

May 12, 2010  
Nos. 17-18

# **STATE OF NEW HAMPSHIRE**

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**Second Year of the 161<sup>st</sup> Session of the  
New Hampshire General Court**

**Legislative Proceedings**

## **SENATE JOURNAL**

**ADJOURNMENT – MAY 5, 2010 SESSION  
COMMENCEMENT – MAY 12, 2010 SESSION**

# SENATE JOURNAL 17 *(continued)*

*May 5, 2010*

## HOUSE MESSAGE

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

**SB 308**, relative to the price for filling prescriptions.

**SB 325**, relative to loitering by intoxicated persons.

**SB 342-FN**, repealing the \$5,000 surety bond requirement for meals and rentals operators.

**SB 352**, relative to student insurance.

**SB 367**, relative to games of chance.

**SB 391-L**, relative to the payment of certain amounts from the water fund to the town general fund by the town of Hanover.

**SB 443**, relative to rulemaking authority of the electricians' board.

**SB 509**, establishing the New Hampshire medal of honor fund and repealing the New Hampshire service award.

**SB 511-FN-A**, relative to an exemption from the tax on gambling winnings.

**SB 517-FN-A**, establishing a veterans' legal aid advocacy project.

## HOUSE MESSAGE

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

**SB 423**, relative to health insurance coverage for licensed athletic trainer services.

## 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 334**, establishing a committee to study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses and relative to investments in photovoltaic renewable energy projects.

**SB 348**, establishing a committee to study issues relative to the regulation of opticians in New Hampshire.

**SB 371**, relative to warning statements concerning drinking alcoholic beverages during pregnancy.

**SB 459**, relative to medical payments coverage.

## 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 660-FN**, relative to the life settlements act.

**HB 1184**, relative to the administration of the unused prescription drug program.

**HB 1198-L**, relative to public hearings on municipal budget preparation, and ratifying a warrant article of the Ossipee Corner Light and Power Precinct Annual Meeting of 2010.

**HB 1208**, relative to rebate exemptions.

**HB 1224**, relative to school employee and volunteer background investigations and relative to applicants for driver education certificates and school licenses.

**HB 1304**, extending legislative study committees and commissions.

**HB 1387**, establishing a committee to study the need for supportive housing for homeless veterans.

**HB 1429**, establishing a committee to study the inclusion of universal design requirements in the state building code.

**HB 1495**, relative to approval of chartered public schools from July 1, 2009 through June 30, 2011 and relative to the renewal term for a chartered public school.

**HB 1518-FN**, increasing certain OHRV registration fees and fee for transfer of registration of an OHRV or snowmobile.

**HB 1534**, relative to the issuance of air permits and certain fees relative to air permits.

**HB 1574-FN**, relative to retention of election records.

**HB 1625**, relative to eligibility for the New Hampshire veterans' home and relative to the calculation of partial pay for state employees who are members of a reserve unit or the national guard and are called to full-time active duty.

**HB 1667-FN**, relative to possession of controlled substances obtained by valid prescription.

**HB 1680-FN**, establishing the crime of aggravated harassment by an inmate.

**HB 1686**, relative to juvenile diversion programs.

#### **HOUSE MESSAGE**

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

**HB 1314**, relative to approval of changes to a capital budget project.

**April 23, 2010**  
**2010-1575-EBA**  
**04/03**

#### **Enrolled Bill Amendment to SB 378**

The Committee on Enrolled Bills to which was referred SB 378

AN ACT relative to the New Hampshire public works mutual aid program.

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 SB 378

This enrolled bill amendment makes a grammatical correction to the bill.

#### Enrolled Bill Amendment to SB 378

Amend RSA 53-A:3-a, IV as inserted by section 1 of the bill by replacing line 2 with the following:  
indemnifies the other municipality or private entity and its officers, employees, and agents against

**Adopted.**

**April 29, 2010**  
**2010-1751-EBA**  
**06/10**

#### **Enrolled Bill Amendment to SB 380**

The Committee on Enrolled Bills to which was referred SB 380

AN ACT relative to the definition of permissible fireworks.

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 SB 380

This enrolled bill amendment makes a technical correction to a reference.

Enrolled Bill Amendment to SB 380

Amend RSA 160-C:1, V(e)(2) by replacing line 2 with the following:

compliance with the Consumer Product Safety Improvement Act, effective February 10, 2010, and

**Adopted.**

**April 26, 2010**  
**2010-1580-EBA**  
**08/01**

**Enrolled Bill Amendment to SB 449-FN**

The Committee on Enrolled Bills to which was referred SB 449-FN

AN ACT relative to the designation of staff members as staff advocates in public utilities commission adjudicatory proceedings.

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 SB 449-FN

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to SB 449-FN

Amend section 1 of the bill by replacing line 2 with the following:

363:32 Designation of Employees.

**Adopted.**

**May 4, 2010**  
**2010-1851-EBA**  
**08/04**

**Enrolled Bill Amendment to SB 477**

The Committee on Enrolled Bills to which was referred SB 477

AN ACT relative to driver education school applicants.

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 SB 477

This enrolled bill amendment makes a grammatical correction.

Enrolled Bill Amendment to SB 477

Amend section 2 of the bill by replacing line 4 with the following:

fingerprints taken by a qualified law enforcement agency;

**Adopted.**

**April 27, 2010**  
**2010-1678-EBA**  
**03/01**

**Enrolled Bill Amendment to SB 499-FN**

The Committee on Enrolled Bills to which was referred SB 499-FN

AN ACT relative to administration support of certain professional regulatory boards by the department of health and human 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 SB 499-FN

This enrolled bill amendment corrects a reference in the bill.

Enrolled Bill Amendment to SB 499-FN

Amend section 4 of the bill by replacing line 1 with the following:

4 Podiatry. Amend RSA 315:1-a to read as follows:

**Adopted.**

**May 6, 2010**  
**2010-1931-EBA**  
**03/01**

**Enrolled Bill Amendment to SB 501-FN**

The Committee on Enrolled Bills to which was referred SB 501-FN

AN ACT relative to worksharing benefits under the unemployment compensation law, and relative to training grants.

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 SB 501-FN

This enrolled bill amendment makes grammatical corrections and corrects certain references in the bill.

Enrolled Bill Amendment to SB 501-FN

Amend section 1 of the bill by replacing line 1 with the following:

1 New Subdivision; Worksharing. Amend RSA 282-A by inserting after section 31 the following

Amend RSA 282-A:31-a, IV as inserted by section 1 of the bill by replacing line 1 with the following:

IV. "Normal weekly hours of work" mean the normal number of hours of work each week

Amend RSA 282-A:31-a, V as inserted by section 1 of the bill by replacing line 1 with the following:

V. "Unemployment benefits" or "regular benefits" mean benefits payable under RSA 282-

Amend RSA 282-A:31-a, VI as inserted by section 1 of the bill by replacing line 1 with the following:

VI. "Worksharing benefits" mean the benefits payable to employees in an affected unit

Amend RSA 282-A:31-b, I(d) as inserted by section 1 of the bill by replacing line 3 with the following: contributions to a defined benefit plan, as defined in section 3(35) of the Employee

**Adopted.**

**April 30, 2010**  
**2010-1792-EBA**  
**05/01**

**Enrolled Bill Amendment to SCR 3**

The Committee on Enrolled Bills to which was referred SCR 3

AN ACT congratulating the Boy Scouts of America on the occasion of its 100<sup>th</sup> anniversary.

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 SCR 3

This enrolled bill amendment makes a technical correction to the bill.

Enrolled Bill Amendment to SCR 3

Amend the first paragraph after the resolving clause by replacing line 2 with the following: congratulations to the Boy Scouts of America on the occasion of its 100th Anniversary; and

**Adopted.**

**May 3, 2010**  
**2010-1809-EBA**  
**09/05**

**Enrolled Bill Amendment to SJR 1**

The Committee on Enrolled Bills to which was referred SJR 1

AN ACT urging the secretary of agriculture to review the Federal Milk Market Order System.

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 SJR 1

This enrolled bill amendment makes a grammatical correction.

Enrolled Bill Amendment to SJR 1

Amend the seventh paragraph following the enacting clause by replacing line 2 with the following: of acres of open land, the loss of jobs and businesses that pay taxes and wages, the loss of a local source

**Adopted.**

**May 3, 2010**  
**2010-1812-EBA**  
**04/09**

**Enrolled Bill Amendment to HB 271**

The Committee on Enrolled Bills to which was referred HB 271

AN ACT relative to relevant information in a workers' compensation claim.

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 271

This enrolled bill amendment makes a grammatical correction.

Enrolled Bill Amendment to HB 271

Amend RSA 281-A:23, V(a)(3) as inserted by section 1 of the bill by replacing line 2 with the following:

***insurance carrier, self-insurer, or payor acting on behalf of such insurance carrier or self-***

**Adopted.**

**April 27, 2010**  
**2010-1671-EBA**  
**09/01**

**Enrolled Bill Amendment to HB 1291-FN**

The Committee on Enrolled Bills to which was referred HB 1291-FN

AN ACT relative to the fuel oil importation fee.

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 1291-FN

This enrolled bill amendment makes a technical correction.

Enrolled Bill Amendment to HB 1291-FN

Amend section 3 of the bill by replacing line 4 with the following:

departmental rules, and RSA 146-E.

**Adopted.**

**May 4, 2010**  
**2010-1850-EBA**  
**10/04**

**Enrolled Bill Amendment to HB 1293-FN**

The Committee on Enrolled Bills to which was referred HB 1293-FN

AN ACT relative to the oil discharge cleanup fund and relative to tax exemptions for water and air pollution control installations.

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 1293-FN

This enrolled bill amendment corrects a reference in section 1 of the bill.

Enrolled Bill Amendment to HB 1293-FN

Amend section 1 of the bill by replacing line 2 with the following:

I. 1995, 282:9 through 282:11 and 1995, 282:13, II, relative to motor oil storage facilities,

**Adopted.**

**May 7, 2010**  
**2010-1968-EBA**  
**06/09**

**Enrolled Bill Amendment to HB 1314**

The Committee on Enrolled Bills to which was referred HB 1314

AN ACT relative to approval of changes to a capital budget project, and relative to making capital appropriations for kindergarten construction in Milford and the dredging of Dorrs Pond in Manchester, and lapsing a portion of certain capital appropriations.

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 1314

This enrolled bill amendment changes the title of the bill to reflect its contents.

Enrolled Bill Amendment to HB 1314

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

AN ACT relative to approval of changes to a capital budget project, and relative to making capital appropriations for kindergarten construction in Milford and the remediation and repair of Dorrs Pond dam in Manchester, and lapsing a portion of certain capital appropriations.

**Adopted.**

**April 27, 2010**  
**2010-1677-EBA**  
**03/01**

**Enrolled Bill Amendment to HB 1353**

The Committee on Enrolled Bills to which was referred HB 1353

AN ACT relative to group net energy metering.

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 1353

This enrolled bill amendment makes grammatical corrections and clarifies certain references in the bill.

Enrolled Bill Amendment to HB 1353

Amend RSA 362-A:9, V(a) as inserted by section 3 of the bill by replacing line 3 with the following:  
consistent with either subparagraph IV(a) or IV(b), as applicable; or

Amend RSA 362-A:9, V(b) as inserted by section 3 of the bill by replacing line 2 with the following:  
credited by the electric distribution utility for its excess generation at rates that are equal to the

Amend RSA 362-A:9, V(b) as inserted by section 3 of the bill by replacing line 6 with the following:  
frequency of payment and how often a customer-generator may choose this option versus the

Amend RSA 362-A:9, VI as inserted by section 3 of the bill by replacing line 1 with the following:

VI. Instead of the option in subparagraph V(b), an electric distribution utility providing default

**Adopted.**

**May 4, 2010**  
**2010-1865-EBA**  
**08/09**

**Enrolled Bill Amendment to HB 1384**

The Committee on Enrolled Bills to which was referred HB 1384

AN ACT establishing a suicide fatality review committee.

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 1384

This enrolled bill amendment inserts omitted text.

Enrolled Bill Amendment to HB 1384

Amend RSA 126-R:4, VII as inserted by section 1 of the bill by replacing lines 1 and 2 with the following:

VII. The committee shall report annually to the council, on or before the first day of September, beginning September 1, 2011, describing any trends and patterns of deaths or serious injuries or risk factors

**Adopted.**

**May 10, 2010**  
**2010-1974-EBA**  
**04/10**

**Enrolled Bill Amendment to HB 1387**

The Committee on Enrolled Bills to which was referred HB 1387

AN ACT establishing a committee to study the need for supportive housing for homeless veterans.



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 1387

This enrolled bill amendment corrects a bill section heading.

Enrolled Bill Amendment to HB 1387

Amend section 4 of the bill by replacing line 1 with the following:

4 Chairperson; Meeting. The members of the committee shall elect a chairperson from among

**Adopted.**

**April 23, 2010**  
**2010-1574-EBA**  
**04/03**

**Enrolled Bill Amendment to HB 1427**

The Committee on Enrolled Bills to which was referred HB 1427

AN ACT relative to the conversion period for quarterly billing for property taxes.

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 1427

This enrolled bill amendment corrects the section 1 amending language.

Enrolled Bill Amendment to HB 1427

Amend section 1 of the bill by replacing line 1 with the following:

1 Quarterly Billing of Property Taxes; Conversion; First Payment. Amend the introductory paragraph of RSA 76:15-aa, I to

**Adopted.**

**May 4, 2010**  
**2010-1879-EBA**  
**06/04**

**Enrolled Bill Amendment to HB 1526**

The Committee on Enrolled Bills to which was referred HB 1526

AN ACT requiring the department of health and human services to establish a methodology for determining certain high cost long-term care cases.

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 1526

This enrolled bill amendment makes 2 technical corrections and one grammatical correction.

Enrolled Bill Amendment to HB 1526

Amend RSA 151-E:11, IV(a)(3) as inserted by section 2 of the bill by replacing line 2 with the following:  
setting;

Amend RSA 151-E:11, IV(a)(5) as inserted by section 2 of the bill by replacing line 1 with the following:

(5) The requirement that the nursing facility will include the cost for transitional case

Amend RSA 151-E:11, IV(b) as inserted by section 2 of the bill by replacing line 3 with the following:  
nursing facility.

**Adopted.**

**April 29, 2010**  
**2010-1745-EBA**  
**06/03**

**Enrolled Bill Amendment to HB 1541-FN**

The Committee on Enrolled Bills to which was referred HB 1541-FN

AN ACT prohibiting the sale of e-cigarettes to minors.

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 1541-FN

This enrolled bill amendment makes 3 grammatical corrections and one technical correction.

Enrolled Bill Amendment to HB 1541-FN

Amend RSA 126-K:2, II-a as inserted by section 1 of the bill by replacing lines 1 and 2 with the following:

II-a. "E-cigarette" means any electronic smoking device composed of a mouthpiece, a heating element, a battery, and electronic circuits that provides a vapor of pure nicotine mixed with propylene

Amend RSA 126-K:2, II-a as inserted by section 1 of the bill by replacing line 4 with the following:

are manufactured as e-cigarettes, e-cigars, or e-pipes, or under any other product name.

Amend section 7 of the bill by replacing line 1 with the following:

7 Possession and Use of E-Cigarettes by Minors. Amend the section heading of RSA 126-K:6 and RSA 126-K:6, I

**Adopted.**

**April 29, 2010**  
**2010-1742-EBA**  
**03/10**

**Enrolled Bill Amendment to HB 1544-FN**

The Committee on Enrolled Bills to which was referred HB 1544-FN

AN ACT relative to penalties for forestry violations.

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 1544-FN

This enrolled bill amendment corrects a reference in the bill.

Enrolled Bill Amendment to HB 1544-FN

Amend section 1 of the bill by replacing line 1 with the following:

1 New Section; Enhanced Forestry Penalties. Amend RSA 227-G by inserting after section 9 the

**Adopted.**

**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**SB 56**, expanding the duties of the commission to study issues relative to groundwater withdrawals.

**SB 72**, consolidating cemetery boards of trustees in Nashua.

**SB 301**, relative to combustion of untreated wood at municipal transfer stations.

**SB 307**, relative to voting by members of voluntary corporations and associations.

**SB 309**, relative to exempting the division of fire standards and training and emergency medical services from the definition of private postsecondary career school.

**SB 324**, relative to financial disclosures.

**SB 328**, relative to approval procedures on plats.

**SB 330**, relative to the court accreditation commission and the interbranch criminal and juvenile justice council.

**SB 349**, relative to the procedures for appraisal of multifamily residential rental property subject to covenants under the low-income housing tax credit program.

**SB 379**, proclaiming September 5 as Portsmouth Peace Treaty Day.

**SB 384**, authorizing the department of health and human services to provide private adoption agencies access to founded reports of abuse and neglect maintained by the department.

**SB 397**, relative to public utilities commission assessments for the expenses of the consumer advocate.

**SB 403**, relative to motor-driven cycles.

**SB 407**, relative to records maintained by the department of health and human services in abuse and neglect cases.

**SB 412**, relative to the display of the POW-MIA flag.

**SB 415**, relative to remedies against landlords.

**SB 444**, relative to the medical child support obligation.

**SB 458**, relative to enforcement of child support obligations.

**SB 471**, relative to felonious sexual assault and sexual assault.

**SB 501**, relative to worksharing benefits under the unemployment compensation law, and relative to training grants.

**SB 506**, ceding concurrent jurisdiction to the United States government over certain property located in Coos county.

**SB 507**, relative to the Masonic Home.

**SB 508**, establishing the state office of veterans services.

**SB 515**, relative to allowing the commissioner of the department of employment security to participate in a joint local employment dynamics program with the United States Census Bureau and the Bureau of Labor Statistics.

**SJR 2**, endorsing the establishment of a statewide retiree medical trust for public employee health care reimbursement benefits after retirement.

**SJR 3**, in support of the New England secondary school consortium.

**HB 232**, increasing manufacturers' pesticide registration fees.

**HB 341**, relative to the date selected for the presidential primary election.

**HB 510**, relative to the position of director of vital records administration.

**HB 587**, establishing an information and analysis center within the department of safety.

**HB 1136**, requiring a report to be sent to the treatment facility on behalf of a person receiving treatment in the state mental health or developmental services system.

**HB 1138**, relative to the authority to expend municipal transportation improvement funds.

**HB 1149**, relative to the filing of electronic documents in state agency rulemaking.

**HB 1158**, changing the name of the institutional review board to the vital records privacy board for health-related research.

**HB 1159**, relative to the classification of snowmobile trails maintenance vehicles.

**HB 1161**, repealing the requirement to obtain a license to sell in order to sell pistols or revolvers at retail.

**HB 1169**, relative to the New Hampshire health care quality assurance commission.

**HB 1181**, naming a portion of route 43 after the Honorable Robert A. Johnson.

**HB 1204**, relative to equipment and inspection exemptions for older vehicles.

**HB 1207**, relative to Delta Dental data submission.

**HB 1216**, relative to the amount of the self-support reserve in child support cases.

**HB 1230**, relative to commercial motor vehicles and heating oil deliveries.

**HB 1236**, relative to underwriting on the basis of credit information.

**HB 1237**, relative to a certain insurance rulemaking exemption.

**HB 1245**, relative to declarations of candidacy and intent by presidential candidates.

**HB 1249**, relative to seasonal highway limits for certain vehicles.

**HB 1251**, relative to the sale and transfer procedures for shutdown emissions credits.

**HB 1266**, relative to notification requirements for lowering the water level of a lake or pond.

**HB 1269**, relative to the operation of OHRVs and snowmobiles adjacent to public highways.

**HB 1281**, relative to certain securities laws.

**HB 1292**, relative to underground storage tank facility permits, compliance, and cleanup fund eligibility.

**HB 1314**, relative to approval of changes to a capital budget project, and relative to making capital appropriations for kindergarten construction in Milford and the remediation and repair of Dorrs Pond dam in Manchester, and lapsing a portion of certain capital appropriations.

**HB 1374**, relative to the prohibition against participation in a national identification card system.

**HB 1378**, establishing an adopt-a-state park program in the state park system and establishing an adopt-a-forest fire tower program in the division of forests and lands.

**HB 1390**, relative to the minimum age for the operation of commercial vessels.

**HB 1419**, naming a bridge across the Connecticut River from Hinsdale, New Hampshire to Brattleboro, Vermont, informally known as the Hinsdale Bridge, the Anna Hunt Marsh Bridge.

**HB 1422**, establishing a committee to study the establishment of a department of natural resources.

**HB 1435**, relative to the practitioner-patient relationship in the dispensing of prescriptions.

**HB 1441**, relative to claimant eligibility for victim's compensation.

**HB 1450**, relative to the designation of a portion of the Cochemo River as a protected river.

**HB 1476**, relative to periodic verification of the checklist.

**HB 1488**, relative to New Hampshire HealthFirst.

**HB 1508**, relative to communications between offenders convicted of certain sexual assaults and the victims of the crime.

**HB 1519**, repealing the surety bond requirement for meals and rentals operators.

**HB 1525**, relative to physical therapists practicing on animals.

**HB 1529**, relative to absentee voting.

**HB 1537**, allowing primary care providers to provide preventive oral health services to children between 0 and 3 years of age under the state Medicaid program.

**HB 1542**, repealing nitrogen oxide emitting generation source requirements.

**HB 1581**, relative to the taxation of railroads.

**HB 1586**, relative to mandated benefits review.

**HB 1642**, relative to the registration of criminal offenders.

**Sen. D'Allesandro moved adoption of the Report of Committee on Enrolled Bills.**

**Report of Committee on Enrolled Bills adopted.**

**Out of Recess.**

### **MOTION TO ADJOURN FROM LATE SESSION**

Sen. Hassan moved that the Senate adjourn from the Late Session.

**Motion adopted.**

**Adjournment from the Late Session.**

# **SENATE JOURNAL 18**

*May 12, 2010*

The Senate reconvened at 10:00 a.m., a quorum being present.

The Reverend Canon Charles LaFond, chaplain to the Senate, offered the following meditative thoughts and prayer:

I was recently at a secular conference at which Archbishop Desmond Tutu was the speaker, and his new book *Made for Goodness* so profoundly changed by life that I was eager to hear him speak. And in talking about the British church and the crown and their complex relationship, especially in the oppression of Africa, he related a story about early missionary work done in Africa by Anglicans in which England appropriated African lands and industries. He said, in his usual sort of jovial self, "It all happened so fast. They came with their Bibles and stood on our land. They invited us to pray. When we said 'Amen' and opened our eyes, we had their Bibles and they had our land." (Laughter)

In an effort to do what seems to be successful, we can so easily not do what is good and right. Sadly, we all, clergy and Senators alike, have to choose between being admired and being effective. My prayers are very much with you today, I know it's a busy time. Let us pray:

*God of the universe, help us all to discern, every day and every moment, the difference between what is delicious and what is good; the difference between what is wanted and what is needed; and the difference between what is impressive and what is right.*

*Amen*

Sen. DeVries led the Pledge of Allegiance.

### **INTRODUCTION OF GUESTS AND PRESENTATIONS**

President Larsen welcomed New Hampshire AmeriCorps volunteers, and a *RESOLUTION* was presented by Sen. Odell to AmeriCorps and AmeriCorps VISTA members in recognition of "Their service to the people of the State of New Hampshire, improving lives and caring for our state parks." In conjunction with the observance of "AmeriCorps Week" in New Hampshire this week members will be volunteering Saturday in a statewide state park cleanup in preparation for the opening of the parks. Shireen Tilley, state director for Maine-New Hampshire-Vermont for Corporation for National and Community Service, federal funding agency, addressed the Senate body, expressing appreciation for support of the AmeriCorps program.

*RESOLUTION* presented by Sen. Roberge to Valerie Earnshaw of Bedford, in recognition of being named "2010 Mother of the Year" by the New Hampshire Chapter of American Mothers, Inc.

Sen. Carson welcomed Dave Caron, town manager, and Peter Curro, town financial officer, visitors from the Town of Londonderry.

Sen. Janeway welcomed teachers and students from the Jaffrey School, proponents of HB 1206, and further recognized Mary and Andy Swenson, visitors accompanying the school group.

Sen. Kelly introduced her husband Art Luptowski, a visitor to the Senate today.

Sen. Gallus introduced Isabelle Eyman and Luke Anneser, students from Profile High School in Bethlehem serving as Senate Pages for today's session. Sen. Boutin introduced Eliza Conrad, student from Central High School in Manchester serving as Senate Page for today's session.

### **SPECIAL ORDER**

**Without objection, President Larsen moved that HB 1206 and HB 1523 be Special-Ordered to the front of today's Calendar; that HB 366, HB 1459, HB 1270 and HB 1128-FN-L be Special-Ordered to the end of today's Calendar.**

### **Commerce, Labor and Consumer Protection**

**HB 366**, relative to retail vehicle dealers.

**HB 1459**, relative to the board of trust company incorporation.

### **Energy, Environment and Economic Development**

**HB 1270**, (New Title) relative to balancing amounts expended from the renewable energy fund.

### **Finance Committee**

**HB 1128-FN-L**, relative to the distribution of meals and rooms tax revenues to cities and towns.

## **COMMITTEE REPORTS**

### **SPECIAL ORDER**

**HB 1206**, adopting apple cider as the New Hampshire state beverage. Executive Departments and Administration Committee. Ought to Pass, Vote 5-0. Senator DeVries for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1206.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

### **SPECIAL ORDER**

**HB 1523**, revising the pupil safety and violence prevention act. Education Committee. Ought to Pass with Amendment, Vote 5-0. Senator Kelly for the committee.

### **Senate Education**

**May 4, 2010**

**2010-1861s**

**04/10**

### **Amendment to HB 1523**

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

1 Pupil Safety and Violence Prevention; Purpose. RSA 193-F:2 is repealed and reenacted to read as follows:

193-F:2 Purpose and Intent.

I. All pupils have the right to attend public schools, including chartered public schools, that are safe, secure, and peaceful environments. One of the legislature's highest priorities is to protect our children from physical, emotional, and psychological violence by addressing the harm caused by bullying and cyberbullying in our public schools.

II. Bullying in schools has historically included actions shown to be motivated by a pupil's actual or perceived race, color, religion, national origin, ancestry or ethnicity, sexual orientation, socioeconomic status, age, physical, mental, emotional, or learning disability, gender, gender identity and expression, obesity, or other distinguishing personal characteristics, or based on association with any person identified in any of the above categories.

III. It is the intent of the legislature to protect our children from physical, emotional, and psychological violence by addressing bullying and cyberbullying of any kind in our public schools, for all of the historical reasons set forth in this section, and to prevent the creation of a hostile educational environment.

IV. The sole purpose of this chapter is to protect all children from bullying and cyberbullying, and no other legislative purpose is intended, nor should any other intent be construed from the enactment of this chapter.

2 Pupil Safety and Violence Prevention; Definitions. RSA 193-F:3 through RSA 193-F:5 are repealed and reenacted to read as follows:

193-F:3 Definitions. In this chapter:

I.(a) "Bullying" means a single significant incident or a pattern of incidents involving a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, directed at another pupil which:

- (1) Physically harms a pupil or damages the pupil's property;
- (2) Causes emotional distress to a pupil;
- (3) Interferes with a pupil's educational opportunities;
- (4) Creates a hostile educational environment; or
- (5) Substantially disrupts the orderly operation of the school.

(b) "Bullying" shall include actions motivated by an imbalance of power based on a pupil's actual or perceived personal characteristics, behaviors, or beliefs, or motivated by the pupil's association with another person and based on the other person's characteristics, behaviors, or beliefs.

II. "Cyberbullying" means conduct defined in paragraph I of this section undertaken through the use of electronic devices.

III. "Electronic devices" include, but are not limited to, telephones, cellular phones, computers, pagers, electronic mail, instant messaging, text messaging, and websites.

IV. "Perpetrator" means a pupil who engages in bullying or cyberbullying.

V. "School property" means all real property and all physical plant and equipment used for school purposes, including public or private school buses or vans.

VI. "Victim" means a pupil against whom bullying or cyberbullying has been perpetrated.

193-F:4 Pupil Safety and Violence Prevention.

I. Bullying or cyberbullying shall occur when an action or communication as defined in RSA 193-F:3:

(a) Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or

(b) Occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a pupil's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event.

II. The school board of each school district and the board of trustees of a chartered public school shall, no later than 6 months after the effective date of this section, adopt a written policy prohibiting bullying and cyberbullying. Such policy shall include the definitions set forth in RSA 193-F:3. The policy shall contain, at a minimum, the following components:

(a) A statement prohibiting bullying or cyberbullying of a pupil.

(b) A statement prohibiting retaliation or false accusations against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying and, at the time a report is made, a process for developing, as needed, a plan to protect pupils from retaliation.

(c) A requirement that all pupils are protected regardless of their status under the law.

(d) A statement that there shall be disciplinary consequences or interventions, or both, for a pupil who commits an act of bullying or cyberbullying, or falsely accuses another of the same as a means of retaliation or reprisal.

(e) A statement indicating how the policy shall be made known to school employees, regular school volunteers, pupils, parents, legal guardians, or employees of a company under contract to a school, school district, or chartered public school. Recommended methods of communication include, but are not limited to, handbooks, websites, newsletters, and workshops.

(f) A procedure for reporting bullying or cyberbullying that identifies all persons to whom a pupil or another person may report bullying or cyberbullying.

(g) A procedure outlining the internal reporting requirements within the school or school district or chartered public school.

(h) A procedure for notification, within 48 hours of the incident report, to the parent or parents or guardian of a victim of bullying or cyberbullying and the parent or parents or guardian of the perpetrator of the bullying or cyberbullying. The content of the notification shall comply with the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

(i) A provision that the superintendent or designee may, within the 48-hour period, grant the school principal or designee a waiver from the notification requirement if the superintendent or designee deems such waiver to be in the best interest of the victim or perpetrator. Any such waiver granted shall be in writing. Granting of a waiver shall not negate the school's responsibility to adhere to the remainder of its approved written policy.

(j) A written procedure for investigation of reports, to be initiated within 5 school days of the reported incident, identifying either the principal or the principal's designee as the person responsible for the investigation and the manner and time period in which the results of the investigation shall be documented. The superintendent or designee may grant in writing an extension of the time period for the investigation and documentation of reports for up to an additional 7 school days, if necessary. The superintendent or superintendent's designee shall notify in writing all parties involved of the granting of an extension.

(k) A requirement that the principal or designee develop a response to remediate any substantiated incident of bullying or cyberbullying, including imposing discipline if appropriate, to reduce the risk of future incidents and, where deemed appropriate, to offer assistance to the victim or perpetrator. When indicated, the principal or designee shall recommend a strategy for protecting all pupils from retaliation of any kind.

(l) A requirement that the principal or designee report all substantiated incidents of bullying or cyberbullying to the superintendent or designee.

(m) A written procedure for communication with the parent or parents or guardian of victims and perpetrators regarding the school's remedies and assistance, within the boundaries of applicable state and federal law. This communication shall occur within 10 school days of completion of the investigation.

(n) Identification, by job title, of school officials responsible for ensuring that the policy is implemented.

III. The department of education may develop a model policy in accordance with the requirements set forth in this chapter which may be used by schools, school districts, and chartered public schools as a basis for adopting a local policy.

IV. A school board or board of trustees of a chartered public school shall, to the greatest extent practicable, involve pupils, parents, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of developing the policy. The policy shall be adopted by all public schools within the school district and, to the extent possible, the policy should be integrated with the school's curriculum, discipline policies, behavior programs, and other violence prevention efforts.

#### 193-F:5 Training and Assessment.

##### I. Each school district and chartered public school shall provide:

(a) Training on policies adopted pursuant to this chapter, within 9 months of the effective date of this section and annually thereafter, for school employees, regular school volunteers, or employees of a company under contract to a school, school district, or chartered public school who have significant contact with pupils for the purpose of preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying; and

(b) Educational programs for pupils and parents in preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying. Any such program for pupils shall be written and presented in age appropriate language.

II. The department of education shall provide evidence-based educational programs to support training as required under paragraph I.



III. Nothing in this chapter shall require the inclusion of any specific curriculum, textbook, or other material designed to prevent bullying or cyberbullying in any program or activity conducted by an educational institution. The omission of such subject matter from any curriculum, textbook, or other material in any program or activity conducted by an educational institution shall not constitute a violation of this chapter.

3 New Sections; Pupil Safety and Violence Prevention. Amend RSA 193-F by inserting after section 5 the following new sections:

193-F:6 Reporting.

I. Each school district and chartered public school shall annually report substantiated incidents of bullying or cyberbullying to the department of education. Pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, such reports shall not contain any personally identifiable information pertaining to any pupil. The department shall develop a form to facilitate the reporting by school districts and chartered public schools. The department shall maintain records of such reports.

II. The department of education shall prepare an annual report of substantiated incidents of bullying or cyberbullying in the schools. The report shall include the number and types of such incidents in the schools and shall be submitted to the president of the senate, the speaker of the house of representatives, and the chairpersons of the house and senate education committees. The department of education shall assist school districts with recommendations for appropriate actions to address identified problems with pupil safety and violence prevention.

