed by or working under contract for the state, who is acting on behalf of the governor or an agency while engaged in state business.

II.(a) Any person who is otherwise subject to the filing requirements of paragraph I (h) shall be exempt from filing a statement of financial interests provided the head of the executive branch entity for whom the individual is volunteering certifies in a public register of volunteers, to be maintained by the secretary of state, that the volunteer's work for the state:

(1) Does not directly or indirectly influence the setting of public policy;

(2) Does not directly or indirectly influence decisions on how state funds will be expended; and

(3) Does not directly or indirectly influence the selection of vendors for the state.

(b) The secretary of state shall establish a public register of volunteers for the state that shall include the name and town or city of residence of the volunteer and the executive branch entity for whom the volunteer work is done. The name and residence of exempt volunteers shall not be listed for volunteers who provide service occurring at a single event that does not exceed one day in duration, provided the head of the executive branch entity accepting the volunteer service submits a brief description of the event and an estimate of the number of volunteers to the secretary of state for inclusion in the register.

(c) The head of any executive branch entity that accepts volunteer work shall cause a list of volunteers who qualify for this exemption to be certified to the secretary of state. An annual certification shall be submitted not later than the last Wednesday in January listing all exempt volunteers who are expected to volunteer

during that calendar year. A certification shall be submitted no later than the last Wednesday of each month certifying all new exempt volunteers who started service with that entity during the previous month.

III. The filing of a financial disclosure form by an elected member of the house of representatives or senate pursuant to the guidelines enforced by the legislative ethics committee under RSA 14-B, shall satisfy the requirement for filing of a statement of financial interest pursuant to this chapter.

11 New Paragraph; Legislative Ethics; Filing of Forms. Amend RSA 14-B:3 by inserting after paragraph III the following new paragraph:

IV. The committee shall review all financial disclosure forms required by ethics guidelines and shall place the completed forms on file in the office of the secretary of state for purposes of the requirements of RSA 15-A, in accordance with the filing deadline established under this chapter.

12 Executive Branch Ethics Committee; Appointments. Amend RSA 21-G:29, VI to read as follows:

VI. Committee members shall serve terms of 3 years and until their successors are appointed and qualified. However, initially, the governor shall nominate one member for a one-year term, one member for a 2-year term and one member for a 3-year term; the secretary of state shall nominate one member for a 2-year term, and one member for a 3-year term; the treasurer shall nominate one member for a one-year term and one member for a 2-year term. Initial nominations to the committee shall be made no later than 90 days after the effective date of this section. The initial appointments shall begin on July 1, 2006 and end on June 30 of the appropriate year. Vacancies shall be filled for the remainder of any unexpired term. During their term of appointment, members may not hold or campaign for elective office, serve as an officer of any political party or political committee, permit their names to be used in support of or in opposition to any **state or county** candidate or proposition, participate in any way in any **state or county** election campaign, make a contribution as defined in RSA 664:2 to any **state or county** candidate for office or political committee, or act as or assist a lobbyist required to be registered under RSA 15:1.

13 Executive Branch Volunteer List. Each head of an executive branch entity that accepts volunteer work shall cause a list of volunteers providing service to the state on the effective date of this act who qualify for the exemption set forth in RSA 15-A:3, II to be submitted to the secretary of state within 60 days of the effective date of this act.

14 Effective Date. This act shall take effect 60 days after its passage.
2008-1390s

AMENDED ANALYSIS

This bill

I. Changes the registration requirements for lobbyists and the frequency and content of the statements required to be filed.

II. Repeals the restriction on simultaneous employment and public service.

III. Exempts certain appointed and volunteer service from the financial disclosure requirements.

IV. Establishes an executive branch public register of volunteers.

V. Changes the appointment criteria for the executive branch ethics committee.

VI. Allows legislative financial disclosure forms to satisfy requirements of RSA 15-A.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 285, relative to voting machines. Election Law and Internal Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator Cilley for the committee.

Election Law and Internal Affairs

April 16, 2008

2008-1387s

03/04

Amendment to HB 285

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

1 Electronic Ballot Counting Device Advisory Committee.

I. The secretary of state shall appoint an electronic ballot counting device advisory committee consisting of 10 members, one of whom shall be designated as chairman, selected for his or her knowledge of voting and election process requirements. The members of the committee shall be:

- (a) Two employees of the department of state.
- (b) Three members of the general court.
- (c) Three local election officials.
- (d) Two members of the public.

II. The committee may solicit assistance from any source to assure that its recommendations comply with applicable technical, environmental, and legal standards. The committee shall meet at the call of the chairman. The first meeting of the committee shall be held within 60 days of the effective date of this section. Members shall receive mileage at the state employees rate when attending to the duties of the committee.

III. The primary duty of the committee shall be to facilitate the design of an electronic ballot counting device, or the identification of an electronic ballot counting device, for use at future elections in the state of New Hampshire that will be fail safe and provably correct and can be supported by an independent technical review to eliminate potential manipulation of election results by tampering. The committee shall also research the upgrades that are available for voting machines currently used in New Hampshire and recommend which upgrades should be required for the continued use of the machines by cities and towns.

