

**CHAPTER 224****HB 2-FN-A-LOCAL – FINAL VERSION**

30Mar2011... 1226h

06/01/11 2221s

06/01/11 2260s

06/01/11 2268s

22June2011... 2513CofC

22June2011... 2521EBA

**2011 SESSION**

11-1086

09/01

**HOUSE BILL *2-FN-A-LOCAL***

AN ACT relative to state fees, funds, revenues, and expenditures.

SPONSORS: Rep. Weyler, Rock 8

COMMITTEE: Finance

**AMENDED ANALYSIS**

1. Funds meals and rooms distributions to cities and towns for the biennium ending June 30, 2013 at no more than the fiscal year 2011 level of distribution.
2. Suspends RSA 31-A, relating to revenue sharing with cities and towns for the biennium ending June 30, 2013.
3. Requires a portion of funds received for the recording surcharge collected by registers of deeds to be deposited each year of the biennium in the land and community heritage investment program administrative fund with the remainder being deposited in the general fund.
4. Provides that no school building aid or alternative school building aid grants shall be made to school districts for projects approved on or after June 30, 2011 through June 30, 2013, and provides a waiver of the suspension of school building aid.
5. Limits the uses of funds held in the driver training fund, eliminates payment to secondary schools and districts, and removes responsibility of the department of education for driver education.
6. Requires the workers' compensation administration fund to fund all costs of the administration of workers' compensation under RSA 281-A.

7. Requires the commissioner of the department of health and human services to submit a Medicaid state plan amendment to suspend direct and indirect graduate medical education payments to hospitals for the biennium ending June 30, 2013.
8. Authorizes the commissioner of the department of health and human services to fill unfunded positions during the biennium ending June 30, 2013 under certain circumstances.
9. Repeals the catastrophic illness program.
10. Suspends funding for catastrophic aid payments to hospitals for the biennium ending June 30, 2013.
11. Provides that the department of health and human services shall not change program eligibility standards without fiscal committee approval unless such changes are required by federal law and allows the department to transfer funds within and among accounting units.
12. Implements recommendations of the office of legislative budget assistant's 2010 performance audit report of the New Hampshire community health system.
13. Requires that for the biennium ending June 30, 2013, the department of health and human services shall maintain a limit on benefits for adults with low service utilization of community mental health services, as identified in He-M 401.07.
14. Modifies the provisions for county reimbursements for nursing home services through state fiscal year 2014.
15. Requires the department of health and human services to apply for a waiver to deliver and pay for Medicaid services to Medicaid-eligible persons with severe mental disabilities through a prepaid health plan.
16. Provides that the rate for services, placements, and programs paid for by the department for delinquent children, child protection act, and children in need of services are to be maintained at the rates in effect on June 30, 2011.
17. Requires the commissioner of the department of health and human services to notify the commissioner of the department of administrative services regarding transfers or reassigned personnel.
18. Requires the commissioners of the departments of safety and health and human services to negotiate a reduced fee for performing certain state criminal records checks.
19. Repeals the prevention programs for juveniles and incentive grants for such programs.
20. Allows the department of health and human services to use a new assessment tool to determine eligibility for nursing facility care even if such tool is not reviewed by the county-state finance committee or the oversight committee on health and human services.
21. Requires the department of health and human services to raise the income eligibility for elderly and adult clients under the Social Services Block Grant program every January, by the percentage amount of the cost of living increase in social security benefits on a yearly basis.
22. Establishes 2 temporary special funds in the state treasurer's office to receive and

temporarily hold funds for certain New Hampshire hospital programs.

23. Suspends the funding for the developmental services waitlist for the biennium ending June 30, 2013.

24. Transfers the Medicaid enhancement tax accounting unit and the Medicaid enhancement tax receipt account from the department of health and human services to the department of revenue administration. Establishes priorities for the allocation and use of moneys in the uncompensated care fund for the biennium ending June 30, 2013.

25. Directs the commissioner of the department of health and human services to pursue certain consolidation initiatives to achieve general fund appropriations reductions in fiscal years 2012 and 2013 and to report the progress of such efforts to the committees of the house and senate with jurisdiction over health and human services and finance issues.

26. Requires the commissioner of the department of health and human services to submit a state plan amendment to administer the children's health insurance program.

27. Allows the commissioner of the department of health and human services to recover for medical assistance for a spouse of an individual or a parent if an individual is under the age of 21.

28. Clarifies the liability of expenses payable by the department of health and human services under the child protection act.

29. Establishes that for the biennium ending June 30, 2013, a portion of the nursing facility assessment and intermediate care facility assessment shall be used for purposes of long-term care services provided by the state.

30. Authorizes the commissioner of the department of transportation to enter into agreements to lease-purchase vehicles and equipment.

31. Appropriates federal emergency assistance grants to the department of transportation.

32. Establishes the department of labor restricted fund to fund operations of the department of labor from fees, licenses, certificates, and civil penalties.

33.(a) Eliminates the special fund for payment of mediators and guardians ad litem in cases where parents are indigent.

(b) Makes supplemental appropriations to the judicial council for payment of council for indigent parents in child protection cases and in divorce cases.

(c) Limits the circumstances in which the court may appoint an attorney to represent the parent in cases of abuse or neglect.

(d) Requires the supreme court to adopt practice standards for non-certified guardians ad litem appointed in parental rights and responsibilities cases.

34. Requires that proceeds from the sale of the lakes region facility property be deposited into the revenue stabilization reserve account and appropriates funds to facilitate the sale and employ a consultant with real estate or financial expertise.

35. Suspends bumping rights.
36. Requires the department of administrative services to consolidate certain business processing functions.
37. Makes an appropriation for selecting and retaining an independent business processing consultant.
38. Makes an appropriation to the McAuliffe-Shepard discovery center for the purpose of supporting the transition of the discovery center to a fiscally self-sufficient entity.
39. Authorizes the lottery commission to use monetary incentives to promote increased sales and compensate lottery sales representatives based upon performance.
40. Modifies lottery sales commission rates.
41. Authorizes monetary incentives to liquor commission employees and temporary state liquor stores.
42. Suspends the deposit of liquor revenues in the alcohol abuse prevention and treatment fund for the biennium ending June 30, 2013.
43. Transfers the water quality laboratory services from the department of environmental services to the department of health and human services.
44. Adds the board of accountancy, the real estate appraiser board, the manufactured housing installation standards board, and the board of manufactured housing to the joint board of licensure and certification.
45. Suspends the statutory limitation on highway funds allocated to the department of safety for the biennium ending June 30, 2013.
46. Revises the duties of the office of energy and planning by removing certain program responsibilities, including the coordination of federal funds, economic development reporting requirements, the water protection assistance program, housing and conservation planning, the high-level radioactive waste act, and land use board member training.
47. Requires municipal zoning and ordinance documents, including amendments, to be filed with the office of energy and planning and authorizes the office to gather such information from municipalities in order to generate publicly available lists and surveys.
48. For the biennium ending June 30, 2013, provides funding for private colleges and universities and for the university system of New Hampshire and the community college system of New Hampshire from the UNIQUE endowment allocation program, and transfers the balance of the New Hampshire excellence in higher education endowment trust fund in part to the university system of New Hampshire and in part to the community college system of New Hampshire.
49. Repeals the postsecondary education commission and transfers all powers, duties, and programs to the newly established division of higher education and higher education commission within the department of education.
50. Transfers authority over regulation of private postsecondary career schools from the

postsecondary education commission to the higher education commission.

51. Authorizes the department of education to expend funds at 110 percent of budgeted amounts to fund chartered public school tuition payments, with the approval of the fiscal committee and governor and council.

52. Authorizes that any funds from the federal Education Jobs program not expended by a school district during the 2011 fiscal year shall be carried over for use in the school district's 2012 fiscal year.

53. Establishes certain procedures for special meetings regarding education funding.

54. Changes the renewal of licenses of veterinarians by the board of veterinary medicine to be biennial rather than annual.

55. This bill changes the composition of the retirement system board of trustees and makes various changes to the state retirement system if SB 3-FN-A-LOCAL of the 2011 legislative session does not become law, including:

I. Increasing retirement ages of group II members for service retirement, disability retirement, vested deferred retirement, and split benefits.

II. Changing the definitions of earnable compensation and average final compensation used in calculating retirement benefits.

III. Transferring remaining funds from the special account into the state annuity accumulation fund.

IV. Eliminating future increases to medical benefits premium payments.

V. Increasing member contribution rates.

VI. Establishing a committee to study the establishment of a federal tax qualified voluntary defined contribution plan and a committee to study matters related to disability, medical subsidies, and COLAs.

VII. Limiting when the option to become a member of retirement system applies, and defining part-time employment.

VIII. Changing the eligibility for state employees to receive medical benefits.

IX. Eliminates the state share of employer contributions for non-state employees beginning fiscal year 2013.

X. Extending a temporary supplemental allowance for fiscal year 2013.

56. Allows subcommittee members of the retirement system board of trustees to participate in meetings by telephone.

57. Provides statutory construction for certain terms relating to publication for statewide circulation.

58. Requires the department of resources and economic development to staff rest areas and welcome centers along Interstate Route 93.

59. Repeals the bureau of visitor services.
60. Modifies the amount of reimbursement paid to towns and cities for land acquired by the United States for flood control.
61. Makes changes to the document processing division of the department of revenue administration.
62. Adds certain functions of the equalization standards board to the functions of the assessing standards board.
63. Transfers an appropriation received by the governor's commission on disability.
64. Modifies the percentage of the penalty assessment designated to the police standards and training council training fund.
65. Requires the governor to reduce total appropriations for classified employee compensation and benefits.
66. Allows for transfers of federal grant funds between class codes and to newly created class codes and permits certain budgeted federal grant appropriation balances from one state fiscal year to be carried over to the following fiscal years subject to the approval of the commissioner of administrative services.
67. Establishes hiring priority for laid off classified state employees.
68. Freezes executive branch hiring, purchases, and out-of-state travel.
69. Requires any budget surplus remaining at the end of fiscal year 2011 to remain in the general fund.
70. Prohibits the department of information technology from discontinuing technical support services to any executive branch agency.
71. Allows departments, agencies, and branches to transfer moneys from any class line, except for personnel and benefit class lines, within their approved budgets to class line 027 to fund information technology related projects which would not otherwise be funded.
72. Authorizes the department of information technology to transfer funds within and among its accounting units, subject to the approval of the fiscal committee of the general court.
73. Allows the annual contribution for unfunded accrued liability of the judicial retirement plan to be calculated over a 30-year period from January 1, 2010 or the maximum period allowed, whichever is less and requires recalculation of the employer contribution rate for the biennium ending June 30, 2013.
74. Requires transfers from the special fund for the improvement and automation of vital records at the state and local levels, also known as the vital records improvement fund, to the general fund.
75. Suspends distribution of a portion of the rooms and meals tax to the division of travel and tourism development for the biennium ending June 30, 2013.

76. Establishes a special legislative account.
77. Sets the annual salary of the registers of probate at \$100 per year.
78. Limits the number of judicial appointments and establishes certain requirements for conversion of a marital master position to a judge position and for filling marital master vacancies.
79. Requires that any balance remaining in the navigation safety fund at the close of each fiscal year lapse to the general fund.
80. Credits fines paid by mail to the division of motor vehicles to the general fund and after July 1, 2013.
81. Limits the rulemaking authority of state agencies to establish or increase fees, or establish or modify an agency program or responsibility in a manner that increases costs to persons affected by the rule.
82. Provides that all penalty assessments imposed under the drug-free school zone statute shall be deposited in the general fund. The bill also repeals the drug-free school zone sign fund.
83. Modifies appropriation language for statewide special education programs.
84. Establishes a committee to study the relationship between the department of education and local education authorities.
85. Transfers the marine patrol bureau from the division of safety services, department of safety, to the division of state police.
86. Changes the fees for obtaining a saltwater fishing license.
87. Establishes a committee to study funding options for the police standards and training council and the department of safety, division of fire standards and training and emergency medical services.
88. Establishes certain divisions within the fish and game department for the biennium ending June 30, 2013.
89. Eliminates the division of safety services in the department of safety.
90. Requires the department of transportation to manage the bridge and highway betterment program with an emphasis on bidding work out to contractors and requires the department to prepare a report detailing project costs.
91. Creates a committee to study the usage of contractors to perform certain duties performed by the department of transportation in order to save highway funds.
92. Suspends reimbursements to the foster grandparent program through the senior volunteer grant program.
93. Redefines a "child in need of services" for purposes of RSA 169-D.
94. Directs the department of health and human services to administer its adoption assistance

program consistent with federal law and the state's Title IV-E plan, and repeals state law and regulations relative to discretionary adoption subsidies for hard to place children.

95. Removes the discretion of the commissioner of the department of health and human services to transfer cases between the employment program and assistance program for 2-parent families in order to meet federal work participation funding requirements.

96. Removes the commissioner's authority to operate an emergency assistance program to aid families with dependent children.

97. Prohibits persons fleeing to avoid criminal prosecution from receiving public assistance benefits.

98. Modifies eligibility for cash assistance for purposes of aid to the permanently and totally disabled.

99. Requires certain funds from drug rebates to be deposited in a separate account for the department of health and human services to expend for pharmacy services.