193-F:7 Immunity. A school administrative unit employee, school employee, chartered public school employee, regular school volunteer, pupil, parent, legal guardian, or employee of a company under contract to a school, school district, school administrative unit, or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the reporting, investigation, findings, recommended response, or implementation of a recommended response under this chapter. The department of education shall be immune from civil liability for its good faith conduct in making recommendations under this chapter.

193-F:8 School District Discrimination or Harassment Policies. A school district or chartered public school may establish separate discrimination or harassment policies that include categories of pupils, and nothing in this chapter shall prevent a school district or chartered public school from remediating any discrimination or harassment based on a person's membership in a legally protected category under local, state, or federal law.

193-F:9 Private Right of Action Not Permitted. Nothing in this chapter shall supersede or replace existing rights or remedies under any other general or special law, including criminal law, nor shall this chapter create a private right of action for enforcement of this chapter against any school district or chartered public school, or the state.

193-F:10 Public Academies. The provisions of this chapter shall apply to public academies as defined in RSA 194:23.

4 Wiretapping and Eavesdropping; Interception and Disclosure. Amend RSA 570-A:2, II(k)(1) to read as follows:

(k)(1) The owner or operator of a school bus, as defined in RSA 259:96, to make an audio recording in conjunction with a video recording of the interior of the school bus while students are being transported to and from school or school activities, provided that the school board authorizes audio recording, the school district provides notification of such recording to the parents and students as part of the district's pupil safety and violence prevention policy required under ~~[RSA 193-F:3, I(b)]~~ **RSA 193-F**, and there is a sign informing the occupants of such recording prominently displayed on the school bus.

5 New Section; Safe School Zones; Liability for Reporting. Amend RSA 193-D by inserting after section 8 the following new section:

193-D:9 Liability for Reporting. Any public or private school employee or employee of a company under contract to a school or school district who in good faith has made a report under RSA 193-D shall not be subject to liability for making the report.

6 Effective Date. This act shall take effect July 1, 2010.

**The question is on the adoption of Committee Amendment 1861s.**

**Committee Amendment 1861s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1523.**

**A roll call was requested by Sen. Hassan, seconded by Sen. DeVries.**

**Recess. Out of recess.**

**The question is on the motion of Ought to Pass as Amended on HB 1523.**

**A roll call had been requested.**

**The following Senators voted Yes: Gallus, Reynolds, Bradley, Sgambati, Houde, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gilmour, Lasky, Carson, Larsen, Boutin, Barnes, DeVries, Letourneau, D'Allesandro, Merrill, Downing, Hassan, Fuller Clark.**

**The following Senators voted No: (None)**

**Yeas: 24 - Nays: 0**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**Recess. Out of recess.**

### **SPECIAL ORDER**

**Without objection President Larsen moved that HB 1364 and HB 1417 be Special-Ordered to the end of today's Calendar.**

### **Commerce, Labor and Consumer Protection**

**HB 1364**, relative to Medicare unfair trade practices.

**HB 1417**, allowing companion dogs in certain areas of restaurants.

**HB 1340**, relative to condominium liens for assessments. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 6-0. Senator Cilley for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1340.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1366**, making certain technical corrections in the insurance laws. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1366.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1368**, relative to the definition of "employee" for workers' compensation purposes. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 3-1. Senator Hassan for the committee.

### **Commerce, Labor and Consumer Protection**

**May 6, 2010**

**2010-1967s**

**04/03**

### **Amendment to HB 1368**

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

AN ACT relative to the definition of "employee" for workers' compensation purposes and relative to the New Hampshire return to work program.

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

2 New Subparagraph; Employment; New Hampshire Return to Work Program. Amend RSA 282-A:9, IV by inserting after subparagraph (w) the following new subparagraph:

(x) Participation in the New Hampshire return to work program in the department of employment security which provides a structured, supervised training opportunity to claimants through a designated employer/training partner. Claimants participate on a voluntary basis and continue to receive unemployment compensation during the training period as long as they remain otherwise eligible. The training program duration is a maximum of 6 weeks and a maximum of 24 hours per week.

3 New Section; Return to Work Program Participants; Workers' Compensation Eligibility. Amend RSA 282-A by inserting after section 26 the following new section:

**282-A:26-a Return to Work Program Participants; Workers' Compensation Eligibility.**

I. A participant in the department of employment security's return to work program shall be entitled to certain benefits under RSA 281-A. In the event that it is determined that a return to work program participant has been subject to an injury or occupational disease producing a disability arising out of and in the course of participation in the return to work program, the department of employment security shall not provide compensation pursuant to RSA 281-A:28, 281-A:28-a, 281-A:31, and 281-A:31-a, but the participant shall receive unemployment compensation benefits while otherwise eligible under RSA 282-A, or compensation equivalent to 90 percent of those benefits if the disability causes the participant to become ineligible for benefits under RSA 282-A. When determining the amount of compensation provided pursuant to RSA 281-A:32 for a scheduled permanent impairment award, the amount of compensation shall be calculated by using the minimum wage at the time of injury multiplied by the average number of hours in training per week.

II. For a participant in the return to work program, RSA 281-A:8, I and II shall not apply and the following provisions shall apply:

(a) A participant in the return to work program shall be conclusively presumed to have accepted the provisions of this chapter and, on behalf of the participant or the participant's personal or legal representatives, to have waived all rights of action whether at common law or by statute or provided under the laws of any other state or otherwise:

(1) Against the employer/training partner, or the employer/training partner's insurance carrier, or an association or group providing self-insurance to a number of employers, or the department and the return to work program; and

(2) Except for intentional torts, against any officer, director, agent, servant, or employee acting on behalf of the entities named in subparagraph (a)(1).

(b) The spouse of a return to work program participant entitled to benefits under this chapter, or any other person who might otherwise be entitled to recover damages on account of the participant's personal injury or death, shall have no direct action, either at common law or by statute or otherwise, to recover for such damages against any person identified in this paragraph.

III. The department of employment security may provide this benefit by appropriate means including purchasing and serving as the master policyholder for any insurance, by self-insurance, or by administrative services contract.

IV. Except as otherwise provided in this section, all other provisions of RSA 281-A shall apply.

4 Effective Date. This act shall take effect January 1, 2011.

**2010-1967s**

**AMENDED ANALYSIS**

This bill clarifies the evidence required to establish the relationship between the employer and the person providing services under the workers' compensation law. The bill also provides that participants in the department of employment security's return to work program shall be entitled to certain unemployment compensation benefits.

**The question is on the adoption of Committee Amendment 1967s.**

**Committee Amendment 1967s adopted.**

**Sen. Hassan offered a floor amendment.**

**Sen. Hassan, Dist. 23**

**May 11, 2010**

**2010-2024s**

**01/09**

**Floor Amendment to HB 1368**

Amend the bill by replacing section 4 with the following:

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

**The question is on the adoption of Floor Amendment 2024s.**

**Floor Amendment 2024s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1368.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1137**, relative to withholding of wages. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 3-3. Senator Reynolds for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1137.**

**A division vote was requested.**

**Yeas: 6 - Nays: 18**

**Motion of Inexpedient to Legislate failed.**

**Sen. Bragdon moved Ought to Pass.**

**The question is on the motion of Ought to Pass on HB 1137.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1163**, (New Title) relative to the definition of employer for purposes of safety provisions under the workers' compensation law. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 6-0. Senator Bragdon for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1163.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1352**, relative to direct shippers. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 6-0. Senator DeVries for the committee.

**Commerce, Labor and Consumer Protection**

**May 11, 2010**

**2010-2013s**

**03/05**

#### **Amendment to HB 1352**

Amend the bill by replacing section 3 with the following:

3 Direct Shippers. Amend RSA 178:27, III to read as follows:

III. ***Except with written permission of the commission***, no direct shipper shall ship more than 60 individual containers of not more than one liter each of liquor and ***not more than 12 - 9 liter cases or equivalent of*** wine to any one [~~licensee in New Hampshire or to any~~] consumer [~~or consumer's address~~] in New Hampshire in any calendar year. ***The commission shall only grant permission for additional shipments if the additional shipments are of products not otherwise available in New Hampshire.*** Furthermore, in the event any [~~manufacturer or wholesaler~~] direct shipper wishes to ship more than a total of [~~1,200 individual containers of not more than one liter each~~] ***600 liters*** of any particular liquor or wine directly to any combination of licensees and/or consumers in New Hampshire, the shipper shall offer to sell a matching amount to the commission or beer distributor at ***the lower of the*** wholesale [~~prices~~] ***price or the lowest price delivered into New Hampshire. A licensee may purchase from a direct shipper pursuant to RSA 179:32, III.***

Amend the bill by inserting after section 4 the following and renumbering the original sections 5-7 to read as 6-8, respectively:

5 New Paragraph; Fees. Amend RSA 178:29 by inserting after paragraph V-a the following new paragraph:

V-b.(a) Annual direct shipper permit fees:

(1) Wine manufacturers, \$100.

(2) Importers, retailers, and wholesalers, \$500.

(b) If a direct shipper made less than 5 shipments during the permit year, the commission shall, upon request of the direct shipper, refund a portion of the permit fee. The amount of the refund shall be equal to 20 percent of the fee paid multiplied by the difference between 5 and the number of shipments made.

Amend the bill by replacing section 6 with the following:

6 Prohibited Sales. Amend RSA 179:5, I to read as follows:

I. No licensee, salesperson, direct shipper, common carrier, delivery agent, nor any other person, shall sell or give away or cause or allow or procure to be sold, delivered, or given away any liquor or beverage to a person under the age of 21 or serve an individual who is visibly intoxicated or who a reasonable and prudent person would know is intoxicated. For all deliveries of packages by common carrier or delivery agent marked "alcoholic beverages" or "alcoholic products," the [addressee shall sign a delivery receipt] ***carrier shall obtain an adult signature.*** ~~[In no case shall any section of this title be so construed as to permit sale of liquor or beverages in any so-called saloon or speakeasy.]~~ ***A licensed carrier shall not transport any liquor, wine, or beverage that has been identified by the commission as originating from a person who does not hold a valid New Hampshire direct shipper permit, provided that such identification has first been provided to and received by the licensed carrier in writing. The commission shall notify carriers by mail on a monthly basis of the identity of unauthorized shippers, which notification shall be effective 15 days after such mailing.***

2010-2013s

#### AMENDED ANALYSIS

This bill changes reporting requirements for direct shippers of alcoholic beverages and modifies the limitations on the number of containers of liquor and wine a direct shipper may ship to a customer. This bill also prohibits transportation of unauthorized direct shipments.

**The question is on the adoption of Committee Amendment 2013s.**

**Committee Amendment 2013s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1352.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1370**, requiring independent medical examination practitioners to file a report with the insurance department. Commerce, Labor and Consumer Protection Committee. Inexpedient to Legislate, Vote 6-0. Senator Bragdon for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1370.**

**Motion of Inexpedient to Legislate adopted.**

**HB 1371**, allowing recording of an examination by health care providers performing independent medical examinations. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 6-0. Senator DeVries for the committee.

**Commerce, Labor and Consumer Protection**

**May 11, 2010**

**2010-2011s**

**01/05**

#### Amendment to HB 1371

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

AN ACT allowing an injured employee to have a witness present at the examination by health care providers performing independent medical examinations and establishing a committee to study certain aspects of independent medical examinations.

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

1 Workers' Compensation; Independent Medical Examinations. Amend RSA 281-A:38, II to read as follows:

II. Any health care provider conducting independent medical examinations under this chapter shall be certified by the appropriate specialty board as recognized by the American Board of Medical Specialties or obtain the approval of the commissioner for those specialties not recognized by such board. The health care

provider shall maintain a current practice in that area of specialty. The independent medical examination shall take place within a 50-mile radius of the residence of the injured employee, unless, within the discretion of the commissioner, examination outside the 50-mile radius is necessary to obtain the services of a provider who specializes in the evaluation and treatment specific to the nature and extent of the employee's injury. The injured employee shall not be required to submit to more than 2 independent medical examinations per year, unless within the discretion of the commissioner, more than 2 examinations are necessary. ***An injured employee shall have the right to have a witness present during such examination. In the event that a witness is present, including but not limited to a witness taking notes or observing, on behalf of the injured employee, the witness shall not interfere in the examination in any way. The injured employee shall be required to sign an authorization, as prepared by the commissioner, to the effect that he or she understands that his or her medical history and condition or conditions will be discussed during said examination and that he or she waives any right to privacy that he or she may have under the circumstances of voluntarily allowing a witness to be present on his or her behalf.***

2 Committee Established. There is established a committee to study whether allowing an injured employee to record the independent medical examination is feasible and whether independent medical examination practitioners should be required to file a report with the insurance department.

### 3 Membership and Compensation.

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

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

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

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

4 Duties. The committee shall study whether allowing an injured employee to record the independent medical examination required by workers' compensation is feasible and whether independent medical examination practitioners who perform 10 or more examinations in a calendar year should be required to file an annual report with the insurance department.

5 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

6 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2010.

### 7 Effective Date.

I. Section 1 of this act shall take effect January 1, 2011.

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

## 2010-2011s

### AMENDED ANALYSIS

This bill allows an injured employee to have a witness present during the independent medical examinations required under workers' compensation.

This bill also establishes a committee to study certain aspects of independent medical examinations.

**The question is on the adoption of Committee Amendment 2011s.**

**Committee Amendment 2011s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1371.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

### SPECIAL ORDER

**Without objection President Larsen moved HB 1393 be Special-Ordered to after the lunch recess.**

**Commerce, Labor and Consumer Protection**

**HB 1393**, (New Title) relative to the treatment of New Hampshire investment trusts.

**HB 1470**, establishing a committee to study laws relating to condominium and homeowners' associations. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 5-1. Senator Roberge for the committee.

**Commerce, Labor and Consumer Protection**

**May 11, 2010**

**2010-2023s**

**05/10**

**Amendment to HB 1470**

Amend RSA 356-B:70, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The committee shall:

- (a) Study laws relevant to condominium and other homeowners' associations.
- (b) Study the registration of subdivisions under the land sales full disclosure act, RSA 356-A, and condominiums under the condominium act, RSA 356-B, with the department of justice.
- (c) Evaluate the need to distinguish smaller and larger associations in the statutes and to differentiate between condominium associations and homeowners' associations.
- (d) Study model laws for possible improvement to New Hampshire laws.
- (e) Recommend statutory changes.
- (f) Solicit information and testimony from the Community Associations Institute and others with expertise or information relevant to the committee's study.

**The question is on the adoption of Committee Amendment 2023s.**

**Committee Amendment 2023s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1470.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HCR 30**, (New Title) urging the attorney general to fully investigate the proposed transaction between Catholic Medical Center Healthcare System and Dartmouth-Hitchcock Health. Commerce, Labor and Consumer Protection Committee. Ought to Pass, Vote 5-1. Senator DeVries for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HCR 30.**

**Sen. Houde offered a floor amendment.**

**Sen. Houde, Dist. 5**

**Sen. Hassan, Dist. 23**

**May 11, 2010**

**2010-2035s**

**01/05**

**Floor Amendment to HCR 30**

Amend the resolution by replacing all after the title with the following:

Whereas, Catholic Medical Center Healthcare System and Dartmouth-Hitchcock Health, 2 health care charitable trusts, are proposing to affiliate in order to create an integrated health care system that will enhance and improve the availability of health care services in the greater Manchester area; and

Whereas, it is the duty and obligation of the attorney general through the director of charitable trusts to oversee New Hampshire charitable institutions and to preserve and protect New Hampshire charitable assets; and

Whereas, the general court enacted RSA 7:19-b, regulating acquisition transactions involving health care charitable trusts, which statute applies to this proposed transaction; and

Whereas, the attorney general is presently in the process of reviewing the transaction under RSA 7:19-b, and has hired special counsel to assist in this review as provided by law; and

Whereas, the provisions of RSA 7:19-b do not supplant or restrict the general powers of the probate courts with respect to charitable trusts under existing law; now therefore be it

Resolved by the House of Representatives, the Senate concurring:

That the New Hampshire general court hereby urges the attorney general to bring this proposed transaction before the probate court for Hillsborough county in the event that the attorney general determines there are unresolved legal questions within the jurisdiction of the probate court that relate to charitable missions and assets of the 2 health care charitable trusts; and

That the attorney general file a formal report of his or her actions and decisions taken pursuant to RSA 7:19-b with the general court within a reasonable time so that the public may be satisfied that the director of charitable trusts has fulfilled his or her statutory and common law obligations to the community and to this state; and

That the house clerk deliver a copy of this resolution to the attorney general.

**The question is on the adoption of Floor Amendment 2035s.**

**A division vote was requested.**

**Yeas: 13 - Nays: 11**

**Floor Amendment 2035s adopted.**

**The question is on the motion of Ought to Pass as Amended on HCR 30.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**Sen. DeVries is in opposition to adoption of Floor Amendment 2035s on HCR 30.**

**Sen. D'Allesandro is in opposition to adoption of Floor Amendment 2035s and motion of Ought to Pass with Amendment on HCR 30.**

**HB 1411**, (New Title) requiring notice to educational support personnel and non-certified school district employees. Education Committee. Ought to Pass with Amendment, Vote 4-1. Senator Fuller Clark for the committee.

#### **Senate Education**

**May 4, 2010**

**2010-1860s**

**04/09**

#### **Amendment to HB 1411**

Amend RSA 189:14-h as inserted by section 1 of the bill by replacing it with the following:

189:14-h Notice to Education Support Personnel and Non-Certified School District Employees Required. No later than the last day of school each year, the superintendent shall notify, in writing, all education support personnel and non-certified school district employees who have completed their probationary employment period of the intent to continue or not to continue that employment into the next school year. The notification may contain special circumstances as may be defined by the employer. Nothing in this section shall be construed to amend, replace, or otherwise modify a school district's policy on dismissal, collective bargaining agreements, or any employee benefits package. The receipt of notification under this section shall not constitute a private right of action against a school district.

**The question is on the adoption of Committee Amendment 1860s.**

**Committee Amendment 1860s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1411.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1477**, relative to checklist information. Election Law and Veterans' Affairs Committee. Ought to Pass with Amendment, Vote 3-2. Senator Houde for the committee.



**Election Law and Veterans' Affairs**  
**May 4, 2010**  
**2010-1845s**  
**03/10**

**Amendment to HB 1477**

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

AN ACT relative to checklist information and relative to challenges of voters.

Amend RSA 654:25 as inserted by section 1 of the bill by replacing it with the following:

654:25 Preparing Checklist. The secretary of state shall issue and distribute guidelines for the composition and style of checklists and for the maintenance of data related to checklists by which the supervisors of the checklist shall compile and correct the checklist. Such guidelines shall specify the information which will be maintained and updated by the supervisors. The secretary shall establish standard forms and procedures for the use of the supervisors for the maintenance of such information. The information to be maintained and updated shall include the full name, *domicile* address, *mailing address*, and party affiliation, if any, of each voter on the checklist and such other information as the secretary requires. Every checklist used at any election shall contain the full name, *domicile* address, *mailing address*, and party affiliation, if any, of each voter on the checklist. ***The paper checklists used by ballot clerks on election day need not include mailing addresses.*** The name and address of a voter shall not appear on the checklist at the request of the voter if the voter presents to the supervisors of the checklist a valid protective order pursuant to RSA 173-B. The name, *domicile* address, and mailing address, if different, of such a voter shall be maintained on a separate list of voters, which shall be nonpublic and not subject to RSA 91-A. If it is necessary to establish such a nonpublic list, the public checklist shall be marked at the end with a notation of the number of voters whose names are maintained on the nonpublic list.

Amend the bill by replacing all after section 3 with the following:

4 Challenge of Voter; Affidavit. RSA 659:27 is repealed and reenacted to read as follows:

659:27 Challenge of Voter; Affidavit.

I. A voter offering to vote at any state election may be challenged by any other voter registered in the town or ward in which the election is held, an election official, a challenger appointed by a political committee pursuant to RSA 666:4, or a challenger appointed by the attorney general pursuant to RSA 666:5.

II. Upon receipt of a written challenge, the moderator shall determine if the challenge to the ballot is well grounded. If the moderator determines that the challenge is well grounded, the moderator shall not receive the vote of the person so challenged until the person signs and gives to the moderator an affidavit in the following form: I, \_\_\_\_\_, do solemnly swear (or affirm) under penalties of voter fraud, that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward), and have a legal domicile therein. If the moderator determines that the challenge is not well grounded, the moderator shall permit the voter to proceed to vote.

III. No voter or appointed challenger shall challenge a person's qualifications to be a voter at the election day voter registration table.

5 New Section; Asserting a Challenge. Amend RSA 659 by inserting after section 27 the following new section:

659:27-a Asserting a Challenge.

I. No challenge may be asserted except in the form of a signed affidavit, under oath administered by an election official, in the following form:

**INFORMATION ON THE PERSON MAKING THE CHALLENGE**

Name of Person Making the Challenge:

Last Name	First Name	Middle Name/Initial
Party affiliation		

---

If person making a challenge is a voter: Physical Address – Street Name & Number

---

If person is a political party or attorney general appointee: mailing address & phone number

---

The challenger's qualifications to assert the challenge

INFORMATION ON THE VOTER BEING CHALLENGED: The person making the challenge shall complete the following:

Name being used by the voter who you wish to challenge:

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Last Name	First Name	Middle Name
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GROUND FOR THE CHALLENGE: The person making the challenge shall indicate the ground on which the challenge is made (check all grounds that apply).

☐ The person seeking to vote is not the individual whose name he or she has given

☐ The person seeking to vote has already voted in the election at (name polling place) \_\_\_\_\_  
at approximately (state time if known) \_\_\_\_\_

☐ The person seeking to vote is disqualified as a voter by conviction of a willful violation of the elections laws (state offense, court, and date of conviction) \_\_\_\_\_

☐ The person seeking to vote is under 18 years of age

☐ The person seeking to vote is not a United States Citizen

☐ The person seeking to vote is not domiciled in the town or ward where he or she is seeking to vote (state person's true domicile —town/city) \_\_\_\_\_

☐ The person seeking to vote is an incarcerated convicted felon who is currently sentenced to incarceration (state name of institution person is in) \_\_\_\_\_

☐ This is a primary and the person seeking to vote in the (state political party name) \_\_\_\_\_  
primary is not a declared member of the party he or she claims to be affiliated with

☐ The person seeking to vote is ineligible to vote pursuant to the following state or federal statute or constitutional provision: \_\_\_\_\_

BASIS FOR THE CHALLENGE: The person making the challenge shall state the specific source of the information or personal knowledge upon which the challenge of the particular individual is based:

---

OATH: The person making the challenge shall complete the following:

I hereby swear and affirm, under the penalties of perjury, that to the best of my knowledge and belief the information above is true and correct.

---

(Signature of challenger)

On the date shown above, before me, \_\_\_\_\_ (print name of notary public, justice of the peace, election officer), appeared \_\_\_\_\_ (print name of person whose signature is being notarized), known to me or satisfactorily proven (circle one) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

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Notary Public/Justice of the Peace/Official Authorized by RSA 659:30

TO BE COMPLETED BY THE MODERATOR: Ruling on the challenge:

If the ground at issue is age, citizenship, or domicile: The supervisors of the checklist have ruled that the challenged voter is: qualified as a voter; not qualified as a voter.

The moderator rules on challenges based on other grounds. The moderator rules that the challenge is: well grounded; not well grounded. If it is ruled that the voter is not qualified or that the challenge is well grounded, the challenged person may vote only if he or she completes and swears to a challenged votes affidavit.

II. A challenge may be asserted only upon personal knowledge or other basis of probable cause that the challenged voter is ineligible to vote. No challenge may be accepted unless one of the following grounds is asserted and specific facts are offered in support of such grounds:

- (a) The person seeking to vote is not the individual whose name he or she has given.
- (b) The person seeking to vote has already voted in the election at the time and place specified in the challenge.
- (c) The person seeking to vote is disqualified as a voter by conviction of a willful violation of the elections laws, such conviction having been for the offense specified in the challenge.
- (d) The person seeking to vote is under 18 years of age.
- (e) The person seeking to vote is not a United States citizen.
- (f) The person seeking to vote is not domiciled in the town or ward where he or she is seeking to vote because the person's true domicile is in the town or city specified in the challenge.
- (g) The person seeking to vote is an incarcerated convicted felon who is currently sentenced to incarceration in the institution specified in the challenge.
- (h) The person is attempting to vote in a primary and the person is not a declared member of the party with which he or she claims to be affiliated.
- (i) The person is ineligible to vote pursuant to some other state or federal statute or constitutional provision specified in the challenge.

6 Absentee Ballots; Announcement by Moderator and Challenges. Amend RSA 659:50 and RSA 659:51 to read as follows:

659:50 Announcement by Moderator. The moderator shall begin processing absentee ballots by clearly announcing that he *or she* is about to open the envelopes which were delivered to him *or her*. The moderator shall then remove the affidavit envelope containing the ballots of each absentee voter and shall compare the signature on the affidavit envelope with the signature on the application for the ballot. If:

- I. The name of the voter is on the checklist, ***except for voters provided for in RSA 7:46***; and
- II. The affidavit on the envelope appears to be properly executed; and
- III. The signature on the affidavit appears to be executed by the same person who signed the application; and
- IV. The signatures appear to be the signatures of a duly qualified voter who has not voted at the election; then the moderator shall publicly announce the name of the absentee voter, ***except for voters provided for in RSA 7:46***. If these conditions are not met, the moderator shall follow the procedure provided in RSA 659:53.

659:51 Challenges.

***I.*** All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter, ***except for voters provided for in RSA 7:46***, but not after the ballot is removed from the envelope. ~~[A person who makes a challenge shall state the reason for the challenge.]~~ ***No challenge to an absentee ballot may be asserted except in conformity with the requirements of RSA 659:27-a.***

***II.*** If the ballot is challenged, the moderator shall write on the affidavit envelope containing the ballot the word "challenged" and the name and address of the person who makes the challenge and the basis of the challenge. The moderator shall also number each challenged envelope consecutively by marking, for example, the first challenged ballot "Challenged Ballot No. 1".

**III.** The moderator shall then determine if the challenge to the ballot is well grounded. If the moderator decides the challenge is well grounded, he *or she* shall not open the envelope but shall preserve it with the other ballots cast at the election as provided in RSA 659:101. If the moderator decides that the challenge is not well grounded, he *or she* shall open the affidavit envelope so the affidavit thereon is not destroyed and proceed first to mark on the reverse of the folded ballot the corresponding challenge number as previously marked on the envelope. [He] **The moderator** shall then proceed to deposit the ballot as provided in RSA 659:52.

7 Effective Date.

I. Sections 4-6 of this act shall take effect January 1, 2011.

II. The remainder of this act shall take effect 60 days after its passage.

**2010-1845s**

#### AMENDED ANALYSIS

This bill modifies requirements relating to voter address information. This bill also establishes additional requirements for challenging voters, including a challenge affidavit.

**The question is on the adoption of Committee Amendment 1845s.**

**Committee Amendment 1845s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1477.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1535-FN**, (New Title) relative to absentee voting, special elections, election returns, preservation of ballots, recounts, and the ballot law commission. Election Law and Veterans' Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator Lasky for the committee.

**Election Law and Veterans' Affairs**

**May 4, 2010**

**2010-1840s**

**03/01**

#### **Amendment to HB 1535-FN**

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

AN ACT relative to absentee voting, special elections, election returns, preservation of ballots, recounts, the ballot law commission, and electronic ballot counting devices.

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

1 Reference Changed. Amend RSA 44:5 to read as follows:

44:5 Voters and Checklists. Any person having his or her domicile within the city, qualified to vote as provided in RSA 654:1[-654:2 and 654:4] **through** 654:6 and whose name is on the checklist shall be qualified to vote in city elections. The supervisors of the checklist shall prepare, post, and revise the checklist for city elections in the same manner as for a state election as provided in RSA 654:25-654:31.

2 Reference Changed. Amend RSA 652:13 to read as follows:

652:13 Federal Election. "Federal election" shall mean any state general, special, or primary election held solely or in part for the purpose of choosing or nominating any candidates for the offices of president, vice-president, United States senator, or United States representative. For federal [overseas] **ballot only** voters **domiciled outside the United States** who are eligible to vote in federal elections as provided in RSA 657:2, "federal election" shall also include any presidential primary election.

3 New Sections; Terms and Definitions. Amend RSA 652 by inserting after section 16-a the following new sections:

652:16-b UOCAVA Voters. "UOCAVA voters" shall mean absent uniformed services voters, absent voters temporarily residing outside the United States, and federal ballot only voters domiciled outside the United States as described in RSA 654:3.

652:16-c Absent Uniformed Services Voters. "Absent uniformed services voters" shall mean persons who are absent from the places of residence in New Hampshire where they are otherwise qualified to vote who are:

I. Members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, and the commissioned corps of the Public Health Service, and all regular and reserve components thereof, while in active service.

II. Members of the Merchant Marine of the United States, including individuals (other than members of a uniformed service or individuals employed, enrolled, or maintained on the Great Lakes or the inland waterways):

(a) Employed as officers or crew members of vessels documented under the laws of the United States, or of vessels owned by the United States, or of vessels of foreign-flag registry under charter to or control of the United States; or

(b) Enrolled with the United States for employment, or for training for employment, or maintained by the United States for emergency relief service, as officers or crew members of any such vessel.

III. The spouses or dependents of any member described in paragraph I or II who, by reason of the active duty or service of the member, is absent from the place of residence in New Hampshire where the spouse or dependent is otherwise qualified to vote.

652:16-d Accessible Voting System. "Accessible voting system" shall mean the system chosen by the state to meet the accessibility for individuals with disabilities requirements of section 301 of the Help America Vote Act of 2002, 42 U.S.C. section 15481, that has the capacity to print a paper ballot marked with the votes chosen by the voter.

4 New Subdivision; Chief Election Officer. Amend RSA 652 by inserting after section 22 the following new subdivision:

#### Chief Election Officer

652:23 Chief Election Officer. The secretary of state shall be the chief election officer for the state. The secretary of state shall provide information regarding voter registration procedures and absentee ballot procedures for all voters, including absent uniformed services voters, absent voters temporarily residing outside the United States, and federal ballot only voters domiciled outside the United States. Instructional and informational materials published by the secretary of state for clerks to provide such voters shall include information on how to communicate electronically with election officials.

5 Uniformed and Overseas Citizens Absentee Voting Act Voters. RSA 654:3 is repealed and reenacted to read as follows:

#### 654:3 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) Voters.

I. Absent uniformed services voters. An absent uniformed services voter, being a citizen of the United States and being at least 18 years of age as provided in Article 11 of Part First of the Constitution of New Hampshire, shall have the right to vote absentee in any state election in the town or city in New Hampshire in which he or she had his or her domicile immediately prior to service, even though he or she no longer maintains domicile in said town or city and even though his or her intent to return thereto is uncertain, provided:

(a) He or she complies with all other applicable requirements and qualifications of the state of New Hampshire.

(b) He or she is not registered to vote in any other state or election district of a state, or in any territory or possession of the United States.

II. Absent voters temporarily residing outside the United States. An absent voter temporarily residing outside the United States, being a citizen of the United States and being at least 18 years of age as provided in Article 11 of Part First of the Constitution of New Hampshire shall have the right to vote absentee in any election in the town or city in New Hampshire in which he or she had his or her domicile immediately prior to his or her departure provided:

(a) He or she complies with all other applicable requirements and qualifications of the state of New Hampshire; and

(b) He or she is not domiciled and is not registered to vote in any other state or election district of a state, or in any territory or possession of the United States; and

(c) He or she has a valid passport or card of identity issued under the authority of the Secretary of State of the United States.

III. Federal ballot only voters domiciled outside the United States. Any United States citizen, being at least 18 years of age as provided in Article 11 of Part First of the Constitution of New Hampshire, who is domiciled outside the United States, shall have the right to register absentee and to vote for federal offices in the town or city in New Hampshire in which he or she, or a parent or legal guardian of said voter, had his or her domicile immediately prior to his or her departure from the United States, even though he or she no longer maintains domicile in said town or city and even though his or her intent to return thereto is uncertain, provided:

(a) He or she complies with all other applicable requirements and qualifications of the state of New Hampshire; and

(b) He or she is not domiciled in and is not registered to vote in any other state or election district of a state, or in any territory or possession of the United States; and

(c) He or she has a valid passport or card of identity issued under the authority of the Secretary of State of the United States.

6 Reference Changed. Amend RSA 654:19 to read as follows:

654:19 Submission; Effect. The applicant shall forward the absentee registration affidavit and the applicant's voter registration form to the clerk of the town or city named for submission to the supervisors of the checklist. If the supervisors find that the affidavit and the voter registration form are properly executed, they shall follow the procedure for applications made in person as provided in RSA 654:11, 654:13, and 654:15, except that in the case of an absentee voter they shall accept an absentee registration affidavit and a registration form. ~~[An affidavit which is properly executed shall be considered valid and shall be effective for both a primary and a general election for armed services voters and for absent voters who reside outside the continental United States.]~~

7 Overseas Citizens Voting. Amend the subdivision heading preceding RSA 654:20 to read as follows:

~~[Overseas Citizens Voting:]~~ Federal ~~[Elections Only]~~ ***Post Card Application Form***

8 Federal Post Card Application Form. RSA 654:20 is repealed and reenacted to read as follows:

654:20 Federal Post Card Application Form for UOCAVA Voters. As required by federal law, UOCAVA voters may apply to register to vote and apply for an absentee ballot using the federal official post card form prescribed by 42 U.S.C. section 1973ff(b)(2).