IV. In fulfilling its duties under paragraph III, the committee shall consider:

- (a) Developing or identifying an electronic ballot counting device for use at future elections in New Hampshire that can be supported by an independent technical review to eliminate potential manipulation of election results through tampering.
- (b) Security, storage, programming, testing, usage, verification of vendor services, and retention of data from electronic ballot counting devices.
- (c) The feasibility of having the department of state program memory cards.
- (d) Issues related to public confidence in the integrity of electronic ballot counting devices.

(e) Methods for state testing of programmed memory cards before and after elections.

(f) Upgrades to existing voting machines and new products that could improve New Hampshire elections.

(g) Other issues related to the development of new electronic ballot counting devices or the use of optical scan ballot counting machines, as requested by the secretary of state.

V. The committee shall deliver a final report with its findings and recommendations to the secretary of state on or before November 1, 2009.

2 Effective Date. This act shall take effect upon its passage.
2008-1387s

AMENDED ANALYSIS

This bill requires the secretary of state to establish an electronic ballot counting device advisory committee. The committee shall facilitate the design of an electronic ballot counting device for use at future elections in New Hampshire. The committee shall also research the upgrades that are available for voting machines currently used in New Hampshire and recommend which upgrades should be required for the continued use of the machines by cities and towns.

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 Burling moved to have SB 437 removed from the table.

Adopted.

SB 437, relative to access to voter database information.

The question is on the motion to concur.

Adopted.

MOTION TO REMOVE FROM THE TABLE

Senator Burling moved to have HB 1313 removed from the table.

Adopted.

HB 1313, relative to voting by the chairman of the retirement system board of trustees.

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5

April 24, 2008
2008-1498s
10/04

Floor Amendment to HB 1313

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

1 Retirement System; Board of Trustees; Chairman; Voting. Amend RSA 100-A:14, IV to read as follows:

IV. Each trustee ***including the chairman*** shall be entitled to one vote in the board of trustees~~[, provided, however, that the chairman shall be non-voting except in the event of a tie vote]~~. Seven trustees shall constitute a quorum for the transaction of any business ***of the board of trustees***. Seven votes shall be necessary for any resolution or action by the board at any meeting.

2 Effective Date. This act shall take effect July 1, 2008.

2008-1498s

AMENDED ANALYSIS

This bill clarifies the authority of the chairman of the retirement system board of trustees to vote in matters before the board.

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 Sgambati moved to have HB 1394-FN removed from the table.

Adopted.

HB 1394-FN, relative to procedures for approvals of nursing education programs.

Senator Sgambati offered a floor amendment.

Sen. Sgambati, Dist. 4
April 24, 2008
2008-1489s
10/09

Floor Amendment to HB 1394-FN

Amend RSA 326-B:32 as inserted by section 4 of the bill by replacing it with the following:

326-B:32 Education Programs.

I.(a) The board shall establish standards for the establishment and outcomes for nursing and nursing assistant education programs intended to prepare students for licensure or for certification, including clinical learning experiences.

(b) The board shall approve, disapprove, or withdraw approval for ~~[such]~~ **nursing education** programs that meet or fail to meet the requirements of this chapter **and the rules adopted by the board. Nursing education programs under this subparagraph shall not include education for nursing assistants. The board shall require that nursing education programs:**

(1) **Seek and receive approval from the postsecondary education commission prior to applying for approval from the board.**

(2) **Receive institutional regional or national accreditation in addition to specialized nursing accreditation by accrediting bodies recognized by the United States Department of Education.**

(3) **Be affiliated with an existing degree-granting institution with institutional regional or national accreditation recognized by the United States Department of Education.**

(c) **The board shall approve, disapprove, or withdraw approval for nursing assistant education programs that meet or fail to meet the requirements of this chapter and the rules adopted by the board. The board shall require that nursing assistant education programs Seek and receive approval from the postsecondary education commission prior to applying for approval from the board.**

(d) An educational institution or other entity conducting such an education program shall comply with paragraphs II and III and rules adopted by the board pursuant to RSA 541-A.

II. The board shall establish the process for determining nursing and nursing assistant education program compliance.

III. The board:

(a) Shall set requirements for establishment of :

(1) New nursing ~~[and nursing assistant]~~ **education** programs, **including requirements relative to affiliation, accreditation, and site visits required for initial nursing education program approval and subsequent evaluations.**

(2) **New nursing assistant education programs.**

(b) Shall periodically review nursing and nursing assistant education programs and require such programs to submit evidence of compliance with standards.

(c) Shall grant continuing approval if, upon review of evidence, the board determines that the program meets the established standards. The board shall publish a list of approved programs.

(d) Shall deny or withdraw approval or take such action as deemed necessary when nursing or nursing assistant education programs fail to meet the standards established by the board.

(e) Shall reinstate approval of a nursing or nursing assistant education program upon submission of satisfactory evidence that its program meets the standards established by the board.

(f) Shall establish the process for nursing and nursing assistant programs that cease operation.

IV. Any education program conducted in another state shall be deemed to be an education program approved by the board if that program meets the requirements for approval established by this section and the program has been approved by the regulatory authority of its state.

Floor amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1395-FN, establishing the AIDS drug assistance program fund. Health and Human Services Committee. Ought to Pass, Vote 5-0. Senator Fuller Clark for the committee.