100. Clarifies the duty and authority of the commissioner of health and human services for the Medicaid hospital outpatient reimbursement methodology.

101. Prohibits use of state appropriations for contracts with the Dartmouth Psychiatric Research Center or the Behavioral Health Policy Institute.

102. Suspends the position of medical director within the department of health and human services for the biennium ending June 30, 2013.

103. Suspends RSA 126-G, relative to family support services.

104. Suspends funding for the Alzheimer's disease and related disorders (ADRD) program through June 30, 2013.

105. Suspends congregate housing and congregate services.

106. Authorizes the department of health and human services to reimburse the parent of a child who is medically fragile or has a chronic illness for home health aide services provided by the parent. The program is a 3-year pilot program.

107. Allows the office of reimbursements, department of health and human services, to file liens to recover moneys owed for services rendered by the New Hampshire hospital, Glencliff home, and certain other institutions.

108. Requires a petitioner in any petition for spousal support who is a recipient of medical assistance under the state Medicaid program to serve the department of health and human services with a copy of the petition. This bill also allows a guardian to allocate income to a ward's estate.

109. Prohibits appropriations in the family planning accounting unit to be used to fund abortions.

110.(a) Removes the commissioner of the department of health and human services from the healthy kids board.



(b) Removes responsibility for administration of the state children's health insurance program from the statutory duties of the New Hampshire healthy kids corporation, contingent on implementation of a Medicaid managed care model by the department of health and human services.

111. Requires a waiver from the governor and council for reclassification of a classified position.

112. Repeals the renewal fee for an operator license for collection of meals and rooms taxes, and the waiver provisions therefor.

113. Reduces fees for licenses to sell animals or birds customarily used as household pets.

114. Reduces the filing fees under the condominium act and the land sales full disclosure act.

115. Deletes the general fund designation for a portion of the marriage license fee.

116. Repeals the law regarding coverage for services and certain items covered under the medical assistance program.

117. At the request of the joint committee on employee classification established under RSA 14:14-c, establishes the salary for the positions of:

(a) Commissioner/CIO of the department of information technology.

(b) Executive director of the board of medicine.

(c) Director and state registrar of the division of vital records administration.

(d) State veterinarian of the department of agriculture, markets, and food.

118. Clarifies that property at Skyhaven leased by the authority for airport or aeronautical related purposes is not subject to taxation.

119. Suspends for the biennium laws relative to the funeral expenses to certain recipients of public assistance and certain other reimbursement for care of an assisted person.

120. Authorizes the issuance of bonds in the amount of \$3,700,000 for the biennium ending June 30, 2013 to provide kindergarten construction funds to eligible school districts.

121. Clarifies the responsibilities of the administrator of the joint board of licensure and certification.

122. Repeals the 2008 repeal of the of the Maine-New Hampshire Interstate Bridge Authority, for which required Congressional approval for the dissolution of the Authority was not requested or obtained.

123. This bill adds additional construction and cost estimate factors for determining eligibility for the kindergarten construction program.

124. Transfers the responsibility for telecommunications services to state government from the bureau of general services, division of plant and property management, department of administrative services to the division of emergency services and communications, department of safety.

125. Changes the membership, appointment authority, and terms of the board of tax and land appeals.

126. Increases the monthly contribution for medical benefits paid by retired state employees, retired judges, and their spouses, under age 65.

127. Requires the general fund appropriation for the judicial branch to be reduced by a certain amount in addition to other reductions.

128. Requires certain state fiscal stabilization funds provided under the American Recovery and Reinvestment Act of 2009 (ARRA) to be transferred from the office of economic stimulus to the department of corrections.

129. Requires the commissioner of the department of administrative services to develop a plan for cost containment options and managed care options to generate savings for the state of New Hampshire retiree health care program. Allows the commissioner of the department of administrative services to utilize managed care and/or cost containment techniques for the New Hampshire retiree health care program and allows the commissioner to offer financial incentives under certain circumstances.

130. Establishes a committee to develop a plan for privatizing the department of corrections.

131. Requires the commissioner of the department of corrections to transfer not more than 600 inmates currently incarcerated at the state correctional facility in Concord to private and/or public correctional agencies or facilities.

132. Requires \$800,000 in revenue derived from Cannon Mountain to be deposited in the general fund and applied to the negative balance contained in the state park fund.

133. Requires the department of resources and economic development to deposit revenues in fiscal years 2012 and 2013 into the general fund to offset the negative balance in the state park fund and further requires the department to deposit \$50,000 in each fiscal year of the biennium ending June 30, 2013 into the fish and game research and rescue fund.

134. Requires the lease of rental space in which to house the superior court center.

135. Authorizes transfers between and among class line appropriations in the highway welcome centers and the class line appropriations in the turnpike welcome centers for the biennium ending June 30, 2013.

136. Requires the department of health and human services to provide an update on the status of transition of the healthy kids program from the New Hampshire healthy kids corporation to the department's Medicaid managed care program for each meeting of the fiscal committee until the transition is complete.

137. Requires the department of health and human services to contract with in-state hospitals for high intensive neonatal and pediatric care unless such services are not available in New Hampshire, and directs the department to revise the rate structure for such services.

138. Authorizes the department of health and human services to make claims against an estate for financial and medical assistance provided to the deceased by the department.

139. Requires that any appropriation made in the capital or operating budget for

New Hampshire public television shall be made directly to New Hampshire public television.

140. Funds certain shelter care services in Bradford, Antrim, and Jefferson.

141. Requires the department of health and human services to collaborate with area agencies and community mental health centers to minimize the impact of the reduced appropriation to the division of developmental services and the bureau of behavioral health services and to submit a legislative report of the savings generated.

142. Requires the department of health and human services to consolidate contracts to the fewest number reasonably possible.

143. Establishes the community college system debt service fund.

144. Clarifies the tax exempt status for real estate and personal property owned by the community college system of New Hampshire.

145. Transfers all real and personal property from the former department of regional community-technical colleges to the board of trustees of the community college system of New Hampshire.

146. Limits the amount of net operating loss generated in a tax year that may be carried forward under the business profits tax to \$10,000,000.

147. If general fund revenues exceed projected revenue estimates, requires the department of health and human services to present to the fiscal committee a proposal for making uncompensated care payments to hospitals and allows funds in excess of budgeted amounts to be expended for such payments.

148. Requires the commission of the department of information technology in cooperation with the commissioner of the department of health and human services to engage the services of an information systems consultant to review the state's Medicaid management information system implementation project and make a report to the fiscal committee of the general court. The commissioner shall also report on the status of cost recovery efforts under the MMIS contract.

149. Lapses certain appropriations for the governor's commission on alcohol and drug abuse prevention, intervention, and treatment and for nursing services.

150. Requires the department of health and human services to make an additional American Recovery and Reinvestment Act of 2009 Medicaid quality incentive program payment to nursing facilities prior to June 30, 2011.

151. Requires the transfer of revenue stabilization reserve account funds in the event of an operating budget deficit at the close of fiscal year 2011.

152. Authorizes the commissioner of the department of administrative services to pay for contributions for retirement costs for local government employers from other funds.

153. Authorizes the commissioner of the department of administrative services, with the approval of the fiscal committee of the general court and the governor and council, to transfer funds within and among accounting units.

154. Authorizes the commissioner of the department of administrative services to pay costs for employees who provided notice of layoff on or before June 30, 2011 from classes or accounts in the 2012 fiscal year.

155. Nullifies a contingent repeal relative to service areas of the New Hampshire rail transit authority.

156. Establishes a state aeronautical fund and authorizes the commissioner of the department of transportation to accept donations to the fund.

157. Reduces the rates of the tobacco tax on cigarettes and on tobacco products other than cigarettes. The rates will retain to current rates if the reduction results in a loss of revenue for the biennium.

158. Makes extensive changes to the comprehensive shoreland protection act.

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Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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11-1086

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## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eleven*

AN ACT relative to state fees, funds, revenues, and expenditures.

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

224:1 Meals and Rooms Tax; Distribution to Cities and Towns. Notwithstanding any other provision of law, for each fiscal year of the biennium ending June 30, 2013, the state treasurer shall fund the distribution of revenue to cities and towns pursuant to the formula for determining the amount of revenue returnable to cities and towns under RSA 78-A:26, I and II at no more than the fiscal year 2011 distribution.

224:2 Suspension; Revenue Sharing. Notwithstanding any provision of law to the contrary, RSA 31-A, relative to revenue sharing with cities and towns shall be suspended for the biennium ending June 30, 2013.

224:3 Recording Surcharge. Notwithstanding the provisions of RSA 478:17-g, II(c), for the fiscal year ending June 30, 2012 an amount of \$120,000, and for the fiscal year ending June 30, 2013 an amount of \$120,000, received from the recording surcharge collected by registrars of deeds under RSA 478:17-g, II(a) shall be deposited in the land and community heritage investment program administrative fund under RSA 227-M:7-a, and the remainder of funds received for the surcharge shall be credited to the general fund.

224:4 School Building Aid; Alternative School Building Aid.

I. Notwithstanding RSA 198:15-a through RSA 198:15-hh and RSA 198:15-u through RSA 198:15-w, and notwithstanding the school building aid funding provisions of 2009, 144:11, the commissioner of the department of education shall issue no school building aid or alternative school building aid for any project approved on or after June 30, 2011 through June 30, 2013.

II.(a) The commissioner of the department of education, upon recommendation of the state fire marshal, may grant a waiver to the suspension of school building aid under paragraph I if the state fire marshal or designee determines, based on reasonable information and belief, that:

(1) The condition of such school building or portion thereof constitutes a clear and imminent danger to the life or safety of occupants or other persons, and requires remediation prior to July 1, 2013; or

(2) A structural deficiency in the function or operation of a school building or portion thereof presents a substantial risk to the life or safety of the occupants or other persons, and is more than a technical violation of the fire code, and requires remediation prior to July 1, 2013.

(b) Any school building aid provided under a waiver granted pursuant to this paragraph shall be limited to the costs associated with the remediation of the conditions or structural deficiencies set forth in this paragraph.

III. Paragraph I of this section shall not apply to the Unity School District for the project approved by the town at a special meeting held on August 23, 2010.

224:5 Driver Training Fund. Amend RSA 263:52 to read as follows:

263:52 Driver Training Fund.

I. The proceeds from original license fees as provided in RSA 263:42 and the vanity plate service fee collected in accordance with RSA 261:89, plus the fee for the renewal of the use of such plates, after costs of such plates or designation of effective periods thereof and issuance of same have been appropriated and deducted, shall be expended ~~[solely] for [courses of instruction and training in]~~ **course materials, licensing of schools, and certification of instructors in connection with** safe motor vehicle driving conducted in or under the supervision of secondary schools. ~~[After all costs of administration of the program each year of the biennium have been reserved, the balance which is appropriated to the driver training program shall be paid to the state treasurer by June 30 of each year.]~~ Such balance shall be kept in a separate fund. ~~[which shall be paid out on or before September 15 of each year to participating schools prorated on a per-pupil basis for those who have completed the driver education program. Subject to final approval by the governor and council,]~~ The commissioner

of safety ~~[jointly with the commissioner of education]~~ shall adopt, pursuant to RSA 541-A, and publish, rules governing the courses of instruction and training ~~[and determining eligibility of secondary schools to receive moneys from the fund established by this section].~~

II. The \$40 vanity plate service fee and the fee for renewal of vanity number plates shall automatically be credited to the driver training fund until all fees in such fund equal the amount of money estimated by the general court as available for expenditure for ~~[the]~~ **course materials, licensing of schools, and certification services in connection with** driver training ~~[program]~~ from that fund for that fiscal year~~[-which shall include \$150 for each pupil who has completed the driver education program]~~. Once the **driver training course materials, licensing of schools, and certification services have been funded in accordance with the** legislative estimates ~~[have been matched]~~ for the current fiscal year, **the next 1.5 million dollars shall be transferred to the department of safety as restricted revenue, thereafter** the balance of all such fees shall be transferred to the general fund and shall be available as unrestricted revenue.

224:6 Driver Training; Rulemaking Authority; Commissioner of Safety. Amend RSA 21-P:14, I to read as follows:

I. The commissioner of safety shall ~~[act jointly with the commissioner of education to]~~ develop and adopt rules, under RSA 541-A, relating to driver education courses to be given in the secondary schools of the state and motor vehicle drivers' schools licensed under the provisions of RSA 263:44, and relating to the licensing of the schools and of their teachers and instructors, which rules shall cover the subjects of:

- (a) Facilities and equipment.
- (b) The educational background and other qualifications of teachers and instructors.
- (c) Curriculum and hours during which instruction may be given.
- (d) Amounts of insurance with respect to training vehicles and other facilities of the school, which may be in addition to any other insurance coverage required by law.
- (e) ~~[Payments to secondary schools or districts.~~

~~(f)~~ Admission and advertising practices, together with terms of enrollment, of schools licensed under the provisions of RSA 263:44.