9 Effect. Amend RSA 654:23 to read as follows:

654:23 Effect. Unless the supervisors of the checklist shall be of the opinion that the ***federal post card*** applicant does not qualify as ~~[an overseas]~~ ***a UOCAVA*** voter in the city or town as provided in RSA 654:3, ~~[domiciled outside the United States,]~~ they shall, at their next session for the correction of the checklist subsequent to their receipt of such ~~[affidavit]~~ ***federal post card application*** properly executed, cause his or her name to be added to the checklist ~~[together with]~~ ***and, if the applicant is domiciled outside the United States,*** a mark or sign clearly indicating that the application has been entered on the checklist for the purpose of voting in federal elections only. Thereafter, ~~[such]~~ ***if the person is domiciled outside the United States, he or she*** shall be entitled to vote by ~~[overseas citizens]~~ ***federal offices only*** absentee ballot at both federal primary and general elections. If the supervisors decide not to add the name of the applicant to the checklist, they shall send notification to the applicant in writing within 7 days stating the reason for that denial.

10 Vacancy for Office on Party Ticket. Amend RSA 655:37 to read as follows:

655:37 Vacancy for Office on Party Ticket. If, after the holding of a state primary election, a vacancy exists for any office on a party ticket, such vacancy may be filled as provided in this section. The appropriate party committee shall notify the secretary of state in writing of a person they designate to fill the vacancy. The person so designated shall, no later than the ~~[second]~~ ***first*** Friday following the primary election, file with the secretary of state a declaration of candidacy as provided in RSA 655:17 with the understanding that, where the form says primary election, it shall be construed to mean general election. If the candidate is designated for the office of governor, executive councilor, state senator, or state representative, he ***or she*** shall also file, no later than ***5:00 p.m. on the [second Friday] first Friday*** following the primary, the appropriate affidavit as provided in RSA 655:29. Any candidate who has not filed all the forms required by this section within the required period of time shall not have his ***or her*** name printed on the state general election ballot for that office.

11 Nominations for Special State Elections. Amend RSA 655:81 to read as follows:

655:81 Nomination of U.S. Representative, Executive Councilor, State Senator and Representative to the General Court. The nomination of candidates for the U.S. House of Representatives or for the executive council or for the state senate or for representative to the general court for special elections shall be accomplished through the holding of special election primaries. The filing of candidates for such primaries and all other matters connected with such primaries shall be the same as for primaries before a state general election except that:

I. The special election shall be held on ~~[the]~~ **a** Tuesday not less than ~~[80]~~ **131** nor more than ~~[87]~~ **145** days following the day that the governor and council declare that there shall be a special election; provided, however, that if one or more municipalities where a special election for state representative will be held have a regularly-scheduled election occurring between ~~[80]~~ **131** and 180 days following the day that the governor and council declare that there shall be a special election, the governor and council shall set the date of the election to coincide with the regularly-scheduled election if a majority of the towns or wards, as represented by the city, jointly request that day; if towns or wards, as represented by the city, request that the special election coincide with regularly-scheduled elections occurring on different dates, the election shall be held on ~~[the]~~ **a** Tuesday not less than ~~[80]~~ **131** nor more than ~~[87]~~ **145** days following the day that the governor and council declare that there shall be a special election; and

II. ~~[The time limits in RSA 655:14 shall be changed to not more than 43 days nor less than 36 days prior to the primary]~~ **The filing period shall start on the Monday following the date on which the governor and council declare that there shall be a special election and shall end at 5:00 p.m. on the Friday of that week;** and

III. Under RSA 655:15, the official with whom state representative candidates shall file shall be the secretary of state, except that a state representative candidate may file with the appropriate town or city clerk under RSA 655:15 or with the secretary of state during the ~~[first]~~ Monday and Tuesday only of the filing period in towns and cities in which the clerk's office is open on one or both of those days, in which case the town or city clerk shall forward each declaration of candidacy to the secretary of state on the same day on which the declaration is filed; and

IV. The primary shall be held ~~[34]~~ **63** days prior to the special election; and

V. Supplementary primary petitions may be filed as needed ~~[not less than 36 days before the primary]~~ **no later than 5:00 p.m. on the last day of the filing period;** and

VI. The deadline for filing nomination papers shall be no ~~[more than 34 days prior to the special election]~~ **later than 5:00 p.m. on the day set for the primary;** and

VII. The notice of the primary in RSA 655:11 shall be prepared by the secretary of state and distributed to the town and city clerks as soon as practicable after the setting of the date for the special election; and

VIII. Under RSA 655:12, clerks shall post notices of special election primaries as soon as possible after they are received; and

IX. The names of all candidates for a party nomination at a special election primary shall be printed in alphabetical order on the ballot, and the same ballot listing shall be used at all polling places where the special primary election is held; and

X. The publication of the result provided in RSA 659:89 shall not be required; and

XI. The deadline for any candidate to request a recount pursuant to RSA 660:7 shall be ~~[3 days from the day of the primary]~~ **5:00 p.m. on the day after the election.**

12 Uncontested Primary. Amend RSA 655:82 to read as follows:

655:82 Uncontested Primary. In the event that no party has more than one candidate file, the primary election shall not be conducted. ~~[In such a case, the special election shall be held on the day previously fixed as the day for the holding of the special primary election. The deadline for candidates to file nomination papers pursuant to RSA 655:40-45 shall be 32 days prior to the rescheduled special election date].~~

13 Questions on the Ballot. Amend RSA 656:13 to read as follows:

656:13 Questions on the Ballot. Except as provided in RSA 656:14, whenever a question is submitted to voters at a state general election as provided in RSA 663, the question shall be printed on the state general election ballot following the offices columns. Printed after the question there shall be 2 squares **or ovals**, one with the word "yes" beside it and another with the word "no" beside it.

14 Endorsement. Amend RSA 656:17 to read as follows:

656:17 Endorsement. ~~[Upon the back of]~~ **On** each state general election ballot shall be printed the words "Official ballot for" followed by the name of the town for which the ballot is prepared, the date of the state general election and a facsimile of the signature of the secretary of state.

15 Federal Offices Only Absentee Ballot. Amend RSA 656:34 to read as follows:

656:34 ~~[Official Overseas Citizens]~~ Federal ~~[Election]~~ **Offices Only** Absentee Ballot. Prior to any federal election, the secretary of state shall prepare, in such quantity as the secretary of state may deem necessary, ~~[overseas citizens] federal [election]~~ **offices only** absentee ballots ~~[as nearly as practicable in the same form as]~~ **in paper and electronic form, similar in form to** the official ballot to be used at said election. Said ballots shall have the words "~~[official overseas citizens federal election absentee ballot]~~ **federal offices only absentee ballot**" ~~[printed]~~ on them and shall be ~~[similarly]~~ endorsed and **the paper version shall be** printed on paper of the same color as that used for official ~~[absence and disability]~~ ballots. Such ballots shall provide for voting absentee only for candidates seeking election to federal offices and for no other candidates.

16 Absentee Ballot. Amend RSA 656:35 to read as follows:

656:35 ~~[Armed Services]~~ Absentee Ballot **for Uniformed Services Voters and Voters Temporarily Residing Outside the United States**. ~~[Prior to any state election,]~~ **Absent uniformed services voters and voters temporarily residing outside the United States shall be provided with the absentee ballot prepared under RSA 656:33, provided that** the secretary of state shall prepare~~[, in such quantity as the secretary of state may deem necessary, armed services absentee ballots in the same form as the absence and disability absentee ballot to be used at said election]~~ **an electronic version of such ballot for use by any absent uniformed services voter or voter temporarily residing outside the United States who requests that his or her absentee ballot be transmitted to the voter electronically pursuant to RSA 657:19.**

17 Questions on the Ballot. Amend RSA 656:36 to read as follows:

656:36 Questions on the Ballot. Whenever a question to voters is printed on an official state election ballot, the secretary of state shall ensure that said question is also ~~[printed on the absence and disability absentee ballot and on the armed services absentee ballot, except as otherwise provided]~~ **on all applicable absentee ballots.**

18 Constitutional Amendments. Amend RSA 656:37 to read as follows:

656:37 Constitutional Amendments. Whenever a question to voters related to a proposed constitutional amendment is ~~[printed]~~ **placed** on a ~~[special and]~~ separate ballot as provided in RSA 663:3, the question shall also be ~~[printed]~~ **placed** on a separate absentee ballot ~~[of the same color as the ballot used for constitutional questions by in-person voters, shall]~~ **to** be included with each ~~[absence and disability or armed services absentee ballot and shall have printed on it the words "absentee ballot."]~~ **absentee ballot other than federal offices only absentee ballots.**

19 UOCAVA Voters. Amend RSA 657:2 to read as follows:

657:2 ~~[Overseas]~~ **UOCAVA** Voters. Any person who is ~~[registered as an overseas]~~ **eligible to vote as a UOCAVA** voter in any city or town ~~[as provided in RSA 654:20, 654:21, and 654:23]~~ may vote ~~[in federal elections]~~ **absentee as follows:**

**I. A person qualified as an absent uniformed services voter as provided in RSA 654:3 may vote absentee at any state election in the New Hampshire city or town which was last his or her home as provided in this chapter.**

**II. A person qualified as provided in RSA 654:3 whose current domicile is in the New Hampshire town or ward where he or she is registered to vote, but who is temporarily residing outside the United States may vote absentee in all state elections.**

**III. A person qualified as provided in RSA 654:3 whose current domicile is outside the United States may vote absentee in elections for federal offices only** as provided in this chapter.

20 Absentee Voting Application Forms. RSA 657:4 is repealed and reenacted to read as follows:

657:4 Forms.



I. Prior to any state election, the secretary of state shall prepare the appropriate application forms for absentee ballots worded in substantially the following form. The secretary of state shall insert the names of all parties qualified as set forth in RSA 652:11 in the list of parties on the application form. The secretary of state shall prepare the application forms in such quantity as he or she deems necessary:

Absence (Excluding Absence Due to Residence Outside the United States),

Religious Observance, and Disability:

I hereby declare that (check one):

☐ I am a duly qualified voter who is currently registered to vote in this town/ward.

☐ I am absent from the town/city where I am domiciled and will be until after the next election, or I am unable to register in person due to a disability, and request that the forms necessary for absentee voter registration be sent to me with the absentee ballot.

I will be entitled to vote by absentee ballot because (check one):

☐ I plan to be absent on the day of the election from the city, town, or unincorporated place where I am domiciled.

☐ I am requesting a ballot for the presidential primary election and I may be absent on the day of the election from the city, town, or unincorporated place where I am domiciled, but the date of the election has not been announced. I understand that I may only make such a request 14 days after the filing period for candidates has closed, and that if I will not be absent on the date of the election I am not eligible to vote by absentee ballot.

☐ I cannot appear in public on election day because of observance of a religious commitment.

☐ I am unable to vote in person due to a disability.

☐ I cannot appear at any time during polling hours at my polling place because an employment obligation requires me to remain physically at work or to be in transit to or from work from the time the polls open until after the time the polls close.

Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24.

I am requesting an official absentee ballot for the following election (check one):

☐ Presidential Primary to be held on \_\_\_\_\_  
(MM/DD/YYYY)

(The date may appear as blank when the date is not known.)

☐ State Primary to be held on \_\_\_\_\_  
(MM/DD/YYYY)

☐ General Election

For primary elections, I am a member of or I am now declaring my affiliation with the (check one):

☐ Republican Party

☐ Democratic Party

and am requesting a ballot for that party's primary.

Please print:

Applicant's Name:

---

(Last) (First) (Middle) (Sr., Jr., II., III)

Applicant's Voting Domicile (home address):

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(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Mail the ballot to me at this address (if different than the home address):

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(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Applicant's Signature: \_\_\_\_\_

The applicant must sign this form to receive an absentee ballot.

Date Signed: \_\_\_\_\_  
(MM/DD/YYYY)

II. Any person that publishes, mails, or distributes in any manner any written communication that contains a form or post card which a reasonable person would consider as intended to be used by the recipient of the communication to submit a request for an absentee ballot shall attach a copy of the form prepared by the secretary of state pursuant to paragraph I of this section to the communication or include in the communication a complete facsimile of the form prepared by the secretary of state pursuant to paragraph I of this section. Any person that violates this paragraph shall be subject to a civil penalty not to exceed \$1,000, to be imposed in the manner set forth in RSA 659:34, III-V.

III. The federal official post card form shall constitute the form made available by the secretary of state pursuant to RSA 654:20 for absentee ballot applications by UOCAVA voters.

21 Procedure by Applicant. Amend RSA 657:6 to read as follows:

657:6 Procedure by Applicant. An application form for an absentee ballot shall be mailed or delivered to any person who applies therefor to the secretary of state or to any town or city clerk. It shall be filled out by the applicant and sent to the clerk of the town or city in which he *or she* desires to vote. Alternatively, a person may apply for an official absentee ballot by sending to said clerk a written statement containing the information required by ~~[the appropriate paragraph of]~~ RSA 657:4, *I* or by the federal *official* post card ~~[application]~~ *form*.

22 UOCAVA Oath. RSA 657:8 is repealed and reenacted to read as follows:

657:8 UOCAVA Oath. Prior to any state election, the secretary of state shall prepare, in such quantity as he or she deems necessary, affidavit envelopes of sufficient size to contain the ballots and an electronic affidavit containing the following:

#### UOCAVA Voters

Persons desiring to vote by absentee ballot who are absent uniformed services voters, absent voters temporarily residing outside the United States, and federal ballot only voters domiciled outside the United States shall sign the following oath:

#### Standard Oath

I swear or affirm, under penalty of perjury, that I am:

1. A member of the Uniformed Services or Merchant Marine on active duty; or an eligible spouse or dependent of such a member; or, a U.S. citizen temporarily residing outside the U.S.; or, other U.S. citizen residing outside the U.S.; and
2. I am a U.S. citizen, at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; and
3. I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and
4. I am not registering, requesting a ballot, or voting in any other jurisdiction in the U.S., except the jurisdiction cited in this voting form.

In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under state or Federal law. I have not been influenced.

My signature and date below indicate when I completed this document.

The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for conviction of perjury.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Month/Day/Year

23 Forwarding Forms. Amend RSA 657:10 to read as follows:

657:10 Forwarding Forms. The secretary of state shall retain for his *or her* own use so many of the absentee ballots and forms provided for in RSA 657:7 through [657:9] **657:8** as he *or she* may deem necessary and shall supply each town and city clerk in the state with as many of them as he *or she* may deem sufficient. The same shall be [sent] **provided electronically and** in sealed packages [and] **which** shall be marked on the outside clearly designating the type and number of ballots enclosed. The secretary of state shall keep a record of the [time] **date** when and the manner in which the absentee ballots [and forms] were sent to said clerks and of the number of ballots so forwarded. ~~[The secretary of state shall forward overseas citizens federal election ballots to the town or city clerks so as to be received by them no later than 30 days prior to the date of the federal election.]~~ Additional absentee ballots of any type may be obtained as required from the secretary of state upon written application by a town or city clerk.

24 Write-In Absentee Ballot. RSA 657:10-a is repealed and reenacted to read as follows:

657:10-a Write-in Absentee Ballot. A person entitled to vote by absentee ballot who is an absent uniformed services voter, an absent voter temporarily residing outside the United States, or a voter domiciled outside the United States who is qualified to vote for federal offices only, who certifies that he or she will be unable to receive, mark, and return an absentee ballot sent no later than 45 days before an election by election day may apply for a write-in absentee ballot. The secretary of state shall prepare write-in absentee ballots of all types necessary for each election and make them available to town and city clerks. Clerks shall send a write-in absentee ballot to any qualified VOCAVA voter requesting such ballot without delay for any request received up to 45 days before an election. The ballot and associated forms and instructions shall be sent by mail or electronically as requested by the voter. In completing the ballot, the voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party next to the title of the office, in which case the ballot shall be counted for that office for the candidate of the political party.

25 New Section; Federal Write-In Absentee Ballot. Amend RSA 657 by inserting after section 10-a the following new section:

657:10-b Federal Write-In Absentee Ballot. Absent uniformed services voters, absent voters temporarily residing outside the United States, and federal ballot only voters domiciled outside the United States may use the federal write-in absentee ballot in general, special, and primary elections to vote for federal offices only. As required by federal law, a federal write-in absentee ballot shall not be counted if it is submitted from any location in the United States by an absent voter temporarily residing outside the United States or a federal ballot only voter domiciled outside the United States. The federal write-in absentee ballot shall not be counted if a state absentee ballot is received from the voter. In completing the ballot, the voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party next to the title of the office, in which case the ballot shall be counted for that office for the candidate of the political party.

26 Provisions for General Election. Amend RSA 657:12 to read as follows:

657:12 Provisions for General Election. Upon receipt of a properly executed application for an official absentee ballot **for a general election**, whether the form supplied by the secretary of state, the federal **official** post card [application] form, or a written statement containing the information required by [the appropriate paragraph of] RSA 657:4, **I**, a town or city clerk shall forthwith ascertain if the applicant is on the checklist of the town or city. If the applicant is on the checklist, the clerk shall send the materials provided for in RSA 657:15; if not, the clerk shall refuse to certify as provided in RSA 657:16. An application may be transmitted by facsimile to a town or city clerk.

27 Provisions for Primary Elections. Amend RSA 657:13 to read as follows:

657:13 Provisions for State or Presidential Primary Elections. Upon receipt of a properly executed application for an official absentee ballot **for a state or presidential primary election**, whether the form supplied by the secretary of state or a written statement containing the information required by [the appropriate paragraph of] RSA 657:4, **I**, a town or city clerk shall forthwith ascertain if the person is on the checklist

of the town or city and is properly registered as to party designation. If such person is found to be on the checklist and to be properly registered or if such person is found to be on the checklist but is not registered as a member of any party, but the information supplied states he or she is applying for a ballot of a political party, the person shall be registered as a member of said party; and, in either case, the clerk shall send the materials provided for in RSA 657:15. If the person is not on the checklist or is registered as a member of a party different from the one whose ballot he or she is applying for, the clerk shall refuse to certify as provided in RSA 657:16. An application may be transmitted by facsimile to a town or city clerk.

28 Information Furnished. Amend RSA 657:14 to read as follows:

657:14 Information Furnished. The supervisors of the checklist shall furnish to the town or city clerks upon their request any information relative to persons entitled to vote in their ward or town which may be necessary to enable them to determine the proper ballot, **affidavit, and voting instructions** to be sent to an absentee voter. Whoever violates any provision of this section shall be guilty of a violation.

29 Sending Absentee Ballots. Amend RSA 657:15 to read as follows:

657:15 Sending Absentee Ballots. When the verification required by RSA 657:12 or 657:13 has been made, the clerk shall retain the application and, without delay, personally deliver, **e-mail**, or mail to the applicant the appropriate ballot and materials as described in RSA 657:7 through [657:9] **657:8** or designate an assistant to deliver such materials to the applicant. The clerk may not designate as an assistant any person who is a candidate for nomination or office or who is working for such a candidate. Any ballots sent pursuant to the provisions of this section shall be mailed or delivered only by officials from the city or town clerk's office and delivered only to the applicant. If the address to which the absent voter's ballot is sent is outside the United States or Canada, such papers shall be sent by air mail. Said clerks shall keep lists of the names and addresses, arranged by voting places, of all applicants to whom official absent voting ballots have been sent, and shall identify those official absent voting ballots which have been returned to the clerk. Candidates whose names appear on the ballot and persons bearing notarized requests or copies of notarized requests from candidates whose names appear on the ballot may obtain copies of such lists; the lists shall not be available for public inspection at any time without a court order.

30 Refusal to Certify. Amend RSA 657:16 to read as follows:

657:16 Refusal to Certify; Procedure. If he or she refuses to certify the application, the town or city clerk shall notify the applicant in writing within 7 days to that effect. The town or city clerk shall provide the applicant with an absentee ballot and a notice that the ballot will not be counted unless the applicant submits the documents necessary to complete an absentee registration. The applicant shall be advised in writing what documents, if any, have been received in proper form and which the applicant must submit in the ~~[return]~~ **outer** envelope that contains the absentee ballot ~~[affidavit]~~ envelope. The town or city clerk shall mark the ~~[exterior of]~~ **absentee ballot application and** the absentee ballot affidavit ~~[envelope]~~ with the words "Not Registered." If the applicant returns the required documents in proper form with the absentee ballot and if the applicant is found to be qualified, he or she shall be registered and his or her absentee ballot shall be processed in the same manner as the absentee ballot of a previously registered voter. If the ballot is returned without the required documents in proper form, the ballot shall be marked and preserved in the manner set forth by law for successfully challenged absentee ballots. The clerk shall preserve the application of any applicant who is not registered as a voter until the time set by law for the destruction of the ballots after the election at which time the application shall be destroyed. Any justice of the superior court has jurisdiction in equity upon such notice as he or she may order to require that the name of the person making application for an absentee ballot be placed upon the checklist or registered as a member of any party and be sent an absentee ballot.

31 Procedure by Voter. Amend RSA 657:17 to read as follows:

657:17 Procedure by Voter. After marking the ballot, the voter or the person assisting a blind voter shall enclose and seal the same in ~~[the affidavit]~~ **an inner** envelope. The voter shall execute the affidavit ~~[on it]~~. The voter or the person assisting the blind voter shall enclose and seal ~~[said]~~ **the inner** envelope **with the affidavit** in ~~[the return]~~ **an outer** envelope. The voter shall then endorse ~~[thereon]~~ **on the outer envelope** his **or her** name, address, and voting place and shall mail the envelope, affixing postage, or personally deliver it to the city or town clerk from whom it was sent.

32 Procedure by Clerk. Amend RSA 657:18 to read as follows:

657:18 Procedure by Clerk. Upon receipt of ~~[a return]~~ **an outer** envelope purporting to contain an official absentee voting ballot, the clerk of the city or town shall attach thereto the application for an absentee ballot submitted by said voter. All such envelopes shall be preserved unopened until election day.

33 Absentee Voting. Amend the subdivision heading preceding RSA 657:19 to read as follows:

Procedure for ~~[Armed]~~ **Uniformed** Services, **Temporarily Residing Outside the United States**, and Federal ~~[Overseas Citizen]~~ **Ballot Only** Voting

34 Sending Ballots. RSA 657:19 is repealed and reenacted to read as follows:

657:19 Sending Ballots to UOCAVA Voters.

I.(a) Upon receipt of a properly executed application for an absentee ballot from a UOCAVA voter as defined in RSA 652:16-b, whether the form supplied by the secretary of state, the federal official post card form, or a written statement containing the information required by RSA 657:4, I, a town or city clerk shall retain the application and, without delay and except as provided in subparagraph (b), enter the application in the statewide centralized voter registration database.

(b) On the last business day no earlier than 45 days before a regularly scheduled general election, each city and town clerk shall deliver absentee ballot information to the secretary of state, on forms and methods prescribed by the secretary of state, for each UOCAVA voter as defined in RSA 652:16-b who, between the required meeting of the supervisors of the checklist pursuant to RSA 654:27 for the regularly scheduled primary election and the last business day prior to 45 days before the regularly scheduled general election, has requested an absentee ballot for the next regularly scheduled general election, unless that UOCAVA voter and his or her absentee ballot request has been entered into the statewide voter registration database.

II. If a request for a write-in absentee ballot is received from a UOCAVA voter 45 or more days before an election from a voter qualified to vote using a write-in absentee ballot in accordance with RSA 657:10-a, the clerk shall, without delay, send a write-in absentee ballot and instructions using either mail or electronic transmission, as requested by the voter.

III. If a request for an absentee ballot for a primary election, other than a presidential primary, or a special election is received from a UOCAVA voter 45 or more days before a primary election, the clerk shall send the ballot and instructions to the applicant no later than the day 45 days prior to the primary election using either mail or electronic transmission, as requested by the voter.

IV. If a request for an absentee ballot for a primary election, other than a presidential primary, or a special election is received from a UOCAVA voter less than 45 days before a primary election, the clerk shall send the ballot and instructions without delay using either mail or electronic transmission, as requested by the voter.

V. If a request for an absentee ballot for a regularly-scheduled general election or a presidential primary is received from a UOCAVA voter 45 or more days before a general election or a presidential primary the secretary of state shall, on behalf of the clerk and in accordance with the voter's choice, electronically transmit or mail the appropriate absentee ballot and instructions to the voter no later than the day 45 days prior to the general election or the presidential primary. At the secretary of state's discretion, the secretary of state may enter in the statewide centralized voter registration database the mail date on which absentee voters were sent ballots pursuant to this paragraph. Alternatively, the secretary of state may provide each city and town clerk with a list of all voters sent absentee ballots by the secretary of state pursuant to this section. Upon receipt of such report from the secretary of state, the clerk shall record the date that the absentee ballot was sent to the voter in the statewide centralized voter registration database.

VI. If a request for a general election absentee ballot is received from a UOCAVA voter less than 45 days before a general election, the clerk shall, in accordance with the voter's choice, electronically transmit or mail the appropriate absentee ballot and instructions to the voter, without delay.

VII. All valid requests for absentee ballots for a general election received by a town and city clerk prior to the Monday before a primary election shall be entered into the statewide centralized voter registration database no later than that Monday and any valid requests received between that Monday and the forty-fifth day prior to a general election shall be entered into the statewide centralized voter registration database on the day received by the clerk. All requests for absentee ballots received after the date that is 45 days prior to an election shall be entered by the city or town clerk, without delay.

VIII. The clerk shall send the appropriate ballot and materials as described in RSA 657:8, regardless of whether the applicant appears on the checklist, and record the information pursuant to RSA 657:15.

IX. The town or city clerk shall forward a copy of the applicant's registration forms to the supervisors of the checklist.

X. A town or city clerk who finds an absentee ballot application invalid shall provide the UOCAVA voter the reason it is invalid within 7 days.

35 Federal Official Post Card Application. RSA 657:19-a is repealed and reenacted to read as follows:

657:19-a Federal Official Post Card Form and Other Requests from UOCAVA Voters. The federal official post card form as provided in RSA 654:20 for simultaneous voter registration application and absentee ballot application shall be valid at any time for voter registration by a person qualified to vote pursuant to RSA 654:3 as an absent uniform services voter, a temporarily absent voter residing outside the United States, or a federal ballot only voter domiciled outside the United States. An absentee ballot request on this post card or in any other form received on or after January 1 of each year shall be valid through December 31 of the same year for all state and municipal elections to be held within that year, subject to the request of the voter and the eligibility of the voter. Provided, however, that an absentee ballot for the presidential primary shall be sent to all voters requesting an absentee ballot for the primary or any election prior to the primary during the general election year and the prior year. The town or city clerk shall forward a copy of all such federal official post card voter forms to the supervisors of the checklist.

36 New Sections; Electronic Applications. Amend RSA 657 by inserting after section 19-a the following new sections:

657:19-b Procedure for Requesting Voter Registration Applications or Absentee Ballot Applications Electronically. Any person authorized in RSA 657:19-a to use the federal official post card form may request and receive an absentee voter registration application by downloading the application from the secretary of state's website, or request that the form be mailed by submitting an electronic request via the e-mail address designated on the website. The secretary shall send the requested application by mail or electronically in accordance with the voter's choice.

657:19-c E-Mail Account Maintained by Clerks. As required by federal law, to satisfy their obligation to send and receive voting materials electronically, each town and city clerk shall establish and maintain an e-mail account and address, which shall be publically available to voters. Clerks shall keep such information in the statewide centralized voter registration database.

37 Procedure by UOCAVA Voter. RSA 657:20 is repealed and reenacted to read as follows:

657:20 Procedure by UOCAVA Voter. UOCAVA voters shall follow the procedure set forth in RSA 657:17.

38 Procedure by Clerk. RSA 657:21 is repealed and reenacted to read as follows:

657:21 Procedure by Clerk. Upon receipt of an outer envelope purporting to contain an absentee ballot, the clerk of the city or town shall attach thereto the application for an absentee ballot submitted by the voter. All such envelopes shall be preserved unopened until election day.

39 Delivery to Moderator. Amend RSA 657:23 to read as follows:

657:23 Delivery to Moderator. Upon election day, prior to the closing of the polls or the time set for processing absentee ballots in accordance with RSA [659] **659:49**, the clerk shall deliver all such envelopes and the applications therefor received by him *or her and a list of absentee voter applications compiled pursuant to RSA 657:15* to the moderators in the several voting precincts in which the absentee voters assert the right to vote, taking a receipt from the moderator thereof; except that no [armed services] **UOCAVA voter's** ballot shall be rejected by a moderator for lack of an attached application, *provided a signature is available for comparison on a voter registration document*.

40 Opening Absentee Ballot Outer Envelopes. Amend RSA 659:49-b to read as follows:

659:49-b Opening Absentee Ballot [Return] **Outer** Envelopes. The moderator or the moderator's designee may authorize the opening of absentee ballot [return] **outer** envelopes on election day prior to the time established for processing absentee ballots in RSA 659:49, provided that the opening of the [return] **outer** envelopes occurs in public with notice of the time and place. The [affidavit] envelope containing the ballot shall not be removed from the [return] **outer** envelope at such time, and the [return] **outer** envelope containing the [affidavit] **inner** envelope shall be secured until it is processed pursuant to RSA 659:50. [This section shall not apply to return envelopes previously opened pursuant to RSA 657:21.]

41 Announcement by Moderator. Amend RSA 659:50 to read as follows:

659:50 Announcement by Moderator. The moderator shall begin processing absentee ballots by clearly announcing that he **or she** is about to open the envelopes which were delivered to him **or her**. The moderator shall then remove the [affidavit] envelope containing the ballots of each absentee voter and shall compare the signature on the affidavit [envelope] with the signature on the application for the ballot. If:

- I. The name of the voter is on the checklist; and
- II. The affidavit [~~on the envelope~~] appears to be properly executed; and
- III. The signature on the affidavit appears to be executed by the same person who signed the application; and
- IV. The signatures appear to be the signatures of a duly qualified voter who has not voted at the election; then the moderator shall publicly announce the name of the absentee voter, ***except that with respect to any voter who has been included in the address confidentiality program under RSA 7:43 or who has been granted a protective order under RSA 173-B, the moderator shall identify such voters as "confidential voter number 1" and "confidential voter number 2," and so forth.*** If these conditions are not met, the moderator shall follow the procedure provided in RSA 659:53.

42 Challenges. Amend RSA 659:51 to read as follows:

659:51 Challenges. All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter but not after the ballot is removed from the envelope. A person who makes a challenge shall state the reason for the challenge. If the ballot is challenged, the moderator shall write on the [affidavit] envelope containing the ballot the word "challenged" and the name and address of the person who makes the challenge and the basis of the challenge. The moderator shall also number each challenged envelope consecutively by marking, for example, the first challenged ballot "Challenged Ballot No. 1." The moderator shall then determine if the challenge to the ballot is well grounded. If the moderator decides the challenge is well grounded, [he] ***the moderator*** shall not open the envelope but shall preserve it with the other ballots cast at the election as provided in RSA 659:101 ***and shall record next to the name of the absentee voter on the clerk's list of absentee voters prepared pursuant to RSA 657:15 the word "challenged" and the reason for the challenge.*** If the moderator decides that the challenge is not well grounded, he **or she** shall open the [affidavit] envelope so the affidavit [thereon] is not destroyed and proceed first to mark on the reverse of the folded ballot the corresponding challenge number as previously marked on the envelope. [He] ***The moderator*** shall then proceed to deposit the ballot as provided in RSA 659:52.

43 Opening Envelope. Amend RSA 659:52 to read as follows:

659:52 Opening Envelope; Depositing Ballot. If the absentee ballot is not challenged, the moderator shall, after announcing the name of the voter, open the [affidavit] envelope containing the ballot so the affidavit [~~on the envelope~~] is not destroyed. [He] ***The moderator*** shall then take the ballot out of the envelope without unfolding the ballot or without permitting the ballot to be examined, and he **or she** shall preserve the affidavit [envelope] with the ballots cast at the election as provided in RSA 659:101. The moderator shall then have a checkmark placed beside the name of the absentee voter on the checklist and write therewith the letters "A.V." in red ink and shall then deposit the ballot in the ballot box.

44 New Section; Immaterial Defects; Electronically Transmitted Absentee Ballots. Amend RSA 659 by inserting after section 54 the following new section:

659:54-a Immaterial Defects; Electronically Transmitted Absentee Ballots. No electronically transmitted absentee ballot shall be rejected by the moderator for any ballot, envelope, or affidavit weight, size, or color, or any ink font size, alignment, or color.