Senator Estabrook offered a floor amendment.

Sen. Estabrook, Dist. 21

April 24, 2008

2008-1494s

01/04

Floor Amendment to HB 1395-FN

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

AN ACT establishing the AIDS drug assistance program fund and relative to the membership of the health services planning and review board.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Health Services Planning and Review Board; Membership. Amend RSA 151-C:3, I(a)(2)(D) to read as follows:

(D) A ~~[county official]~~ ***representative of county government nominated by the New Hampshire Association of Counties.***

2008-1494s

AMENDED ANALYSIS

This bill establishes the AIDS drug assistance program fund which is to be composed of drug rebates received on drugs purchased under the AIDS drug assistance program established under the authority of RSA 141-F.

This bill also changes a member of the health services planning and review board.

Floor amendment adopted.

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

Adopted.

Referred to the Finance Committee (Rule 26).

HB 581-FN, relative to the penalty for purposely mistreating service animals. Judiciary Committee. Ought to Pass with Amendment, Vote 5-0. Senator Clegg for the committee.

Sen. Foster, Dist. 13

April 15, 2008

2008-1379s

08/09

Amendment to HB 581-FN

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

AN ACT relative to the penalty for mistreating service animals.

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

1 Cruelty to Service Animals. RSA 167-D:9, II is repealed and reenacted to read as follows:

II. Any person who beats, kicks, or strikes a hearing ear dog, search and rescue dog, or service animal, with an intent to injure, mutilate, torture or disable such dog or animal or who purposely causes the death of such dog or animal shall be guilty of a class B felony.

2 Service Animals; Definition Added. Amend RSA 167-D:1 by inserting after paragraph XI the following new paragraph:

XII. "Service animal" means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

2008-1379s

AMENDED ANALYSIS

This bill increase the penalty from a class A misdemeanor to a class B felony for cruelty to service animals.

Amendment adopted.

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

Adopted.

Ordered to Third Reading.

HB 1294, establishing the offense of public urination or defecation. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Gottesman for the committee.

Adopted.

Ordered to Third Reading.

HB 1581-FN-L, relative to the formation of stormwater utility districts. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

MOTION TO TABLE

Senator Roberge moved to have HB 1581-FN-L laid on the table.

Adopted.

LAID ON THE TABLE

HB 1581-FN-L, relative to the formation of stormwater utility districts.

HB 1157, relative to requirements for approval of village plan alternative subdivisions. Public and Municipal Affairs Committee. Ought to Pass, Vote 6-0. Senator Burling for the committee.

Adopted.

Ordered to Third Reading.

HB 1338, establishing an arboviral illness task force and relative to mosquito control and abatement. Public and Municipal Affairs Committee. Ought to Pass, Vote 6-0. Senator Hassan for the committee.

Adopted.

Ordered to Third Reading.

HB 1129, relative to special number plates for municipal police department vehicles. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 3-0. Senator Letourneau for the committee.

Adopted.

Ordered to Third Reading.

HB 1345, establishing a commission to study vehicle dealer licenses, dealer plates, and temporary plates. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 3-0. Senator Kelly for the committee.

MOTION TO TABLE

Senator Kelly moved to have HB 1345 laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1345, establishing a commission to study vehicle dealer licenses, dealer plates, and temporary plates.

HB 1448-FN, relative to documents prepared by the department of transportation and reimbursement fees for such documents. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 4-0. Senator Kelly for the committee.

Adopted.

Ordered to Third Reading.

HB 1604-FN, relative to the electronic toll collection system. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 3-0. Senator Burling for the committee.

Adopted.

Ordered to Third Reading.

HB 172-FN, relative to state meat inspection. Wildlife, Fish and Game, and Agriculture Committee. Ought to Pass, Vote 4-0. Senator Janeway for the committee.

Adopted.

Ordered to Third Reading.

HB 666-FN, relative to the immunizations included for reimbursement in the animal population control program. Wildlife, Fish and Game, and Agriculture Committee. Ought to Pass, Vote 4-0. Senator D'Allesandro for the committee.

Adopted.

Ordered to Third Reading.

HB 1293, relative to eligibility of dog and cat owners to participate in the state's reduced fee companion animal population control program. Wildlife, Fish and Game, and Agriculture Committee. Inexpedient to Legislate, Vote 4-0. Senator Gatsas for the committee.

Committee report of Inexpedient to Legislate is adopted.

HB 1297, relative to licenses for aquaculture issued by the fish and game department. Wildlife, Fish and Game, and Agriculture Committee. Ought to Pass, Vote 4-0. Senator Janeway for the committee.

Adopted.

Ordered to Third Reading.

HB 1351, relative to fish and game license and registration agents. Wildlife, Fish and Game, and Agriculture Committee. Ought to Pass, Vote 4-0. Senator D'Allesandro for the committee.

Adopted.

Ordered to Third Reading.

HB 1430, relative to the application of animal cruelty laws to horse and dog race tracks. Wildlife, Fish and Game, and Agriculture Committee. Inexpedient to Legislate, Vote 4-0. Senator Janeway for the committee.

MOTION TO TABLE

Senator Janeway moved to have HB 1430 laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1430, relative to the application of animal cruelty laws to horse and dog race tracks.

Senator Gatsas Rule 42 on HB 1430.