~~[(g)]~~ **(f)** Uniform classifications for certification of driver education instructors, including the same types of certification levels and the same qualifications required for each level for both private and public school instructors, and a system of fees for certification.

~~[(h)]~~ **(g)** Any other subject which in the judgment of the ~~[commissioners]~~ **commissioner** requires rulemaking to promote the effectiveness of driver education courses.

224:7 Repeal. RSA 21-N:6, VI, relative to administering department responsibilities for driver education, is repealed.

224:8 Workers' Compensation; Administration Fund. Amend RSA 281-A:59, III to read as follows:

III. Each insurance carrier and self-insurer, including the state, shall make payments to the

fund of its pro rata share of one fiscal year's costs to be appropriated out of the fund. The governor is authorized to draw a warrant for any sum payable by the state under this paragraph out of any money in the treasury not otherwise appropriated. The pro rata share shall be computed on the basis which the total workers' compensation benefits, including medical benefits, paid by each insurance carrier and self-insurer bore to the total workers' compensation benefits, including medical benefits, paid by all insurance carriers and self-insurers in the fiscal year ending in the preceding calendar year; provided, however, that no insurance carrier or self-insurer shall pay an assessment of less than \$100. The commissioner shall assess each insurance carrier and self-insurer as soon as possible after July 1 of each year. Total assessments shall not exceed the amount appropriated for *the fund, which shall include* the budget of the workers' compensation division of the department of labor for the fiscal year in which the assessment is made *and all other costs of administering this chapter*. The balance in the fund at the beginning of the new fiscal year shall proportionately reduce the assessments under this section. The commissioner shall have the authority to adopt rules, pursuant to RSA 541-A, relative to the manner in which such payments are to be made.

224:9 Department of Health and Human Services; Direct Graduate Medical Education; Suspension. Notwithstanding 2010S, 1:40, the commissioner of the department of health and human services shall submit a Title XIX Medicaid state plan amendment to the federal Centers for Medicare and Medicaid Services to suspend the provision of direct graduate medical education payments to hospitals as contemplated at 42 U.S.C. section 1396a(a)(30)(A) effective July 1, 2011 through June 30, 2013. Upon approval of the state plan amendment, and as of the effective date of the state plan amendment, any obligations for payment of direct graduate medical education shall be suspended for the biennium ending June 30, 2013.

224:10 Department of Health and Human Services; Indirect Graduate Medical Education; Suspension. Notwithstanding 2010S, 1:83, the commissioner of the department of health and human services shall submit a Title XIX Medicaid state plan amendment to the federal Centers for Medicare and Medicaid Services to suspend the provision of indirect graduate medical education payments to hospitals effective July 1, 2011 through June 30, 2013. Upon approval of the state plan amendment, and as of the effective date of the state plan amendment, any obligations for payment of indirect graduate medical education shall be suspended for the biennium ending June 30, 2013.

224:11 Department of Health and Human Services; Authority to Fill Unfunded Positions. Notwithstanding any provision of law, the commissioner of the department of health and human services may fill unfunded positions during the biennium ending June 30, 2013, provided that the total expenditure for such positions shall not exceed the amount appropriated for personal services, permanent, and personal services, unclassified.

224:12 Repeal. The following are repealed:

- I. RSA 137-G, relative to the catastrophic illness program.
- II. RSA 6:12, I(b)(145), relative to application of receipts from the catastrophic illness fund.

224:13 Health and Human Services; Suspension of Catastrophic Aid Payment to Hospitals. Notwithstanding 2009, 144:160 and 2010S, 1:84, the commissioner of the department of health and human services shall submit a Title XIX Medicaid state plan amendment to the federal Centers for Medicare and Medicaid Services to suspend all catastrophic aid payments to hospitals effective July 1, 2011 through June 30, 2013.

224:14 Department of Health and Human Services; Program Eligibility; Additional Revenues; Transfer Among Accounts.

I. For the biennium ending June 30, 2013, the department of health and human services shall not authorize, without prior consultation with the house health and human services and elderly affairs committee and the senate health and human services committee and the approval of the fiscal committee of the general court and governor and council, any change to program eligibility standards or benefit levels that might be expected to increase or decrease enrollment in the program or increase expenditures from any source of funds; provided, however, that no such prior approval shall be required if a change to a federal program in which the state is participating as of the effective date of this section is required by federal law.

II. Notwithstanding any provision of the law to the contrary, for the biennium ending June 30, 2013, the fiscal committee of the general court and the governor and council may authorize the commissioner of the department of health and human services to accept and expend additional revenues in excess of \$50,000, that are in addition to the budgeted amounts, from any source, which become available to the department; provided, that such expenditures do not increase eligibility standards or benefit levels.

III. Notwithstanding the provisions of RSA 9:17-a or any other provision of law to the contrary except RSA 9:17-c, and subject to the approval of the fiscal committee of the general court and governor and council, for the biennium ending June 30, 2013, the commissioner of the department of health and human services is hereby authorized to transfer funds within and among all accounting units within the department, as the commissioner deems necessary and appropriate to address present or projected budget deficits, or to respond to changes in federal laws, regulations, or programs, and otherwise as necessary for the efficient management of the department, with the exception of class 60 transfers.

224:15 Mental Health Services System; Definitions. Amend RSA 135-C:2, II-a to read as follows:

II-a. "Advanced practice registered nurse" or "APRN" means an advanced practice registered nurse licensed by the board of nursing who is ***certified as*** a psychiatric mental health ~~[specialist and who has at least 2 years' experience as an advanced practice registered nurse working with individuals who have mental illness, as defined in paragraph X of this section, and who meets any other criteria specified in rules adopted by the department]~~ ***nurse practitioner by a board-recognized national certifying body.***

224:16 Mental Health Services System; State-Funded Clients. Amend RSA 135-C:5, II to read as follows:

II. The commissioner or designees may conduct site visits and may otherwise audit and monitor all aspects of the administration, fiscal operations, and services of the program providing the service to determine compliance with the rules authorized under RSA 135-C:61. Auditing and monitoring may include review of the individual records of ~~[state-funded clients]~~ ***persons with severe mental disabilities, persons who receive emergency services, and/or persons whose services are paid for, in whole or in part, by state funds or federal funds*** in the state mental health services system, notwithstanding the provisions of RSA 329:26, RSA 330-A:32, or any other law.

224:17 Mental Health Services System; Community Mental Health Program Outcomes.



Amend RSA 135-C:7 to read as follows:

135-C:7 Community Mental Health Programs. Any city, county, town, or nonprofit corporation may establish and administer a community mental health program for the purpose of providing mental health services to individuals and organizations in the area. Every program shall, at a minimum, provide emergency, medical or psychiatric screening and evaluation, case management, and psychotherapy services. The department may contract with a community mental health program, pursuant to RSA 135-C:3, for the operation and administration of any services which are part of the state mental health services system. ***In the event that the commissioner decides to enter into a contract for the operation and administration of any services which are part of the state mental health services system, the contract shall contain standards designed to measure the performance of the contractor in achieving positive consumer outcomes, maintaining fiscal integrity, and providing quality services.***

224:18 Discrimination Prohibited; Eligibility for Services. Amend RSA 135-C:13 to read as follows:

135-C:13 Discrimination Prohibited; Eligibility for Services. Every severely mentally disabled person shall be eligible for admission to the state mental health services system, and no such person shall be denied services because of race, color or religion, sex, or inability to pay. ***Admission to the state mental health services system and access to treatment and other services within the system shall be contingent upon the availability of appropriations. The community mental health program responsible for providing services shall conduct a clinical assessment of every applicant for services. The community mental health program shall prioritize delivery of services based on the severity of the individual's clinical needs. Emergency services shall be provided as needed. Services shall not be denied to persons who are conditionally discharged from a receiving facility under RSA 135-C:50, or who are ordered to submit to treatment at a community mental health program under RSA 135-C:45.*** Eligible persons shall include formerly severely mentally disabled persons who without continued services would probably become severely mentally disabled again. Each client has a right to adequate and humane treatment provided in accordance with generally accepted clinical and professional standards. The treatment shall include such psychological, psychiatric, habilitative, rehabilitative, vocational and case management services which are necessary and appropriate to bring about an improvement, when possible, in the client's condition and which are available within the state mental health services system. If necessary services are not available, ~~[such service shall be documented through individual service plans. When services have been documented to be necessary but unavailable,]~~ each agency responsible for provision of such services shall notify the department of the need for them, and the department shall utilize such information for budgetary planning purposes. The treatment may include housing and such other services as the department may elect to provide to severely mentally disabled persons. Eligibility for services in the mental health system for persons under 21 years of age shall be determined after consideration of the services provided under RSA 186-C, RSA 169-B, RSA 169-C, RSA 169-D, or any other law. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the eligibility of severely mentally disabled persons to receive state services and the service guarantees for clients in the state system.

224:19 Discrimination Prohibited; Eligibility for Services. RSA 135-C:13 is repealed and reenacted to read as follows:

135-C:13 Discrimination Prohibited; Eligibility for Services. Every severely mentally disabled

person shall be eligible for admission to the state mental health services system, and no such person shall be denied services because of race, color or religion, sex, or inability to pay. Eligible persons shall include formerly severely mentally disabled persons who without continued services would probably become severely mentally disabled again. Each client has a right to adequate and humane treatment provided in accordance with generally accepted clinical and professional standards. The treatment shall include such psychological, psychiatric, habilitative, rehabilitative, vocational, and case management services which are necessary and appropriate to bring about an improvement, when possible, in the client's condition and which are available within the state mental health services system. If necessary services are not available, each agency responsible for provision of such services shall notify the department of the need for them, and the department shall utilize such information for budgetary planning purposes. The treatment may include housing and such other services as the department may elect to provide to severely mentally disabled persons. Eligibility for services in the mental health system for persons under 21 years of age shall be determined after consideration of the services provided under RSA 186-C, RSA 169-B, RSA 169-C, RSA 169-D, or any other law. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the eligibility of severely mentally disabled persons to receive state services and the service guarantees for clients in the state system.

224:20 Department of Health and Human Services, Division of Community-Based Care Services, Bureau of Behavioral Health; Mental Health Low Utilizers and Prior Authorization. For the biennium ending June 30, 2013, the department of health and human services shall maintain a limit on benefits of \$4,000 per person per year for adults with low service utilization of community mental health services, as identified in He-M 401.07; provided, that the department shall also establish, by rule under RSA 541-A, a procedure for such persons or community health providers to request a waiver of the \$4,000 limit based on legitimate treatment considerations. Upon request by the commissioner of the department of health and human services, the fiscal committee of the general court may authorize a higher per person per year limit.

224:21 County Payment of Funds for Persons Eligible to Receive Nursing Home Services; Limitation on County Payments. RSA 167:18-a, II is repealed and reenacted to read as follows:

II.(a) The total billings to all counties made pursuant to this section shall not exceed the amounts set forth below for state fiscal years 2011-2014:

(1) State fiscal year 2011, \$105,000,000.

(2) State fiscal year 2012, \$105,000,000.

(3) State fiscal year 2013, \$107,000,000.

(4) State fiscal year 2014, \$109,000,000.

(b) The caps on total billings for fiscal years after fiscal year 2014 shall be established by the legislature at least on a biennial basis.

224:22 New Subparagraph; County Payment of Funds for Persons Eligible to Receive Nursing Home Services; Additional Credit. Amend RSA 167:18-a, III by inserting after subparagraph (b) the following new subparagraph:

(c) For the biennium ending June 30, 2013, the counties shall have an additional credit against the amounts due for long term care expenditures under RSA 167:18-a. The credit in the amount of \$2,498,000 for the fiscal year ending June 30, 2012 and \$2,547,000 for the fiscal year ending June 30, 2013 shall be in addition to the \$5,000,000 annual credit set forth in subparagraph (a). The additional credit shall be allocated among the counties based on the percentage of total payments each county had for the preceding fiscal year from the nursing facility trust fund under RSA 151-E:15 and shall be made available to the counties as soon as possible after the start of the fiscal year. The total aggregate obligation of the counties shall be reduced by the amount of the credit in each fiscal year.

224:23 Repeal of Prospective Repeal. 2007, 263:26, relative to the repeal of RSA 167:18-a, is repealed.

224:24 Department of Health and Human Services, Division of Community Based Care Services, Bureau of Behavioral Health, 1915(b) Prepaid Health Plan. The department of health and human services shall seek approval from the federal Centers for Medicare and Medicaid Services (CMS) for a 1915(b) waiver to deliver and pay for Medicaid services to Medicaid-eligible persons with severe mental disabilities through a prepaid health plan. Upon receipt of approval, the department shall promptly implement the prepaid health plan by entering into contracts with community mental health service providers, subject to approval by the governor and executive council.

224:25 Department of Health and Human Services; Division for Children, Youth and Families. Notwithstanding any provision of law or administrative rule to the contrary, for the biennium ending June 30, 2013, the rates for all services, placements, and programs that are paid for by the department of health and human services pursuant to RSA 169-B:40, 169-C:27, 169-D:29, with the exception of rates for contracted services that are approved by the governor and council and rates for out-of-state placements, shall be the rate in effect for the particular service, placement, or program as of June 30, 2011.