45 Votes Counted After Processing of Absentee Ballots. Amend RSA 659:61 to read as follows:

659:61 Votes Counted After Processing of Absentee Ballots. After all absentee ballots have been processed, or processed and counted, as provided in RSA 659:49-55, and after the polls have closed, the election officials, except those disqualified in accordance with RSA 659:58, shall, under the supervision of the moderator, immediately begin counting the votes cast at the election. ***The moderator may use the assistance of a person appointed by the secretary of state or the attorney general to assist in the completion of the election return forms.***

46 General Content of Return. RSA 659:73 is repealed and reenacted to read as follows:

659:73 General Content of Return.

I. The election return forms shall be submitted on paper and electronically immediately after the completion of the vote count in the manner prescribed by the secretary of state. The return of votes shall include, but not be limited to:

(a) The name of each candidate printed on the ballot and the number of votes that candidate received for the listed office including any write-in votes for the same office on the same ballot where the voter did not mark the printed candidate name.

(b) For each office, the number by which the total number of votes that could have been cast for that office exceeds the total number of votes actually cast for that office.

(c) For each office, the number of potential votes not counted because the voter marked more candidates than permitted. The totals for subparagraphs (b) and (c) may be reported together as a single number.

(d) For each office the total number of votes cast for each write-in candidate and the candidate's name, excluding write-in votes for candidates whose names were printed on the ballot where the voter did not mark the printed candidate name and the vote is reported under subparagraph (a).

(e) For any question submitted to the voters:

(1) The number of affirmative votes.

(2) The number of negative votes.

(3) The number of ballots where the voter did not cast a vote.

(4) The number of ballots where the ballot was not counted because the voter marked both yes and no.

(f) The number of voters who voted in person on election day checked off on the checklist as having voted.

(g) The number of absentee voters checked off on the checklist as having voted.

(h) The number of official ballots received from the secretary of state brought to the polling place on election day, excluding ballots marked as test ballots and used prior to election day to test a ballot counting machine.

(i) The number of official ballots cast on election day.

(j) If the polling place runs out of official ballots, the number of absentee ballots used as official ballots and cast.

(k) If the polling place runs out of official ballots, the number of photocopy ballots used as official ballots and cast.

(l) The number of Accessible Voting System ballots cast.

(m) The number of state absentee ballots cast.

(n) The number of federal offices only absentee ballots cast.

(o) The number of state write-in absentee ballots cast.

(p) The number of federal write-in absentee ballots cast.

(q) In a primary, the number of ballots cast for each party.

(r) The number of people who registered to vote on election day.

(s) The number of undeclared voters that cast ballots for each party at a state primary election.

(t) The number of undeclared voters that returned to undeclared after voting in a state primary election.

II. The secretary of state shall provide guidance for completing the return of votes in the election procedure manual issued pursuant to RSA 652:22. The secretary of state may provide an electronic version of the return of votes capable of being used on a computer at the polling place to assist moderators and clerks in completing and submitting the paper and electronic forms.

47 Copies of Return. Amend RSA 659:75 to read as follows:



659:75 Forwarding; Retaining Copies of Return. One copy of the election return shall be forwarded by the town or ward clerk to the secretary of state ***in both paper and electronic form*** no later than ~~[the Monday]~~ ***8:00 a.m. on the day*** following a state election unless the secretary of state orders them sooner. The other shall be kept by the town or city clerk and shall be open to public inspection at reasonable times. If an official state election return is sealed along with the ballots, the clerk having custody of the sealed ballots shall, at the request of the secretary of state, and in the presence of a state election official, unseal the ballots and retrieve the election return. The ballots shall be immediately resealed and the election return shall be delivered to the secretary of state by the election official.

48 General Neglect. RSA 659:77 is repealed and reenacted to read as follows:

659:77 General Neglect by Town or Ward Moderator and Clerk.

I. If any moderator shall neglect to cause an accurate count to be made of the votes cast as required by law, for which no other penalty is provided, he or she shall be guilty of a violation.

II. If any town or ward clerk shall neglect to make any return of votes required by law, for which neglect no other penalty is provided, he or she shall be guilty of a violation.

III. If a return of votes is not timely submitted or is submitted with significant defects, if a recount discloses that the election night vote count was significantly inaccurate, or if other significant deficiencies in the conduct of an election are documented the secretary of state shall report the same to the attorney general. Upon a finding by the attorney general that the late submission, miscount, or other significant deficiency was due to lack of training, lack of established procedures, negligence, or misconduct, the secretary of state in consultation with the attorney general shall appoint an election monitor who shall be an individual trained in the conduct of elections and who shall attend portions of the ballot casting and all of the ballot counting to monitor the next election conducted in that town or ward. The finding of the attorney general may be appealed to the ballot law commission.

IV. An election monitor appointed under paragraph III shall have full access to the polling place, including authority to directly observe the registration of voters on election day, the checking in of voters by inspectors of elections, assistance to voters with disabilities, the use of the accessible voting system, the receipt of ballots, the processing of absentee ballots, and the counting of ballots, and may handle marked ballots for the purposes of instruction during the counting and tabulating process.

V. An election monitor appointed under paragraph III may provide training and guidance to the moderator and clerk who conducts the election. The election monitor shall issue a public written report within 30 days following the election to the voters of the town or ward, the secretary of state, and the attorney general, which shall be posted on the secretary of state's website, documenting the extent to which the town or ward complies with state law and utilizes the best practices set forth in the election procedures manual and the on-line training available on the secretary of state's website in conducting the monitored election.

49 Late Return. Amend RSA 659:78 to read as follows:

659:78 Late Return. Whenever the election return of any town or ward has not been received by the secretary of state ~~[within 5 days]~~ ***by 8:00 a.m. on the day*** after a state election, the secretary of state shall so notify ***the attorney general and the moderator, the selectmen, and*** the clerk of the town or ward who shall forward such return forthwith.

50 Incorrect or Incomplete Return. Amend RSA 659:79 to read as follows:

659:79 Incorrect or Incomplete Return; Amendment. If a town or ward clerk shall make an incorrect or incomplete election return, the moderator may require that clerk, at his ***or her*** own expense, to appear and amend the return according to the facts ***within 4 hours of receipt of notification from the secretary of state***. If the clerk shall refuse to appear and amend the return, he ***or she*** shall be guilty of a violation.

51 Write-In Nomination. Amend RSA 659:88, I(b) to read as follows:

(b) A person whose name was not printed anywhere on the official state primary election ballot, and who receives the nomination of a party by write-in vote in a primary election and wishes to accept the nomination, shall file a declaration of candidacy with the secretary of state no later than ~~[the second Monday]~~ ***3:00 p.m. on the first Friday*** after the primary. The declaration of candidacy shall be filed with the understanding that, where the form says "primary election," it shall be construed to mean "general election." A person who files a declaration of candidacy under this section shall be subject to the require-

ments of RSA 655:19 and 655:19-b relative to filing fees. The person may have the filing fee waived if he **or she** is unable to pay the fee by reason of indigency. Such person shall not, however, be required to pay the administrative assessment under RSA 655:19-c.

52 Rejection of Nomination by Write-In Vote. RSA 659:90 is repealed and reenacted to read as follows:

659:90 Rejection of Nomination by Write-In Vote. The name of a person nominated by write-in vote who fails to file a declaration of candidacy in person, by facsimile, or by e-mailing a signed declaration as an attachment with the secretary of state by 3:00 p.m. on the first Friday following the primary shall not be placed on the general election ballot and will be considered to have rejected the nomination.

53 Nomination for Incompatible Offices. Amend RSA 659:91 to read as follows:

659:91 Nominations for Incompatible Offices. Any person who is nominated by the same political party for incompatible offices shall notify the secretary of state **in person, in writing, by facsimile transmission, or by e-mailing a signed statement as an attachment** no later than **3:00 p.m. on** the ~~[Monday]~~ **Thursday** following the date of the primary of which nomination he **or she** will accept. Thereupon the secretary of state shall declare a vacancy to exist in the nomination which such person declined. The vacancy shall be filled as provided in RSA 655:37 except that all the necessary declarations of candidacy and affidavits shall be filed no later than **5:00 p.m. on** the ~~[second]~~ Friday following the date of the primary.

54 Sealing and Certifying Ballots. Amend RSA 659:95 to read as follows:

659:95 Sealing and Certifying Ballots.

I. Immediately after the ballots cast at a state election have been tabulated and the result has been announced and the return has been made, the moderator or the moderator's designee, in the presence of the selectmen or their designee, shall place the cast, cancelled, and uncast ballots, including such ballots from any additional polling places, and further including the successfully challenged **and rejected** absentee ballots still contained in their envelopes, in the containers provided by the secretary of state as required by RSA 659:97 and shall seal such container with the sealer provided by the secretary of state as required by RSA 659:97. The moderator or the moderator's designee shall then enter in the appropriate blanks on such sealer on each container the number of cast, cancelled, and uncast ballots in such container and shall endorse in the appropriate place on such sealer a certificate in substance as follows: Enclosed are the ballots from the state election in the town of \_\_\_\_\_ (or in ward \_\_\_\_\_ in the city of \_\_\_\_\_) held on \_\_\_\_\_, 20\_\_\_\_\_, **Box \_\_\_\_\_ of \_\_\_\_\_**, ~~[required by law]~~ to be preserved **in accordance with RSA 33-A:3-a**. The moderator and the selectmen or their designee shall sign their names in the appropriate blanks on the sealer.

II. Ballots, including cast, cancelled, and uncast ballots and successfully challenged absentee ballots still contained in their envelopes, prepared or preserved in accordance with the election laws shall be exempt from the provisions of RSA 91-A. This exemption shall apply to any ballots or absentee voter ~~[affidavit envelopes]~~ **affidavits** prepared for or used in any election conducted by the state or any political subdivision, including federal elections.

55 Delivery of Ballots to Town Clerk. Amend RSA 659:98 to read as follows:

659:98 Delivery of Ballots to Town Clerk.

**I.** The moderator, or ~~[his]~~ **the moderator's** designee, and the selectmen, or their designee, after they have sealed and certified the state election ballots as provided in RSA 659:95 and ~~[96]~~ **RSA 659:96**, shall deliver the sealed containers to the town or city clerk, or to ~~[his]~~ **the clerk's** designee, who shall in their presence enter in the appropriate place on each sealer the time of day and shall sign his **or her** name in the appropriate blank on the sealer. **Except as provided in paragraphs II and III**, the clerk or ~~[his]~~ designee shall, without breaking the seals or otherwise changing the condition of the containers, deposit the containers in the town or city hall, where the ballots shall be kept for a period of 60 days.

**II. After a regularly-scheduled state primary, the town or city clerk of each town and city in Carroll, Cheshire, Coos, Grafton, Strafford, and Sullivan counties shall deliver the sealed boxes of ballots from the primary to the location designated by the secretary of state to receive the paper return of votes and ballots immediately following the completion of the counting and sealing of ballots. The secretary of state shall cause all such returns and ballots to be collected and delivered to a location designated by the secretary of state.**

**III. The secretary of state may, at his or her discretion, collect regularly-scheduled state primary ballots from clerks in Belknap, Hillsborough, Merrimack, and Rockingham counties on the Wednesday or Thursday following the regularly-scheduled state primary between 8:00 a.m. and 5:00 p.m. Any clerk whose office will not be open during these hours shall notify the secretary of state and shall, accompanied by at least one voter who is not a member of the same political party as the clerk, deliver the ballots to a nearby town or city clerk's office that will be open during those hours or shall arrange for a law enforcement officer to transport the ballots to that office.**

56 Forwarding Ballots to the Secretary of State. Amend RSA 659:99 to read as follows:

659:99 Forwarding Ballots to the Secretary of State. If any person shall make a request for a recount as provided in RSA 660, **or if the secretary of state shall request the ballots of the recent election**, the clerk having the custody of such ballots shall, at the request of the secretary of state, forward the ballots forthwith to the secretary of state.

57 Preservation of Voting Materials. Amend RSA 659:101 to read as follows:

659:101 Preservation of Absentee Voting Materials, Election Day Affidavits, and Domicile Affidavits. The ~~[affidavit envelopes]~~ **absentee ballot affidavits** and application forms processed by the moderator as provided in RSA 659:50, **the absentee ballots challenged and rejected as provided in RSA 659:51 and RSA 659:53**, and the qualified voter affidavits and domicile affidavits as provided in RSA 654:12 and any other documentary proof of qualifications retained by the town or city clerk, the supervisors of the checklist, or other election official ~~[may]~~ **shall** be preserved in the same manner that ballots are preserved. Qualified voter, voter registration, and domicile affidavits shall be retained for 3 years after the election in which they are used, and other materials may be destroyed ~~[one year after the first state general election at which the individual may vote]~~ **after the election is settled and all appeals have expired or one year after the election, whichever is longer.**

58 Primary Recount Applications. Amend RSA 660:7 to read as follows:

660:7 Application.

**I. Any person for whom a vote was cast for any nomination of any party at a state primary may apply for a recount, provided that the difference between the votes cast for the applying candidate and a candidate of that party declared nominated is less than [20] 10 votes or less than 1.5 percent of the total [votes] ballots cast [for candidates of] in the primary for that party in the towns which comprise the office to be recounted. The application shall be made in writing to the secretary of state and shall be submitted no later than 5:00 p.m. on the day after the primary election. The request may be made by hand delivery, by facsimile transmission, or as an attachment to an e-mail. The fee shall be paid prior to the beginning of the recount. Recounts shall begin 2 days after the primary election and shall be conducted so as to complete all recounts involving towns or wards which have pending requests for absentee ballots for the general election from UOCAVA voters no later than 8:00 a.m. on the Saturday following the primary. Other recounts shall begin during the week following the primary.**

**II. Any person receiving at least 9 percent of the votes cast in any party's presidential primary may apply for a recount. The application shall be made in writing to the secretary of state and shall be submitted no later than the Friday after the primary for a recount of all ballots cast for such nomination. Each candidate requesting a recount shall pay the secretary of state fees as provided in RSA 660:2.**

59 Vacancies; State Representative. Amend RSA 661:8, III to read as follows:

**III. Notwithstanding the provisions of paragraph II, if a vacancy occurs in the office of state representative in a district comprised of a city ward or wards, a request to hold the primary and special elections on the same dates as the city's biennial primary and regular elections may be submitted to the governor and council by the governing body of the city. If so requested, the governor and council shall declare the vacancy not less than [50] 63 days prior to the date of the city's primary election. The filing period shall be held not more than [41] 57 days nor less than [34] 50 days prior to the primary election. The provisions of RSA 655:81, III, VI, VII, VIII, IX, X, and XI shall apply to elections held pursuant to this paragraph.**

60 Ballot Law Commission; Hearing Date. Amend the introductory paragraph of RSA 665:5, I to read as follows:

**I. [If necessary,] The ballot law commission shall meet [on the fourth Friday of September in each general election year and] at 9:00 a.m. on the Saturday following the regularly-scheduled state primary election and, if necessary, on the third Friday following the presidential primary election in order to hear and decide:**

61 Reference Changed. Amend RSA 669:4 to read as follows:

669:4 Qualifications of Voters. Any person having his *or her* domicile within the town and qualified to vote under RSA 654:1[~~654:2 and 654:4~~] **through** 654:6 and who is on the town checklist shall be qualified to vote in town elections.

62 Town Elections; Official Ballot. Amend RSA 669:24 to read as follows:

669:24 Paper, Uniformity, Endorsement. The ballots shall be printed on plain white paper, in weight not less than that of ordinary printing paper; provided, however, that if more than one ballot is used during any town election, each ballot shall be of a different color than any other ballot used at the election. There shall be no impression or mark to distinguish one ballot from another. The names of all candidates shall be printed in uniform type and the ballots shall be folded so that their width and length when folded shall be uniform. On the back, or at the top of the face, of each ballot shall be printed the words "Official Ballot for the Town of \_\_\_\_\_," the date of the election, and a facsimile of the signature of the town clerk who prepared the ballot. **For ballots transmitted electronically, the words "Official Ballot for the Town of \_\_\_\_\_" shall be located at the top of the face of the ballot.**

63 Town Elections; Conduct. Amend RSA 669:25 to read as follows:

669:25 Conduct. In towns which have adopted an official ballot system, the town election shall be conducted in the same manner as a state general election as provided in RSA 658 and 659, **except that RSA 659:77, III-V, 659:78, and 659:98, II and III shall not apply, and** except that all duties required to be performed by the secretary of state under those chapters shall be performed by the town clerk, and except that no copy of marked or unmarked checklists need be forwarded to the state archives or federal district court as provided in RSA 659:102. Polling hours for a town meeting or election shall be set by the selectmen or by a vote of the town.

64 Town Elections; Absentee Voting. Amend RSA 669:26 to read as follows:

669:26 Absentee Voting. Every town which has adopted an official ballot system for town elections as provided in RSA 669:12 or 669:13 shall provide for absentee voting. Any [registered] **eligible** voter [~~or armed services voter~~] who is absent from such a town on the day of a town election, or who cannot appear in public on election day because of his *or her* observance of a religious commitment, or who, by reason of physical disability, is unable to vote in person may vote at a town election in accordance with the provisions of this section and RSA 669:27-669:29. A person who is unable to appear at any time during polling hours at his or her polling place because an employment obligation requires the person to remain physically at work or to be in transit to or from work from the time the polls open until after the time the polls close shall be considered absent for purposes of this section and RSA 669:27-669:29.

65 Town Elections; Absentee Voter Forms. RSA 669:27, II-III is repealed and reenacted to read as follows:

II. Blank forms of application for absentee ballots worded similar in form to those required by RSA 657:4.

III. Envelopes of sufficient size to contain the ballots specified in paragraph I, on which shall be printed an affidavit similar in form to that required by RSA 657:7 or 657:8, as applicable.

66 Town Elections; Absentee Voting. Amend RSA 669:29 to read as follows:

669:29 Application of Statutes. The procedure for absentee voting in town elections shall be the same as in state elections as provided in RSA **657:2**, 657:6, [9, ~~12 and 14-24~~] **657:7, 657:8, 657:12, and 657:14 through 657:24. With respect to the provisions of RSA 657:19, absentee ballots shall not be required to be sent to absent uniformed services voters or absent voters temporarily residing outside the United States at least 45 days prior to town elections, but shall be sent by the clerk as long before election day as is practical.**

67 Reference Changed. Amend RSA 670:3 to read as follows:

670:3 Voters and Checklists. Any person having his *or her* domicile within the village district and qualified to vote as provided in RSA 654:1[~~654:2 and 654:4~~] **through** 654:6 and whose name is on the village district checklist shall be entitled to vote in any village district election. An updated checklist shall be used at all village district elections and meetings for the same purposes as checklists are used by towns as provided in RSA 669:5. Such checklist or checklists, if the district is located in more than one town, shall be used in the election of district officers.

68 Reference Changed. Amend RSA 671:14 to read as follows:

671:14 Qualifications. Any person domiciled in the school district who is qualified to vote as provided in RSA 654:1[-654:2 and 654:4-] **through** 654:6 and who is on the school district checklist shall be entitled to vote at any school district election.

69 New Paragraph; Election Fund; Accounts. Amend RSA 5:6-d by inserting after paragraph VI the following new paragraph:

VII. The treasurer shall, upon request of the secretary of state, establish separate accounts within the election fund in order to segregate funds according to funding source.

70 New Paragraphs; Electronic Ballot Counting Devices; Rules. Amend RSA 656:42 by inserting after paragraph VI the following new paragraphs:

VII. Each electronic ballot counting device shall have a memory card, a metal bar covering the inserted memory card, a canvas cover closed by 2 zippers, 2 hard shell covers on the front of the device, a hard shell cover on the rear of the device, and 3 communication ports in the rear of the device.

VIII.(a) Before each election, the vendor for any electronic ballot counting device shall provide the secretary of state with an exact electronic record of the data written to each memory card to be used in the election.

(b) The town or city clerk shall preserve each memory card used at each election until after the recounts for such election are complete and any and all legal challenges to the outcome of that election are adjudicated.

(c) The town or city clerk shall securely preserve each memory card used in any election as directed by the secretary of state.

(d)(1) To help ensure that the counting device cannot be tampered with or improperly accessed, the town or city clerk shall employ electronic ballot counting device seals specified by the secretary of state and seal the electronic ballot counting device in the following areas:

(A) The connection of the 2 zippers on the closed canvas cover of the counting device.

(B) The metal bar in front of the inserted memory card.

(C) Electronic ballot counting device housing:

(i) The seam connecting the 2 hard shell covers on the front of the counting device.

(ii) The seam connecting the hard shell cover on the rear of the counting device.

(iii) The 3 communication ports in the rear of the counting device.

(2) The town or city clerk shall update an activity log supplied by the secretary of state to keep a record each time a counting device seal is broken and a new one installed, and the reason for which the seal was broken.

(3) No person shall break a counting device seal without the presence of 2 witnesses. Upon breaking such seal, the person responsible shall update the activity log, obtain the signatures of each witness, record the reason for breaking such seal, ensure that it is resealed with a new seal immediately, and properly record the new seal number in the activity log.

(4) Before the moderator places into service a counting device on election day, the moderator shall verify all counting device seals have been maintained intact, and any seals which have been broken have been promptly re-sealed and the activity log properly recorded and signed.

(5) If, on election day, the moderator notices that any seal on the counting device appears tampered with or broken without an adequate record in the activity log, the moderator shall refrain from using the counting device in that election, and shall report the apparent tampering to the attorney general, the secretary of state, the town or city clerk, and the selectmen.

(6) The counting device and the activity log shall be subject to review by the attorney general or secretary of state at any time.

(7) Whenever the town or city clerk receives a memory card from the vendor, the clerk shall break the memory card seal, insert the memory card in the electronic ballot counting device, and apply a new seal. The clerk shall lock any memory card not inserted into an electronic ballot counting device in a safe and record the names of individuals that have access to such safe on the activity log.

(8) Whenever the town or city clerk removes the memory card from the electronic ballot counting device, the clerk shall immediately return it to the memory card programmer and reseal the metal bar in front of the empty memory card slot.

(e)(1) The town or city clerk shall give public notice of the date and time of a pre-election test of the electronic ballot counting device and ballots.

(2) Upon receipt of the official ballots from the secretary of state, the town or city clerk shall remove the number of ballots needed to test the electronic ballot counting device from among the official ballots and keep them separate and secure from the remaining official ballots thereafter.

(3) The town or city clerk shall mark any ballots used for testing with the words "TEST."

(4) The town or city clerk shall mark the test ballots in such a way as to demonstrate a vote for each candidate on at least one test ballot, as well as votes for less than and more than the number of candidates that may be voted for an office, write-ins, multiple votes for a candidate who appears in more than one party column for the same office on a general election ballot, and ballots on which there are no votes. The clerk shall mark as many as possible of the combinations of choices that a voter may indicate on the ballot.

(5) The town or city clerk shall run each of the test ballots through the counting device in the following orientations: Top first with side one face up, bottom first with side one face up, top first with side one face down, and bottom first with side one face down.

(6) The town or city clerk shall count the votes marked on the test ballots run through the electronic ballot counting device and multiply the results by 4 to account for the 4 different orientations, and check these results against the tally from the electronic ballot counting device.

(7) If the electronic ballot counting device's tally does not match the count of the town or city clerk, the clerk shall notify the moderator, who shall order that the electronic ballot counting device not be used at the election.

(8) The pre-election test shall be completed no later than the Wednesday immediately prior to the election.

(9) The town or city clerk shall document the pre-election test by preserving:

(A) The test ballots.

(B) The count of votes on the test ballots made by the town or city clerk.

(C) The results from the electronic ballot counting device that was tested.

(10) The clerk shall test all electronic ballot counting devices and memory cards in the possession of the town or city.

(11) Prior to placing the electronic ballot counting device or any memory card into service in an election, the moderator shall certify that there is evidence that pre-election testing was conducted on each electronic ballot counting device and each memory card in the town or city clerk's possession, and that these devices and cards have passed the test.

71 Repeal. The following are repealed:

I. RSA 654:4, relative to armed services voters.

II. RSA 654:21, relative to forwarding registration affidavits.

III. RSA 657:3, relative to armed services voter eligibility.

IV. RSA 657:9, relative to armed services voting.

72 Effective Date.

I. Sections 15 and 23 of this act and RSA 657:19, III and IV as inserted by section 34 of this act shall take effect September 15, 2010.

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

**2010-1840s****AMENDED ANALYSIS**

This bill:

I. Makes various changes relating to absentee voting, including authorizing electronic ballots for certain voters, and changes procedures for requesting, casting, processing, challenging, and preserving absentee ballots.

II. Changes scheduling requirements for certain special elections.

III. Modifies the requirements for election returns and requires that they be submitted on paper and electronically.

IV. Authorizes the secretary of state to appoint election monitors.

V. Requires the secretary of state to collect certain state primary ballots.

VI. Changes eligibility for a state primary recount.

VII. Changes the meeting requirements for the ballot law commission.

VIII. Establishes requirements for electronic ballot counting devices.

**The question is on the adoption of Committee Amendment 1840s.**

**Committee Amendment 1840s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1535-FN.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1239**, (New Title) relative to processing certain environmental permits and administrative fines for violations of dredge and fill requirements. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 3-0. Senator Lasky for the committee.

**Energy, Environment, and Economic Development**

**May 6, 2010**

**2010-1958s**

**08/04**

**Amendment to HB 1239**

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

1 Time for Rendering Decision on Wetlands Permit Applications. Amend RSA 482-A:3, XIV(a)(3)-(5) to read as follows:

(3) Where the department requests additional information pursuant to subparagraph (a)(2), within 30 days of the department's receipt of a complete response to the department's information request:

(A) Approve ~~or deny~~ the application, in whole or in part, **and issue a permit**; or

~~[(B) Commence a non-adjudicative proceeding]~~ **(B) Deny the application and issue written findings in support of the denial; or**

**(C) Schedule a public hearing** in accordance with this chapter and rules adopted by the commissioner; or

~~[(C)]~~ **(D) Extend the time for [response] rendering a decision on the application** for good cause and with the written agreement of the applicant~~[-]; or~~

(4) Where no request for additional information is made pursuant to subparagraph ~~[(b)]~~ **(a)(2)**, within 75 days from the issuance of the notice of administrative completeness, or 105 days if the application proposes more than one acre of jurisdictional impact:

(A) Approve ~~or deny~~ the application, in whole or in part, **and issue a permit**; or

~~[(B) Commence a non-adjudicative proceeding]~~ **(B) Deny the application and issue written findings in support of the denial; or**

**(C) Schedule a public hearing** in accordance with this chapter and rules adopted by the commissioner~~[-]; or~~

***(D) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.***

(5) Where the department has ~~[commenced a non-adjudicative]~~ ***held a public*** hearing on an application filed under this chapter, within 60 days following the closure of the hearing record, approve ***the application in whole or in part, and issue a permit*** or deny the application ~~[either in whole or in part]~~ ***and issue written finding in support of the denial.***

2 Time for Rendering Decision on Wetlands Permit Applications; Remedy. Amend RSA 482-A:3, XIV(b) to read as follows:

(b) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to act within the applicable time frame established in ~~[subparagraphs (a)(2) and (c)(4), the department shall notify the applicant that a determination was not made within the statutory time requirements. Upon this notice, the department shall reimburse the applicant 25 percent of the application fee. Within 14 days following the date on which action should have been taken pursuant to the applicable time frame established in subparagraphs (a)(2) or (a)(4), the department shall issue an approval or denial of the permit application, or reach a mutually acceptable agreement with the applicant for an extension of the time limit to act upon the application. After 14 days, if the department has not rendered a decision or made an agreement for an extension, an additional 25 percent of the application fee shall be reimbursed to the applicant]~~ ***subparagraphs (a)(3), (a)(4), and (a)(5) then an application which meets all applicable criteria for permit issuance, whether established in statute or in rule adopted pursuant to RSA 541-A, shall be deemed approved, and an application which does not meet all applicable criteria for permit issuance shall be deemed denied. Within 14 days of the date of receipt of a written request from the applicant for the permit, the department shall issue a permit for an application that has been deemed approved and shall issue a written denial of the application for an application that has been deemed denied, which shall specify the reasons why the application does not meet the applicable criteria for permit issuance. If the applicant has previously agreed to accept communications from the department by electronic means, the applicant's request may be submitted electronically. If the department does not issue either a permit or a written denial within the 14-day period, the applicant may proceed with the project as presented in the application. The department's failure to issue a permit shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in accordance with RSA 485-A relating to water quality and permitting requirements under section 404 of the Federal Clean Water Act.***

3 New Subparagraphs; Suspension of Review of Wetlands Permit Applications; Enforcement Action. Amend RSA 482-A:3, XIV by inserting after subparagraph (e) the following new subparagraphs:

(f) The department may extend the time for rendering a decision under subparagraphs (a)(3)(D) and (a)(4)(D), without the applicant's agreement, on an application from an applicant who previously has been determined, after the exhaustion of available appellate remedies, to have failed to comply with this chapter or any rule adopted or permit or approval issued under this chapter, or to have misrepresented any material fact made in connection with any activity regulated or prohibited by this chapter, pursuant to an action initiated under RSA 482-A:13, RSA 482-A:14, or RSA 482-A:14-b. The length of such an extension shall be no longer than reasonably necessary to complete the review of the application, but shall not exceed 30 days unless the applicant agrees to a longer extension. The department shall notify the applicant of the length of the extension.

(g) The department may suspend review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of this chapter, RSA 483-B, RSA 485-A:17, or RSA 485-A:29-44, or of any rule adopted or permit or approval issued pursuant to this chapter, RSA 483-B, RSA 485-A:17, or RSA 485-A:29-44. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action under RSA 482-A:13, RSA 482-A:14, RSA 482-A:14-b, RSA 483-B:18, RSA 485-A:22, RSA 485-A:42, or RSA 485-A:43.



4 Administrative Fines. Amend RSA 482-A:13 to read as follows:

482-A:13 Administrative Fine. The commissioner, after notice and hearing in accordance with the procedures set forth in RSA 541-A, is empowered to impose an administrative fine of up to [~~\$2,000~~] **\$5,000** for each [~~offense~~] **violation, irrespective of the duration of violation**, upon any person who violates any provision of this chapter. This fine is appealable under RSA 541. Any administrative fine imposed under this section will not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines levied pursuant to this section shall be placed in the nonlapsing fund authorized in RSA 482-A:14, III.

5 Time for Rendering Decision on Shoreland Permit Applications. Amend RSA 483-B:5-b, V(b) and (c) to read as follows:

(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, **in whole or in part**, and issue a permit; **or**

(2) Deny the application, [~~with~~] **and issue** written findings in support of the decision [~~in whole or in part~~]; **or**

(3) Extend the time for [~~response~~] **rendering a decision on the application** 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[;]:

(1) Approve [~~or deny~~] the application, [~~with~~] **in whole or in part, and issue a permit; or**

(2) **Deny the application, and issue** written findings in support of the decision [~~in whole or in part~~]; **or**

(3) **Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.**

6 Time for Rendering Decision on Shoreland Permit Applications; Remedy. RSA 483-B:5-b, V(d) is repealed and reenacted to read as follows:

(d) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to act within the applicable time frame established in subparagraphs (b) and (c), then an application which meets all applicable criteria for permit issuance, whether established in statute or in rule adopted pursuant to RSA 541-A, shall be deemed approved, and an application which does not meet all applicable criteria for permit issuance shall be deemed denied. Within 14 days of the date of receipt of a written request from the applicant for the permit, the department shall issue a permit for an application that has been deemed approved and shall issue a written denial of the application for an application that has been deemed denied, which shall specify the reasons why the application does not meet the applicable criteria for permit issuance. If the applicant has previously agreed to accept communications from the department by electronic means, the applicant's request may be submitted electronically. If the department does not issue either a permit or a written denial within the 14-day period, the applicant may proceed with the project as presented in the application. The department's failure to issue a permit shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in accordance with RSA 485-A relating to water quality.

7 New Subparagraphs; Suspension of Review of Shoreland Permit Applications; Enforcement Action. Amend RSA 483-B:5-b, V by inserting after subparagraph (e) the following new subparagraphs:

(f) The department may extend the time for rendering a decision under subparagraphs (b)(3) and (c)(3), without the applicant's agreement, on an application from an applicant who previously has been determined, after the exhaustion of available appellate remedies, to have failed to comply with this chapter or any rule adopted or permit or approval issued under this chapter, or to have misrepresented any material fact made in connection with any activity regulated or prohibited by this chapter, pursuant to an action initiated under RSA 483-B:18. The length of such an extension shall be no longer than reasonably necessary to complete the review of the application, and shall not exceed 30 days unless the applicant agrees to a longer extension. The department shall notify the applicant of the length of the extension.

(g) The department may suspend review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of this chapter, RSA 482-A, RSA 485-A:17, or RSA 485-A:29-44, or of any rule adopted or permit or approval issued pursuant to this chapter, RSA 482-A, RSA 485-A:17, or RSA 485-A:29-44. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action initiated under RSA 482-A:13, RSA 482-A:14, RSA 482-A:14-b, RSA 483-B:18, RSA 485-A:22, RSA 485-A:42, or RSA 485-A:43.