SPECIAL ORDER

HB 1601-FN-A, relative to funding for certain capital projects of the Pease development authority. Capital Budget Committee. Ought to Pass with Amendment, Vote 4-0. Senator D'Allesandro for the committee.

Capital Budget
April 15, 2008

2008-1374s
10/03

Amendment to HB 1601-FN-A

Amend the bill by replacing section 1 with the following:

1 Capital Budget; Pease Development Authority. Amend 2007, 264:1, XII to read as follows:

XII. Pease Development Authority.

A. Market Street Marine Terminal Pier	2,300,000
Less Other*	<u>-2,300,000</u>
Net state appropriation subparagraph A	0
B. Rye Harbor Commercial Fish Pier	1,560,000
Less Other[*] **	<u>-1,560,000</u>
Net state appropriation subparagraph B	0

*To provide funds for the appropriations made in ~~[subparagraphs A and B]~~

subparagraph A, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of ~~[\$2,860,000]~~ **\$2,300,000** and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from fees relating to wharfage, dockage, and other marine terminal operations under RSA 12-G:42. For the appropriation made in subparagraph A, the Pease development authority and the attorney general shall seek reimbursement or restitution for the cost of repairs of damage to the facility, and the appropriation may not be expended until approval is received by the capital budget overview committee. ***For the project authorized in subparagraph A, the Pease development authority shall determine the availability of any other division of ports and harbors funds to make payments of principal and interest. The authority shall recommend any funding changes to the capital budget overview committee for future legislation.***

***** (a) The sum of \$1,560,000 for the fiscal year ending June 30, 2008 is hereby appropriated to the Pease development authority for the Rye harbor commercial fish pier capital project. The sum appropriated under this subparagraph shall be a charge against the sums received and held be the treasurer under subparagraph (b).***

(b) The Pease development authority shall pay to the state treasurer by June 30, 2008 from the fund in RSA 12-G:36 the sum of \$1,560,000, and the state shall reduce by said sum the Pease development authority's debt owed to the state relative to start-up funding costs under RSA 12-G:34; and 1991, 355:110, as amended by 1992, 260:11; 1992, 260:12, as amended by 1993, 358:3; 1994, 415:1; and 1995, 307:10.

Total state appropriation paragraph XII \$0

Amendment adopted.

Senator D'Allesandro offered a floor amendment.

Sen. D'Allesandro, Dist. 20
Sen. Odell, Dist. 8
April 24, 2008
2008-1505s
10/01

Floor Amendment to HB 1601-FN-A

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

AN ACT relative to funding for certain capital projects of the Pease development authority, relative, to reporting dates for the instream flow pilot program, and relative to certain requirements under the comprehensive shoreland protection act.

Amend footnote ** (a) of 2007, 264:1, XII, B as inserted by section 1 of the bill by replacing it with the following:

***** (a) The sum of \$1,560,000 for the fiscal year ending June 30, 2008 is hereby appropriated to the Pease development authority for the Rye harbor commercial fish pier capital project. The sum appropriated under this subparagraph shall be a charge against the sums received and held by the treasurer under subparagraph (b).***

Amend the bill by replacing all after section 1 with the following:

2 Instream Flow Pilot Program; Reporting Date Extended. Amend 2002, 278:2, III as amended by 2003, 319:48 to read as follows:

III. The commissioner of the department of environmental services shall initiate and adopt rules pursuant to RSA 541-A for other rivers designated under RSA 483:15 only after the adoption and implementation of the rules relative to protected instream flows pursuant to RSA 483:9-c for the Lamprey and Souhegan rivers and completion of the report required under section 3, III(d) of this act, but not before December 1, ~~2008~~ **2010**.

3 Instream Flow Pilot Program; Reporting Dates Extended. Amend 2002, 278:3, III as amended by 2003, 319:49 to read as follows:

III. The commissioner of the department of environmental services shall:

(a) By April 1, ~~2007~~ **2009**, conduct protected instream flow studies and submit a report that details the results of science for the pilot program, including the projected impacts of the protected instream flows and water management plans to be implemented on water users, wildlife, recreation, and other interests along the rivers and any recommendations for proposed legislation. The department shall hold a public hearing jointly with the senate environment committee and the house resources, recreation and development committee within 60 days and be open for a public comment period of an additional 30 days. The department shall consider the public comments received in any revisions to the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River.

(b) By October 1, ~~[2007]~~ **2009**, adopt and implement the protected instream flows and water management plans relative to the Lamprey River and the Souhegan River.

(c) One year after the adoption and implementation of the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River, the department shall hold a public hearing and open a 30-day public comment period. The department shall consider the public comments received in any revisions to the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River.

(d) By December 1, ~~[2008]~~ **2010**, submit a report that details the activities and results of the pilot program, including the impacts of the protected instream flows and water management plans on water users, wildlife, recreation, and other interests along the rivers and any recommendations for proposed legislation. The report shall also include a summary of public comments received and the completed instream flow studies and the adopted protected instream flow levels and water management plans and shall be submitted to the senate president, the speaker of the house of representatives, the governor, and the state library.