224:26 Health and Human Services; General Provisions. Amend RSA 126-A:3, I(b) to read as follows:

(b) Transfer or reassign personnel within and between any division, office, unit, or other component of the department. ***Upon written notice to the commissioner of administrative services, such changes shall be reflected in the state's payroll and financial systems accounts.***

224:27 Department of Health and Human Services; Department of Safety Agreement Relative to Fee for State Criminal Record Check. Notwithstanding any provision of law to the contrary, the commissioner of the department of safety and the commissioner of the department of health and human services shall negotiate a reduced fee for performing a state criminal record check of department of health and human services employees, service providers, and licensed and license-exempt child day care providers.

224:28 Repeal. RSA 170-G:4, XVI, relative to prevention programs for juveniles, is repealed.

224:29 Prevention Programs for Juveniles; Reference Deletion. Amend RSA 169-D:17, I(e) to read as follows:

(e) Requiring any child to attend structured after-school or evening programs which address some of the child's compliance issues, as well as supervise the child during the time of the day

in which the child most values his or her freedom and the time which is most often used to perform unruly acts. The cost of said programs shall be paid by private insurance, if available, or otherwise by the child, parent, guardian, or person having custody of the child, or may be available to the child free of charge based on the limited means of the family or based on the program's receipt of other funding~~[, including but not limited to funding distributed pursuant to RSA 170-G:4, XVI]~~. Payment shall be made pursuant to RSA 169-D:29 only for those programs that have been certified pursuant to RSA 170-G:4, XVIII.

224:30 Repeal. RSA 151-E:3, III, relative to an assessment tool to determine clinical eligibility for nursing facility care, is repealed.

224:31 Health and Human Services; Social Services Block Grant Cost of Living Adjustment to Income Levels. Notwithstanding any other provision of law, the department of health and human services shall raise the income eligibility for elderly and adult clients under the Social Services Block Grant program every January, by the percentage amount of the cost of living increase in social security benefits on a yearly basis.

224:32 Treasury; Establishment of Revolving Funds for New Hampshire Hospital Accounting Units 05-95-94-940010-9064 and 05-95-94-940010-8028. There shall be established in the state treasury 2 funds for use as a depository account by the department of health and human services, New Hampshire hospital. The funds shall be nonlapsing, continually appropriated to the department, and used to receive and temporarily hold funds for the hospital's education programs and emergency preparedness events until the funds are disbursed.

224:33 Suspension; Department of Health and Human Services; Bureau of Developmental Services; Full Funding of Wait List. Notwithstanding any provision of law to the contrary, RSA 171-A:1-a shall be suspended for the biennium ending June 30, 2013.

224:34 Transfer of Account Authority. The commissioner of administrative services shall make the necessary changes in the state accounting system to transfer sole authority of the following revenue accounts from the department of health and human services to the department of revenue administration, effective July 1, 2011: Medicaid enhancement tax accounting unit 8805-1042 and Medicaid enhancement tax receipt account 401624.

224:35 Uncompensated Care Fund; Definitions. Amend RSA 167:63, IV to read as follows:

IV. "Hospital" means general hospitals and special hospitals for rehabilitation required to be licensed under RSA 151 ~~[and receiving medicaid diagnosis related group (DRG) payments]~~, but not including government facilities.

224:36 Uncompensated Care Fund. Amend RSA 167:64, I to read as follows:

I. There is hereby established in the state treasury an uncompensated care fund which shall consist of the moneys collected pursuant to RSA 84-A. Investment earnings of the fund shall be credited to the fund. Moneys paid into the fund shall be exempt from any state budget reductions, and the commissioner is authorized to expend these funds, together with matching federal funds, as follows:

(a) ~~[No less than 50 percent of the moneys paid into the fund shall be utilized to support uncompensated care in hospitals in accordance with rules adopted by the commissioner, pursuant to RSA 541-A.]~~ ***The commissioner may provide reimbursement for uncompensated care costs in accordance with the approved schedule of payments***

*through either Medicaid rate adjustments or disproportionate share hospital payment adjustments, or a combination thereof. Funds available under this section shall also be used to make medical provider payments and to support the state's Medicaid enhancement tax unrestricted revenue account, in amounts directed by the budget in each year of the biennium. Expenditure of revenues deposited to the uncompensated care fund shall be made in the following order of priority:*

- (1) To support medical provider payments as budgeted in each year of the biennium;*
- (2) To ensure that critical access hospitals receive reimbursement for reported uncompensated care costs at the rate of 100 percent of the individual hospital limit or at the highest uniform percentage that available funding would permit should funds be inadequate to cover 100 percent of the hospital limit for disproportionate share payments as determined by the commissioner consistent with the provisions of 42 U.S.C. section 1396r-4(g) and any relevant federal regulations promulgated thereunder;*
- (3) To support the state's Medicaid enhancement tax unrestricted revenue account as budgeted in each year of the biennium; and*
- (4) If authorized, to reimburse non-critical access hospitals at the highest uniform percentage of each hospital's disproportionate share hospital payment limit as the funds made available under this section permit and are consistent with the requirements of 42 U.S.C. section 1396r-4(g) and any relevant federal regulations promulgated thereunder.*

(b) The commissioner is hereby authorized and directed to develop and implement, *in connection with the payment by the state to hospitals for reimbursement of uncompensated care costs*, a schedule of payments for reimbursement of the uncompensated care costs of those hospitals that are subject to the tax liability imposed under RSA 84-A and that participate in the state Medicaid program. The *reimbursement of uncompensated care costs paid in state fiscal year 2012 and state fiscal year 2013 shall be in accordance with the* schedule of payments to hospitals ~~[shall take]~~ *that takes* effect on ~~[January 1,]~~ *or after July 1, 2011*, subject to the prior review and approval of ~~[the fiscal committee of the general court and]~~ the federal Centers for Medicare and Medicaid Services, and shall be structured in a manner that ~~[- (i) reduces to the greatest extent practicable the disproportionate impact among hospitals of uncompensated care costs; (ii) permits maximum available federal financial participation for these payments in accordance with Title XIX of the Social Security Act; and (iii)]~~ is consistent with all federal laws and regulations governing *(i) Title XIX disproportionate share hospital payment adjustments and other rate payments, (ii) conditions for receiving federal financial participation, and (iii) permissible sources of state financial participation as provided for under 42 C.F.R. part 433 and all other applicable federal regulations.*

(c) For purposes of this section, uncompensated care costs shall include: *any* charity care ~~[costs]~~ *cost, and* any portion of ~~[Medicaid]~~ *Medicaid-covered* patient care costs ~~[that are]~~ unreimbursed by Medicaid payments, ~~[and any portion of bad debt costs]~~ that the commissioner determines would meet the criteria under 42 U.S.C. section 1396r-4(g) governing hospital-specific limits on disproportionate share hospital payments under Title XIX of the Social Security Act *and the provisions of all federal regulations promulgated thereunder.*

~~(d) [The commissioner may provide reimbursement for uncompensated care costs in accordance with the approved schedule of payments through either Medicaid fee for service rate adjustments or disproportionate share hospital payment adjustments, or a combination thereof. Funds available under this section shall be first allocated to ensure that critical access hospitals and rehabilitation hospitals receive reimbursement for reported uncompensated care costs at the rate of 100 percent of the individual hospital limit for disproportionate share payments as determined by the commissioner consistent with the provisions of 42 U.S.C. section 1396r-4(g). Non-critical access hospitals shall receive reimbursement at the highest uniform percentage of each hospital limit as the funds made available under this section permit. The commissioner may create additional categories of need and make further reasonable distinctions among hospitals when determining the methodology for payments under this section, as necessary, to ensure that no hospital is unduly burdened by the fiscal effect of uncompensated care costs.]~~

(e) One percent of the ***funds made available for uncompensated care*** payments [made from the class lines in the budget of the office of the commissioner, department of health and human services, entitled “hospital disproportionate share,” “New Hampshire hospital disproportionate share,” and “hospital uncompensated care pool”] shall be placed in a separate class line reserved for the expenses of the department in administering this subdivision.

224:37 Uncompensated Care Fund; Duties of the Commissioner. Amend RSA 167:65, II to read as follows:

II. Seek input from ~~[the chairman of]~~ the senate health and human services committee, ~~[the chairman of]~~ the house health, human services and elderly affairs committee, ~~[the chairmen of]~~ the house and senate finance committees, ~~[the insurance department,]~~ and ~~[representatives of]~~ ***the*** hospitals currently participating in the uncompensated care program ~~[in developing]~~ ***during the development of*** the uncompensated care payment system required under paragraph I, and present a report ~~[detailing all the options and making recommendations]~~ ***describing the planned payment methodology*** to the oversight committee on health and human services, established under RSA 126-A:13~~[, not later than January 1, 2010].~~

224:38 Medicaid Enhancement Tax; Definitions. Amend RSA 84-A:1, III to read as follows:

III. “Hospital” means general hospitals and special hospitals for rehabilitation required to be licensed under RSA 151 ***that provide inpatient and outpatient hospital services*** ~~[and receiving medicaid diagnosis related group (DRG) payments],~~ but not including government facilities.

224:39 Medicaid Enhancement Tax; Definitions. Amend RSA 84-A:1, IV-a to read as follows:

IV-a. “Net patient services revenue” means the gross charges of the hospital less any deducted amounts for bad debts, charity care, and payor discounts. ***“Net patient services revenue” shall include revenues received from the state’s uncompensated care account and revenues received from all payers of inpatient and outpatient patient care.***

224:40 Applicability; Null and Void. The applicability of paragraphs I and II of RSA 84-A:3 as they were applied in 1991 and 1992 is hereby declared null and void.

224:41 Repeal. RSA 167:65, III, relative to the uncompensated care payment system and the requirement of fiscal committee review and approval prior to submission of a Medicaid state

plan amendment, is repealed.

224:42 Department of Health and Human Services; Consolidation. For the biennium ending June 30, 2013, the commissioner of the department of health and human services is directed to pursue operating and service consolidation initiatives, in an effort to improve service delivery, obtain operating efficiencies, and promote the well-being of the state's citizens. The commissioner shall consolidate district offices of the department of health and human services to achieve a reduction of \$648,000 in general fund appropriations for the biennium ending June 30, 2013. The commissioner, through 2 percent attrition in field operations staff assigned to district offices, shall achieve a reduction of \$744,000 in general fund appropriations for the fiscal year ending June 30, 2012, and a reduction of \$754,000 in general fund appropriations for the fiscal year ending June 30, 2013. The commissioner shall provide regular notice of these efforts to the committees with jurisdiction over health and human services and finance of the house and senate.

224:43 Children's Health Insurance Program. RSA 126-A:3, VIII is repealed and reenacted to read as follows:

VIII. The commissioner shall submit a Title XXI state plan amendment, subject to approval by the fiscal committee of the general court and the oversight committee on health and human services, to administer the children's health insurance program within the department commencing upon implementation of Medicaid managed care. The commissioner shall operate the children's health insurance program utilizing the program model that demonstrates the greatest efficiency and value which includes, but is not limited to, Medicaid expansion, accountable care organization, or risk-based managed care models.

224:44 Responsibility for Public Medical Assistance. Amend RSA 167:3-b to read as follows:

167:3-b Responsibility for Public Medical Assistance. The provisions of RSA 167:2, 3 and 3-a, do not apply to the administration of medical assistance, ***except with respect to the spouse of the individual who needs medical care or services, or the parent of such individual, if said individual is under the age of 21.***

224:45 Child Protection Act; Liability of Expenses and Hearing on Liability. Amend RSA 169-C:27, I(b) to read as follows:

(b) Subparagraph (a) shall not apply to expenses incurred for special education and related services, or to expenses incurred for evaluation, care, and treatment of the child at the [Philbrook center] ***New Hampshire hospital*** or to expenses incurred for the cost of accompanied transportation ***or to expenses incurred for the cost of alcohol and drug testing.***

224:46 Nursing Facility Quality Assessment; Contingency. Notwithstanding RSA 84-C:11, I, for the biennium ending June 30, 2013, the nursing facility quality assessment imposed by RSA 84-C shall not be assessed, and no return shall be required to be made, upon the occurrence of any proceeds collected from nursing facilities as defined in RSA 84-C:1, V(a), from the nursing facility quality assessment being expended by the state or any state agency for any purpose other than funding nursing facility expenditures through the nursing facility trust fund under RSA 151-E:14 and long-term care services through the department of health and human services.

224:47 Intermediate Care Facilities; Use of ICF Separate Account. Notwithstanding the

provisions of RSA 84-D:5, for the biennium ending June 30, 2013, moneys from the ICF separate account may be expended by the state for long-term care services through the department of health and human services.

224:48 Quality Assessment Expenditures; State Expenditures for Long-Term Care Services. For the biennium ending June 30, 2013, notwithstanding the provisions of RSA 151-E:14 and RSA 151-E:15-a, 25 percent of the receipts from the nursing facility quality assessment under RSA 84-C:3 and the ICF quality assessment under RSA 84-D:3 shall be deposited as restricted revenue in accounts of the department of health and human services and shall be used in support of long-term care services and not for any other purpose.