8 Time for Rendering Decision on Terrain Alteration Permit Applications. Amend RSA 485-A:17, II-b (b) and (c) to read as follows:

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

(1) Approve ***the application in whole or in part*** and issue a permit; ***or***

(2) Deny the application~~[, in whole or in part]~~ ***and issue written findings in support of the decision***; ***or***

(3) Extend the time for ~~[response]~~ ***rendering a decision on the application*** for good cause and with the written agreement of the applicant.

(c) If no request for additional information is made pursuant to subparagraph (b), the department shall, within 50 days of receipt of the application~~[,]~~:

(1) ***Approve or deny the application, in whole or in part[,]*** ***and issue a permit; or***

(2) ***Deny the application, and issue written findings in support of the decision; or***

(3) ***Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.***

9 Time for Rendering Decision on Terrain Alteration Permit Applications; Remedy. RSA 485-A:17, II-b(d) is repealed and reenacted to read as follows:

(d) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to act within the applicable time frame established in subparagraphs (b) and (c), then an application which meets all applicable criteria for permit issuance, whether established in statute or in rule adopted pursuant to RSA 541-A, shall be deemed approved, and an application which does not meet all applicable criteria for permit issuance shall be deemed denied. Within 14 days of the date of receipt of a written request from the applicant for the permit, the department shall issue a permit for an application that has been deemed approved and shall issue a written denial of the application for an application that has been deemed denied, which shall specify the reason why the application does not meet the applicable criteria for permit issuance. If the applicant has previously agreed to accept communications from the department by electronic means, the applicant's request may be submitted electronically. If the department does not issue either a permit or a written denial within the 14-day period, the applicant may proceed with the project as presented in the application. The department's failure to issue a permit shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under RSA 485-A relating to water quality.

10 New Subparagraphs; Suspension of Review of Terrain Alteration Permit Application; Enforcement Action. Amend RSA 485-A:17, II-b by inserting after subparagraph (e) the following new subparagraph:

(f) The department may suspend review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of this section, RSA 482-A, RSA 483-B, or RSA 485-A:29-44, or of any rule adopted or permit or approval issued pursuant to this section, RSA 482-A, RSA 483-B, or RSA 485-A:29-44. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the

application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action initiated under RSA 482-A:13, RSA 482-A:14, RSA 482-A:14-b, RSA 483-B:18, RSA 485-A:22, RSA 485-A:42, or RSA 485-A:43.

11 Action on Subdivision and On-Site Waste Disposal Permit Applications. Amend RSA 485-A:31 to read as follows:

485-A:31 Action on Applications.

***I. Subject to paragraphs II and III, the department shall give notice in writing to the person submitting the plans and specifications for subdivision of land of its approval or disapproval of such plans and specifications within 30 days of the date such plans and specifications and the required fees are received by the department and shall give notice in writing to the person submitting plans and specifications for sewage or waste disposal systems of its approval or disapproval of such plans and specifications within 15 working days of the date such plans and specifications and the required fees are received by the department. Unless such written disapproval shall be mailed to the person submitting plans and specifications within 30 days in the case of plans and specifications for subdivision of land and 15 working days in the case of plans and specifications for sewage or waste disposal systems from the date of receipt with the required fees by the department, the plans and specifications shall be deemed to have been approved. The department shall send a copy of the approval or disapproval of such plans and specifications to the planning board or board of selectmen of the affected municipality.***

***II. The department may extend the time for rendering a decision under paragraph I, without the applicant's agreement, on an application from an applicant who previously has been determined, after the exhaustion of available appellate remedies, to have failed to comply with RSA 485-A:29-44, or any rule adopted or permit or approval issued pursuant to RSA 485-A:29-44, or to have misrepresented any material fact made in connection with any activity regulated or prohibited by RSA 485-A:29-44, as a result of an action initiated under RSA 485-A:42 or RSA 485-A:43. The length of such an extension shall be no longer than reasonably necessary to complete the review of the application and shall not exceed 30 days unless the applicant agrees to a longer extension. The department shall notify the applicant of the length of the extension.***

***III. The department may suspend a review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of RSA 485-A:29-44; RSA 482-A; RSA 483-B; or RSA 485-A:17, or of any rule adopted or permit or approval issued pursuant to this chapter, RSA 485-A:29-44; RSA 482-A; RSA 483-B; or RSA 485-A:1. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action initiated under RSA 482-A:13; RSA 482-A:14; RSA 482-A:14-b; RSA 483-B:18; RSA 485-A:22; RSA 485-A:42; or RSA 485-A:43.***

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

**2010-1958s**

#### AMENDED ANALYSIS

This bill:

I. Requires the department of environmental services to approve, deny, schedule a public hearing, or extend the time for rendering a decision on wetlands permit applications.

II. Raises the fine for violations of the chapter relative to fill and dredge in wetlands.

**The question is on the adoption of Committee Amendment 1958s.**

**Recess. Out of recess.**

**AFTERNOON SESSION  
COMMITTEE REPORTS, RESUMED**

**The question is on the adoption of Committee Amendment 1958s on HB 1239.**

**MOTION TO TABLE**

**Sen. Fuller Clark moved to table HB 1239.**

**The question is on the motion to table HB 1239.**

**Motion adopted.**

**LAID ON THE TABLE**

**HB 1239**, (New Title) relative to processing certain environmental permits and administrative fines for violations of dredge and fill requirements.

**SPECIAL ORDER**

**HB 1393**, (New Title) relative to the treatment of New Hampshire investment trusts. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 4-2. Senator Reynolds for the committee.

**Commerce, Labor and Consumer Protection**

**May 11, 2010**

**2010-2020s**

**08/04**

**Amendment to HB 1393**

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

AN ACT relative to the treatment of New Hampshire investment trusts, and relative to pooled risk management programs.

Amend RSA 293-B:6, III and IV as inserted by section 2 of the bill by replacing them with the following:

III. A trustee of a New Hampshire investment trust may be served with process in the manner prescribed in paragraph IV of this section in all civil actions or proceedings brought in this state involving or relating to the activities of the New Hampshire investment trust or a violation by a trustee of a duty to the New Hampshire investment trust, or any beneficial owner, whether or not the trustee is a trustee at the time suit is commenced. Every resident or nonresident of this state who accepts election or appointment or serves as a trustee of a New Hampshire investment trust shall, by such acceptance or service, be deemed thereby to have consented to the appointment of the New Hampshire trustee or registered agent of such New Hampshire investment trust required by RSA 293-B:9 as such person's agent upon whom service of process may be made as provided in this paragraph. Such acceptance or service shall signify the consent of such trustee that any process when so served shall be of the same legal force and validity as if served upon such trustee within this state and such appointment of such New Hampshire trustee or registered agent shall be irrevocable.

IV. Service of process shall be effected by serving the New Hampshire trustee or registered agent of such New Hampshire investment trust required by RSA 293-B:9 with one copy of such process in the manner provided by law for service of writs of summons. In addition, the clerk of the court in which the civil action or proceeding is pending shall, within 7 days of such service, deposit in the United States mails, by registered mail, postage prepaid, true and attested copies of the process, together with a statement that service is being made pursuant to this section, addressed to the defendant at the defendant's address last known to and furnished by the party desiring to make such service.

Amend the bill by replacing all after section 2 with the following:

3 New Section; Pooled Risk Management Programs; Authority of Secretary of State. Amend RSA 5-B by inserting after section 4 the following new section:

5-B:4-a Authority of the Secretary of State; Investigations; Cease and Desist Orders; Penalties.

I. Notwithstanding any other provision of law, the secretary of state shall have exclusive authority and jurisdiction:

(a) To bring administrative actions to enforce this chapter.

(b) To investigate and impose penalties for violations of this chapter, including but not limited to:

(1) Fines.

(2) Rescission, restitution, or disgorgement.

II. The secretary of state shall have all powers specifically granted or reasonably implied in order to perform the substantive responsibilities imposed by this chapter.

III. For the purpose of any investigation, hearing, or proceeding under this chapter, the secretary of state or any officer designated by him or her may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the secretary of state deems relevant or material to the inquiry.

IV. In the event that a person refuses to obey a subpoena issued to him or her or any order or determination the secretary of state is authorized to make, the superior court, upon application by the attorney general or secretary of state or any officer designated by the secretary of state, may issue to the person an order directing him or her to appear before the attorney general or secretary of state, or the officer designated by him or her, to produce documentary evidence if so ordered or to give evidence relative to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as contempt of court.

V. In any investigation to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, upon the secretary of state's prevailing at hearing, or the person charged with the violation being found in default, or pursuant to a consent order issued by the secretary of state, the secretary of state shall be entitled to recover the costs of the investigation, and any related proceedings, including reasonable attorney's fees, in addition to any other penalty provided for under this chapter.

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

VII. The following fines and penalties may be imposed on any person who has violated this chapter.

(a) Any person who, either knowingly or negligently, violates any provision of this chapter or any rule or order thereunder, may, upon hearing, and in addition to any other penalty provided for by law, be subject to an administrative fine not to exceed \$2,500. Each of the acts specified shall constitute a separate violation.

(b) After notice and hearing, the secretary of state may enter an order of rescission, restitution, or disgorgement directed to a person who has violated this chapter, or rule or order under this chapter. Rescission, restitution, or disgorgement shall be in addition to any other penalty provided for under this chapter.

VIII. Decisions of the secretary of state may be appealed to the supreme court pursuant to RSA 541.

4 Standards of Organization and Operation. Amend RSA 5-B:5, I(b) to read as follows:

(b) Be governed by a board the majority of which is composed of elected or appointed public officials, officers, or employees. ***Board members shall not receive compensation but may be reimbursed for mileage and other reasonable expenses.***

5 New Subparagraph; Standards of Organization and Operation. Amend RSA 5-B:5, I by inserting after subparagraph (f) the following new subparagraph:

(g) Provide notice to all participants of and conduct 2 public hearings for the purpose of advising of potential rate increases, the reasons for projected rate increases, and to solicit comments from members regarding the return of surplus, at least 10 days prior to rate setting for each calendar year.

6 Limitations on Reserves and Administrative Expenses of Pooled Risk Management Programs. The secretary of state, in consultation with the insurance commissioner and by employing the services of an actuary who has experience with pooled risk management programs shall, no later than January 1, 2011, submit a report to the speaker of the house of representatives, the president of the senate, and the governor, containing specific recommendations concerning the limitation of reserves in pooled risk management programs and the limitation on administrative expenses as a percentage of claims of pooled risk management programs. The secretary of state may use funds from the investor education fund established in RSA 421-B:21, II-c to pay for the services of the actuary.

7 Repeal. The following are repealed:

I. 2009, 128:4, relative to the 2011 amendment of the pooled risk management program informational filing fee.

II. 2009, 128:5, I, relative to the effective date of the amendment of pooled risk management program informational filing fee.

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

## **2010-2020s**

### **AMENDED ANALYSIS**

This bill:

I. Makes various changes to the laws regarding New Hampshire investment trusts.

II. Enables the secretary of state to investigate and bring actions against pooled risk management programs.

III. Requires the secretary of state to employ an actuary and report on the limitation of reserves in pooled risk management programs and the limitation on administrative expenses as a percentage of claims of pooled risk management programs.

IV. Repeals a provision permitting the department of state to make requests for additional information from pooled risk management programs making informational filings for a 2-year period.

**Recess. Out of recess.**

**The question is on the adoption of Committee Amendment 2020s.**

### **MOTION TO TABLE**

**Sen. Hassan moved to table HB 1393.**

**The question is on the motion to table HB 1393.**

**Motion adopted.**

### **LAI D ON THE TABLE**

**HB 1393**, (New Title) relative to the treatment of New Hampshire investment trusts.

**HB 1377**, permitting utilities to establish loan programs for owners of residential and business property engaging in renewable energy and energy efficiency projects. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 6-0. Senator Fuller Clark for the committee.

**Energy, Environment and Economic Development**

**May 6, 2010**

**2010-1950s**

**09/04**

### **Amendment to HB 1377**

Amend RSA 374:61 as inserted by section 1 of the bill by replacing it with the following:

374:61 Renewable Energy and Energy Efficiency Project Loan Programs. A public utility may seek commission authorization, either individually or in combination with other public utilities, to establish loan, financing, or cost amortization programs for owners and tenants of residential, public, nonprofit, and business property to finance or otherwise amortize cost effective fuel neutral renewable energy and energy efficiency investments and improvements to the owner's or tenant's premises. The total amount loaned in such programs shall not exceed \$5,000,000. The commission shall authorize terms, conditions, and tariffs for the repayment of such loans and financed or underwritten investments and improvements through charges billed through and that run with the meter or meters assigned to the location where the investments are located, provided that such investments or improvements to a tenant's premises are only made with the written consent of the owner or the owner's authorized management representative. Pursuant to RSA 477:4-h, the owner, seller, lessor, or transferor of any real property subject to unamortized or ongoing charges under such a tariff shall disclose such fact to a prospective buyer, lessee, or occupant who might be responsible for paying such charges as a condition of utility service. A public utility may not finance these loan, financing, or cost amortization programs through its rate base, nor earn its regulated rate of return on such program investments and improvements to the owner's or tenant's premises, unless such investment is approved as part of a strategy for minimizing transmission and distributions costs pursuant to RSA 374-G.

Amend the bill by replacing all after section 2 with the following:

3 Committee Established. There is established a committee to study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses.

4 Membership and Compensation.

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

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

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

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

5 Duties. The committee shall study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses. The committee shall consider:

I. Allowing New Hampshire homeowners and small businesses to generate revenue from investments in small scale renewable generation.

II. The use of more modern billing and tracking systems such as the "feed-in tariff" approach, rather than the current "net metering" billing, metering, and tracking system.

III. Providing greater transparency in the billing and information exchange between a utility and its retail customers who have installed renewable generation on their premises.

IV. Ensuring that the regulated distribution charges are properly and fairly applied to all electric customers.

6 Chairperson. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

7 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2010.

8 Effective Date.

I. Sections 3-7 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

## **2010-1950s**

### **AMENDED ANALYSIS**

This bill permits utilities to establish loan programs for owners of residential and business property engaging in renewable energy and energy efficiency projects.

This bill also establishes a committee to study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses.

**The question is on the adoption of Committee Amendment 1950s.**

**Committee Amendment 1950s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1377.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1462**, (New Title) establishing a shoreland advisory committee. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 5-1. Senator Fuller Clark for the committee.

**Energy, Environment and Economic Development**

**May 6, 2010**

**2010-1948s**

**06/03**

### **Amendment to HB 1462**

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

AN ACT establishing a shoreland advisory council.

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

1 New Section; Shoreland Advisory Council Established Amend RSA 483-B by inserting after section 20 the following new section:

483-B:21 Shoreland Advisory Council. There is established a shoreland advisory council appointed by the governor and council. All members shall be New Hampshire residents and the governor shall request that nominating organizations select nominees representing diverse geographic areas of the state who are also waterfront property owners, whenever possible. The primary focus of this council is to address residential shorefront owner input and perspective relating to shoreland development regulated under the comprehensive shoreland protection act under this chapter and the regulation of shoreline structures under RSA 482-A.

I. The advisory council shall include:

(a) Five representatives who own property within the protected shoreland nominated by the governor. There shall be one representative for lakes greater than 1,000 acres, one representative for lakes less than 1,000 acres, one representative for rivers designated under RSA 483, one representative for rivers greater than fourth order, and one representative for tidal areas.

(b) A planning board representative nominated by the New Hampshire Municipal Association.

(c) A representative of the New Hampshire Association of Natural Resource Scientists chosen from a list of 3 nominees.

(d) A representative of the Granite State Designers and Installers chosen from a list of 3 nominees.

(e) A representative of the New Hampshire Lakes Association chosen from a list of 3 nominees.

(f) A representative of the New Hampshire Rivers Council chosen from a list of three nominees.

(g) A representative of the New Hampshire Association of Realtors chosen from a list of 3 nominees.

(h) Two representatives of the protected shoreland. These property owners shall be chosen from a list of 4 nominees submitted by the commissioner of the department of environmental services.

(i) A representative of the New Hampshire Home Builders and Remodelers Association chosen from a list of 3 nominees.

(j) A representative of the Granite State Landscape Architects chosen from a list of 3 nominees.

(k) A representative from the department of environmental services who shall serve as a nonvoting member of the council.

(l) A representative who is a marine contractor or dock builder from a list of 2 nominees provided by the New Hampshire Marine Trades Association.

II. The council shall solicit information from other state agencies on an as needed basis.

III. The members shall serve for 3 years and may be reappointed to a second 3-year term.

IV. Any vacancy shall be filled in the same manner as the original appointment. Members may hold office until their successors are appointed and confirmed.

V. The representative of the department of environmental services shall call the first meeting 90 days after the effective date of this section as long as the majority of appointments have been confirmed. Nine members shall constitute a quorum. At its first meeting the council shall elect a chairperson, vice chairperson, and secretary. Subsequent meetings shall be at the call of the chair, or at the request of 5 or more council members.

(a) The council shall meet a minimum of 4 times per year.

(b) The council secretary shall contact the chairman of the senate energy, environment and economic development committee and the chairman of the house resources, recreation and development committee to post scheduled meetings and public hearing times and places in the legislative calendars.

VI. The council shall consult with and advise the commissioner of the department of environmental services, on a continuing basis, with respect to the policy, programs, goals, and operations of the department as they relate to the impact and implementation of the comprehensive shoreland protection act under this chapter and the regulation of shoreline structures under RSA 482-A. In order to accomplish these purposes, the council may:



- (a) Perform field evaluation of particular situations and issues.
- (b) Identify issues that need clarification or modification in the rules and statutes.
- (c) Prepare written comment for the commissioner to suggest potential rules changes.
- (d) Prepare written comment for the commissioner to suggest statutory changes.
- (e) Aid in the design and implementation of outreach strategies and guidance documents.

VII. The commissioner of the department of environmental services shall present all proposed rules relative to shoreline structures under RSA 482-A and protected shoreland under this chapter to the council for consideration and comment prior to filing a notice of proposed rule making under RSA 541-A:6. The council shall present any objections to proposed rules to the commissioner in writing within 30 days. The commissioner shall retain authority to adopt rules pursuant to RSA 483-B:17.

2 Repeal. RSA 483-B:21, relative to the shoreland advisory council, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect December 31, 2016.

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

## **2010-1948s**

### **AMENDED ANALYSIS**

This bill establishes a shoreland advisory council.

**The question is on the adoption of Committee Amendment 1948s.**

**Committee Amendment 1948s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1462.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1471**, (New Title) requiring the governor's office of energy and planning and the board of home inspectors to develop a document relative to home energy efficiency for home buyers. Energy, Environment and Economic Development Committee. Inexpedient to Legislate, Vote 6-0. Senator Merrill for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1471.**

**Motion of Inexpedient to Legislate adopted.**

**HB 410**, relative to the licensing of alcohol and drug counselors. Executive Departments and Administration Committee. Ought to Pass, Vote 5-0. Senator Fuller Clark for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 410.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1170**, relative to licensure of home health care providers. Executive Departments and Administration Committee. Ought to Pass, Vote 4-0. Senator Carson for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1170.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1267-L**, relative to applications for hawkers and peddlers licenses. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-1. Senator Fuller Clark for the committee.

**Senate Executive Departments and Administration**

**May 4, 2010**

**2010-1882s**

**08/10**

### **Amendment to HB 1267-LOCAL**

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

1 Hawkers and Peddlers Licenses. Amend RSA 320:8, I to read as follows:

I. Upon compliance with this section and upon payment of \$50 for a state license, the secretary of state may grant special state licenses. Applications for such licenses shall be made upon blanks prepared by the secretary of state requiring such information regarding the applicant's character and qualifications as the secretary shall deem pertinent. ***All applications shall inform the person so applying: "Any person so licensed by the secretary of state may do business as a hawker or peddler in any municipality in this state, provided the licensee complies with all local ordinances, by-laws, and regulations which may include a state and federal criminal background check."***

2 Hawkers, Peddlers and Vendors. RSA 31:102-a is repealed and reenacted to read as follows:

31:102-a Hawkers, Peddlers and Vendors.

I. All hawkers, peddlers, and vendors licensed by the secretary of state pursuant to RSA 320:8 shall submit to the municipality where the hawker, peddler, or vendor seeks to transact business, a New Hampshire department of safety, division of state police, notarized criminal record release authorization form which authorizes the release of his or her criminal history record, if any, to the municipality. The applicant shall also include the location of all municipalities in which the hawker, peddler, or vendor seeks to transact business. Such municipalities shall have access to the results of the criminal history record check and the New Hampshire division of state police shall release copies of the criminal history records to such municipalities. The hawker, peddler, or vendor shall be responsible for any additional fees for any administrative costs incurred by the New Hampshire division of state police under this section.

(a) The municipality may request that an applicant submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the department of safety. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be taken when necessary in order to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the municipality may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 10 years. If the municipality has reason to suspect an applicant of serious wrongdoing, the municipality may submit the criminal history records release form and fingerprint form to the division of state police which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the records check, the division of state police shall release copies of the criminal history records to the local law enforcement agency of the municipality which shall maintain the confidentiality of all criminal history records information received pursuant to this section. The municipality may charge a fee to recover the costs of such investigation.

(b) The local law enforcement agency of a municipality in possession of the criminal convictions records of an applicant shall maintain the confidentiality of all criminal history records information received pursuant to this section.

II. The governing board of a municipality may adopt, by ordinance or regulation, provisions for the licensure and regulation of itinerant vendors, hawkers, peddlers, traders, farmers, merchants, or other persons who sell, offer to sell, or take orders for merchandise from temporary or transient sales locations within a town or who go from town to town or place to place within a town for such purposes. Any person who violates any provision of such ordinance or regulation shall be guilty of a class B misdemeanor, and each continuing day of violation after notice shall constitute a separate offense. A municipality shall be specifically prohibited, however, from licensing or regulating a candidate for public office in the process of obtaining signatures on nomination papers, who seeks to have the candidate's name placed on the ballot for the state general election by submitting nomination papers under RSA 655:40. Provisions adopted under this section shall be in addition to any requirements imposed by the state under either RSA 320 or RSA 321 and may include, but shall not be limited to:

(a) Classification of licensees consistent with constitutional requirements of equal protection;

(b) Imposition of reasonable requirements, including fees, for the issuance of a license;

(c) Restrictions as to the areas of the municipality open to licensees and the hours and days of their operation; and

(d) Other reasonable conditions and terms deemed necessary for public convenience and safety as the governing board of the municipality, in conjunction with the local law enforcement agency determines including the denial of such license or application based on the results of the criminal background check as described in this section.

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

**The question is on the adoption of Committee Amendment 1882s.**

**Committee Amendment 1882s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1267-L.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1326**, relative to the use of long-term antibiotics for the treatment of Lyme disease. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 2-2. Senator Cilley for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1326.**

**Motion of Inexpedient to Legislate failed.**

**Sen. Cilley moved Ought to Pass.**

**Sen. Cilley offered a floor amendment.**

**Sen. Cilley, Dist. 6**

**Sen. Carson, Dist. 14**

**May 12, 2010**

**2010-2045s**

**10/05**

#### **Floor Amendment to HB 1326**

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

AN ACT establishing a committee to investigate and assess access to viable and credible alternative medical practices and protocols to Lyme disease.

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

1 Purpose and Intent. It is the intent of the general court to investigate and assess access to viable and credible alternative medical practices and protocols to Lyme disease, and that during the duration of the work of the committee established by this act, the board of medicine established under RSA 329 will:

I. Post on its website its policy relative to intended disciplinary action toward doctors who prescribe long term antibiotics for Lyme disease.

II. Refrain from undertaking disciplinary proceedings against or sanctioning credentialed medical professionals solely for offering credible treatment approaches to Lyme disease within their scope of practice based solely on such treatment approach, provided that practitioners provide patients being so treated with disclosure that the treatment approach may be an alternative to Infectious Disease Society of America (IDSA) accepted medical practice, provide details as to potential adverse affects, and request a signature of acknowledgement of receipt of the disclosure. Provided, however, that nothing in this paragraph shall lessen the standard of care applicable to practitioners licensed by the board.

2 Committee Established. There is established a committee to investigate and assess access to viable and credible alternative medical practices and protocols to Lyme disease.

3 Membership and Compensation.

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

(a) Two members of the senate, one of whom shall be a member of the health and human services committee and one of whom shall be a member of the executive departments and administration committee, appointed by the president of the senate.

(b) Five members of the house of representatives, 2 of whom shall be members of the health, human services and elderly affairs committee and 2 of whom shall be members of the executive departments and administration committee, appointed by the speaker of the house of representatives.

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

4 Duties. The committee shall:

I. Investigate ways to ensure that patients in New Hampshire have access to alternative treatment approaches to Lyme disease that are evidence based and supported by credentialed practitioners.

II. Determine whether medical practitioners in New Hampshire are prohibited, disciplined, or sanctioned, in substantive ways that would negatively impact the pursuit of their profession.

III. Assess ways in which a full range of treatment approaches or clinical studies may be made available to our citizens seeking Lyme disease treatment while ensuring that these citizens are not put to unacceptable risks of further physical harm.

IV. Seek input on and work with the department of health and human services, division of public health services in creating a comprehensive education program concerning Lyme disease for the citizens of New Hampshire.

5 Chairperson; Meetings; Quorum. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 60 days of the effective date of this section. All meetings of the committee shall be public meetings and fully noticed by publication by the house and senate clerks in the House Calendar and Senate Calendar, respectively. Four members of the committee shall constitute a quorum.

6 Report. The committee shall report detailing its activities, its findings, and any recommendations, including proposals for legislation to the president of the senate, the speaker of the House of Representatives, the chairs of the senate and house executive departments and administration committees, the senate clerk, the house clerk, the governor, and the state library on or before June 30, 2011.

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

**2010-2045s**

**AMENDED ANALYSIS**

This bill establishes a committee to investigate and assess access to viable and credible alternative medical practices and protocols to Lyme disease.

**The question is on the adoption of Floor Amendment 2045s.**

**Sen. Barnes moved the question.**

**Without objection President Larsen closed debate with a remaining speaker.**

**A division vote was requested.**

**Yeas: 13 - Nays: 11**

**Floor Amendment 2045s adopted.**

**Sen. Downing offered a floor amendment.**

**Sen. Downing, Dist. 22**

**May 12, 2010**

**2010-2064s**

**10/04**

**Floor Amendment to HB 1326**

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

AN ACT relative to the use of long-term antibiotics for the treatment of Lyme disease.

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

1 New Section; Physicians; Treatment of Lyme Disease. Amend RSA 329 by inserting after section 31 the following new section:

329:32 Treatment of Lyme Disease. A physician licensed under this chapter may prescribe, administer, or dispense long-term antibiotic therapy for therapeutic purposes to a person diagnosed with and having symptoms of Lyme disease if diagnosis and treatment has been documented in the physician's medical record for that patient. No licensed physician may be subject to disciplinary action solely for prescribing, administering, or dispensing long-term antibiotic therapy for a patient clinically diagnosed with Lyme disease, if diagnosis

and treatment has been documented in the physician's medical record for that patient. Nothing in this section shall prevent the board from undertaking disciplinary proceedings or non-disciplinary remedial proceedings pursuant to RSA 329:17 or from entering into a settlement or consent order pursuant to RSA 329:18-a, for any misconduct set forth in RSA 329:17, VI. In this section:

I. "Long-term antibiotic therapy" means the administration of oral, intramuscular, or intravenous antibiotics, singly or in combination, for periods of time in excess of 4 weeks.

II. "Lyme disease" means the clinical diagnosis by a licensed physician of the presence in a patient of signs or symptoms compatible with acute infection with *Borrelia burgdorferi*; or with late stage or persistent or chronic infection with *Borrelia burgdorferi*; or with complications related to such an infection; or such other strains of *borrelia* that are recognized by the National Centers for Disease Control and Prevention as a cause of Lyme disease. Lyme disease includes an infection that meets the surveillance criteria set forth by the National Centers for Disease Control and Prevention, and other acute and chronic manifestations of such an infection as determined by a licensed physician, pursuant to a clinical diagnosis that is based on knowledge obtained through medical history and physical examination alone, or in conjunction with testing that provides supportive data for such clinical diagnosis.

III. "Therapeutic purpose" means the use of antibiotics to control a patient's symptoms determined by the physician as reasonably related to Lyme disease and its sequelae.

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

**2010-2064s**

#### AMENDED ANALYSIS

This bill authorizes licensed physicians to prescribe long-term antibiotics for therapeutic purposes to patients diagnosed with Lyme disease.

**Recess. Out of recess.**

**The question is on the adoption of Floor Amendment 2064s.**

**Floor Amendment 2064s failed.**

**The question is on the motion of Ought to Pass as Amended on HB 1326.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1404**, relative to the regulation of real estate brokers and salespersons. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 5-0. Senator Fuller Clark for the committee.

**Senate Executive Departments and Administration**

**May 4, 2010**

**2010-1887s**

**10/05**

#### Amendment to HB 1404

Amend RSA 331-A:20, V(f) as inserted by section 7 of the bill by replacing it with the following:

(f) Engaging in conduct which demonstrates incompetence.

Amend RSA 331-A:20, V(k) as inserted by section 7 of the bill by replacing it with the following:

(k) Demonstrating unprofessional conduct as defined by RSA 331-A:2, XV, or, when presenting a course to licensees or potential licensees, engaging in inappropriate conduct.

**The question is on the adoption of Committee Amendment 1887s.**

**Committee Amendment 1887s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1404.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1416**, making technical corrections to certain department of revenue administration laws. Executive Departments and Administration Committee. Ought to Pass, Vote 4-0. Senator Downing for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1416.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1487**, relative to the definition of certified wetland scientists. Executive Departments and Administration Committee. Ought to Pass, Vote 3-0. Senator Carson for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1487.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1512**, (New Title) establishing a deferred retirement option in the judicial retirement plan. Executive Departments and Administration Committee. Ought to Pass, Vote 4-0. Senator Downing for the committee.

**Sen. Kelly offered a floor amendment.**

**Sen. Kelly, Dist. 10**

**May 12, 2010**

**2010-2057s**

**10/04**

#### **Floor Amendment to HB 1512**

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

AN ACT establishing a deferred retirement option in the judicial retirement plan, and relative to benefits related to service of certain judges of probate retiring because of permanent disability.

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

2 Judges of Probate; Retirement Due to Disability; Surviving Spouse. Amend RSA 547:19-a to read as follows:

547:19-a Retirement Due to Disability; *Surviving Spouse*. Notwithstanding any other provisions of law, any judge of probate ***who is not a full-time judge covered by RSA 100-C and*** who shall become unable to perform his ***or her*** duties because of permanent disability shall be retired from regular active service on the bench for the remainder of his ***or her*** term ***to age 70***. Any such judge who desires to retire because of inability to perform his ***or her*** duties shall certify to the governor and council his ***or her*** disability to perform [his] ***those*** duties. If they find him ***or her*** unable to perform [his] ***those*** duties because of permanent disability, the governor and council shall order [his] ***the judge's*** retirement from regular active service. If a judge of probate ***who is not a full-time judge covered by RSA 100-C and*** who is permanently disabled to perform his ***or her*** duties shall be unable or unwilling to certify his ***or her*** disability, any 3 justices of the probate court shall certify in writing [his] ***such judge's*** disability to the governor and council, who shall, if they find [him] ***the judge*** after due notice and hearing, unable to perform his ***or her*** duties because of permanent disability, order his ***or her*** retirement from regular active service. The governor and council upon retirement of any such judge of probate as provided herein shall appoint a successor ~~[to serve out the remainder of the term]~~. Any judge of probate ***who is not a full-time judge covered by RSA 100-C and*** who has served in such capacity for a period of at least 10 years in said office, ***and*** retired from regular active service because of permanent disability, shall receive during the remainder of his ***or her*** term a salary equal to one-half the salary being paid to [him] ***the judge*** at the time of [his] retirement, except in case of [his] ***such judge's*** election to take other retirement benefits as hereinafter provided. ***If a judge of probate who is not a full-time judge covered by RSA 100-C dies while serving in such capacity or while on disability retirement from such capacity as provided in this section, his or her surviving spouse shall receive during the remainder of said probate judge's term a payment equal to one-half the salary of said probate judge at the time of death or such disability retirement, except in case of the probate judge electing to take other retirement benefits as hereinafter provided.*** Any judge retired from active regular service under the provisions hereof who is also a member of the state employees' retirement system or the New Hampshire retirement system shall be entitled to retire with disability benefits under either of said systems, upon notification to the retirement board. If, however, said judge elects to take payments under the provisions of this section he ***or she*** shall thereby forfeit all rights to any benefits provided under said employees' or New Hampshire retirement system.

**2010-2057s**

#### **AMENDED ANALYSIS**

This bill allows judges who resign from office to elect to receive a deferred retirement benefit under the judicial retirement plan. The bill also adds a retirement benefit to the surviving spouse of certain judges of probate retired due to disability.

The question is on the adoption of Floor Amendment 2057s.

Floor Amendment 2057s adopted.

Sen. D'Allesandro offered a floor amendment.