4 Committee to Study the Impact of Water Withdrawals on Instream Flows; Report Date Extended. Amend RSA 2000, 242:5 as amended by 2001, 138:6, 2002, 278:6, and 2003, 319:50 to read as follows:

242:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, ~~[2008]~~ **2010**.

5 Repeal. The following are repealed:

- I. RSA 483-B:5-a, I-IV, relative to permit required.
- II. RSA 483-B:5-a, V, relative to permit required.
- III. RSA 483-B:4, VII-a, relative to definition of impervious surface.
- IV. RSA 483-B:4, X-a, relative to definition of natural ground cover.
- V. RSA 483-B:4, XI-a and XI-b, relative to nonconforming lot of record and nonconforming structure.
- VI. RSA 483-B:4, XXIV-a, relative to definition of undisturbed state.

6 Definition. RSA 483-B:4, XVI(c) is repealed and reenacted 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 ½' topographic maps. 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. A listing of the streams of fourth order and higher shall be prepared and maintained by the office of energy and planning and delivered to the commissioner 30 days after the effective date of this act.

7 Definition. RS 483-B:4, XXVI is repealed and reenacted 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 a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp.

8 Prior Approval; Permits. RSA 483-B:6 is repealed and reenacted to read as follows:

483-B:6 Prior Approval; Permits.

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) 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) shall obtain approval pursuant to RSA 485-A:29.

II. In applying for these approvals and permits, such persons shall demonstrate to the satisfaction of the department that the proposal meets or exceeds the development standards of this chapter. The department shall grant, deny, or attach reasonable conditions to a permit listed in subparagraphs I(a)-(e), to protect the public waters or the public health, safety or welfare. Such conditions shall be related to the purposes of this chapter.

9 Minimum Protection Standards. RSA 483-B:9, IV-b is repealed and reenacted to read as follows:

IV-b. Public utility lines and associated structures and facilities shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.

10 Waterfront Buffer. RSA 483-B:9, V is repealed and reenacted to read as follows:

V. The following minimum standards shall apply to the protected shoreland provided that forest management not associated with shoreland development or land conversion, and conducted in compliance with RSA 227-J:9; forestry involving water supply reservoir

watershed management; or agriculture conducted in accordance with best management practices; shall be exempt from the provisions of this chapter:

(a) NATURAL WOODLAND BUFFER.

(1) Where existing, a natural woodland buffer shall be maintained within 150 feet of the reference line. The purpose of this 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:

(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.

(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, unsafe, or fallen trees, saplings, shrubs, or ground cover may be removed. Their removal shall not be used in computing the percentage limitations under subparagraph (a)(2)(A).

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

(G) Planting efforts that are beneficial to wildlife are encouraged.

(b) SEPTIC SYSTEMS.

(1) All new lots, including those in excess of 5 acres, created within the protected shoreland are subject to subdivision approval by the department of environmental services under RSA 485-A:29.

(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), to the maximum extent feasible.

(c) 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) 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) 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.

(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.

(f) 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) 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. RSA 483-B:11 is repealed and reenacted 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 no expansion of the existing footprint or outside dimensions shall be permitted. 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.

II. When reviewing requests for the redevelopment of sites that contain nonconforming structures erected prior to July 1, 1994, 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 New Section; Permit Required; Exemption Amend RSA 483-B by inserting after section 5-a the following section:

483-B:5-b 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 485-A: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 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 New Paragraph; Definitions. Amend RSA 483-B:4 by inserting after paragraph VII-a the following new paragraph:

VII-b. "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.

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

X-b. "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.

15 Definitions. RSA 483-B:4, XI-c is repealed and reenacted to read as follows:

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

XI-d. "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-e. "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.

16 Definitions. RSA 483-B:4, XVI(c) is repealed and reenacted to read as follows:

(c) Rivers, meaning all year-round flowing waters of fourth 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 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.

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

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

18 Definitions. RSA 483-B:4, XXVI is repealed and reenacted to read as follows:

XXVI. "Water dependent structure" means a structure that 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.

19 Other Required Permits and Approvals. RSA 483-B:6 is repealed and reenacted to read as follows:

483-B:6 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(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(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 approvals and permits, pursuant to paragraph I, applicants shall demonstrate 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 approvals or permits listed in subparagraphs I(a)-(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.

20 Minimum Shoreland Protection Standards. RSA 483-B:9, IV-b is repealed and reenacted 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.

21 Waterfront Buffer. RSA 483-B:9, V is repealed and reenacted to read as follows:

V. The following minimum standards shall apply to areas and activities within the

protected shoreland with the exception of forest management that is not associated with shoreland development or land conversion, and is conducted in compliance with RSA 227-J:9; forestry conducted by or under the direction of a water supplier for the purpose of managing a water supply watershed; 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 4 1/2 feet above the ground and are scored as follows:

Diameter	Score
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 July 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.

(b) MAINTENANCE OF A NATURAL WOODLAND BUFFER.

(1) 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 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 a given lot:

(A) 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 July 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) Dead, diseased, or unsafe, trees, saplings, or shrubs 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.

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

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

(c) SEPTIC SYSTEMS.

(1) 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 (c)(2), to the maximum extent feasible.

(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.

(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 having frontage on public waters, shall be created with less than 150 feet of shoreland frontage.

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

(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) No lot having frontage on public water shall be created with less than 150 feet of shoreland frontage.