224:49 Department of Transportation; Agreements to Lease-Purchase Vehicles and Equipment Authorized. For the biennium ending June 30, 2013, the commissioner of the department of transportation is authorized, with the prior approval of the fiscal committee of the general court, to enter into agreements to lease-purchase vehicles and equipment.

224:50 Department of Transportation; Federal Assistance Grant; Appropriation. Any sum received in the fiscal years ending June 30, 2012 or June 30, 2013 from the Federal Emergency Management Agency of Federal Highway Administration's Emergency Relief Program or any other federal program providing emergency assistance to the department of transportation to reimburse costs incurred for emergency response, including but not limited to, equipment rental, snow plowing, sanding, salting, flood damage response, and personnel overtime during any emergency declared shall be collected by the appropriate agency and appropriated to the department of transportation.

224:51 New Sections; Department of Labor Nonlapsing Restricted Fund. Amend RSA 273 by inserting after section 1 the following new sections:

273:1-a Budget and Accounting. The department of labor shall budget and account for its operations through restricted funds rather than through the general fund; said restricted funds to be funded through all fees, licenses, certificates, and civil penalties of the department of labor, as well as existing assessment procedures.

273:1-b Restricted Fund. There is hereby established in the state treasury a department of labor restricted fund for the sole purpose of paying costs of operating the department of labor other than workers' compensation. All moneys in the restricted fund shall be continually appropriated to the department of labor. The commissioner shall administer the fund, and the state treasurer shall be the custodian of the fund. All moneys in the fund in excess of amounts used by the department for authorized personnel expenses, administrative costs, and other related costs for the operation of the department, shall be transferred on June 30 of each year to the general fund. The existence and operation of this restricted fund shall not affect the continued existence and operation of the administration fund established by RSA 281-A:59.

224:52 New Subparagraph; General Revenue Exceptions. Amend RSA 6:12, I(b) by inserting after subparagraph 304 the following new subparagraph:

(305) Moneys deposited in the department of labor restricted fund established in RSA 273:1-b.

224:53 Reference Changes. Amend the following RSA provisions by replacing the words "general fund" or "state's general fund" with "department of labor restricted fund established in RSA 273:1-b": RSA 157-A:10-a, I; 157-B:13-a, I; 273:11-a, I; 275-F:9, I; 277-B:12, II; 277-B:13; 281-A:4-a, I; 281-A:7, I(a)(2); 281-A:43, I(d); 281-A:43, I (e); 281-A:59, IV; 281-A:60,



I(r); 281-A:70.

224:54 Reference Changed. Amend RSA 277-B:12, III to read as follows:

III. Any client company which does business with an unlicensed employee leasing company may be fined by the commissioner up to \$1,000 per employee for each day the violation continues. Any funds collected under this section shall be deposited in the [~~general fund as unrestricted revenue~~] ***department of labor restricted fund established in RSA 273:1-b.***

224:55 Reference Changed. Amend RSA 277-B:15-a, I to read as follows:

I. Employee leasing firms shall maintain a list of current and past clients which shall be available for inspection by the department of labor without notice. The list shall be submitted to the labor department on a quarterly basis. Failure to maintain an updated client list shall subject the licensee to a \$1,000 fine, and a \$2,500 fine and loss of license for a second or subsequent offense if deemed appropriate by the commissioner. Funds generated from fines shall be deposited in the [~~general fund as unrestricted revenue~~] ***department of labor restricted fund established in RSA 273:1-b.***

224:56 Reference Changed. Amend RSA 281-A:5-d, III to read as follows:

III. Any client company which knowingly does business with an unlicensed third party administrator may, after written notification, be fined up to \$1,000 per day for each day the violation continues. Any funds collected under this section shall be deposited in the [~~general fund as unrestricted revenue~~] ***department of labor restricted fund established in RSA 273:1-b.***

224:57 Reference Changed. Amend RSA 281-A:43, II to read as follows:

II. A decision of the commissioner, the commissioner's authorized representative, or the board shall take effect and shall become final, in the absence of an appeal from it, 30 days from the date of the decision. Payment of weekly compensation and entitlement to medical and vocational benefits, if necessary and so ordered by the commissioner or the board, shall begin or continue as soon as possible, but no later than 5 working days after the decision's effective date, and shall not be terminated except in accordance with the terms of the decision or of a final court determination. If the commissioner determines that the employer or carrier has failed to comply with any order, then the commissioner may assess a penalty not to exceed \$100 for each day of noncompliance, beginning on the date of notification of its assessment. Upon continued failure to comply with an order to make payment of the compensation or medical benefits, or to institute vocational rehabilitation, or to pay the penalty, or any combination thereof, the commissioner shall petition the superior court for an injunction to comply. The commissioner shall deposit [~~with the state treasurer~~] ***into the department of labor restricted fund established in RSA 273:1-b*** any penalty collected under this section.

224:58 Reference Changed. Amend RSA 281-A:53, I to read as follows:

I. Every employer or self-insurer shall record in sufficient detail and shall report or cause to be reported to the commissioner any injury sustained by an employee in the course of employment as soon as possible, but no later than 5 days after the employer learns of the occurrence of such an injury. If an injury results in a disability extending beyond 3 days, the employer shall file with the commissioner a supplemental report giving notice of such disability as soon as possible after such waiting period, but no later than 7 days after the

accidental injury. The employer shall supply a copy of either report to the nearest claims office of the employer's insurance carrier. A self-insurer need not file the supplemental report with the commissioner and may keep the insurance copy of the employer's first report as a file copy. If any employer fails without sufficient cause as determined by the commissioner to file a first report as set forth in this paragraph, the commissioner shall assess a civil penalty of up to \$2,500. If any employer fails to pay a civil penalty, the commissioner shall recover such penalty payment by a civil action in the superior court of the county of jurisdiction. Civil penalties owed under this section shall be paid to the commissioner, who shall deposit them ~~[with the state treasurer]~~ **into the department of labor restricted fund established in RSA 273:1-b.**

224:59 Reference Added. Amend RSA 275:57, IV to read as follows:

IV. An employer who willfully violates the provisions of this section may be assessed interest and a civil penalty of up to \$1,000 per violation, **which shall be deposited into the department of labor restricted fund established in RSA 273:1-b.**

224:60 Reference Added. Amend RSA 276-A:7-a to read as follows:

276-A:7-a Civil Penalties. In addition to other penalties and remedies imposed under this chapter, the commissioner may assess a civil penalty on an employer not to exceed \$2,500 for each violation of any provision of this chapter or rule adopted pursuant to this chapter, **which shall be deposited into the department of labor restricted fund established in RSA 273:1-b.** In assessing this penalty, the commissioner shall consider the nature of the violation, the employer's history of violations, and the employer's good faith.

224:61 Reference Changed. Amend RSA 281-A:42, III to read as follows:

III. Upon failure of any insurance carrier or self-insurer to comply with either an order for payment of compensation or an assessment of a civil penalty, the commissioner shall recover either or both in a civil action in the superior court of the county of jurisdiction. Anyone owing a civil penalty under this section shall pay it to the commissioner, who shall deposit it ~~[with the state treasurer]~~ **into the department of labor restricted fund established in RSA 273:1-b.**

224:62 Reference Added. Amend RSA 281-A:23-a, VI(b) to read as follows:

(b) If the commissioner determines that a managed care program has failed to comply with the provisions of this section or the rules adopted to implement such section, but that such failure does not warrant withdrawal of approval of the program, the commissioner may, after notice to the managed care program and hearing, assess a civil penalty of not more than \$100 for each such failure, **which shall be deposited into the department of labor restricted fund established in RSA 273:1-b.** If a managed care program fails to pay such penalty, the commissioner shall recover the penalty in a civil action in the superior court of the county of jurisdiction.

224:63 Reference Added. Amend RSA 281-A:30, VII to read as follows:

VII. A carrier or self-insurer failing without sufficient cause to make payment under this section within the period specified by the commissioner shall be assessed a civil penalty of \$100 for each day that the payment is overdue, **which shall be deposited into the department of labor restricted fund established in RSA 273:1-b.**

224:64 Reference Added. Amend RSA 281-A:55, V to read as follows:

V. An insurance carrier or self-insurer failing without sufficient cause to make payment under this section within the period specified by the commissioner shall be assessed a civil penalty of \$100 for each day that the payment is overdue, ***which shall be deposited into the department of labor restricted fund established in RSA 273:1-b.***

224:65 Guardian Ad Litem Fees. Amend RSA 461-A:16, IV to read as follows:

IV. The fees for services for the guardian ad litem and others utilized by the guardian and approved by the court shall be a charge against the parties in a proportional amount as the court may determine. ~~[Where the parties are indigent, compensation for guardians ad litem and others utilized by the guardian and approved by the court shall be based upon the applicable fee schedule established by the supreme court for indigent defense counsel.]~~

224:66 Liability for Expenses. RSA 461-A:17 is repealed and reenacted to read as follows:

461-A:17 Guardians Ad Litem and Mediators; Liability for Expenses. The judicial council shall have no responsibility for the payment of the costs of a mediator or guardian ad litem for any party under this chapter.

224:67 Judicial Council; Appropriation for Marital Services for Indigent Parents.

I. The sum of \$240,000 is hereby appropriated to the judicial council for the fiscal year ending June 30, 2011, for the purposes of covering costs associated with marital services provided to indigent parents for the fiscal year ending June 30, 2011. Said appropriation shall not lapse until June 30, 2012. The governor is hereby authorized to draw a warrant for said sum from the special fund for mediator and guardian ad litem services established pursuant to RSA 461-A:17.

II. Beginning October 1, 2011 through October 1, 2012, the judicial council shall provide a quarterly report on the use and expenditure of the appropriation in paragraph I to the fiscal committee of the general court.

224:68 Repeal. RSA 6:12, I(b)(81), relative to the special fund for mediator and guardian ad litem services, is repealed.

224:69 Mediation of Cases Involving Children; Payment of Mediator Fees by Indigent Parties. Amend RSA 461-A:7, X to read as follows:

X. In the event both parties are indigent, the mediator shall be paid a set fee for his or her services. The amount of the fee shall be set annually by supreme court rule. The court may order each party to pay a proportional amount of said fee. The fee shall be paid from the ~~[special fund established pursuant to RSA 461-A:17]~~ ***mediation and arbitration fund established in RSA 490-E:4*** and repaid by the parties in accordance with RSA 461-A:18, ***including fees for pre-suit marital mediation authorized pursuant to RSA 490-E:2, V. The supreme court shall determine by rule a percentage amount of the entry fee paid to each clerk of court for each petition in domestic relations cases to be deposited into the mediation and arbitration fund to be used to pay for mediation where both parties are indigent. At no time shall the percentage amount exceed 25 percent of the entry fee for each petition.***

224:70 Repayment of Mediator and Guardian Ad Litem Fees. Amend RSA 461-A:18, I to read

as follows:

I. In any case where a mediator has been appointed pursuant to RSA 461-A:7 or a guardian ad litem has been appointed pursuant to RSA 461-A:16 and the responsible party's proportional share of the expense [is] ***was*** ordered to be paid by the judicial council from the ***prior*** special fund established pursuant to RSA 461-A:17 ***or is ordered to be paid by the judicial branch from the mediation and arbitration fund pursuant to RSA 490-E:4***, the party shall be ordered by the court to repay the state through the unit of cost containment, office of administrative services, the fees and expenses paid on the party's behalf as the court may order consistent with the party's ability to pay, such ability to be determined by the unit of cost containment.

224:71 Mediation and Arbitration Fund. Amend RSA 490-E:4, I(a) to read as follows:

(a) All moneys collected pursuant to ***RSA 461-A:7, X***, RSA 490:27, II, RSA 490-D:12, III, RSA 503:4, II, and RSA 502-A:28, III.

224:72 Child Protection Act; Liability of Expenses. Amend RSA 169-C:27, I(f) to read as follows:

(f) [~~Notwithstanding any provision of law to the contrary,~~] ***Neither*** the department ***nor the judicial council*** shall have [~~no responsibility~~] ***authority*** for the payment of the cost of assigned counsel for any party under this chapter.

224:73 Judicial Council; Supplemental Appropriation; Counsel for Indigent Parents in Abuse and Neglect Cases.

I. In addition to any other sums appropriated to the judicial council, the sum of \$250,000 is hereby appropriated to the judicial council for the fiscal year ending June 30, 2011, for the purpose of covering costs associated with payment of counsel for indigent parents in abuse and neglect cases filed in the fiscal year ending June 30, 2011 and pending in the fiscal year ending June 30, 2012. Said appropriation shall not lapse until June 30, 2012. The governor is hereby authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

II. Beginning October 1, 2011 through October 1, 2012, the judicial council shall provide a quarterly report on the use and expenditure of the appropriation in paragraph I to the fiscal committee of the general court.