Sen. D'Allesandro, Dist. 20

Sen. Downing, Dist. 22

May 12, 2010

2010-2054s

10/04

#### Floor Amendment to HB 1512

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

AN ACT establishing a deferred retirement option in the judicial retirement plan, and relative to the determination of the cost of purchasing prior service credit in the state retirement system.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 5:

2 Retirement System; Membership; Prior Service Credit; Cost of Purchase. Amend RSA 100-A:3, VI(b) to read as follows:

(b) In the case of prior service credit for time served as a member for which the member's accumulated contributions have been withdrawn, the amount of creditable service purchased may be the full length of service relating to the withdrawn contributions or a partial share of such service. The amount determined by the actuary to reinstate full or partial service credit shall be the amount of withdrawn contributions, but not less than one month's contributions multiplied by the ratio of the service credit to be purchased to the full length of service relating to the withdrawn contributions, with this amount adjusted for interest from the date of withdrawal to the date of payment based on the interest rates in effect for each fiscal year. ~~[The amount determined by the actuary to purchase prior service credit related to Peace Corps and AmeriCorps service shall be computed under RSA 100-A:4, VIII.]~~ For ~~[all other]~~ **any** prior service credit **purchase** the amount determined by the actuary shall be the ~~[product of the member's annual rate of compensation at the time of buy-in, multiplied by the sum of the member and employer contribution rates in effect with respect to the member at the time of buy-in, multiplied by the number of years of prior service credit bought]~~ **payment of the full accrued actuarial cost to the system. The full actuarial cost of service credit purchases shall be determined by the actuary based on methods and assumptions recommended by the actuary and approved by the board of trustees, and shall include an interest rate 2 percentage points less than either the assumed rate of return determined under RSA 100-A:16, II(h) or the actual rate of return, whichever is lower, for the immediately preceding fiscal year as reported in the comprehensive annual financial report (CAFR), provided the rate shall not be less than zero.**

3 Membership; Cost of Prior Service Credit. Amend RSA 100-A:3, VI(d)(1) to read as follows:

(d)(1) In the case of an employer which through its own fault, and not the fault of the employee, failed to enroll an eligible employee at the time such employee became eligible for membership in this retirement system or a predecessor system, the employer and not the employee shall pay the cost of the actuary's statement obtained under this subparagraph. The actuary's statement shall be based on the ~~[product of the member's annual rate of compensation at the time of buy-in, multiplied by the sum of the member and employer contribution rates in effect with respect to the member at the time of buy-in, multiplied by the number of years of prior service credit bought. In addition, if such employee has not received final approval of the board before July 1, 1989, to receive credit for such service, the employer shall pay 1/2 of the amount determined by the actuary and the employee shall pay 1/2]~~ **payment of the full accrued actuarial cost to the system as determined according to RSA 100-A:3, VI(b).** Upon payment, and with the approval of the board, the member shall receive credit for prior service. The amount paid by the employee for prior service credit under this subparagraph shall be credited to the member annuity savings fund, and the amount paid by the employer shall be credited to the state annuity accumulation fund.

4 Creditable Service; Armed Forces Service; Cost of Prior Service Credit. Amend RSA 100-A:4, VI(b) to read as follows:

(b) Credit for active service in the armed services shall not be made until the member has paid either in lump sum or, if permitted by the board of trustees, by installment deductions from pay from an employer. The actuary's statement shall be ~~[the product of the member's annual rate of compensation at the time of buy-in,~~

multiplied by the sum of the member and employer contribution rates in effect with respect to the member at the time of buy-in, multiplied by the number of years of prior service credit bought] ***based on the payment of the full accrued actuarial cost to the system as determined according to RSA 100-A:3, VI(b).***

#### **2010-2054s**

##### **AMENDED ANALYSIS**

This bill allows judges who resign from office to elect to receive a deferred retirement benefit under the judicial retirement plan. The bill also clarifies the method for determining the cost of purchasing prior service credit in the state retirement system.

**The question is on the adoption of Floor Amendment 2054s.**

**Floor Amendment 2054s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1512.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**Sen. Reynolds asserts Rule 42 on HB 1512.**

**HB 523-FN**, requiring DNA testing of all persons convicted of a felony. Finance Committee. Ought to Pass with Amendment, Vote 3-0. Senator D'Allesandro for the committee.

#### **Senate Finance**

**May 6, 2010**

**2010-1941s**

**04/10**

##### **Amendment to HB 523-FN**

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

AN ACT requiring DNA testing of all persons convicted of a felony and making changes to the information and analysis center.

Amend the bill by replacing all after section 4 with the following:

5 Information and Analysis Center; Purposes and Duties. Amend RSA 651-F:2, IV to read as follows:

IV. The center may allow the attendance, on detached duty with appropriate security clearances, of representatives of local police departments, county sheriffs' departments, the 911 mapping unit, [and] the department of health and human services[- Until June 30, 2013, the center may allow attendance of employees of], the Federal Bureau of Investigation, and the Department of Homeland Security who shall be subject to the provisions of this chapter regarding access to information.

6 New Paragraph; Information and Analysis Center; Advisory Committee. Amend RSA 651-F:3 by inserting after paragraph III the following new paragraph:

IV. On or before November 30, 2013, the advisory council on emergency preparedness and security shall report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate finance committees on the progress and accomplishments of the information and analysis center and shall include recommendations for any legislative changes and whether or not the operations of the center should continue.

7 Information and Analysis Center; Penalties. RSA 651-F:7 is repealed and reenacted to read as follows:

651-F:7 Penalties.

I. Any person who purposely obtains, receives, uses, disseminates to an unauthorized individual, or retains any personally identifiable information on individuals in contravention of the provisions of this chapter shall be guilty of a felony and subject to a fine of \$1,000 for each such violation. Prosecutions under this section shall be the responsibility of the attorney general.

II. An aggrieved individual may bring suit for civil penalties for up to \$10,000 or actual damages, whichever is greater, for a violation of this section, but no action against the state shall exceed the limits to which the state has waived its sovereign immunity. The court may also award court costs and reasonable attorney's fees.

8 Repeal. RSA 651-F, relative to the establishment of the information and analysis center, is repealed.



9 Contingency. If HB 587-FN of the 2010 legislative session becomes law, then sections 5-8 of this act shall take effect as provided in section 10 of this act. If HB 587-FN of the 2010 legislative session does not become law, then sections 5-8 of this act shall not take effect.

10 Effective Date.

I. Section 4 of this act shall take effect July 1, 2011.

II. Section 8 of this act shall take effect December 31, 2014.

III. Section 9 of this act shall take effect upon its passage.

IV. The remainder of this act shall take effect 60 days after its passage.

## **2010-1941s**

### **AMENDED ANALYSIS**

This bill:

I. Amends certain provisions of RSA 651-C requiring DNA analysis of criminal offenders.

II. Repeals the definitions of "sexual offender" and "violent crime" in RSA 651-C.

III. Inserts a provision governing the applicability of RSA 651-C.

IV. Requires the department of safety to expend available biennial appropriations to fund the requirements of this act and prohibits the use of any highway funds for the purposes of this act.

V. Makes changes to the information and analysis center contingent upon HB 587-FN of the 2010 legislative session becoming law.

**The question is on the adoption of Committee Amendment 1941s.**

**Committee Amendment 1941s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 523-FN.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1513-FN**, (New Title) relative to fees collected by the secretary of state. Finance Committee. Ought to Pass, Vote 4-0. Senator Gallus for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1513-FN.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**Recess. Out of recess.**

**HB 160**, relative to physical force in defense of a person. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Houde for the committee.

**Sen. Letourneau offered a floor amendment.**

**Sen. Letourneau, Dist. 19**

**Sen. Boutin, Dist. 16**

**Sen. Gallus, Dist. 1**

**Sen. Bragdon, Dist. 11**

**Sen. Bradley, Dist. 3**

**Sen. Barnes, Dist. 17**

**May 12, 2010**

**2010-2044s**

**04/09**

### **Floor Amendment to HB 160**

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

AN ACT relative to physical force in defense of a person.

Amend the bill by replacing all after section 2 with the following:

3 Physical Force in Defense of a Person. Amend RSA 627:4, II(d) to read as follows:

(d) Is likely to use any unlawful force in the commission of a felony against the actor within such actor's dwelling [or], its curtilage, ***or in any place where the actor has a right to be.***

4 Physical Force in Defense of a Person. Amend RSA 627:4, III(a) to read as follows:

(a) Retreat from the encounter, except that he ***or she*** is not required to retreat if he ***or she*** is within his ***or her*** dwelling [or], its curtilage, ***or in any place where he or she has a right to be,*** and was not the initial aggressor; or

5 Effective Date.

I. Sections 1-2 of this act shall take effect January 1, 2011.

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

**2010-2044s**

#### AMENDED ANALYSIS

This bill provides that the mere display of a firearm or other means of self-defense intended to warn away a person making a threat shall not constitute a criminal act.

This bill also allows a person who is in any place where he or she has a right to use deadly force to protect oneself.

**Recess. Out of recess.**

**The question is on the adoption of Floor Amendment 2044s.**

**A roll call was requested by Sen. Letourneau, seconded by Sen. Barnes.**

**Recess. Out of recess.**

**The question is on the adoption of Floor Amendment 2044s.**

**A roll call had been requested.**

**The following Senators voted Yes: Gallus, Bradley, Cilley, Roberge, Bragdon, Carson, Boutin, Barnes, Letourneau, Downing.**

**The following Senators voted No: Reynolds, Sgambati, Houde, Janeway, Odell, Kelly, Gilmour, Lasky, Larsen, DeVries, D'Allesandro, Merrill, Hassan, Fuller Clark.**

**Yeas: 10 - Nays: 14**

**Floor Amendment 2044s failed.**

**The question is on the motion of Ought to Pass on HB 160.**

**A roll call was requested by Sen. Downing, seconded by Sen. Barnes.**

**The following Senators voted Yes: Gallus, Reynolds, Bradley, Sgambati, Houde, Cilley, Janeway, Odell, Roberge, Kelly, Bragdon, Gilmour, Lasky, Carson, Larsen, Boutin, Barnes, DeVries, Letourneau, D'Allesandro, Merrill, Downing, Hassan, Fuller Clark.**

**The following Senators voted No: (None)**

**Yeas: 24 - Nays: 0**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1133**, relative to the duration of involuntary emergency admissions. Judiciary Committee. Ought to Pass with Amendment, Vote 5-0. Senator Reynolds for the committee.

**Senate Judiciary**

**May 6, 2010**

**2010-1946s**

**01/04**

#### Amendment to HB 1133

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

**AN ACT** relative to the duration of involuntary emergency admissions and relative to persons with mental illness and the corrections system and relative to discharge from certain psychiatric facilities under certain circumstances.

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

1 Involuntary Emergency Admissions; Notice. Amend RSA 135-C:30, V to read as follows:

V. That involuntary emergency admission cannot exceed a period of 10 days, ***not including Saturdays and Sundays***, unless the period is extended pursuant to RSA 135-C:32.

2 Involuntary Emergency Admissions; Hearing. Amend RSA 135-C:31, II and III to read as follows:

II. The person sought to be admitted or the petitioner may request a continuance of the probable cause hearing. Such requests shall be granted only for good cause but in no case shall continuance be granted for more than 2 days. Any continuance granted for good cause shall not extend the ~~[10-day]~~ period of involuntary emergency admission.

III. The person sought to be admitted may, in writing, waive the probable cause hearing required under this section. Such waiver shall state that the person sought to be admitted has made an informed decision to waive the probable cause hearing and that he ***or she*** understands that such a waiver shall result in his ***or her*** admission on an emergency basis for a period not to exceed 10 days, ***not including Saturdays and Sundays***, except as specified in RSA 135-C:32. The waiver shall be executed before a justice of any district or municipal court. If the person sought to be admitted is found by the court to be incapable of making an informed decision to waive probable cause, then the waiver may be executed by that person's attorney subject to the review of the court.

3 Period of Involuntary Emergency Admission. Amend RSA 135-C:32 to read as follows:

135-C:32 Ten-Day Limitation; Petition for Involuntary Admission. No person shall be admitted for an involuntary emergency admission under RSA 135-C:27-33 for longer than a 10-day period, ***not including Saturdays and Sundays***, unless a subsequent petition for involuntary emergency admission which contains allegations of specific acts or actions which occurred subsequent to the initial involuntary emergency admission is completed and the admission is ordered by a physician or A.P.R.N., as defined in RSA 135-C:2, II-a, in accordance with RSA 135-C:28, or unless a petition requesting a judicial hearing on the issue of involuntary admission under RSA 135-C:34-54 has been filed with the appropriate probate court within the involuntary admission period. Upon the filing of the petition with the probate court, the period of involuntary emergency admission may be extended until the issuance of the order of the probate court pursuant to RSA 135-C:45.

4 Notification Authorized. Notwithstanding any provision of law to the contrary, in the event that a person who has been charged with murder, found incompetent to stand trial pursuant to RSA 135:17-a, and civilly committed pursuant to RSA 135-C, is discharged to the community, either conditionally or otherwise, the department of health and human services shall immediately notify the attorney general, who shall notify the family of the homicide victim and the law enforcement agency in the community to which the person is being discharged.

5 Competency Hearing; Commitment for Treatment. Amend RSA 135:17-a, V to read as follows:

V. If the court has determined that the defendant has not regained competency, and the court determines that he or she is dangerous to himself or herself or others, the court shall order the person to remain in custody for a reasonable period of time, not to exceed 90 days, to be evaluated for the appropriateness of involuntary treatment pursuant to RSA 135-C:34 or RSA 171-B:2. The court may order the person to submit to examinations by a physician, psychiatrist, or psychologist designated by the state for the purpose of evaluating appropriateness and completing the certificate for involuntary admission into the state mental health services system, the state developmental services delivery system, or the secure psychiatric unit, as the case may be. ***A person who has been charged with murder and who the court has determined is dangerous to himself or herself or others shall remain in the appropriate facility and shall not be released into the community.*** If a defendant who was charged with a sexually violent offense, as defined in RSA 135-E:2, XI, has not regained competency, the court shall proceed pursuant to RSA 135-E.

6 Repeal. Section 4 of this act, relative to notification authorized, is repealed.

7 Effective Date.

I. Section 4 of this act shall take effect upon its passage.

II. Sections 5 and 6 of this act shall take effect January 1, 2011.

III. The remainder of this act shall take effect 60 days after its passage.

**2010-1946s****AMENDED ANALYSIS**

This bill:

I. Clarifies the duration of involuntary emergency admissions.

II. For approximately 6 months, allows certain persons to be notified if a person found incompetent to stand trial and civilly committed is released into the community and after January 1, 2011 requires such persons to remain in the appropriate facility.

**The question is on the adoption of Committee Amendment 1946s.**

**Committee Amendment 1946s adopted.**

**Sen. Houde offered a floor amendment.**

**Sen. Houde, Dist. 5**

**May 11, 2010**

**2010-2031s**

**01/10**

**Floor Amendment to HB 1133**

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

AN ACT relative to the duration of involuntary emergency admissions and relative to persons with mental illness and the corrections system.

Amend the bill by replacing all after section 3 with the following:

4 New Section; Notification Authorized. Amend RSA 135 by inserting after section 17-a the following new section:

135:17-b Notification Authorized. Notwithstanding any provision of law to the contrary, in the event that a person who has been charged with murder, found incompetent to stand trial pursuant to RSA 135:17-a, and civilly committed pursuant to RSA 135-C, is discharged to the community, either conditionally or otherwise, the department of health and human services shall immediately notify the attorney general, who shall notify the family of the homicide victim and the law enforcement agency in the community to which the person is being discharged.

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

**2010-2031s****AMENDED ANALYSIS**

This bill:

I. Clarifies the duration of involuntary emergency admissions.

II. Allows certain persons to be notified if a person found incompetent to stand trial and civilly committed is released into the community.

**The question is on the adoption of Floor Amendment 2031s.**

**Floor Amendment 2031s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1133.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1134**, (New Title) authorizing federal law enforcement officials to take emergency law enforcement action to temporarily detain persons when assisting local law enforcement officials or upon witnessing a crime. Judiciary Committee. Inexpedient to Legislate, Vote 4-0. Senator Roberge for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1134.**

**Motion of Inexpedient to Legislate adopted.**

**MOTION TO REMOVE FROM THE TABLE**

**Sen. Hassan moved to remove HB 1393 from the table.**

**The question is on the motion to remove HB 1393 from the table.**

**Adopted.**

**REMOVED FROM THE TABLE**

**HB 1393**, (New Title) relative to the treatment of New Hampshire investment trusts. Commerce, Labor and Consumer Protection Committee. Ought to Pass with Amendment, Vote 4-2. Senator Reynolds for the committee.

**Commerce, Labor and Consumer Protection**

**May 11, 2010**

**2010-2020s**

**08/04**

**Amendment to HB 1393**

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

AN ACT relative to the treatment of New Hampshire investment trusts, and relative to pooled risk management programs.

Amend RSA 293-B:6, III and IV as inserted by section 2 of the bill by replacing them with the following:

III. A trustee of a New Hampshire investment trust may be served with process in the manner prescribed in paragraph IV of this section in all civil actions or proceedings brought in this state involving or relating to the activities of the New Hampshire investment trust or a violation by a trustee of a duty to the New Hampshire investment trust, or any beneficial owner, whether or not the trustee is a trustee at the time suit is commenced. Every resident or nonresident of this state who accepts election or appointment or serves as a trustee of a New Hampshire investment trust shall, by such acceptance or service, be deemed thereby to have consented to the appointment of the New Hampshire trustee or registered agent of such New Hampshire investment trust required by RSA 293-B:9 as such person's agent upon whom service of process may be made as provided in this paragraph. Such acceptance or service shall signify the consent of such trustee that any process when so served shall be of the same legal force and validity as if served upon such trustee within this state and such appointment of such New Hampshire trustee or registered agent shall be irrevocable.

IV. Service of process shall be effected by serving the New Hampshire trustee or registered agent of such New Hampshire investment trust required by RSA 293-B:9 with one copy of such process in the manner provided by law for service of writs of summons. In addition, the clerk of the court in which the civil action or proceeding is pending shall, within 7 days of such service, deposit in the United States mails, by registered mail, postage prepaid, true and attested copies of the process, together with a statement that service is being made pursuant to this section, addressed to the defendant at the defendant's address last known to and furnished by the party desiring to make such service.

Amend the bill by replacing all after section 2 with the following:

3 New Section; Pooled Risk Management Programs; Authority of Secretary of State. Amend RSA 5-B by inserting after section 4 the following new section:

5-B:4-a Authority of the Secretary of State; Investigations; Cease and Desist Orders; Penalties.

I. Notwithstanding any other provision of law, the secretary of state shall have exclusive authority and jurisdiction:

- (a) To bring administrative actions to enforce this chapter.
- (b) To investigate and impose penalties for violations of this chapter, including but not limited to:
  - (1) Fines.
  - (2) Rescission, restitution, or disgorgement.

II. The secretary of state shall have all powers specifically granted or reasonably implied in order to perform the substantive responsibilities imposed by this chapter.

III. For the purpose of any investigation, hearing, or proceeding under this chapter, the secretary of state or any officer designated by him or her may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the secretary of state deems relevant or material to the inquiry.

IV. In the event that a person refuses to obey a subpoena issued to him or her or any order or determination the secretary of state is authorized to make, the superior court, upon application by the attorney general or secretary of state or any officer designated by the secretary of state, may issue to the person an order directing him or her to appear before the attorney general or secretary of state, or the officer designated by him or her, to produce documentary evidence if so ordered or to give evidence relative to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as contempt of court.

V. In any investigation to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, upon the secretary of state's prevailing at hearing, or the person charged with the violation being found in default, or pursuant to a consent order issued by the secretary of state, the secretary of state shall be entitled to recover the costs of the investigation, and any related proceedings, including reasonable attorney's fees, in addition to any other penalty provided for under this chapter.

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

VII. The following fines and penalties may be imposed on any person who has violated this chapter.

(a) Any person who, either knowingly or negligently, violates any provision of this chapter or any rule or order thereunder, may, upon hearing, and in addition to any other penalty provided for by law, be subject to an administrative fine not to exceed \$2,500. Each of the acts specified shall constitute a separate violation.

(b) After notice and hearing, the secretary of state may enter an order of rescission, restitution, or disgorgement directed to a person who has violated this chapter, or rule or order under this chapter. Rescission, restitution, or disgorgement shall be in addition to any other penalty provided for under this chapter.

VIII. Decisions of the secretary of state may be appealed to the supreme court pursuant to RSA 541.

4 Standards of Organization and Operation. Amend RSA 5-B:5, I(b) to read as follows:

(b) Be governed by a board the majority of which is composed of elected or appointed public officials, officers, or employees. ***Board members shall not receive compensation but may be reimbursed for mileage and other reasonable expenses.***

5 New Subparagraph; Standards of Organization and Operation. Amend RSA 5-B:5, I by inserting after subparagraph (f) the following new subparagraph:

(g) Provide notice to all participants of and conduct 2 public hearings for the purpose of advising of potential rate increases, the reasons for projected rate increases, and to solicit comments from members regarding the return of surplus, at least 10 days prior to rate setting for each calendar year.

6 Limitations on Reserves and Administrative Expenses of Pooled Risk Management Programs. The secretary of state, in consultation with the insurance commissioner and by employing the services of an actuary who has experience with pooled risk management programs shall, no later than January 1, 2011, submit a report to the speaker of the house of representatives, the president of the senate, and the governor, containing specific recommendations concerning the limitation of reserves in pooled risk management programs and the limitation on administrative expenses as a percentage of claims of pooled risk management programs. The secretary of state may use funds from the investor education fund established in RSA 421-B:21, II-c to pay for the services of the actuary.

7 Repeal. The following are repealed:

I. 2009, 128:4, relative to the 2011 amendment of the pooled risk management program informational filing fee.

II. 2009, 128:5, I, relative to the effective date of the amendment of pooled risk management program informational filing fee.

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

## 2010-2020s

### AMENDED ANALYSIS

This bill:

I. Makes various changes to the laws regarding New Hampshire investment trusts.

II. Enables the secretary of state to investigate and bring actions against pooled risk management programs.

III. Requires the secretary of state to employ an actuary and report on the limitation of reserves in pooled risk management programs and the limitation on administrative expenses as a percentage of claims of pooled risk management programs.

IV. Repeals a provision permitting the department of state to make requests for additional information from pooled risk management programs making informational filings for a 2-year period.

**The pending question is on the adoption of Committee Amendment 2020s.**

**Committee Amendment 2020s adopted.**

**Sen. Bragdon offered a floor amendment.**

**Sen. Bragdon, Dist. 11**

**Sen. Roberge, Dist. 9**

**May 12, 2010**

**2010-2068s**

**04/01**

### Floor Amendment to HB 1393

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

AN ACT relative to the treatment of New Hampshire investment trusts, and relative to pooled risk management programs.

Amend the bill by replacing all after section 2 with the following:

3 Pooled Risk Management Programs; Definition. Amend RSA 5-B:2, I to read as follows:

I. "Department" means the ~~[department of state]~~ **insurance department**.

4 Pooled Risk Management Programs; Informational Filing; Authority of the Commissioner; Standards of Organization and Operation. Amend RSA 5-B:4 to read as follows:

5-B:4 Informational Filing Required; Fee. Pooled risk management programs established for the benefit of political subdivisions shall make an informational filing, as defined in RSA 5-B:2, II, with the department and shall pay an annual filing fee of \$150. The department may make requests for additional information necessary to exercise regulatory or enforcement authority pursuant to, but not limited to, ~~[the hearings procedures under RSA 421-B:26-a]~~ **RSA 400-A:16** over any pooled risk management program formed or affirmed in accordance with this chapter. Pooled workers' compensation and unemployment compensation programs which are regulated by and which report to the department of labor and the department of employment security, under RSA 281-A and RSA 282-A, respectively, shall be exempt from the requirements of this section as long as their operations and reports conform to the laws and rules adopted by those departments.

5 New Section; Pooled Risk Management Programs; Authority of the Commissioner. Amend RSA 5-B by inserting after section 4 the following new section:

5-B:4-a Authority of the Insurance Commissioner; Investigations; Cease and Desist Orders; Penalties.

I. Notwithstanding any other provision of the law, the insurance commissioner shall have exclusive authority and jurisdiction:

(a) To bring administrative actions to enforce this chapter.

(b) To investigate and impose penalties for violations of this chapter, including but not limited to:

(1) Fines.

(2) Rescission, restitution, or disgorgement.

II. The insurance commissioner shall have all powers specifically granted or reasonably implied in order to perform the substantive responsibilities imposed by this chapter.

III. For the purpose of any investigation, hearing, or proceeding under this chapter, the insurance commissioner or any officer designated by him or her may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

IV. In the event that a person refuses to obey a subpoena issued to him or her or any order or determination the commissioner is authorized to make, the superior court, upon application by the attorney general, or the commissioner, or any officer designated by the commissioner, may issue to the person an order directing him or her to appear before the attorney general or the commissioner, or the other officer designated by the commissioner, to produce documentary evidence if so ordered or to give evidence relative to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as contempt of court.

V. In any investigation to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, upon the commissioner's prevailing at hearing, or the person charged with the violation's being found in default, or pursuant to a consent order issued by the commissioner, the commissioner may recover the costs of the investigation and any related proceedings, including reasonable attorney's fees, in addition to any other penalty provided for under this chapter.

VI. Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule or order under this chapter, the commissioner may issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with RSA 400-A:17 through RSA 400-A:23.

VII. The following fines and penalties may be imposed on any person who has violated this chapter:

(a) Any person who, either knowingly or negligently, violates any provision of this chapter or any rule thereunder, may, upon hearing, and in addition to any other penalty provided for by law, be subject to an administrative fine not to exceed \$2,500. Each of the acts specified shall constitute a separate violation.

(b) After notice and hearing, the commissioner may enter an order of rescission, restitution, or disgorgement directed to a person who has violated this chapter, or rule or order under this chapter. Rescission, restitution, or disgorgement shall be in addition to any other penalty provided for under this chapter.

VIII. Decisions of the commissioner may be appealed to the supreme court pursuant to RSA 541.

6 New Paragraphs; Pooled Risk Management Programs; Standards of Organization and Operation. Amend RSA 5-B:5 by inserting after paragraph II the following new paragraphs:

III. Every pooled risk management program shall periodically, but not less often than annually, calculate a reserve amount sufficient to meet projected claims. Such calculation shall be performed or approved by a qualified member of the American Academy of Actuaries and shall conform to industry standards for a non-profit risk pool for the type or types of risk covered.

IV. Any surplus in excess of the reserve calculated under paragraph III and additional amounts for administration, claims, and purchase of excess insurance shall be distributed to the participating political subdivisions within a reasonable period. Distributions may be in the form of rebates or refunds, credits against future rates, rate reductions or stabilizations, or any other form that returns value to the political subdivisions and maintains the reserve at approximately the amount calculated under paragraph III.

7 Cross Reference Change; Authority of the Insurance Commissioner. Amend RSA 402-H:11-b to read as follows:

402-H:11-b Exemption. An association administering a pooled risk management program operated pursuant to RSA 5-B or conducting business that is exempt from taxation under the Internal Revenue Code, section 115



shall not be required to obtain a certificate of authority or to meet the other requirements of this chapter for services provided in connection with the administration of its pooled risk management plans or its section 115 business, but shall be required to register with the commissioner pursuant to RSA 402-H:11-a. Pooled risk management program registration may be accomplished by providing the commissioner a copy of the informational filing required to be filed with the *insurance* department [of-state] pursuant to RSA 5-B:4.

8 Repeal. 2009, 128:4, relative to the 2011 amendment of the pooled risk management program informational filing, is repealed.

9 Department of State; Pending Proceedings; Recommendations. The department of state shall retain full authority under the version of RSA 5-B in effect prior to the effective date of this act to complete an investigation or proceeding begun by the department prior to the effective date of this act. The secretary of state shall issue findings relative to any such investigation or proceeding and shall make recommendations to the insurance commissioner for appropriate regulatory enforcement action.

10 Effective Date.

I. Sections 1 and 2 of this act shall take effect 60 days after its passage.

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

**2010-2068s**

#### AMENDED ANALYSIS

This bill:

I. Makes various changes to the laws regarding New Hampshire investment trusts.

II. Transfers jurisdiction of pooled risk management programs from the secretary of state to the insurance commissioner.

III. Requires pooled risk management programs to calculate a reserve amount sufficient to meet expected claims.

IV. Repeals a provision permitting the department of state to make requests for additional information from pooled risk management programs making informational filings for a 2-year period.

**Recess. Out of recess.**

**The question is on the adoption of Floor Amendment 2068s on HB 1393.**

**Floor Amendment 2068s failed.**

**Sen. Cilley offered a floor amendment.**

**Sen. Cilley, Dist. 6**

**May 12, 2010**

**2010-2060s**

**04/10**

#### **Floor Amendment to HB 1393**

Amend the bill by replacing section 6 with the following:

6 Limitations on Reserves and Administrative Expenses of Pooled Risk Management Programs. The secretary of state, in consultation with the insurance commissioner and by employing the services of an actuary who has experience with pooled risk management programs and is a qualified member of the American Academy of Actuaries shall, no later than January 1, 2011, submit a report to the speaker of the house of representatives, the president of the senate, and the governor, containing specific recommendations concerning the limitation of reserves in pooled risk management programs and the limitation on administrative expenses as a percentage of claims of pooled risk management programs. The secretary of state may use funds from the investor education fund established in RSA 421-B:21, II-c to pay for the services of the actuary.

**The question is on the adoption of Floor Amendment 2060s**

**Floor Amendment 2060s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1393.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1156**, relative to the determination of parental rights and responsibilities. Judiciary Committee. Interim Study, Vote 3-1. Senator Reynolds for the committee.

**The question is on the adoption of committee recommendation of Refer to Interim Study on HB 1156.**

**A division vote was requested.**

**Yeas: 9 - Nays: 15**

**Motion of Refer to Interim Study failed.**

**Sen. Roberge moved Ought to Pass.**

**The question is on the motion of Ought to Pass on HB 1156.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1167**, establishing a committee to study parole boards and parole board procedures. Judiciary Committee. Ought to Pass with Amendment, Vote 4-0. Senator Lasky for the committee.

**Senate Judiciary**

**May 5, 2010**

**2010-1893s**

**04/01**

**Amendment to HB 1167**

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

I. The committee shall consist of 5 members of the house of representatives, appointed by the speaker of the house of representatives.

Amend the bill by replacing section 4 with the following:

4 Chairperson. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

**The question is on the adoption of Committee Amendment 1893s.**

**Committee Amendment 1893s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1167.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1183**, relative to the effective date of certain provisions of the involuntary commitment of sexually violent predators statute. Judiciary Committee. Ought to Pass with Amendment, Vote 4-0. Senator Reynolds for the committee.

**Senate Judiciary**

**May 4, 2010**

**2010-1890s**

**04/09**

**Amendment to HB 1183**

Amend the bill by replacing section 1 with the following:

1 Involuntary Commitment of Sexually Violent Predators; Effective Date Amended. Amend 2009; 306:17 to read as follows:

306:17 Effective Date.

[I. Sections 10-14 of this act shall take effect September 1, 2010.

H. ~~The remainder of~~] This act shall take effect upon its passage.

**2010-1890s**

**AMENDED ANALYSIS**

This bill changes the effective date for changes to the procedures relative to involuntary commitment of sexually violent predators enacted in SB 142 of the 2009 legislative session.

**The question is on the adoption of Committee Amendment 1890s.**

**Committee Amendment 1890s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1183.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1185**, relative to retired judges over 70 years of age. Judiciary Committee. Inexpedient to Legislate, Vote 3-2. Senator Houde for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1185.**

**A roll call was requested by Sen. Bragdon, seconded by Sen. Letourneau.**

**The following Senators voted Yes: Reynolds, Sgambati, Houde, Cilley, Janeway, Roberge, Kelly, Gilmour, Lasky, Larsen, DeVries, D'Allesandro, Merrill, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Bradley, Odell, Bragdon, Carson, Boutin, Barnes, Letourneau, Downing.**

**Yeas: 15 - Nays: 9**

**Motion of Inexpedient to Legislate adopted.**

(The birthday of Sen. Roberge was observed with the singing of "Happy Birthday" by the members of the Senate and cake served in the anteroom.)

**HB 1213**, relative to notice to the department of health and human services of the allocation of spousal income and relative to estate planning by guardians. Judiciary Committee. Inexpedient to Legislate, Vote 4-0. Senator Reynolds for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1213.**

**Motion of Inexpedient to Legislate adopted.**

**HB 1215**, relative to gender neutral references in certain public assistance statutes. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Letourneau for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1215.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1223**, relative to notice in class action cases under the consumer protection act. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Houde for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1223.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1259**, relative to subrogation claims and liens in civil actions. Judiciary Committee. Ought to Pass with Amendment, Vote 4-0. Senator Houde for the committee.