(3) 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.

(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.

(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).

22 Nonconforming Structures. RSA 483-B:11 is repealed and reenacted to read as follows:

483-B:11 Nonconforming Structures.

I. Except as otherwise prohibited by law, nonconforming structures 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 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 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.

23 Rulemaking. Amend RSA 483-B:17, XI to read as follows:

XI. Procedures and criteria for permitting under RSA ~~[483-B:5-a]~~ **483-B:5-b**, 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.

24 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]~~ **483-B:5-b** 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.

25 Funding Transfer and Repayment. Amend 2007, 269:6 to read as follows:

269:6 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]~~ **483-B:5-b** shall be deposited in the general fund until such time as the \$375,000 is repaid.

26 Repeal and Readoption of Rules.

I. The commissioner of the department of environmental services shall repeal administrative rules chapter Env-Wq 1400 adopted March 24, 2008 pursuant to 2007, 267:11.

II. The commissioner of the department of environmental services shall readopt the administrative rules that were in effect prior to the effective date of the rules repealed under paragraph I. Such rules shall be effective as rules of the department and shall remain in effect until rules are adopted under paragraph III, or are otherwise repealed or amended or have expired in accordance with RSA 541-A.

III. The commissioner of the department of environmental services may adopt rules to be in effect as of July 1, 2008 that are the same as the rules repealed under paragraph I, except that the commissioner shall modify the date references in the rules to take into account the July 1, 2008 effective date. Such rule adoption shall be exempt from the rulemaking provisions of RSA 541-A, provided the commissioner adopts the rules and files them with the office of legislative services prior to July 1, 2008. The rules shall expire on July 1, 2016 unless readopted, amended, or repealed pursuant to RSA 541-A.

IV. The commissioner of the department of environmental services shall prepare, and the director of the office of legislative services shall publish in the rulemaking register, one or more notices, as necessary, to clearly state which rules will be in effect during affected time periods.

27 Repeal. The following are repealed:

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

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

28 Effective Date.

I. Sections 1 and 5-11 of this act shall take effect upon its passage.

II. Section 27 of this act shall take effect July 1, 2011.

III The remainder of this act shall take effect July 1, 2008.

2008-1505s

AMENDED ANALYSIS

This bill revises the authority and funding for the Pease development authority capital projects in the 2007 capital budget.

This bill extends the reporting dates for the instream flow pilot program.

This bill also changes the effective date for certain provisions of 2007, 267 and 2007, 269, relating to the comprehensive shoreland protection act, from April 1, 2008 to July 1, 2008.

Floor amendment adopted.

Senator Kenney offered a floor amendment.

Sen. Kenney, Dist. 3
Sen. Gallus, Dist. 1
Sen. Roberge, Dist. 9
Sen. Bragdon, Dist. 11
Sen. Clegg, Dist. 14
Sen. Barnes, Dist. 17
Sen. Letourneau, Dist. 19
Sen. Downing, Dist. 22
April 24, 2008
2008-1510s
10/09

Floor Amendment to HB 1601-FN-A

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

AN ACT relative to funding for certain capital projects of the Pease development authority, relative, to reporting dates for the instream flow pilot program, and relative to certain requirements under the comprehensive shoreland protection act.

Amend footnote ** (a) of 2007, 264:1, XII, B as inserted by section 1 of the bill by replacing it with the following:

***** (a) The sum of \$1,560,000 for the fiscal year ending June 30, 2008 is hereby appropriated to the Pease development authority for the Rye harbor commercial fish pier capital project. The sum appropriated under this subparagraph shall be a charge against the sums received and held by the treasurer under subparagraph (b).***

Amend the bill by replacing all after section 1 with the following:

2 Instream Flow Pilot Program; Reporting Date Extended. Amend 2002, 278:2, III as amended by 2003, 319:48 to read as follows:

III. The commissioner of the department of environmental services shall initiate and adopt rules pursuant to RSA 541-A for other rivers designated under RSA 483:15 only after the adoption and implementation of the rules relative to protected instream flows pursuant to RSA 483:9-c for the Lamprey and Souhegan rivers and completion of the report required under section 3, III(d) of this act, but not before December 1, ~~[2008]~~ **2010**.

3 Instream Flow Pilot Program; Reporting Dates Extended. Amend 2002, 278:3, III as amended by 2003, 319:49 to read as follows:

III. The commissioner of the department of environmental services shall:

(a) By April 1, ~~[2007]~~ **2009**, conduct protected instream flow studies and submit a report that details the results of science for the pilot program, including the projected impacts of the protected instream flows and water management plans to be implemented on water users, wildlife, recreation, and other interests along the rivers and any recommendations for proposed legislation. The department shall hold a public hearing jointly with the senate environment committee and the house resources, recreation and development committee within 60 days and be open for a public comment period of an additional 30 days. The department shall consider the public comments received in any revisions to the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River.

(b) By October 1, ~~[2007]~~ **2009**, adopt and implement the protected instream flows and water management plans relative to the Lamprey River and the Souhegan River.

(c) One year after the adoption and implementation of the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River, the department shall hold a public hearing and open a 30-day public comment period. The department shall consider the public comments received in any revisions to the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River.