224:74 Adequate Representation Costs. Amend RSA 604-A:1-a to read as follows:

604-A:1-a Neglected or Abused Children. In cases involving a neglected or abused child, when a guardian ad litem is appointed for the child as provided in RSA 169-C:10, the cost of such appointment shall be paid from funds appropriated for indigent defense pursuant to this chapter. [~~In cases involving a neglected or abused child, when an attorney is appointed to represent a parent determined to be indigent pursuant to RSA 169-C:10, II, the cost of such appointment shall be paid from funds appropriated for indigent defense pursuant to this chapter.~~]

224:75 Child Protection Act; Guardians Ad Litem. Amend RSA 169-C:10, I to read as follows:

I. In cases brought pursuant to this chapter involving a neglected or abused child, the court shall appoint a [~~guardian ad litem or~~] Court Appointed Special Advocate (CASA) ***or other***

***approved program guardian ad litem for the child. If a CASA or other approved program guardian ad litem is unavailable for appointment, the court may then appoint an attorney or other guardian ad litem as the guardian ad litem for the child.*** The court shall not appoint an attorney for any guardian ad litem appointed for the child[, but may appoint an attorney or any other qualified individual as the guardian ad litem for the child]. The ***CASA or other approved program guardian ad litem*** shall have the same authority and access to information as any other guardian ad litem. ***For purposes of this paragraph, “unavailable for appointment” means that there is no CASA or other approved program guardian ad litem available for appointment by the court following a finding of reasonable cause at the preliminary hearing held under RSA 169-C:15 so that the child’s interests may effectively be represented in preparation for and at an adjudicatory hearing.***

224:76 Child Protection Act; Preliminary Hearing. Amend RSA 169-C:15, III(a) to read as follows:

(a) Appoint ***a CASA or other approved program guardian ad litem*** or an attorney ***or other qualified guardian ad litem*** to represent the child pursuant to RSA 169-C:10.

224:77 Child Protection Act; Appointment of Counsel. Amend RSA 169-C:10, II(a) to read as follows:

(a) In cases involving a neglected or abused child under this chapter, where the child's expressed interests conflict with the recommendation for dispositional orders of the guardian ad litem, the court may appoint an attorney to represent the interests of the child. ~~[In any case of neglect or abuse brought pursuant to this chapter, the court shall appoint an attorney to represent an indigent parent alleged to have neglected or abused his or her child. In addition, the court may appoint an attorney to represent an indigent parent not alleged to have neglected or abused his or her child if the parent is a household member and such independent legal representation is necessary to protect the parent's interests. The court shall not appoint an attorney to represent any other persons involved in a case brought under this chapter.]~~

224:78 Termination of Parental Rights. Amend RSA 170-C:13 to read as follows:

170-C:13 Fees and Court Costs.

***I. The petitioner shall pay*** all entry fees and court costs including costs of giving notice, ***costs of*** advertising, and court-appointed guardian ad litem fees ~~[shall be paid by the petitioner]~~. The court, however, may waive entry fees and court costs where payment would work a hardship on the petitioner. Where the court waives payment by the petitioner, the state, through the court system, shall pay court costs ~~[and the fee of any court appointed guardian ad litem]~~. ***The judicial council shall pay the cost of a CASA guardian ad litem appointed for the child or other guardian ad litem in cases arising from an underlying abuse and neglect proceeding when the state is the moving party or in cases where payment would work a hardship on the petitioner.***

***II.*** The department of health and human services is exempted from paying any entry fees and court costs.

***III. When appointment of counsel is made by the court pursuant to RSA 170-C:10 for a parent determined to be financially unable to employ counsel, the court shall use a***

***financial eligibility guideline established by the office of cost containment to determine if the party is indigent. Upon determination that the party is indigent, the court may appoint counsel, subject to an order of repayment through the office of cost containment. The judicial council shall bear no financial responsibility for the payment of appointed attorney costs in such cases where the state is not the moving party for the termination of parental rights. The court shall pay for the appointment of counsel for an indigent parent made in accordance with the financial eligibility guideline established by the office of cost containment.***

224:79 Parental Rights and Responsibilities; Non-Certified Guardians Ad Litem. Amend the introductory paragraph of RSA 461-A:16, VI to read as follows:

VI. The supreme court shall provide the following relative to ***non-certified*** guardians ad litem appointed pursuant to this section:

224:80 Sale of Property. Notwithstanding RSA 10 and RSA 4:40, the commissioner of the department of administrative services shall offer for sale to the city of Laconia the former Laconia state school property and the former Laconia state school and training center property, except those portions of the properties required for state use, for not less than \$10,000,000. If the city does not accept the offer by July 1, 2012, such property shall be offered for sale to Belknap county at the fair market value. If the county does not accept the offer by August 15, 2012, the commissioner of the department of administrative services shall issue a request for proposals for the sale of the lakes region facility property in Laconia at no less than the fair market value, such sale to be completed no later than May 1, 2013. The commissioner of the department of administrative services shall submit quarterly reports on the progress of the sale to the fiscal committee of the general court. Any sale of such property shall be subject to the requirements of RSA 4:40, except that review and approval of the sale of the property by the council on resources and development and the long range capital planning and utilization committee shall not be required. All proceeds from the sale shall be deposited into the revenue stabilization reserve account established in RSA 9:13-e.

224:81 State Institutions; Governor and Council. Amend RSA 10:1 to read as follows:

10:1 Governor and Council. The ultimate executive authority over the New Hampshire hospital, formerly the state hospital; ~~[Laconia developmental services, formerly the Laconia state school and the Laconia state school and training center;]~~ the New Hampshire youth development center, formerly the industrial school; and the Glencliff home, formerly the state sanatorium, including all real and personal estate used in connection therewith, the purchase of materials and supplies for said institutions and the departments of state, as hereinafter provided, is vested in the governor and council.

224:82 Department of Administrative Services; Appropriation. Amend 2010S, 1:96 to read as follows:

1:96 Appropriation; Department of Administrative Services. The sum of \$250,000 is hereby appropriated to the department of administrative services for the biennium ending June 30, 2011[.]. ***Said funds shall be used to undertake any required title, subdivision, and other land preparation needed for the sale of the former Laconia state school property and the former Laconia state school and training center property, and for the purpose of employing a consultant with real estate or financial expertise in preparation of the request for proposals for the sale of said property. Any remaining balance may be used by the commissioner of the department*** for the purpose of retaining independent real

estate and financial expertise [~~for the commission's work under RSA 21-I:87-RSA 21-I:91~~] ***for the sale of other state properties and assets.*** The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated. ***Such funds shall not lapse until June 30, 2013.***

224:83 Department of Administrative Services; Suspension of Bumping Rights. The displacement of classified state employees by more senior classified state employees, or so-called bumping, pursuant to administrative rule Per 1101.02(i) through (l) under the authority of RSA 21-I:43 by the director of the division of personnel is hereby suspended from the effective date of this section to June 30, 2013.

224:84 Department of Administrative Services; Consolidation of Human Resources.

I. Notwithstanding any law or administrative rule to the contrary, the commissioner of administrative services, with the prior approval of the fiscal committee of the general court and the governor and council, is authorized to make such transfers of appropriation items and changes in allocations of funds available for operational purposes to the department of administrative services, from any other agency, as may be necessary or desirable to effectuate the efficient consolidation of human resource and payroll functions within state government.

II. The commissioner of administrative services is authorized to establish the number and classification of personnel required for human resource and payroll management in state government and, with the prior approval of the governor and council, is authorized to eliminate unnecessary positions and to transfer to the department of administrative services any position in another agency identified by the commissioner of administrative services as necessary to effectuate the efficient consolidation of human resource and payroll functions within state government. Such transfers shall include the transfer of all associated books, papers, records, personnel files, and equipment, including but not limited to work station and information technology equipment, and shall include the transfer of any unexpended appropriations for any of the foregoing, as well as any unexpended appropriations for salary/payroll, benefits, support costs, or any other costs associated with the transferred personnel. All commissioners and department heads shall cooperate with the commissioner of administrative services to accomplish the intent of this section.

III. The commissioner of administrative services may locate personnel whose positions have been transferred in such work spaces as the commissioner determines will efficiently effectuate the consolidation of human resource and payroll functions. Such work spaces may include either space currently owned or rented by the state, or space which may be rented by the commissioner utilizing amounts which may be saved by the state as the result of the consolidation of human resources and payroll functions.

IV. The consolidation of human resource and payroll functions shall achieve a savings in the fiscal year ending on June 30, 2013 of no less than \$1,428,000 in total funds and \$571,200 in general funds.

224:85 Department of Administrative Services; Consolidation of Certain Business Processing Functions.

I. The commissioner of administrative services, with the prior approval of the fiscal committee of the general court and the governor and council, is authorized to make such transfers of appropriation items and changes in allocations of funds available for operational purposes to the department of administrative services, from any other agency, as may be necessary or

desirable to effectuate the efficient consolidation of business processing functions within state government. Such business processing functions shall include (i) accounts receivable, (ii) accounts payable, (iii) collection of fines, penalties, fees, restitution, remittances, and other moneys due to the state, and (iv) such other finance and accounting functions and transactions the commissioner of administrative services determines would achieve substantial efficiencies from consolidation.

II. The commissioner of administrative services is authorized to issue a request for proposals or purchases in accordance with RSA 21-I:22 and RSA 21-I:22-a for the services and assistance of a qualified consultant to evaluate and identify opportunities for business processing consolidation in state government and to make recommendations, including for a proposed implementation plan, for consolidation of such functions.

III. The commissioner of administrative services is authorized to establish the number of total personnel required for business processing functions in the executive branch of state government and, with the prior approval of the governor and council, is authorized to eliminate unnecessary positions and to transfer to the department of administrative services any position in another agency identified by the commissioner of administrative services as necessary or desirable to effectuate the efficient consolidation of business processing functions within state government. Such transfers shall include the transfer of all associated books, papers, records, personnel files, and equipment, including but not limited to work station and information technology equipment, and shall include the transfer of any unexpended appropriations for any of the foregoing, as well as any unexpended appropriations for salary/payroll, benefits, support costs, or any other costs associated with the transferred personnel.

IV. The commissioner of administrative services may locate personnel whose positions have been transferred in such work spaces as the commissioner determines will efficiently effectuate the consolidation of business functions. Such work spaces may include either space currently owned or rented by the state, or space which may be rented by the commissioner utilizing amounts which may be saved by the state as the result of the consolidation of human resources and payroll functions.

V. The consolidation of business processing functions shall achieve a savings in the fiscal year ending on June 30, 2012 of no less than \$352,000 in total funds and \$88,000 in general funds, and savings in the fiscal year ending on June 30, 2013 of \$1,000,000 in total funds and \$250,000 in general funds.

224:86 Appropriation; Department of Administrative Services. The sum of \$250,000 is hereby appropriated to the department of administrative services for the biennium ending June 30, 2013, for the purpose of selecting and retaining an independent business processing consultant, through a request for proposals or purchases process, for evaluating and making recommendations relative to the consolidation of business processing functions within state government. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

224:87 Sweepstakes Fund. Amend RSA 284:21-j, I to read as follows:

I. The state treasurer shall credit all moneys received from the lottery commission and all moneys received from the racing and charitable gaming commission under **RSA 284**, RSA 287-D, and RSA 287-E, and interest received on such moneys, to a special fund from which the treasurer shall pay all expenses of the commission incident to the administration of this



subdivision and all administration and enforcement expenses of the racing and charitable gaming commission under **RSA 284**, RSA 287-D, and RSA 287-E. Any balance left in such fund after such expenses are paid shall be deposited in the education trust fund established under RSA 198:39.

224:88 McAuliffe-Shepard Discovery Center; Appropriation.

I. The sum of \$227,000 is hereby appropriated for the fiscal year ending June 30, 2013 to the McAuliffe-Shepard discovery center for the purpose of supporting the transition of the discovery center to a fiscally self-sufficient entity. This sum shall be in addition to any revenue or grants that may become available to the discovery center. The governor is authorized to draw a warrant for such amount out of any money in the treasury not otherwise appropriated.

II. The discovery center shall, no later than December 15, 2011, report to the fiscal committee of the general court and the governor and council detailing the discovery center's plan to maintain its operations in fiscal year 2013 as a state agency utilizing no more than the general funds appropriated under this section, or its plan to become a self-sufficient not-for-profit organization no later than January 1, 2013.

224:89 Lottery Commission; Incentive Program. The lottery commission may develop and implement an employee recognition program for monetary incentives to promote increased sales and compensate lottery sales representatives based upon performance and funded from an existing lottery budget line item. The incentive program shall be implemented through rules adopted by the lottery commission in accordance with RSA 541-A. The lottery commission shall report quarterly to the fiscal committee of the general court on the status of the incentive program.