**Senate Judiciary**

**May 5, 2010**

**2010-1925s**

**06/04**

#### **Amendment to HB 1259**

Amend RSA 507:7-j as inserted by section 1 of the bill by replacing it with the following:

507:7-j Subrogation Claims. Whenever a subrogation claim pursuant to a contract of insurance is asserted for reimbursement of medical expenses as to a plaintiff's recovery against a third party, the court in which the action is pending shall order such division of expenses and costs of the action, including attorneys' fees, between the plaintiff and the insurance carrier and the medical provider, as justice may require.

**2010-1925s**

#### **AMENDED ANALYSIS**

This bill requires the court to order a division of expenses and costs of the action in subrogation claims and liens.

**The question is on the adoption of Committee Amendment 1925s.**

**Committee Amendment 1925s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1259.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1306**, relative to approval of recommendations of marital masters and judicial referees. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Reynolds for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1306.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1318**, (New Title) relative to victim services while the court is considering post-conviction DNA testing. Judiciary Committee. Ought to Pass with Amendment, Vote 5-0. Senator Lasky for the committee.

## **Senate Judiciary**

**May 6, 2010**

**2010-1934s**

**04/09**

### **Amendment to HB 1318**

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

AN ACT relative to post-conviction DNA testing, eligibility for victim's compensation for a victim of a crime in which a petition for post-conviction DNA testing was filed, and relative to victim services while the court is considering post-conviction DNA testing.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 7:

2 Post-Conviction DNA Testing of Biological Material. Amend RSA 651-D:2, I(a) to read as follows:

(a) Explain why the identity of the petitioner was or should have been a significant issue during court proceedings ***notwithstanding the fact that the petitioner may have pled guilty or nolo contendere, or made or is alleged to have made an incriminating statement or admission as to identity.***

3 Post-Conviction DNA Testing of Biological Material. Amend RSA 651-D:2, IV(c) to read as follows:

(c) Designate the New Hampshire state police forensic laboratory to conduct the test. ***However, the court, upon a showing of good cause, may order testing by another laboratory or agency accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) or the National Forensic Science Training Center, if requested by the petitioner.***

4 New Subparagraph; Rights of Crime Victims. Amend RSA 21-M:8-k, II by inserting after subparagraph (v) the following new subparagraph:

(w) The right to be informed of the filing of a petition for post-conviction DNA testing under RSA 651-D.

5 New Paragraph; Claimant Eligibility and Compensation. Amend RSA 21-M:8-h by inserting after paragraph VII the following new paragraph:

VIII. Notwithstanding paragraph II, any person who was a victim of a crime for which the person convicted of the crime has filed a petition for post-conviction DNA testing under RSA 651-D shall be eligible for victim's compensation regardless of the date of the crime. Compensation under this paragraph shall be limited to qualified expenses incurred after the post-conviction DNA testing petition is filed.

6 Repeal. RSA 651-D:2, IV(d), relative to designation of an alternate laboratory for DNA testing, is repealed.

**2010-1934s**

### **AMENDED ANALYSIS**

This bill:

I. Makes victim services available, upon request, to a victim of the crime being reinvestigated while the court is considering post-conviction DNA testing.

II. Amends the post-conviction DNA testing statute provisions concerning the designation of the testing laboratory and victim services.

III. Permits any person who was a victim of a crime for which the person convicted of the crime has filed a petition for post-conviction DNA testing to be eligible for victim's compensation regardless of the date of the crime.

**The question is on the adoption of Committee Amendment 1934s.**

**Committee Amendment 1934s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1318.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1372**, (New Title) establishing a committee to study the provisions of RSA 570-A, the wiretapping and eavesdropping statute, and to study permitting a person to record a law enforcement officer in the course of such officer's official duties. Judiciary Committee. Ought to Pass with Amendment, Vote 4-0. Senator Lasky for the committee.

**Senate Judiciary**

**May 4, 2010**

**2010-1888s**

**04/09**

**Amendment to HB 1372**

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

I. The committee shall consist of 5 members of the house of representatives, one of whom shall be from the criminal justice and public safety committee, appointed by the speaker of the house of representatives.

**The question is on the adoption of Committee Amendment 1888s.**

**Committee Amendment 1888s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1372.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1373**, establishing a committee to study the effects of current state and federal laws on illegal drugs and the possession and use of such drugs. Judiciary Committee. Ought to Pass with Amendment, Vote 4-0. Senator Houde for the committee.

**Senate Judiciary**

**May 4, 2010**

**2010-1889s**

**04/09**

**Amendment to HB 1373**

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

I. The committee shall consist of 5 members of the house of representatives, appointed by the speaker of the house of representatives.

**The question is on the adoption of Committee Amendment 1889s.**

**Committee Amendment 1889s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1373.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1398**, allowing a surviving spouse to have access to the deceased spouse's medical records when there is no estate administration. Judiciary Committee. Ought to Pass with Amendment, Vote 5-0. Senator Lasky for the committee.

**Senate Judiciary**

**May 6, 2010**

**2010-1933s**

**01/05**

**Amendment to HB 1398**

Amend RSA 560:22 as inserted by section 1 of the bill by replacing it with the following:

560:22 Medical Records of Deceased Spouse. Notwithstanding any provision of law to the contrary and upon proof of the requestor's identity as the spouse of the deceased, the surviving spouse shall have access to the information contained in the medical records of his or her deceased spouse where there is no estate administration, unless the medical records indicate that the deceased spouse has indicated that the surviving spouse not have access to those records. A health care provider, as defined in RSA 332-I:1, II(b), shall not be required to initiate a conversation with a patient on the subject of access to the information in a medical record by a surviving spouse.

**The question is on the adoption of Committee Amendment 1933s.**

**Committee Amendment 1933s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1398.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1420**, relative to the calculation of child support. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Reynolds for the committee.

**Sen. Reynolds offered a floor amendment.**

**Sen. Reynolds, Dist. 2**

**May 12, 2010**

**2010-2065s**

**04/10**

#### **Floor Amendment to HB 1420**

Amend RSA 461-A:14, IV-a as inserted by section 1 of the bill by replacing it with the following:

IV-a. If the order establishes a support obligation for more than one child, and if the court can determine that within the next 3 years support will terminate for one of the children as provided in paragraph IV, the amount of the new child support obligation for the remaining children may be stated in the order and shall take effect on the date or event specified without further legal action. Termination of support for any one of the children under paragraph IV is a substantial change of circumstances for purposes of modification of the child support order under RSA 458-C:7.

**2010-2065s**

#### **AMENDED ANALYSIS**

This bill provides that upon the termination of support for one child, the amount of the child support obligation for the remaining children may be stated in the order. The bill also clarifies that termination of support for one of the children provides a substantial change in circumstances for purposes of modification of the child support order.

**The question is on the adoption of Floor Amendment 2065s.**

**Floor Amendment 2065s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1420.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1436**, requiring a report to the general court on New Hampshire's participation in the National Violent Death Reporting System. Judiciary Committee. Ought to Pass with Amendment, Vote 5-0. Senator Lasky for the committee.

**Senate Judiciary**

**May 6, 2010**

**2010-1935s**

**04/09**

#### **Amendment to HB 1436**

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

AN ACT requiring a report to the general court on New Hampshire's participation in the National Violent Death Reporting System and relative to legislative security staff.

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

2 New Subdivision; Legislative Security. Amend RSA 14 by inserting after section 49 the following new subdivision:

Legislative Security

14:50 Legislative Security; Authority.

I. The sworn members of the legislative security staff while on official duty shall have the authority of an ex officio constable including the power to detain persons who are creating a disturbance or who they have reasonable grounds to believe have committed any offense under the laws of the state, for as long as necessary to surrender the person to a state trooper, deputy sheriff, or local police officer having jurisdiction, provided such detention is accomplished in a reasonable manner.

II. When in the performance of their duties legislative security staff members shall be entitled to the same indemnification of state officers and officials as provided in RSA 99-D:2.

III. The legislative security staff shall be considered a law enforcement agency for purposes of receiving and exchanging criminal justice information and motor vehicle registration information with the department of safety and other law enforcement agencies.

IV. Legislative security staff members shall not be required to meet the training and certification requirements of RSA 188-F:27 but may attend and participate in training programs at the police standards and training council and upon successfully completing such programs shall receive the same academic credits or certifications as other peace officers attending such programs.

V. Legislative security staff members who were certified police officers prior to appointment to the legislative security staff may retain or regain their police certification while serving as sworn members of the legislative security staff upon completing such continuing education requirements as the police standards and training council may require.

3 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

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

**2010-1935s**

AMENDED ANALYSIS

This bill requires a report to the general court describing the requirements for New Hampshire's participation in the National Violent Death Reporting System and amends the powers and duties of legislative security staff.

**The question is on the adoption of Committee Amendment 1935s.**

**Committee Amendment 1935s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1436.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1474**, (New Title) establishing a legislative committee to review the New Hampshire child support guidelines. Judiciary Committee. Inexpedient to Legislate, Vote 4-0. Senator Roberge for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1474.**

**Motion of Inexpedient to Legislate adopted.**

**HB 1491**, (New Title) relative to the child support calculation in cases of shared parenting. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Reynolds for the committee.

**Recess. Out of recess.**

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1491.**

MOTION TO TABLE

**Sen. Sgambati moved to table HB 1491.**

**The question is on the motion to table HB 1491.**

**Motion adopted.**

**LAID ON THE TABLE**

**HB 1491**, (New Title) relative to the child support calculation in cases of shared parenting.

**HB 1543**, relative to the annual rate of interest on judgments. Judiciary Committee. Ought to Pass with Amendment, Vote 4-1. Senator Houde for the committee.

**Senate Judiciary**  
**May 6, 2010**  
**2010-1945s**  
**06/04**

**Amendment to HB 1543**

Amend RSA 336:1, II as inserted by section 1 of the bill by replacing it with the following:

II. The annual simple rate of interest on judgments shall be 6 percent over the treasury bill rate.

**MOTION TO TABLE**

**Sen. Houde moved to table HB 1543.**

**The question is on the motion to table HB 1543.**

**Motion adopted.**

**LAID ON THE TABLE**

**HB 1543**, relative to the annual rate of interest on judgments.

**HB 1628**, establishing guidelines for neighborhood notification upon release of a sexual offender. Judiciary Committee. Interim Study, Vote 3-1. Senator Houde for the committee.

**MOTION TO TABLE**

**Sen. Houde moved to table HB 1628.**

**The question is on the motion to table HB 1628.**

**Motion adopted.**

**LAID ON THE TABLE**

**HB 1628**, establishing guidelines for neighborhood notification upon release of a sexual offender.

**HB 53**, relative to the definition of "public body" under the right-to-know law. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Barnes for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 53.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**Sen. Bradley is in opposition to the motion of Ought to Pass on HB 53.**

**HB 379**, exempting certain meetings concerning collective bargaining from the right-to-know law. Public and Municipal Affairs Committee. Ought to Pass, Vote 4-0. Senator Barnes for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 379.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1332**, relative to planning board members. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 4-1. Senator Barnes for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1332.**

**Motion of Inexpedient to Legislate adopted.**

**HB 1395**, relative to workforce housing. Public and Municipal Affairs Committee. Ought to Pass, Vote 4-0. Senator DeVries for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1395.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**



**HB 1439-L**, relative to tax exemptions for water and air pollution control installations. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 5-0. Senator Roberge for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1439-L.**

**Motion of Inexpedient to Legislate adopted.**

**HB 1447**, relative to authorization to use firearms in the compact part of a town. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 5-0. Senator Barnes for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1447.**

**Motion of Inexpedient to Legislate adopted.**

**HB 1461**, relative to the municipal regulation of the sale of martial arts weapons. Public and Municipal Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator Barnes for the committee.

### **Public and Municipal Affairs**

**May 4, 2010**

**2010-1877s**

**08/03**

### **Amendment to HB 1461**

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

AN ACT relative to the municipal regulation of the display of martial arts weapons.

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

1 New Subparagraph; Display of Martial Arts Weapons. Amend RSA 31:39, I by inserting after subparagraph (o) the following new subparagraph:

(p) Regulating the point of sale display and accessibility of martial arts weapons as defined in RSA 159:24 and other deadly weapons as defined in RSA 625:11, V, excluding firearms.

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

**2010-1877s**

### **AMENDED ANALYSIS**

This bill enables municipalities to regulate the point of sale display and accessibility of martial arts weapons and other weaponry excluding firearms.

**Recess. Out of recess.**

**The question is on the adoption of Committee Amendment 1877s on HB 1461.**

### **MOTION TO TABLE**

**Sen. Houde moved to table HB 1461.**

**The question is on the motion to table HB 1461.**

**Motion adopted.**

### **LAIID ON THE TABLE**

**HB 1461**, relative to the municipal regulation of the sale of martial arts weapons.

**HB 1483**, (New Title) relative to appropriations in the county budget. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1483.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1486**, (New Title) prohibiting the mandating of fire sprinkler systems in certain dwellings and establishing a committee to study municipal residential fire sprinkler requirements. Public and Municipal Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator Roberge for the committee.

**Public and Municipal Affairs**  
**May 6, 2010**  
**2010-1943s**  
**03/04**

**Amendment to HB 1486**

Amend the bill by replacing section 4 with the following:

**4 Municipal Sprinkler Requirements.**

I. No municipality or local land use board as defined in RSA 672 shall, prior to July 1, 2011, unless such adoption is earlier authorized by law, adopt or enforce any ordinance, regulation, code, or administrative practice requiring the installation of fire sprinkler systems in any new or existing one- or 2-family dwelling. This section shall not prohibit a duly adopted requirement mandating that fire sprinkler systems be offered to the owners of dwellings for a reasonable fee.

II. The prohibition against adoption and enforcement of municipal fire sprinkler requirements in paragraph I shall not apply to any municipal ordinance or regulation adopted prior to the effective date of this section. Such an ordinance or regulation may be amended to effect corrections consistent with the original scope and intent of the ordinance or regulation.

III. The prohibition against adoption and enforcement of municipal fire sprinkler requirements in paragraph I shall not prevent a planning board from finding that particular subdivision applications are scattered or premature, in accordance with RSA 674:36, II(a), for lack of adequate fire protection. In such cases, applicants may propose, and a planning board may accept, the installation of fire sprinkler systems as a means of addressing the planning board's findings.

**The question is on the adoption of Committee Amendment 1943s.**

**Committee Amendment 1943s adopted.**

**Sen. Lasky offered a floor amendment.**

**Sen. Lasky, Dist. 13**  
**May 12, 2010**  
**2010-2066s**  
**03/10**

**Floor Amendment to HB 1486**

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

**1 State Board of Fire Control; Rules; Sprinkler Systems. Amend RSA 153:5 to read as follows:**

153:5 Rules. The state fire marshal shall adopt rules, with the approval of the commissioner of safety, to be known as the state fire code, pursuant to RSA 541-A, to further the purposes of this chapter and such applicable fire safety and building laws as he shall deem necessary for the protection from fire and fire hazards for people in the state and for the general welfare of property and people within the state. The rules may include, but not be limited to, the keeping, storage, use, manufacture, sale, handling, transportation, or disposal of highly flammable materials and rubbish, and of flammable fluids and compounds and flammable tablets and may include standards for the materials and construction of receptacles and buildings to be used for any of these purposes. The fire marshal may adopt the most recent edition of the provisions of the national fire protection association code or other recognized codes as rules, in whole or in part; however, such rules shall not require automatic suppressant or sprinkler systems in ***one or 2-family dwelling units in a structure used only for residential purposes, in*** areas of buildings or additions[;] in which the discharge of water would be undesirable as determined by the state fire marshal, or in rooms or areas containing either generators, transformers, telecommunications equipment or facilities, or electronic data processing equipment, or in telecommunications or electric utility company equipment buildings or areas occupied exclusively for telecommunications equipment, electrical transformation and switching equipment, associated electrical distribution equipment, batteries, and standby engines or generators, provided that those spaces or areas are equipped throughout with an automatic fire detection system. The rules shall apply to the construction and remodeling of buildings and structures for the containment of flammable liquids and to the new installation and replacement of equipment used in connection with flammable liquids. The rules shall apply to existing buildings, structures, or equipment. The fire marshal may exempt a building, structure, or equipment from such rules if he ***or she*** finds that such exemption does not constitute a hazard to the public welfare and safety.

A reasonable time, as determined by the state fire marshal, shall be allowed to make necessary alterations. Nothing in this section shall be construed to prevent municipalities from adopting bylaws or ordinances relative to a subject area of rules adopted by the fire marshal in accordance with this section if such bylaws or ordinances are no less restrictive than those adopted by the fire marshal.

2 Fire Protection and Warning Devices in Multi-Family Dwellings. Amend RSA 153:10-a, III to read as follows:

III. The state fire marshal may adopt such rules pursuant to RSA 541-A as necessary to enforce paragraphs I, II, and II-a; ***provided that under no circumstances shall the rules require the installation of a fire sprinkler system in a one or 2-family dwelling unit in a structure used only for residential purposes that otherwise meets the requirements of this section.*** The state fire marshal shall either enforce the provisions of this section or appoint the appropriate municipal authority to enforce the provisions of this section.

Amend the bill by replacing section 4 with the following:

4 Municipal Sprinkler Requirements.

I. No municipality or local land use board as defined in RSA 672 shall, prior to July 1, 2011, adopt or enforce any ordinance, regulation, code, or administrative practice requiring the installation of fire sprinkler systems in any new or existing one- or 2-family dwelling in a structure used only for residential purposes. This section shall not prohibit a duly adopted requirement mandating that fire sprinkler systems be offered to the owners of dwellings for a reasonable fee.

II. The prohibition against adoption and enforcement of municipal fire sprinkler requirements in paragraph I shall not apply to any municipal ordinance or regulation adopted prior to the effective date of this section.

**The question is on the adoption of Floor Amendment 2066s.**

**Floor Amendment 2066s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1486.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**Sen. Cilley is in opposition to Committee Amendment 1943s and adoption of motion of Ought to Pass with Amendment on HB 1486.**

**HB 1497**, (New Title) relative to the governance of the Concord school district. Public and Municipal Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator DeVries for the committee.

**Public and Municipal Affairs**

**May 4, 2010**

**2010-1868s**

**04/10**

**Amendment to HB 1497**

Amend the bill by replacing section 3 with the following:

3 Contingency. If Concord school district voters approve a ballot question at the November 2011 regular election to adopt a school district charter which includes a procedure to allow the Concord school district to amend the charter without the approval of the legislature and to repeal the existing Concord school district charter established in 1961, 355, as amended by 1983, 123:1, then section 2 of this act shall take effect on the date such ballot question is approved. If the ballot question is not approved, section 2 of this act shall not take effect.

**The question is on the adoption of Committee Amendment 1868s.**

**Committee Amendment 1868s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1497.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1524**, relative to the liability of town and city health officers and overseers of public welfare. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Houde for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1524.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1554**, allowing municipalities to establish energy efficiency and clean energy districts. Public and Municipal Affairs Committee. Ought to Pass with Amendment, Vote 4-1. Senator Barnes for the committee.

**Public and Municipal Affairs**

**May 6, 2010**

**2010-1949s**

**08/04**

**Amendment to HB 1554**

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

AN ACT allowing municipalities to establish energy efficiency and clean energy districts, establishing a committee to study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses, and relative to investments in photovoltaic renewable energy projects.

Amend the bill by replacing section 2 with the following:

2 New Chapter; Energy Efficiency and Clean Energy Districts. Amend RSA by inserting after chapter 53-E the following new chapter:

CHAPTER 53-F  
ENERGY EFFICIENCY AND CLEAN ENERGY DISTRICTS

53-F:1 Definitions. In this chapter:

I. "Clean energy improvement" means the installation of any system on the property for producing electricity for, or meeting heating, cooling, or water heating needs of the property, using either renewable energy sources, combined heat and power systems, or district energy systems using wood biomass (but not construction and demolition waste) or natural gas. Such improvements include but are not limited to solar photovoltaic, solar thermal, wood biomass, wind, and geothermal systems, provided that, to be covered by an agreement with a property owner and financed under this chapter, such improvements shall be qualifying improvements under RSA 53-F:6.

II. "District" means an energy efficiency and clean energy district established under this chapter.

III. "Energy conservation and efficiency improvements" means measures to reduce consumption, through conservation or more efficient use, of electricity, fuel oil, natural gas, propane, or other forms of energy on the property, including but not limited to air sealing, installation of insulation, installation of heating, cooling, or ventilation systems meeting or exceeding ENERGY STAR standards, building modifications to increase the use of daylighting, replacement of windows with units meeting or exceeding ENERGY STAR standards, installation of energy controls or energy recovery systems, and installation of efficient lighting equipment, provided that, to be covered by an agreement with a property owner and financed under this chapter, all such improvements must be permanently affixed to a building or facility that is part of the property and shall be qualifying improvements under RSA 53-F:6.

IV. "Municipality" means any city, town, or village district.

V. "Property owner" means the owner of record of real property within the boundaries of the district, whether zoned or used for residential, commercial, industrial, or other uses.

VI. "Special assessment" means a special assessment within the meaning and subject to the provisions of RSA 80:19.

53-F:2 Adoption By Municipality. A city, town, or village district may adopt the provisions of this chapter in the following manner:

I. In a town, other than a town that has adopted a charter pursuant to RSA 49-D, the question shall be placed on the warrant of an annual meeting only by the governing body, and not pursuant to RSA 39:3.

II. In a city or a town that has adopted a charter pursuant to RSA 49-C or RSA 49-D, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of any such municipality may vote to place the question on the official ballot for any regular municipal election.

III. In a village district, the question may be considered and acted upon by any means authorized by RSA 52.

IV. The language of the question shall designate an energy efficiency and clean energy district, which may cover all or a portion of the area within the municipality, or may designate all or a portion of the area within the municipality as part of an energy efficiency and clean energy district that encompasses all or portions of multiple municipalities.

V. A municipality may vote to rescind its action in the same manner as it may vote to adopt, provided that all agreements entered into with property owners and related legal obligations created prior to its vote to rescind shall remain in effect.

53-F:3 Authority. To achieve the public benefits of protecting the economic and social well-being by reducing energy costs in the community and risks to the community associated with future escalation in energy prices, and addressing the threat of global climate change, any municipality which has adopted the provisions of this chapter and established an energy efficiency and clean energy district may, upon a finding by the governing body of the municipality, after notice and hearing, that the energy conservation and efficiency and clean energy improvements the municipality will finance pursuant to this chapter will serve the public purposes as set forth in this chapter and not primarily be for the benefit of private persons or uses even though such private benefits and uses may incidentally result, do the following:

I. Incur debt for the purpose of providing financing to property owners within the district, including through issuance of municipal bonds, Qualified Energy Conservation Bonds or Clean Renewable Energy Bonds. Any such debt shall constitute a pledge of the municipality's full faith and credit, and except as may be otherwise provided in this chapter, shall be subject to the provisions of RSA 33.

II. Establish a revolving fund pursuant to RSA 31:95-h using general municipal revenues, bond funds, federal Energy Efficiency and Conservation Block Grant funds, or grant funds from any federal, state, private, or other source, provided that the use of general municipal revenues shall be pursuant to an appropriation by special warrant article in accordance with RSA 32 and the municipality's appropriation procedures.

III. Provide financing for qualifying improvements to eligible property owners within the district.

IV. Collect from property owners payments on assessments used to finance qualifying improvements.

V. Establish reserve accounts, as provided in RSA 53-F:7.

VI. Participate in state or federal programs providing support for municipal energy efficiency and clean energy finance programs such as those authorized by this chapter, including guarantee, loss reserve, revolving fund, or other state or federal support programs.

VII. Enter into agreements with property owners in which the property owners consent to make energy conservation and efficiency improvements or clean energy improvements to their property and to have the municipality include a special assessment to pay for such improvements on their property tax bills, their bills for water or sewer service or another municipal service, or separate bills, provided that such agreements shall not affect the tax liability or municipal services charges of other participating or nonparticipating property owners in the district.

VIII. Collect charges from participating property owners to cover the cost of administration for the district.

IX. Otherwise administer a program for promoting and financing energy efficiency and clean energy improvements within a district in accordance with this chapter, enter into an agreement with a public or private entity to administer such a program on its behalf in accordance with this chapter, and enter into an agreement with one or more other municipalities to share services and otherwise cooperate in the administration of a district or districts in accordance with this chapter.

#### 53-F:4 Agreements with Property Owners.

I.(a) A municipality may make an assessment under this chapter only pursuant to an agreement entered into with the free and willing consent of the owner of the property to which the assessment applies. In the case of any property with multiple owners, an agreement under this chapter shall be signed by all owners.

(b) An agreement with a property owner shall provide that the owner shall contract for qualifying improvements with one or more qualified contractors, purchase materials to be used in making qualified

improvements, or both, and that, upon submission of documentation required by the municipality, the municipality shall disburse funds to those contractors and vendors in payment for the qualifying improvements or materials used in making qualified improvements. An agreement with a property owner shall require that the property owner report post-installation energy use data for program evaluation purposes over a period determined by the municipality.

(c) The agreement shall be in writing and shall include a payment schedule showing the term over which payments will be due on the assessment, the frequency with which payments will be billed and amount of each payment, and the annual amount due on the assessment. Upon full payment of the amount of the assessment, including all outstanding interest and charges and any penalties that may become due, the municipality shall provide the participating property owner with a written statement certifying that the assessment has been paid in full.

II. The municipality shall disclose to participating property owners the risks associated with participating in the program, including risks related to their failure to make payments and the risk of enforcement of property tax or special assessment liens under RSA 80:19.

III. At least 30 days prior to entering into an agreement with a municipality under this chapter, the property owner shall provide to the holders of any existing mortgages on the property notice of his or her intent to enter into the agreement.

IV. The municipality shall file a notice of the assessment under this chapter for recording in the county registry of deeds. The notice shall consist of the following statement or its substantial equivalent: "This property is subject to a special assessment related to the installation of qualifying cost-effective energy conservation and efficiency improvements or clean energy improvements under RSA 53-F."

V. Any personal financial information provided to a municipality or an entity administering a program under this chapter on behalf of a municipality by a participating property owner or potential participating property owner shall be confidential and shall not be disclosed to any person except as required to administer the program and only on a need-to-know basis.

#### 53-F:5 Eligibility of Property Owners.

I. A municipality may enter into an agreement under this chapter only with the legal owner of real property.

II. Prior to entering into an agreement with a property owner, the municipality shall determine that all property taxes and any other assessments levied with property taxes are current and have been current for 3 years or the property owner's period of ownership, whichever is less; that there are no involuntary liens such as mechanic's liens on the property; and that no notices of default or other evidence of property-based debt delinquency have been recorded during the past 3 years or the property owner's period of ownership, whichever is less; and that the property owner is current on all mortgage debt on the property. The municipality shall adopt additional criteria, appropriate to property-assessed clean energy finance programs, for determining the creditworthiness of property owners.

#### 53-F:6 Qualifying Improvements.

I. Improvements financed pursuant to an agreement under this chapter shall be based upon an audit performed by a person who has been certified as a building analyst by the Building Performance Institute or who has obtained other appropriate certification as determined by the public utilities commission or another appropriate New Hampshire-based entity. The audit shall identify recommended energy conservation and efficiency and clean energy improvements; provide the estimated energy cost savings, useful life, benefit-cost ratio, and simple payback or return on investment for each improvement; and provide the estimated overall difference in annual energy costs with and without recommended improvements. Financed improvements shall be consistent with the audit recommendations. The cost of the audit may be included in the total amount financed under this chapter.

II. Improvements shall be permanently affixed to an existing building or facility that is part of the property. An agreement between a municipality and a qualifying property owner may not cover projects in buildings or facilities under new construction.

III. Improvements shall be made by a contractor or contractors, which may include a cooperative or not-for-profit organization, determined by the municipality to be qualified to make the energy efficiency or clean energy improvements in the agreement. A municipality may accept a designation of contractors as qualified

made by an electric or gas utility program or another appropriate New Hampshire-based entity. Any work requiring a license under any applicable law shall be performed by an individual holding such license. A municipality may elect to permit the financing pursuant to an agreement under this chapter of improvements made by the owner of the property, but shall not permit the value of the owner's labor to be included in the amount financed.

IV. A municipality shall require, prior to disbursement of final payments to any contractor or vendor pursuant to an agreement with a property owner, submission by the property owner in a form acceptable to the municipality of:

(a) A post-installation report, based on an independent inspection acceptable to the municipality, certifying that improvements have been installed properly and verifying that they are performing satisfactorily; and

(b) Documentation of all costs to be financed and copies of any required permits.

#### 53-F:7 Financing Terms.

I. Improvements shall be financed pursuant to an agreement under this chapter only on terms such that the property owner experiences a positive cash flow impact during the first year and the total energy cost savings realized by the property owner and the property owner's successors during the useful lives of the improvements are expected to exceed the total cost to the property owner and the property owner's successors of the improvements. In determining the amount that may be financed pursuant to an agreement under this chapter, the total amount of all rebates, tax credits, grants, and other financial assistance received by the owner on account of the improvements shall be deducted from the cost of the improvements.

II. A municipality that provides financing to participating property owners shall establish a loss reserve account and maintain funds in such account at a level that meets generally accepted standards for property-assessed clean energy finance programs.

III. The total amount of assessments for a property under this chapter shall not be less than \$5,000 and shall not exceed \$35,000 in the case of a single-family residential property or \$60,000 in the case of a commercial, industrial, or multifamily residential property, or 15 percent of the assessed value of the property multiplied by the municipality's current equalization ratio, whichever is less. The combined amount of assessments under this chapter, any outstanding mortgage obligations for the property, and any other outstanding debt attached to the property shall not exceed 85 percent of the assessed value of the property multiplied by the municipality's current equalization ratio. A property owner who escrows property taxes with the holder of a mortgage on a property subject to an agreement under this chapter may be required by the holder to escrow amounts due on the assessment under this chapter and the mortgage holder shall remit such amounts to the municipality in the manner that property taxes are escrowed and remitted.

IV. The maximum term of finance provided pursuant to an agreement under this chapter shall be 20 years. The term shall in no case exceed 85 percent of the average expected useful life of all improvements, weighted by cost. Expected useful lives used for all calculations under this chapter shall be consistent with the expected useful lives of energy conservation and efficiency and clean energy measures approved by the public utilities commission for utility or other programs.

53-F:8 Collection and Enforcement. Collection of assessments under this chapter shall be made by the tax collector or other official responsible for property tax or municipal service charge collection. A municipality shall commit bills for amounts due on the assessments, including interest and any charges, to the tax collector with a warrant signed by the appropriate municipal officials requiring the tax collector to collect them. Bills for amounts due on the assessments shall coincide with bills for property taxes or municipal service charges and shall create a lien on the property pursuant to RSA 80:19. Enforcement powers for nonpayment shall be those provided under RSA 80 relative to property tax collection, including RSA 80:19. At the time of enforcement, only the past due balances of the assessment under this chapter, including all interest, charges, and penalties, shall be due for payment. Notwithstanding any other provision of law, in the event of a transfer of property ownership through foreclosure, collection by the municipality shall be limited to any past due balances and future payments shall neither be accelerated nor extinguished by foreclosure. Payment of a past due balance from the loss reserve established under this chapter shall not relieve a participating property owner from the obligation to pay that amount.

Amend the bill by replacing all after section 3 with the following:

4 Committee Established. There is established a committee to study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses.

## 5 Membership and Compensation.

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

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

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

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

6 Duties. The committee shall study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses. The committee shall consider:

I. Allowing New Hampshire homeowners and small businesses to generate revenue from investments in small scale renewable generation.

II. The use of more modern billing and tracking systems such as the “feed-in tariff” approach, rather than the current “net metering” billing, metering, and tracking system.

III. Providing greater transparency in the billing and information exchange between a utility and its retail customers who have installed renewable generation on their premises.

IV. Ensuring that the regulated distribution charges are properly and fairly applied to all electric customers.

7 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

8 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2010.

## 9 Findings and Purpose.

### I. The general court finds that:

(a) New Hampshire’s unemployment rate is currently over 7 percent.

(b) It is in the public interest to accelerate investments in renewable energy in order to promote immediate job creation.

(c) The city of Manchester and Public Service Company of New Hampshire (PSNH), have identified a solar photovoltaic renewable energy project which has the potential to provide construction jobs immediately and benefits to all customers.

(d) This project will be highly visible to citizens and visitors and provide an educational opportunity for New Hampshire school districts.

(e) Since state and federal subsidies alone are insufficient to finance the Manchester solar photovoltaic renewable energy project, additional funding by PSNH will be necessary to create the near-term benefits of this project.

(f) It is therefore consistent with the state’s renewable energy policy and goals to allow PSNH to retain funds collected from customers under RSA 362-F:10 to enable development of a solar photovoltaic renewable energy project in accordance with this act, subject to approval by the New Hampshire public utilities commission under paragraph VI of section 10 of this act.

II. The purpose of this act is to accelerate the development of the solar photovoltaic renewable energy project in the city of Manchester through the retention and use of funds collected by PSNH from its customers under RSA 362-F:10, subject to approval by the New Hampshire public utilities commission under paragraph VI of section 10 of this act.