(d) By December 1, ~~[2008]~~ **2010**, submit a report that details the activities and results of the pilot program, including the impacts of the protected instream flows and water management plans on water users, wildlife, recreation, and other interests along the rivers and any recommendations for proposed legislation. The report shall also include a summary of public comments received and the completed instream flow studies and the adopted protected instream flow levels and water management plans and shall be submitted to the senate president, the speaker of the house of representatives, the governor, and the state library.

4 Committee to Study the Impact of Water Withdrawals on Instream Flows; Report Date Extended. Amend RSA 2000, 242:5 as amended by 2001, 138:6, 2002, 278:6, and 2003,

319:50 to read as follows:

242:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, ~~[2008]~~ **2010**.

5 Repeal. The following are repealed:

- I. RSA 483-B:5-a, I-IV, relative to permit required.
- II. RSA 483-B:5-a, V, relative to permit required.
- III. RSA 483-B:4, VII-a, relative to definition of impervious surface.
- IV. RSA 483-B:4, X-a, relative to definition of natural ground cover.
- V. RSA 483-B:4, XI-a and XI-b, relative to nonconforming lot of record and nonconforming structure.
- VI. RSA 483-B:4, XXIV-a, relative to definition of undisturbed state.

6 Definition. RSA 483-B:4, XVI(c) is repealed and reenacted 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 ½' topographic maps. 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. A listing of the streams of fourth order and higher shall be prepared and maintained by the office of energy and planning and delivered to the commissioner 30 days after the effective date of this act.

7 Definition. RS 483-B:4, XXVI is repealed and reenacted 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 a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp.

8 Prior Approval; Permits. RSA 483-B:6 is repealed and reenacted to read as follows:
483-B:6 Prior Approval; Permits.

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) 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) shall obtain approval pursuant to RSA 485-A:29.

II. In applying for these approvals and permits, such persons shall demonstrate to the satisfaction of the department that the proposal meets or exceeds the development standards of this chapter. The department shall grant, deny, or attach reasonable conditions to a permit listed in subparagraphs I(a)-(e), to protect the public waters or the public health, safety or welfare. Such conditions shall be related to the purposes of this chapter.

9 Minimum Protection Standards. RSA 483-B:9, IV-b is repealed and reenacted to read as follows:

IV-b. Public utility lines and associated structures and facilities shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.

10 Waterfront Buffer. RSA 483-B:9, V is repealed and reenacted to read as follows:

V. The following minimum standards shall apply to the protected shoreland provided that forest management not associated with shoreland development or land conversion, and conducted in compliance with RSA 227-J:9; forestry involving water supply reservoir watershed management; or agriculture conducted in accordance with best management practices; shall be exempt from the provisions of this chapter:

(a) NATURAL WOODLAND BUFFER.

(1) Where existing, a natural woodland buffer shall be maintained within 150 feet of the reference line. The purpose of this 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:

(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.

(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, unsafe, or fallen trees, saplings, shrubs, or ground cover may be removed. Their removal shall not be used in computing the percentage limitations under subparagraph (a)(2)(A).

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

(G) Planting efforts that are beneficial to wildlife are encouraged.

(b) SEPTIC SYSTEMS.

(1) All new lots, including those in excess of 5 acres, created within the protected shoreland are subject to subdivision approval by the department of environmental services under RSA 485-A:29.

(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), to the maximum extent feasible.

(c) 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) 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) 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.

(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.

(f) 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) 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. RSA 483-B:11 is repealed and reenacted 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 no expansion of the existing footprint or outside dimensions shall be permitted. 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.

II. When reviewing requests for the redevelopment of sites that contain nonconforming structures erected prior to July 1, 1994, 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 New Section; Permit Required; Exemption Amend RSA 483-B by inserting after section 5-a the following section:

483-B:5-b 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 485-A: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 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 New Paragraph; Definitions. Amend RSA 483-B:4 by inserting after paragraph VII-a the following new paragraph:

VII-b. "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.

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

X-b. "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.

15 Definitions. RSA 483-B:4, XI-c is repealed and reenacted to read as follows:

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

XI-d. "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-e. "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.

16 Definitions. RSA 483-B:4, XVI(c) is repealed and reenacted to read as follows:

(c) Rivers, meaning all year-round flowing waters of fourth 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 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.

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

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

18 Definitions. RSA 483-B:4, XXVI is repealed and reenacted to read as follows:

XXVI. "Water dependent structure" means a structure that 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.

19 Other Required Permits and Approvals. RSA 483-B:6 is repealed and reenacted to read as follows:

483-B:6 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(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(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 approvals and permits, pursuant to paragraph I, applicants shall

demonstrate 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 approvals or permits listed in subparagraphs I(a)-(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.

20 Minimum Shoreland Protection Standards. RSA 483-B:9, IV-b is repealed and reenacted 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.

21 Waterfront Buffer. RSA 483-B:9, V is repealed and reenacted to read as follows:

V. The following minimum standards shall apply to areas and activities within the protected shoreland with the exception of forest management that is not associated with shoreland development or land conversion, and is conducted in compliance with RSA 227-J:9; forestry conducted by or under the direction of a water supplier for the purpose of managing a water supply watershed; 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 4 1/2 feet above the ground and are scored as follows:

Diameter	Score
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 October 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.