224:90 Lottery Retailer Commissions. Amend the introductory paragraph of RSA 284:21-h, II(d) to read as follows:

(d) May be sold by or for the lottery commission at designated locations, other than grounds and campuses of public and private schools, colleges, and universities, by persons, whether natural, associate, or corporate, authorized to sell such tickets on a ~~[minimum]~~ 5 percent commission basis for services rendered. The commission ~~[may establish higher sales]~~ **shall pay a 10 percent** commission ~~[rates no greater than 6 percent and other sales incentives deemed necessary to increase lottery sales]~~ **on those sales made during a fiscal year which exceed the sales made during the previous fiscal year. The lottery commission shall report quarterly to the fiscal committee of the general court on commissions paid under this subparagraph.** All sales shall be subject to the rules and regulations of the commission provided:

224:91 Liquor Commission; Employee Incentive Program. The liquor commission may develop and implement an employee incentive system for monetary incentives for its store managers and employees to reward superior customer service, organization and appearance of retail stores, creativity and attractiveness of displays, workplace safety records, and other relevant and objective criteria related to customer service and sales. The liquor commission shall report quarterly to the fiscal committee of the general court on the status of the incentive program. The incentive program shall be implemented through rules adopted by the commission in accordance with RSA 541-A.

224:92 New Section; Temporary State Liquor Stores. Amend RSA 177 by inserting after

section 1 the following new section:

177:1-a Temporary State Stores. The commission may lease, rent, and equip, in the name of the state, stores or space in buildings such as airports or shopping malls and in large venues such as racetracks, temporary stores for the sale or promotion of liquor or related products as are necessary to carry out the provisions of this chapter, except that no such store shall be operated within 200 feet of any public or private school, church, chapel, or parish house. The liquor commission shall report quarterly to the fiscal committee of the general court on the status of temporary stores.

224:93 Liquor Commission; Liquor Revenues to Alcohol Abuse Prevention and Treatment Fund Suspended. Notwithstanding RSA 176:16, III, for the biennium ending June 30, 2013, all gross revenue derived by the liquor commission from the sale of liquor and related products, or from license fees, shall be deposited into the liquor commission fund.

224:94 Department of Environmental Services; Water Quality Laboratory Services; Transfer of Functions, Positions, Equipment, Records, and Accounts; Rules Continued.

I. Notwithstanding any provision of law to the contrary, all of the functions, positions, powers, duties, responsibilities, and funding of the water quality laboratory authorized by RSA 21-O:12 shall be transferred to the department of health and human services on July 1, 2011. The transfer provided in this section shall include all of the equipment, books, papers, and records of the water quality laboratory.

II. All existing rules, statutory responsibilities, regulations, and procedures relating to enforcement in effect, in operation, or adopted in or by the water quality laboratory are transferred to the department of health and human services, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

224:95 Department of Health and Human Services; Laboratory Services. Amend the introductory paragraph of RSA 131:3-a to read as follows:

131:3-a Fee Required. Notwithstanding the provisions of RSA 131:4, the commissioner of ~~[environmental services]~~ **the department of health and human services** shall collect a fee for analyses made pursuant to RSA 131:3 on the following schedule:

224:96 Department of Health and Human Services. Amend RSA 131:3-a, II to read as follows:

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

224:97 Repeal. RSA 125:15-b, relative to access to laboratory data and results, is repealed.

224:98 Office of the Commissioner of Environmental Services; Reference Deleted. Amend RSA 21-O:12, VI to read as follows:

VI. Laboratory services shall include such expert assistants and such facilities as are necessary to support the investigatory, analytical, and enforcement functions of the department of environmental services. The commissioner shall provide the commissioner of the department of health and human services with direct access to all raw data, test results, and other information and samples received or generated by the laboratories in the department deemed necessary by the commissioner of the department of health and human services in order to carry out his *or her* responsibilities to protect the public health. ~~[The commissioner shall consult with the commissioner of the department of health and human services relative to such access as provided by RSA 125:15-b.]~~

224:99 Joint Board of Licensure and Certification; Accountants, Real Estate Appraisers, Manufactured Housing Installers, and Board of Manufactured Housing Added. Amend RSA 310-A:1, as follows:

310-A:1 Joint Board Established. There shall be a joint board of licensure and certification for professional engineers, architects, land surveyors, foresters, professional geologists, natural scientists, landscape architects, court reporters, ~~[and]~~ home inspectors, ***accountants, manufactured housing installers, and real estate appraisers, and the board of manufactured housing***, consisting of each of the members of the board of professional engineers, board of architects, state board of licensure for land surveyors, foresters' board, board of professional geologists, the board of natural scientists, the board of landscape architects, the board of court reporters, ~~[and]~~ the board of home inspectors, ***the board of accountancy, the real estate appraiser board, the manufactured housing installation standards board, and the board of manufactured housing***. ~~[The joint board shall meet at least quarterly to carry out its duties established under this chapter.]~~

224:100 Repeal. The following are repealed:

- I. RSA 205-D:1, V, relative to the definition of department.
- II. RSA 205-D:2, VI, relative to establishing the board as a unit in the department of safety.
- III. RSA 205-D:12, II, relative to initial fees established by the department of safety.

224:101 New Section; Manufactured Housing Installation Standards. Amend RSA 205-D by inserting after section 3 the following new section:

205-D:3-a Administrative Functions. All administrative, clerical, and business processing functions of the board shall be transferred to the joint board of licensure and certification, established in RSA 310-A:1, on July 1, 2011.

224:102 Manufactured Housing Installation Standards; Federal Funds. Amend RSA 205-D:19 to read as follows:

205-D:19 Federal Funds and Other Funding Sources. The board may seek and receive funds from the federal government and other public or private sources to further activities under this chapter~~[, subject to the approval of the commissioner]~~.

224:103 Manufactured Housing Installation Standards; Rulemaking. Amend the introductory paragraph of RSA 205-D:20 to read as follows:

205-D:20 Rulemaking Authority. ~~[With the approval of the commissioner,]~~ The board shall be authorized, pursuant to RSA 541-A, to adopt rules relative to:

224:104 New Section; Manufactured Housing Board; Administrative Functions Transferred to Joint Board. Amend RSA 205-A by inserting after section 29 the following new section:

205-A:29-a Administrative and Business Processing Functions. All administrative, clerical, and business processing functions of the board shall be transferred to the joint board of licensure and certification, established in RSA 310-A:1, on July 1, 2011.

224:105 New Paragraph; Board of Accountancy; Administrative Functions Transferred to Joint Board. Amend RSA 309-B:4 by inserting after paragraph IX the following new paragraph:

X. All administrative, clerical, and business processing functions of the board shall be transferred to the joint board of licensure and certification, established in RSA 310-A:1, on July 1, 2011.

224:106 New Paragraph; Real Estate Appraisers Board; Administrative Functions Transferred to Joint Board. Amend RSA 310-B:4 by inserting after paragraph IX the following new paragraph:

X. All administrative, clerical, and business processing functions of the board shall be transferred to the joint board of licensure and certification, established in RSA 310-A:1, on July 1, 2011.

224:107 Commissions and Boards; Functioning within Department of State. Amend RSA 5:13 to read as follows:

5:13 Commissions and Boards Functioning Within Department. The ballot law commission, the boxing and wrestling commission~~[- the board of accountancy]~~ and the joint board of licensure and certification shall each function within the department of state as a separate organizational entity and with all the powers and duties as heretofore provided, except as otherwise provided by law. 224:108 Repeal. RSA 5:13-b, relative to the attachment of the real estate appraiser board to the department of state, is repealed.

224:109 State Budget; Allocation of Gross Appropriations from Highway Fund; Suspension of Allocation to Department of Safety. For the biennium ending June 30, 2013, RSA 9:9-b, II, relative to the highway fund allocation to the department of safety, shall be suspended.

224:110 Duties of the Office of Energy and Planning. Amend RSA 4-C:1, II(g)-(i) to read as follows:

(g) Participate and advise in matters of land use planning regarding ~~[lakes and rivers management programs]~~ ***water resources and floodplain management***.

(h) Take a leadership role in encouraging smart growth and preserving farmland, open space land, and traditional village centers.

(i) Administer the following programs: the statewide comprehensive outdoor recreation plan, the national flood insurance program, the land conservation investment program, ~~[the scenic and cultural byways system,]~~ fuel assistance contracts, and weatherization contracts. The office shall employ necessary personnel to administer these programs. In administering fuel

assistance and weatherization contracts, the office shall ensure that when an individual applies for fuel assistance or weatherization, the individual shall be provided with application forms and information about the Link-Up New Hampshire and Lifeline Telephone Assistance programs, and shall be provided assistance in applying for these programs.

224:111 Office of Energy and Planning. Amend RSA 4-C:2, I, to read as follows:

I. The office of energy and planning, under the direction of the governor, shall:

(a) Assist the governor in preparing, publishing, and revising the comprehensive development plan required under RSA 9-A.

~~(b) [Develop and maintain a technical data base of information to support statewide policy development and planning.]~~

~~(e)]~~ Coordinate and monitor the planning efforts of various state agencies and departments to ensure that program plans published by such agencies are consistent with the policies and priorities established in the comprehensive development plan.

~~[(d)]~~ **(c)** Coordinate and monitor the planning efforts of the regional planning commissions to ensure that the plans published by the commissions are consistent, to the extent practical, with the policies and priorities established in the state development plan.

224:112 Repeal. RSA 4-C:4, relative to the coordination of federal funds in the office of energy and planning, is repealed.

224:113 Old Age and Survivors Insurance; Reference Change. Amend RSA 101:2, IV to read as follows:

IV. The term “state agency” means the commissioner of health and human services and any person to which the commissioner has delegated any functions under this chapter, or any other agency duly designated to administer the provisions of this chapter by the governor and council in accordance with RSA 124:4 ~~[and RSA 4-C:4];~~

224:114 Office of Energy and Planning; Rulemaking. Amend RSA 4-C:5 to read as follows:

4-C:5 Rulemaking Authority. The director of the office of energy and planning shall adopt rules, **as necessary**, under RSA 541-A[;

~~I.],~~ establishing procedures for grant programs administered by the office. These rules shall be adopted for all ~~[federal or]~~ state grant programs administered by the office in which the office has authority to establish requirements or procedures or interpret ~~[federal requirements and]~~ state statutes. These rules shall include, as appropriate:

~~[(a)]~~ **I.** Application or grant distribution procedures.

~~[(b)]~~ **II.** Criteria and procedures for evaluating applications.

~~[(e)]~~ **III.** Procedures for administration of funds by grantees.

~~[(d)]~~ **IV.** Monitoring and report procedures.

~~[(e)]~~ **V.** Appeal procedures for parties dissatisfied with grant decisions.

[II. As provided by RSA 4-C:16, I(a).]

224:115 Repeal. The following are repealed:

I. RSA 4-C:5-a, relative to model ordinances.

II. RSA 4-C:6-a, relative to reports on economic development loans and grants.

224:116 Review of Reports by Department of Resources and Economic Development; Reference Change. Amend RSA 12-A:34 to read as follows:

12-A:34 Review of Reports Required. For the purpose of ensuring comparability of impact reports on economic development programs issued under ~~[RSA 4-C:6-a,]~~ RSA 12-A:33, and RSA 162-A:23-a, the department of resources and economic development, in consultation with the legislative budget assistant, shall periodically review such reports at least once every 5 years and make recommendations to be utilized by the agencies making such reports for an improved and consistent methodology for assessing the quantity and quality of jobs created and saved and the growth potential and environmental impacts of such programs. This section shall not apply to promotional literature.

224:117 Repeal. The following are repealed:

I. RSA 4-C:19-23, relative to the water protection assistance program.

II. RSA 485-C:3, III, relative to cooperation between the department of environmental services and the office of state planning in implementing the water protection assistance program.

III. RSA 21-O:3, IX, relative to the office of state planning's role in the water protection assistance program.

224:118 Local Land Use; Master Plan. Amend RSA 674:2, III(d) to read as follows:

(d) A natural resources section which identifies and inventories any critical or sensitive areas or resources, not only those in the local community, but also those shared with abutting communities. This section provides a factual basis for any land development regulations that may be enacted to protect natural areas. A key component in preparing this section is to identify any conflicts between other elements of the master plan and natural resources, as well as conflicts with plans of abutting communities. ~~[The natural resources section of the master plan should include a local water resources management and protection plan as specified in RSA 4-C:22.]~~

224:119 Repeal. RSA 4-C:24-28 and RSA 4-C:30, relative to housing and conservation planning, are repealed.

224:120 Repeal. RSA 125-G, relative to the high-level radioactive waste act, is repealed.

224:121 Land Use Boards; Training. Amend RSA 673:3-a to read as follows:

673:3-a Training. Within ~~[6 months]~~ **the first year** of assuming office, ~~[for the first time, any non-ex-officio]~~ **a new** member of ~~[the]~~ **a** zoning board of adjustment ~~[and the]~~ **or** planning board may ~~[at the member's option]~~ complete ~~[at least 6 hours of]~~ training ~~[for the member's respective position. The training shall be designed and furnished]~~ **offered** by the office of energy and planning. **The office of energy and planning may provide this training,**

***which may be designed in a variety of formats including, but not limited to, web-based, distance learning, traditional classroom style, or self study.***

224:122 Zoning Ordinances; Place for Filing Documents and Reporting Amendments. RSA 675:9 is repealed and reenacted to read as follows:

675:9 Place for Filing Documents; Reporting of Adoptions or Amendments. A copy of each master plan, zoning ordinance, historic district ordinance, capital improvement plan, building code, subdivision regulation, historic district regulation, site plan review regulation or amendment which is adopted by a municipality shall be placed in a central file with the office of energy and planning; provided, however, that failure to file these documents or amendments with the office of energy and planning shall not affect the validity of the document. Every municipality which adopts a master plan, zoning ordinance, historic district ordinance, capital improvement plan, building code, subdivision regulation or site plan review regulation or amendment thereto, shall inform the office of energy and planning of such adoption or amendment. The office of energy and planning is hereby authorized to gather this information by way of an annual survey of the municipalities or other such means as may be deemed appropriate. The office of energy and planning shall periodically create lists and reports of the information gathered for use by the municipalities and the general public.