## 10 Solar Photovoltaic Renewable Energy Project.



I. If approved by the public utilities commission, PSNH shall make the initial up-front investment required for construction of the Manchester solar photovoltaic renewable energy project, and earn a return on such investment with the opportunity for an incentive to the return on equity component as contemplated by RSA 374-G:5, IV. The costs of this project shall be recovered in the manner set forth in RSA 374-G:5, III.

II. In lieu of PSNH making full alternative compliance payments under RSA 362-F:10 for class II electric renewable energy standard obligations, PSNH may retain 75 percent of such payments up to an accumulated amount not to exceed \$5,000,000, to be determined by the public utilities commission, to defray the cost of the development of the solar photovoltaic renewable energy project in Manchester, if the project is approved by the public utilities commission pursuant to paragraph VI. The amounts retained by PSNH shall be used to defray the costs of the project recovered from PSNH's retail customers under RSA 374-G:5, III. When the nominal payments retained by PSNH equal the amount determined necessary to make the project economical under this paragraph by the public utilities commission prior to construction, PSNH shall return to routine compliance with RSA 362-F:10 for future class II electric renewable energy standard obligations.

III. The Manchester solar photovoltaic renewable energy project shall be deemed to comply with the use requirements set forth in RSA 374-G:3, I.

IV. At least 75 percent of the construction jobs created by the Manchester solar photovoltaic renewable energy project shall be performed by contractors located in New Hampshire.

V. PSNH shall engage the community college system of New Hampshire, the University of New Hampshire at Manchester, and all interested school districts to provide student training opportunities during the construction of the Manchester solar photovoltaic renewable energy project and, along with the city of Manchester, allow reasonable access to the site for educational purposes after construction is complete.

VI. The Manchester solar photovoltaic renewable energy project shall be reviewed by the public utilities commission pursuant to RSA 374-G, except that the amount determined by the public utilities commission under paragraph II shall be deemed an expense that would otherwise be incurred by PSNH through alternative compliance payments and not considered an additional or new cost to ratepayers for purposes of determining the public interest pursuant to RSA 374-G:5, II. The treatment of renewable energy credits generated by the Manchester solar photovoltaic project, if approved, shall be as determined in the RSA 374-G:5 filing and authorization.

11 Reporting. If the public utilities commission approves the Manchester solar photovoltaic renewable energy project under paragraph VI of section 10 of this act.

I. PSNH shall report by June 30, 2011 and annually thereafter until June 30, 2015 to the legislative oversight committee on electric utility restructuring, established under RSA 374-F:5, and the chairpersons of the house science, technology and energy committee and the senate energy, environment and economic development committee, on the progress and status of the project, including a review of the solar technology considered for this project.

II. PSNH shall report on the project in its annual compliance report to the public utilities commission pursuant to NH Admin. Rules, section Puc 2503.03.

12 Effective Date.

I. Sections 10-11 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

**2010-1949s**

#### AMENDED ANALYSIS

This bill:

I. Allows municipalities to establish energy efficiency and clean energy districts.

II. Establishes a committee to study methods of encouraging the installation and use of small scale renewable energy resources by homeowners and businesses.

III. Authorizes the development of the solar photovoltaic renewable energy project in Manchester.

**Sen. Houde called the question.**

**Without objection President Larsen closed debate with two remaining speakers.**

**The question is on the adoption of Committee Amendment 1949s.**

**A division vote was requested.**

**Yeas: 12 - Nays: 12**

**Committee Amendment 1949s failed.**

**Sen. Houde offered a floor amendment.**

**Sen. Houde, Dist. 5**

**Sen. Sgambati, Dist. 4**

**Sen. Fuller Clark, Dist. 24**

**May 12, 2010**

**2010-2040s**

**09/10**

### **Floor Amendment to HB 1554**

Amend the bill by replacing section 2 with the following:

2 New Chapter; Energy Efficiency and Clean Energy Districts. Amend RSA by inserting after chapter 53-E the following new chapter:

#### **CHAPTER 53-F**

#### **ENERGY EFFICIENCY AND CLEAN ENERGY DISTRICTS**

53-F:1 Definitions. In this chapter:

I. "Clean energy improvement" means the installation of any system on the property for producing electricity for, or meeting heating, cooling, or water heating needs of the property, using either renewable energy sources, combined heat and power systems, or district energy systems using wood biomass (but not construction and demolition waste) or natural gas. Such improvements include but are not limited to solar photovoltaic, solar thermal, wood biomass, wind, and geothermal systems, provided that, to be covered by an agreement with a property owner and financed under this chapter, such improvements shall be qualifying improvements under RSA 53-F:6.

II. "District" means an energy efficiency and clean energy district established under this chapter.

III. "Energy conservation and efficiency improvements" means measures to reduce consumption, through conservation or more efficient use, of electricity, fuel oil, natural gas, propane, or other forms of energy on the property, including but not limited to air sealing, installation of insulation, installation of heating, cooling, or ventilation systems meeting or exceeding ENERGY STAR standards, building modifications to increase the use of daylighting, replacement of windows with units meeting or exceeding ENERGY STAR standards, installation of energy controls or energy recovery systems, and installation of efficient lighting equipment, provided that, to be covered by an agreement with a property owner and financed under this chapter, all such improvements must be permanently affixed to a building or facility that is part of the property and shall be qualifying improvements under RSA 53-F:6.

IV. "Municipality" means any city, town, or village district.

V. "Property owner" means the owner of record of real property within the boundaries of the district, whether zoned or used for residential, commercial, industrial, or other uses.

VI. "Special assessment" means a special assessment within the meaning and subject to the provisions of RSA 80:19.

53-F:2 Adoption By Municipality. A city, town, or village district may adopt the provisions of this chapter in the following manner:

I. In a town, other than a town that has adopted a charter pursuant to RSA 49-D, the question shall be placed on the warrant of an annual meeting only by the governing body, and not pursuant to RSA 39:3.

II. In a city or a town that has adopted a charter pursuant to RSA 49-C or RSA 49-D, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of any such municipality may vote to place the question on the official ballot for any regular municipal election.

III. In a village district, the question may be considered and acted upon by any means authorized by RSA 52.

IV. The language of the question shall designate an energy efficiency and clean energy district, which may cover all or a portion of the area within the municipality, or may designate all or a portion of the area within the municipality as part of an energy efficiency and clean energy district that encompasses all or portions of multiple municipalities.

V. A municipality may vote to rescind its action in the same manner as it may vote to adopt, provided that all agreements entered into with property owners and related legal obligations created prior to its vote to rescind shall remain in effect.

53-F:3 Authority. To achieve the public benefits of protecting the economic and social well-being by reducing energy costs in the community and risks to the community associated with future escalation in energy prices, and addressing the threat of global climate change, any municipality which has adopted the provisions of this chapter and established an energy efficiency and clean energy district may, upon a finding by the governing body of the municipality, after notice and hearing, that the energy conservation and efficiency and clean energy improvements the municipality will finance pursuant to this chapter will serve the public purposes as set forth in this chapter and not primarily be for the benefit of private persons or uses even though such private benefits and uses may incidentally result, do the following:

I. Incur debt for the purpose of providing financing to property owners within the district, including through issuance of municipal bonds, Qualified Energy Conservation Bonds or Clean Renewable Energy Bonds. Any such debt shall constitute a pledge of the municipality's full faith and credit, and except as may be otherwise provided in this chapter, shall be subject to the provisions of RSA 33.

II. Establish a revolving fund pursuant to RSA 31:95-h using general municipal revenues, bond funds, federal Energy Efficiency and Conservation Block Grant funds, or grant funds from any federal, state, private, or other source, provided that the use of general municipal revenues shall be pursuant to an appropriation by special warrant article in accordance with RSA 32 and the municipality's appropriation procedures.

III. Provide financing for qualifying improvements to eligible property owners within the district.

IV. Collect from property owners payments on assessments used to finance qualifying improvements.

V. Establish reserve accounts, as provided in RSA 53-F:7.

VI. Participate in state or federal programs providing support for municipal energy efficiency and clean energy finance programs such as those authorized by this chapter, including guarantee, loss reserve, revolving fund, or other state or federal support programs.

VII. Enter into agreements with property owners in which the property owners consent to make energy conservation and efficiency improvements or clean energy improvements to their property and to have the municipality include a special assessment to pay for such improvements on their property tax bills, their bills for water or sewer service or another municipal service, or separate bills, provided that such agreements shall not affect the tax liability or municipal services charges of other participating or nonparticipating property owners in the district.

VIII. Collect charges from participating property owners to cover the cost of administration for the district.

IX. Otherwise administer a program for promoting and financing energy efficiency and clean energy improvements within a district in accordance with this chapter, enter into an agreement with a public or private entity to administer such a program on its behalf in accordance with this chapter, and enter into an agreement with one or more other municipalities to share services and otherwise cooperate in the administration of a district or districts in accordance with this chapter.

#### 53-F:4 Agreements with Property Owners.

I.(a) A municipality may make an assessment under this chapter only pursuant to an agreement entered into with the free and willing consent of the owner of the property to which the assessment applies. In the case of any property with multiple owners, an agreement under this chapter shall be signed by all owners.

(b) An agreement with a property owner shall provide that the owner shall contract for qualifying improvements with one or more qualified contractors, purchase materials to be used in making qualified improvements, or both, and that, upon submission of documentation required by the municipality, the mu-

municipality shall disburse funds to those contractors and vendors in payment for the qualifying improvements or materials used in making qualified improvements. An agreement with a property owner shall require that the property owner report post-installation energy use data for program evaluation purposes over a period determined by the municipality.

(c) The agreement shall be in writing and shall include a payment schedule showing the term over which payments will be due on the assessment, the frequency with which payments will be billed and amount of each payment, and the annual amount due on the assessment. Upon full payment of the amount of the assessment, including all outstanding interest and charges and any penalties that may become due, the municipality shall provide the participating property owner with a written statement certifying that the assessment has been paid in full.

II. The municipality shall disclose to participating property owners the risks associated with participating in the program, including risks related to their failure to make payments and the risk of enforcement of property tax or special assessment liens under RSA 80:19.

III. At least 30 days prior to entering into an agreement with a municipality under this chapter, the property owner shall provide to the holders of any existing mortgages on the property notice of his or her intent to enter into the agreement.

IV. The municipality shall file a notice of the assessment under this chapter for recording in the county registry of deeds. The notice shall consist of the following statement or its substantial equivalent: "This property is subject to a special assessment related to the installation of qualifying cost-effective energy conservation and efficiency improvements or clean energy improvements under RSA 53-F."

V. Any personal financial information provided to a municipality or an entity administering a program under this chapter on behalf of a municipality by a participating property owner or potential participating property owner shall be confidential and shall not be disclosed to any person except as required to administer the program and only on a need-to-know basis.

#### 53-F:5 Eligibility of Property Owners.

I. A municipality may enter into an agreement under this chapter only with the legal owner of real property.

II. Prior to entering into an agreement with a property owner, the municipality shall determine that all property taxes and any other assessments levied with property taxes are current and have been current for 3 years or the property owner's period of ownership, whichever is less; that there are no involuntary liens such as mechanic's liens on the property; and that no notices of default or other evidence of property-based debt delinquency have been recorded during the past 3 years or the property owner's period of ownership, whichever is less; and that the property owner is current on all mortgage debt on the property. The municipality shall adopt additional criteria, appropriate to property-assessed clean energy finance programs, for determining the creditworthiness of property owners.

#### 53-F:6 Qualifying Improvements.

I. Improvements financed pursuant to an agreement under this chapter shall be based upon an audit performed by a person who has been certified as a building analyst by the Building Performance Institute or who has obtained other appropriate certification as determined by the public utilities commission or another appropriate New Hampshire-based entity. The audit shall identify recommended energy conservation and efficiency and clean energy improvements; provide the estimated energy cost savings, useful life, benefit-cost ratio, and simple payback or return on investment for each improvement; and provide the estimated overall difference in annual energy costs with and without recommended improvements. Financed improvements shall be consistent with the audit recommendations. The cost of the audit may be included in the total amount financed under this chapter.

II. Improvements shall be permanently affixed to an existing building or facility that is part of the property. An agreement between a municipality and a qualifying property owner may not cover projects in buildings or facilities under new construction.

III. Improvements shall be made by a contractor or contractors, which may include a cooperative or not-for-profit organization, determined by the municipality to be qualified to make the energy efficiency or clean energy improvements in the agreement. A municipality may accept a designation of contractors as qualified made by an electric or gas utility program or another appropriate New Hampshire-based entity. Any work

requiring a license under any applicable law shall be performed by an individual holding such license. A municipality may elect to permit the financing pursuant to an agreement under this chapter of improvements made by the owner of the property, but shall not permit the value of the owner's labor to be included in the amount financed.

IV. A municipality shall require, prior to disbursement of final payments to any contractor or vendor pursuant to an agreement with a property owner, submission by the property owner in a form acceptable to the municipality of:

(a) A post-installation report, based on an independent inspection acceptable to the municipality, certifying that improvements have been installed properly and verifying that they are performing satisfactorily; and

(b) Documentation of all costs to be financed and copies of any required permits.

#### 53-F:7 Financing Terms.

I. Improvements shall be financed pursuant to an agreement under this chapter only on terms such that the property owner experiences a positive cash flow impact during the first year and the total energy cost savings realized by the property owner and the property owner's successors during the useful lives of the improvements are expected to exceed the total cost to the property owner and the property owner's successors of the improvements. In determining the amount that may be financed pursuant to an agreement under this chapter, the total amount of all rebates, tax credits, grants, and other financial assistance received by the owner on account of the improvements shall be deducted from the cost of the improvements.

II. A municipality that provides financing to participating property owners shall establish a loss reserve account and maintain funds in such account at a level that meets generally accepted standards for property-assessed clean energy finance programs.

III. The total amount of assessments for a property under this chapter shall not be less than \$5,000 and shall not exceed \$35,000 in the case of a single-family residential property or \$60,000 in the case of a commercial, industrial, or multifamily residential property, or 15 percent of the assessed value of the property multiplied by the municipality's current equalization ratio, whichever is less. The combined amount of assessments under this chapter, any outstanding mortgage obligations for the property, and any other outstanding debt attached to the property shall not exceed 85 percent of the assessed value of the property multiplied by the municipality's current equalization ratio. A property owner who escrows property taxes with the holder of a mortgage on a property subject to an agreement under this chapter may be required by the holder to escrow amounts due on the assessment under this chapter and the mortgage holder shall remit such amounts to the municipality in the manner that property taxes are escrowed and remitted.

IV. The maximum term of finance provided pursuant to an agreement under this chapter shall be 20 years. The term shall in no case exceed 85 percent of the average expected useful life of all improvements, weighted by cost. Expected useful lives used for all calculations under this chapter shall be consistent with the expected useful lives of energy conservation and efficiency and clean energy measures approved by the public utilities commission for utility or other programs.

53-F:8 Collection and Enforcement. Collection of assessments under this chapter shall be made by the tax collector or other official responsible for property tax or municipal service charge collection. A municipality shall commit bills for amounts due on the assessments, including interest and any charges, to the tax collector with a warrant signed by the appropriate municipal officials requiring the tax collector to collect them. Bills for amounts due on the assessments shall coincide with bills for property taxes or municipal service charges and shall create a lien on the property pursuant to RSA 80:19. Enforcement powers for nonpayment shall be those provided under RSA 80 relative to property tax collection, including RSA 80:19. At the time of enforcement, only the past due balances of the assessment under this chapter, including all interest, charges, and penalties, shall be due for payment. Notwithstanding any other provision of law, in the event of a transfer of property ownership through foreclosure, collection by the municipality shall be limited to any past due balances and future payments shall neither be accelerated nor extinguished by foreclosure. Payment of a past due balance from the loss reserve established under this chapter shall not relieve a participating property owner from the obligation to pay that amount.

**The question is on the adoption of Floor Amendment 2040s.**

**Floor Amendment 2040s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1554.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**Sen. DeVries is in opposition to Floor Amendment 2040s on HB 1554.**

**HB 1192**, relative to obstructions on motor vehicle windows. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 4-0. Senator Letourneau for the committee.

**The question is on the adoption of committee recommendation of Inexpedient to Legislate on HB 1192.**

**Motion of Inexpedient to Legislate adopted.**

**HB 1262**, relative to disabled parking signs. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 4-1. Senator Kelly for the committee.

**Transportation and Interstate Cooperation**

**May 6, 2010**

**2010-1944s**

**03/04**

**Amendment to HB 1262**

Amend the bill by replacing section 1 with the following:

1 Parking Signs; Disabled. Amend RSA 265:73-a to read as follows:

265:73-a Parking Signs; Disabled. A parking space on private or public property that is reserved for persons who are disabled shall be marked by a sign affixed to a post or a building. Said sign shall be clearly visible to anyone directly approaching that particular space. ***There shall be a fine of \$250 for failure to comply with the sign placement requirements of this section.***

**The question is on the adoption of Committee Amendment 1944s.**

**Committee Amendment 1944s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 1262.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**HB 1480**, (New Title) relative to the New Hampshire rail transit authority. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 5-0. Senator Letourneau for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1480.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 1481**, relative to the use of turnpike tolls. Transportation and Interstate Cooperation Committee. Ought to Pass, Vote 3-0. Senator Letourneau for the committee.

**The question is on the adoption of committee recommendation of Ought to Pass on HB 1481.**

**Motion of Ought to Pass adopted, bill ordered to Third Reading.**

**HB 2010**, relative to the state 10-year transportation improvement program. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 5-0. Senator Letourneau for the committee.

**Transportation and Interstate Cooperation**

**May 6, 2010**

**2010-1965s**

**06/03**

**Amendment to HB 2010**

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

AN ACT relative to the state 10-year transportation improvement program, authorizing the issuance of federal highway grant anticipation bonds to finance the replacement of the Memorial Bridge in Portsmouth, New Hampshire, and establishing a commission to study the F.E. Everett Turnpike.

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

6 Legislative Appropriation of Passenger Railroad Expenditures. Prior to the expenditure of any state or federal moneys by the state of New Hampshire, or its representatives, on the construction or reconstruction of

any passenger railroad infrastructure, or the operation of passenger railroad service, the department of transportation and the New Hampshire rail transit authority shall first receive approval from the general court, or from the fiscal committee if the general court is not in session, for both the capital and operating budgets related to passenger rail service. Said legislation should, pursuant to house and senate rules, be sent to the public works and highways and finance committees in the house of representatives and the transportation and interstate cooperation and finance committees in the senate, prior to its being acted on by the respective legislative bodies. This section shall not apply to federal money received or expended for planning purposes or studies related to passenger rail service.

7 Integration of Mass Transit. For purposes of planning and implementation, the department of transportation shall insure that all forms of intermodal transportation, including mass transit, intracity, intercity, and interstate bus service, rail, and maritime passenger services are fully integrated, to the degree practicable, throughout New Hampshire.

8 State Transportation Improvement Plan. Amend RSA 240:2 to read as follows:

240:2 Project Priority. To the extent practicable the projects shall be implemented in the order shown in the ~~report~~ **plan**.

9 New Section; Plan. Amend RSA 240 by inserting after section 2 the following new section:

240:2-a Plan. In this chapter a plan means the "State of New Hampshire Ten-Year Transportation Improvement Plan 2011-2020" and any succeeding plan adopted by the general court pursuant to RSA 228:99 and RSA 240 of the laws of New Hampshire.

10 Implementation of Plan. Amend RSA 240:3, IV and the introductory paragraph of paragraph V to read as follows:

IV. The ~~department~~ **governor** shall transmit the plan to the general court by January 15 of each even-numbered year. Projects listed in the plan shall be listed by the year the funds are to be expended and the 10 years of the plan shall be financially constrained.

V. Projects listed in the plan, except projects which are solely for infrastructure preservation **or which stem from statewide transportation programs included in the plan**, shall be prioritized based on a department of transportation methodology that examines the certainty of a project relative to its scope, cost, constructability, ~~permitability~~ **permitability**, and public support, provided that the project has the following:

11 Implementation of Plan. Amend RSA 240:3, VII(b) to read as follows:

(b) Is no longer financially ~~and~~ **or** environmentally feasible; or

12 Issuance of Revenue Bonds; Replacement of Memorial Bridge in Portsmouth. Amend RSA 228-A:2 to read as follows:

228-A:2 Issuance of Revenue Bonds. The state may issue bonds under this chapter to be known as "federal highway grant anticipation bonds." The bonds may be issued from time to time for the purpose of financing project costs related to the widening of Interstate 93 from Manchester to the Massachusetts border, **the replacement of the Memorial Bridge in Portsmouth, New Hampshire**, and any other federally aided highway project hereafter authorized by the general court to be financed under this chapter. Bonds issued hereunder shall be special obligations of the state and the principal of, premium, if any, and interest on all bonds shall be payable solely from the particular funds provided therefor under this chapter. The bonds shall be issued by the treasurer in such amounts as the governor and council shall determine, not exceeding in the aggregate \$195,000,000 **for Interstate 93 and \$45,000,000 for the Memorial Bridge**. Bonds of each issue shall be dated, shall bear interest at such rate or rates, including rates variable from time to time as determined by such index, banker's loan rate, or other method as may be determined by the treasurer, and shall mature at such time or times as may be determined by the treasurer, except that no bond shall mature more than 15 years from the date of its issue. Bonds may be made redeemable before maturity either at the option of the state or at the option of the holder, or on the occurrence of specified events, at such price or prices and under such terms and conditions as may be fixed by the treasurer prior to the issue of bonds. The treasurer shall determine the form and details of bonds. Subject to RSA 93-A, the bonds shall be signed by the treasurer and countersigned by the governor. The bonds may be sold in such manner, either at public or private sale, for such price, including above or below par value, at such rate or rates of interest, or at such discount in lieu of interest, as the treasurer may determine.

13 New Section; Commission Established. Amend RSA 240 by inserting after section 3 the following new section:

240:4 Commission Established.

I. There is established a commission to study the F.E. Everett Turnpike.

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

(a) One member of the house of representatives, appointed by the speaker of the house of representatives.

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

(c) The mayor of the city of Manchester, or designee.

(d) The mayor of the city of Nashua, or designee.

(e) The director of the Manchester-Boston Regional Airport, or designee.

(f) One representative of the southern New Hampshire planning commission, appointed by that organization.

(g) One representative of the Greater Nashua Chamber of Commerce, appointed by that organization.

(h) One representative of the Greater Manchester Chamber of Commerce, appointed by that organization.

(i) The chairman of the town of Merrimack town council.

(j) The commissioner of the department of transportation, or designee.

(k) Two members appointed by the governor.

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

IV. The commission shall study the best location of the southbound and northbound mainline open road toll lanes on the F.E. Everett Turnpike. The study shall include the locations to be tolled, the recommended rate, the feasibility of eliminating one or more tolls at the exit ramps in Merrimack, and the necessity and feasibility of widening the 2-lane segments of the turnpike to 3 lanes in each direction.

V. The commissioner of the department of transportation or designee shall be the chairperson of the commission. The first meeting of the commission shall be called by the chairperson. The first meeting of the commission shall be held within 45 days of the effective date of this section.

VI. The commission shall report its findings and any recommendations for proposed legislation to the governor, GACIT, and the general court on or before January 15, 2011.

14 Repeal. RSA 240:4, relative to the commission to study the F.E. Everett Turnpike, is repealed.

15 Effective Date.

I. Section 14 of this act shall take effect January 16, 2011

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

**2010-1965s**

AMENDED ANALYSIS

This bill:

I. Adopts the 10-year transportation improvement plan for 2011-2020.

II. Requires the general court to approve capital and operating budgets prior to an expenditure by the department of transportation and the New Hampshire rail transit authority of any state or federal money for the construction of any passenger rail infrastructure.

III. Requires the department of transportation to integrate other forms of mass transit into implementation of any passenger rail service.

IV. Authorizes the issuance of federal highway grant anticipation bonds to finance costs relating to the replacement of the Memorial Bridge in Portsmouth, New Hampshire.



V. Establishes a commission to study the F.E. Everett Turnpike.

**Recess. Out of Recess.**

**The question is on the adoption of Committee Amendment 1965s on HB 2010.**

**Committee Amendment 1965s adopted.**

**The question is on the motion of Ought to Pass as Amended on HB 2010.**

**Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.**

**Without objection President Larsen moved the following bills be Special-Ordered to Session of May 13, 2010 at 1 p.m.: HB 366, HB 1364, HB 1417, HB 1459 (Commerce); HB 1270 (Energy); HB 1128-FN-L (Finance); HB 1490, HB 1607, HB 1615 (Ways and Means).**

#### **Commerce, Labor and Consumer Protection**

**HB 366**, relative to retail vehicle dealers.

**HB 1364**, relative to Medicare unfair trade practices.

**HB 1417**, allowing companion dogs in certain areas of restaurants.

**HB 1459**, relative to the board of trust company incorporation.

#### **Energy, Environment and Economic Development**

**HB 1270**, (New Title) relative to balancing amounts expended from the renewable energy fund.

#### **Finance**

**HB 1128-FN-L**, relative to the distribution of meals and rooms tax revenues to cities and towns.

#### **Ways and Means**

**HB 1490**, (New Title) establishing a citizens task force to study state revenues and expenditures.

**HB 1607-FN-A**, relative to the reasonable compensation deduction under the business profits tax.

**HB 1615**, (New Title) relative to the determination of value and a notice requirement for purposes of the utility property tax.

#### **MOTION TO ADJOURN FROM EARLY SESSION**

Sen. Hassan 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.

**Motion adopted.**

**Adjournment from the Early Session.**

#### **LATE SESSION**

##### **Third Reading and Final Passage**

**HB 53**, relative to the definition of "public body" under the right-to-know law.

**HB 160**, relative to physical force in defense of a person.

**HB 379**, exempting certain meetings concerning collective bargaining from the right-to-know law.

**HB 410**, relative to the licensing of alcohol and drug counselors.

**HB 523-FN**, requiring DNA testing of all persons convicted of a felony and making changes to the information and analysis center.

**HB 1133**, relative to the duration of involuntary emergency admissions and relative to persons with mental illness and the corrections system.

**HB 1137**, relative to withholding of wages.

**HB 1156**, relative to the determination of parental rights and responsibilities.

**HB 1163**, (New Title) relative to the definition of employer for purposes of safety provisions under the workers' compensation law.

**HB 1167**, establishing a committee to study parole boards and parole board procedures.

**HB 1170**, relative to licensure of home health care providers.

**HB 1183**, relative to the effective date of certain provisions of the involuntary commitment of sexually violent predators statute.

**HB 1206**, adopting apple cider as the New Hampshire state beverage.

**HB 1215**, relative to gender neutral references in certain public assistance statutes.

**HB 1223**, relative to notice in class action cases under the consumer protection act.

**HB 1259**, relative to subrogation claims and liens in civil actions.

**HB 1262**, relative to disabled parking signs.

**HB 1267-L**, relative to applications for hawkers and peddlers licenses.

**HB 1306**, relative to approval of recommendations of marital masters and judicial referees.

**HB 1318**, relative to post-conviction DNA testing, eligibility for victim's compensation for a victim of a crime in which a petition for post-conviction DNA testing was filed, and relative to victim services while the court is considering post-conviction DNA testing.

**HB 1326**, establishing a committee to investigate and assess access to viable and credible alternative medical practices and protocols to Lyme disease.

**HB 1340**, relative to condominium liens for assessments.

**HB 1352**, relative to direct shippers.

**HB 1366**, making certain technical corrections in the insurance laws.

**HB 1368**, relative to the definition of "employee" for workers' compensation purposes and relative to the New Hampshire return to work program.

**HB 1371**, allowing an injured employee to have a witness present at the examination by health care providers performing independent medical examinations and establishing a committee to study certain aspects of independent medical examinations.

**HB 1372**, (New Title) establishing a committee to study the provisions of RSA 570-A, the wiretapping and eavesdropping statute, and to study permitting a person to record a law enforcement officer in the course of such officer's official duties.

**HB 1373**, establishing a committee to study the effects of current state and federal laws on illegal drugs and the possession and use of such drugs.

**HB 1377**, permitting utilities to establish loan programs for owners of residential and business property engaging in renewable energy and energy efficiency projects.

**HB 1393**, relative to the treatment of New Hampshire investment trusts, and relative to pooled risk management programs.

**HB 1395**, relative to workforce housing.

**HB 1398**, allowing a surviving spouse to have access to the deceased spouse's medical records when there is no estate administration.

**HB 1404**, relative to the regulation of real estate brokers and salespersons.

**HB 1411**, (New Title) requiring notice to educational support personnel and non-certified school district employees.

**HB 1416**, making technical corrections to certain department of revenue administration laws.

**HB 1420**, relative to the calculation of child support.

**HB 1436**, requiring a report to the general court on New Hampshire's participation in the National Violent Death Reporting System and relative to legislative security staff.

**HB 1462**, establishing a shoreland advisory council.

**HB 1470**, establishing a committee to study laws relating to condominium and homeowners' associations.

**HB 1477**, relative to checklist information and relative to challenges of voters.

**HB 1480**, (New Title) relative to the New Hampshire rail transit authority.

**HB 1481**, relative to the use of turnpike tolls.

**HB 1483**, (New Title) relative to appropriations in the county budget.

**HB 1486**, (New Title) prohibiting the mandating of fire sprinkler systems in certain dwellings and establishing a committee to study municipal residential fire sprinkler requirements.

**HB 1487**, relative to the definition of certified wetland scientists.

**HB 1497**, (New Title) relative to the governance of the Concord school district.

**HB 1512**, establishing a deferred retirement option in the judicial retirement plan, and relative to the determination of the cost of purchasing prior service credit in the state retirement system.

**HB 1513-FN**, (New Title) relative to fees collected by the secretary of state.

**HB 1523**, revising the pupil safety and violence prevention act.

**HB 1524**, relative to the liability of town and city health officers and overseers of public welfare.

**HB 1535-FN**, relative to absentee voting, special elections, election returns, preservation of ballots, recounts, the ballot law commission, and electronic ballot counting devices.

**HB 1554**, allowing municipalities to establish energy efficiency and clean energy districts.

**HB 2010**, relative to the state 10-year transportation improvement program, authorizing the issuance of federal highway grant anticipation bonds to finance the replacement of the Memorial Bridge in Portsmouth, New Hampshire, and establishing a commission to study the F.E. Everett Turnpike.

**HCR 30**, (New Title) urging the attorney general to fully investigate the proposed transaction between Catholic Medical Center Healthcare System and Dartmouth-Hitchcock Health.

### **Passing of Captain Ed Freeman, American Hero**

SENATOR BARNES (Rule 44): I'm only doing this because Sen. Downing told me earlier today that I am going to meet next week a Medal of Honor winner that was in Korea, which rings a bell with me a little bit. And I have something that I want to read. For years I've been telling students and anyone else that wants to listen that the word "hero" gets thrown around rather loosely; it gets thrown around on some of these Hollywood stars and baseball players, football players. They are not, in my opinion, and I've said it publicly, not heroes.

"You're a 19-year-old kid. You're critically wounded and dying in the jungle somewhere in the Central Highlands of Vietnam. It's November 11<sup>th</sup> ..." – interesting day, isn't it, November 11<sup>th</sup> – "... 1967. Landing zone X-ray. Your unit is outnumbered 8-1, and the enemy fire is so intense from a hundred yards away that your commanding officer has ordered the Medivac helicopters to start coming in. You're lying there, listening to the enemy machine guns, and you know you're not getting out. Your family is half-way around the world, 12,000 miles away, and you'll never see them again. As the world starts to fade in and out, you know this is the day. Then, over the machine gun noise, you faintly hear that sound of a helicopter. You look up to see a Huey coming in. But it doesn't seem real because no Medivac markings are on it. Captain Ed Freeman is coming in for you. He's not Medivac, so it's not his job. But he heard the radio call and decided he's flying his Huey down into the machine gun fire anyway. Even after the Medivacs were ordered not to come, he's coming in. And he drops it in and sits there in the machine gun fire as they load three of you at a time onboard. Then he flies you up and out through the gunfire, to the doctors and nurses, and safety. And he kept coming back, 13 more times, until all the wounded were out. No one knew until the mission was over that the captain had been hit four times in the legs and left arm. He took 29 of you and your buddies out that day; some would not have made it without the captain and his Huey."

Medal of Honor recipient, Captain Ed Freeman, United States Air Force, died last Wednesday at the age of 70 in Boise, Idaho. May God bless him. And that is what an American hero is all about. Amen. Thank you for listening. (Applause)

**ANNOUNCEMENTS**  
**Passing of Sandy Smith**

PRESIDENT LARSEN (Rule 44): I might just briefly make note, and a Rule 44, of the passing of Sandy Smith, who was former Sen. Roger Smith's wife. I have not heard the full details of that passing, but she was a strong community member here in this city, and I know the light of Roger's life. And so we note her passing and extend our deepest sympathies to their family.

**Without objection President Larsen moved that all Rule 44's shall be entered into the permanent *Journal of the Senate*.**

**MOTION TO RECESS TO CALL OF THE CHAIR**

Sen. Hassan moved that the business of the day being completed, that the Senate recess to the Call of the Chair for the purposes of sending and receiving messages, and processing enrolled bill reports and amendments.

**Motion adopted.**

**The Senate is in recess to the Call of the Chair.**

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