(b) MAINTENANCE OF A NATURAL WOODLAND BUFFER.

(1) 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 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 a given lot:

(A) 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 October 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) Dead, diseased, or unsafe, trees, saplings, or shrubs 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.

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

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

(c) SEPTIC SYSTEMS.

(1) 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 (c)(2), to the maximum extent feasible.

(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.

(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 having frontage on public waters, shall be created with less than 150 feet of shoreland frontage.

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

(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) No lot having frontage on public water shall be created with less than 150 feet of shoreland frontage.

(3) 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.

(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.

(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).

22 Nonconforming Structures. RSA 483-B:11 is repealed and reenacted to read as follows:

483-B:11 Nonconforming Structures.

I. Except as otherwise prohibited by law, nonconforming structures 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 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 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.

23 Rulemaking. Amend RSA 483-B:17, XI to read as follows:

XI. Procedures and criteria for permitting under RSA ~~[483-B:5-a]~~ **483-B:5-b**, 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.

24 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]~~ **483-B:5-b** 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.

25 Funding Transfer and Repayment. Amend 2007, 269:6 to read as follows:

269:6 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]~~ **483-B:5-b** shall be deposited in the general fund until such time as the \$375,000 is repaid.

26 Repeal and Readoption of Rules.

I. The commissioner of the department of environmental services shall repeal administrative rules chapter Env-Wq 1400 adopted March 24, 2008 pursuant to 2007, 267:11.

II. The commissioner of the department of environmental services shall readopt the administrative rules that were in effect prior to the effective date of the rules repealed under paragraph I. Such rules shall be effective as rules of the department and shall remain in effect until rules are adopted under paragraph III, or are otherwise repealed or amended or have expired in accordance with RSA 541-A.

III. The commissioner of the department of environmental services may adopt rules to be in effect as of October 1, 2008 that are the same as the rules repealed under paragraph

I, except that the commissioner shall modify the date references in the rules to take into account the October 1, 2008 effective date. Such rule adoption shall be exempt from the rulemaking provisions of RSA 541-A, provided the commissioner adopts the rules and files them with the office of legislative services prior to October 1, 2008. The rules shall expire on July 1, 2016 unless readopted, amended, or repealed pursuant to RSA 541-A.

IV. The commissioner of the department of environmental services shall prepare, and the director of the office of legislative services shall publish in the rulemaking register, one or more notices, as necessary, to clearly state which rules will be in effect during affected time periods.

27 Repeal. The following are repealed:

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

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

28 Effective Date.

I. Sections 1 and 5-11 of this act shall take effect upon its passage.

II. Section 27 of this act shall take effect July 1, 2011.

III The remainder of this act shall take effect October 1, 2008.

2008-1510s

AMENDED ANALYSIS

This bill revises the authority and funding for the Pease development authority capital projects in the 2007 capital budget.

This bill extends the reporting dates for the instream flow pilot program.

This bill also changes the effective date for certain provisions of 2007, 267 and 2007, 269, relating to the comprehensive shoreland protection act, from April 1, 2008 to October 1, 2008.

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 Kenney.

Seconded by Senator Barnes.

The following Senators voted Yes: Gallus, Kenney, Odell, Roberge, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Downing.

The following Senators voted No: Reynolds, Sgambati, Burling, Cilley, Janeway, Kelly, Gottesman, Foster, Larsen, DeVries, D'Allesandro, Estabrook, Hassan, Fuller Clark.

Yeas: 10 - Nays: 14

Floor amendment failed.

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

A roll call was requested by Senator Foster.

Seconded by Senator Gottesman.

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.

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 91-FN, relative to lobbyist registration and statements, repealing the restriction on simultaneous employment and public service, and relative to regulation of volunteer public service.

HB 172-FN, relative to state meat inspection.

HB 285, relative to voting machines.

HB 581-FN, relative to the penalty for purposely mistreating service animals.

HB 666-FN, relative to the immunizations included for reimbursement in the animal population control program.

HB 858-FN, relative to a discount medical plan organization.

HB 1129, relative to special number plates for municipal police department vehicles.

HB 1157, relative to requirements for approval of village plan alternative subdivisions.

HB 1244, relative to auditable basis policies.

HB 1294, establishing the offense of public urination or defecation.

HB 1297, relative to licenses for aquaculture issued by the fish and game department.

HB 1313, relative to voting by the chairman of the retirement system board of trustees.

HB 1338, establishing an arboviral illness task force and relative to mosquito control and abatement.

HB 1351, relative to fish and game license and registration agents.

HB 1352, relative to the comprehensive state development plan.

HB 1378, relative to insurance taxes and fees.

HB 1394-FN, relative to procedures for approvals of nursing education programs.

HB 1448-FN, relative to documents prepared by the department of transportation and reimbursement fees for such documents.

HB 1601-FN-A, relative to funding for certain capital projects of the Pease development authority.

HB 1604-FN, relative to the electronic toll collection system.

ANNOUNCEMENTS

RESOLUTION

Senator Foster moved that the Senate recess to the Call of the Chair for the sole purpose of scheduling hearings, sending and receiving messages, processing enrolled bill reports and amendments and forming Committees of Conference.

Adopted.

In recess to the Call of the Chair.