224:123 New Paragraph; UNIQUE Endowment Allocation Program. Amend RSA 195-H:4 by inserting after paragraph IV the following new paragraph:

V. Notwithstanding RSA 6:12, I(b)(115), for the biennium ending June 30, 2013, annual administrative fees, less any annual administrative costs that are generated from the New Hampshire college tuition savings plan, less \$500,000 per year which shall be distributed to private New Hampshire colleges and universities under the UNIQUE endowment allocation program established in administrative rule Csp 701-703, shall be allocated in the following manner: 70 percent of such total shall be paid annually prior to the end of each state fiscal year to the university system of New Hampshire and 30 percent of such total shall be paid annually prior to the end of each state fiscal year to the community college system of New Hampshire.

224:124 New Hampshire Excellence in Higher Education Endowment Trust Fund. Notwithstanding RSA 6:12, I(b)(115), the balance of the New Hampshire excellence in higher education endowment trust fund established pursuant to RSA 6:38, as of June 30, 2011 shall be transferred as follows: 70 percent of such fund balance, less \$3,000,000, shall be paid to the university system of New Hampshire and 30 percent of such fund balance shall be paid to the community college system of New Hampshire. Interest accrued on the \$3,000,000 shall be used to fund scholarships to New Hampshire students at private New Hampshire colleges and universities. The fund balance transfers to the university system of New Hampshire and to the community college system of New Hampshire shall be paid no later than July 30, 2011.

224:125 Repeals. The following are repealed:

I. RSA 6:12, I(b)(140), relative to moneys deposited in the forgivable loan fund and the loan repayment fund in the workforce incentive program under RSA 188-D:18-f through RSA 188-D:18-h.

II. RSA 6:12, I(b)(241), relative to moneys deposited by the postsecondary education commission in the essential functions fund established under RSA 188-D:8, IX.

III. RSA 6:12, I(b)(243), relative to moneys used for the New Hampshire incentive program established in RSA 188-D:10.

IV. RSA 6:12, I(b)(244), relative to moneys used for the leveraged incentive grant program established in RSA 188-D:33.

V. RSA 6:12, I(b)(245), relative to moneys used for the granite state scholars program established in RSA 188-D:36.

VI. RSA 6:12, I(b)(247), relative to moneys used for the veterinary/medical/optometric education program established in RSA 200-J.

VII. RSA 6:12, I(b)(270), relative to the large animal veterinarian net tuition repayment fund established in RSA 200-J:7.

VIII. RSA 6:12-d, II(k), relative to the surety indemnification accounts of the postsecondary education commission.

IX. RSA 188-D, relative to the postsecondary education commission.

X. RSA 200-J, relative to the veterinary/medical/optometric education program.

224:126 New Section; Department of Education; Division of Higher Education. Amend RSA 21-N by inserting after section 8 the following new section:

21-N:8-a Division of Higher Education.

I. There is hereby established within the department the division of higher education, under the supervision of an unclassified director of higher education who shall be responsible for the following functions, in accordance with applicable laws:

(a) Provide support to the higher education commission established in paragraph II in furtherance of its duties.

(b) Facilitate and secure for the students and higher education institutions of this state all benefits provided by Congress in federal law.

(c) Apply for, accept, and expend federal grants.

(d) Establish and collect reasonable fees related to the performance of statutory duties.

(e) Perform the functions of the veterans' State Approving Agency for the purpose of administering veterans education and job training programs as authorized by Congress.

(f) Administer scholarships for orphans of veterans program pursuant to RSA 193:19-21.

(g) Administer scholarships under the New England higher education compact pursuant to RSA 200-A.

(h) Administer the tuition waiver and scholarship program for children of firefighters and police officers established in RSA 187-A:20-a.

(i) Administer the tuition waiver program for foster children established in RSA 187-A:20-b.



- (j) Administer the Paul Douglas scholarship program.
- (k) Administer the College Access Challenge grant.
- (l) Administer the CART provider and sign language interpreter net tuition program.
- (m) Assume other responsibilities as may be provided in state or federal law.

II.(a) There is hereby established a higher education commission which shall consist of the following members:

- (1) The president of the university of New Hampshire; the president of Keene state college; the president of Plymouth state university; the chancellor of the university system of New Hampshire; a president of one of the institutions of the community college system of New Hampshire, to be chosen by the board of trustees of the community college system.
  - (2) Two members to be appointed by the trustees of the university system of New Hampshire, one of whom shall be a full-time undergraduate student who is a resident of the state, and whose term shall expire upon graduation or when the member is no longer a full-time student.
  - (3) The commissioner of the department of education and the chancellor of the community college system of New Hampshire.
  - (4) One full-time student to be appointed by the board of trustees of the community college system of New Hampshire who shall be a representative of the community college system of New Hampshire who shall be a resident of the state and whose term shall expire upon graduation or when the member is no longer a full-time student.
  - (5) Six representatives of the private 4-year colleges in New Hampshire appointed by the governor and council on recommendation by the New Hampshire College and University Council, with no more than one representative from any one college.
  - (6) One full-time undergraduate student of a private 4-year college in the state of New Hampshire, to be appointed by the governor and council on recommendation by the New Hampshire College and University Council, who shall be a resident of New Hampshire and whose term shall expire upon graduation or change of status from a full-time student.
  - (7) One member to be appointed by the governor and council as a representative from a for-profit college or university not a member of the New Hampshire College and University Council.
  - (8) Four members to be appointed by the governor and council who shall be residents of the state and of the lay public, having no official connection with any college, university, or private postsecondary career school as an employee, trustee, or member on a board of directors.
  - (9) One member to be appointed by the governor and council on recommendation by the New Hampshire Council for Professional Education, who shall be a resident of the state and a representative of a private postsecondary career school.
- (b) The terms of appointed members, except as indicated above, shall be for 5 years and until a successor is appointed and qualified. Vacancies shall be filled for the unexpired term.

(c) Commission appointments shall be made in such a way as to preserve broad and equitable representation on the basis of gender, ethnicity, and socioeconomic groups in the state.

(d) The members of the commission, except the exofficio members, shall serve without compensation, but may be reimbursed for actual travel and other expenses incurred in the performance of their duties on the commission from funds appropriated to the department of education specifically for this purpose.

(e) The commission shall:

(1) Regulate institutions of higher education pursuant to RSA 292:8-b through RSA 292:8-kk. The commission may accept accreditation by a recognized accrediting association in place of its own evaluation.

(2) Administer financial aid programs as provided in state law for students attending higher education institutions who have been residents of New Hampshire for at least 12 consecutive months prior to the date of enrollment.

(3) Regulate private postsecondary career schools pursuant to RSA 188-G.

(4) Establish and collect reasonable fees related to the performance of statutory duties.

(5) Participate in, and administer for the state of New Hampshire, the integrated postsecondary education data system as developed by the United States Department of Education, Institute of Education Sciences.

(6) Adopt rules, pursuant to RSA 541-A relative to:

(A) Organization and operation of the higher education commission established in RSA 21-N:8-a, II.

(B) Approval and regulation of institutions of higher education pursuant to RSA 292:8-b through RSA 292:8-kk.

(C) Licensing of private postsecondary career schools pursuant to RSA 188-G.

(D) Administration of financial aid programs for institutions of higher education.

(E) Establishment and collection of reasonable fees for functions performed by the division of higher education established in RSA 21-N:8-a.

224:127 New Paragraph; Department of Education; Rulemaking. Amend RSA 21-N:9 by inserting after paragraph II the following new paragraph:

III. The department of education shall adopt rules, pursuant to RSA 541-A relative to:

(a) Administration of the tuition waiver and scholarship program for children of firefighters and police officers established in RSA 187-A:20-a.

(b) Administration of the tuition waiver program for foster children established in RSA 187-A:20-b.

224:128 Compensation of Certain State Officers. Amend RSA 94:1-a, I(b) by deleting:

EE [~~Postsecondary education commission~~] [executive] director,

***Department of Education division of higher education***

224:129 Branches or Extension Courses in This State. Amend RSA 186:13-b to read as follows:

186:13-b Branches or Extension Courses in This State. Any out-of-state institution of higher learning planning to establish a branch, branches, or extension courses, in this state, shall apply to the [~~postsecondary education commission~~] ***the higher education commission*** for an evaluation of its plans. Plans for each such branch, branches, or extension courses shall thereupon be evaluated, and, if approved, the branch, branches, or extension courses shall thereupon be accredited for such period and under such regulations as [~~said commission~~] ***the commission*** may determine. If a branch, or branches, or program of extension courses are disapproved at any time by [~~said commission~~] ***the commission*** all operations and publicity of it shall cease without delay.

224:130 State College and University System; Tuition Waiver and Room and Board Scholarships. Amend RSA 187-A:20-a to read as follows:

187-A:20-a Tuition Waived for Children of Certain Firefighters and Police Officers; Room and Board Scholarships.

I. A person who is a New Hampshire resident, who is under 25 years of age, and who enrolls in a program leading to a certificate, associate, or bachelor degree at any public postsecondary institution within the state, approved by the [~~postsecondary education commission pursuant to RSA 188-D~~] ***department of education, division of higher education***, shall not be required to pay tuition for attendance at such institution if he or she is the child of a firefighter or police officer who died while in performance of his or her duties, and whose death was found to be compensable pursuant to RSA 281-A.

II.(a) Any person entitled to a waiver of tuition under this section may apply for a room and board scholarship while attending the institution, to the extent of available funds. Applications for a room and board scholarship shall be filed annually with the [~~postsecondary education commission~~] ***director of the division of higher education***. The [~~commission~~] ***department of education*** shall adopt rules, pursuant to RSA 541-A, relative to the development of criteria for awarding scholarships, development of scholarship application forms, application deadlines, scholarship amounts, provisions for continuing eligibility, and other procedures necessary to administer the room and board scholarships.

(b) There is hereby established in the office of the state treasurer a nonlapsing fund to be known as the room and board scholarship fund. The state treasurer shall invest the fund pursuant to RSA 6:8 and earnings shall be added to the fund. The fund shall be continually appropriated to the [~~postsecondary education commission~~] ***division of higher education*** for the purpose of providing room and board scholarships as provided in this section, and shall not be diverted or used for any other purpose. The [~~commission~~] ***director of the division of higher education*** may apply for and accept gifts, grants, and donations from any source to be used for the purpose of providing room and board scholarships as provided in this section.

224:131 New Section; State College and University System; Tuition Waivers for Foster Children. Amend RSA 187-A by inserting after section 20-a the following new section:

187-A:20-b Tuition Waiver for Children in State Foster Care or Guardianship.

I. An eligible individual who enrolls full-time in a program leading to a certificate, associate, or bachelor degree at any public postsecondary institution within the state that is approved by the department of education, division of higher education, shall not be required to pay tuition or fees for attendance at such institution.

II. In this section, an eligible individual is a person who is less than 23 years of age and who is or was:

- (a) In state foster care for the immediate 6-month period prior to his or her 18th birthday;
- (b) In state guardianship or custody at the time of his or her 18th birthday;
- (c) Adopted while in state guardianship or adopted from the care, custody, and control of the department following a surrender of parental rights; or
- (d) In an out-of-home placement under the supervision of the division for juvenile justice services at the time of his or her 17th birthday.

III.(a) Eligible individuals interested in a tuition waiver shall annually apply to the division of higher education on a form provided by the division of higher education and within the deadlines established by the division of higher education. No more than 20 tuition waivers per year shall be granted. The department of education shall adopt rules, pursuant to RSA 541-A, relative to the development of eligibility criteria designed to give the children with the greatest financial need first priority in the tuition waiver program, the creation of an application form, application deadlines, and provisions for continuing eligibility which require continued full-time enrollment as provided in this section and maintaining satisfactory academic progress as defined by the institution.

(b) Beginning November 1, 2008, and no later than November 1 each year thereafter, the division of children, youth, and families shall submit a report to the health and human services oversight committee, established in RSA 126-A:13, and the house children and family law committee, or their successor committees, detailing the status of the tuition waiver program.

224:132 Scholarships for Orphans of Veterans. Amend RSA 193:21 to read as follows:

193:21 Payment. The amounts payable to recipients shall be determined by the [~~postsecondary education commission~~] **department of education, division of higher education**. The [~~commission~~] **department** shall determine the eligibility in accordance with rules adopted under RSA 541-A of the children who make application for the benefits provided for in this subdivision[, ~~provided that no member of the commission shall receive any compensation for such service~~].

224:133 College Tuition Savings Plan; Commission Established. Amend RSA 195-H:2, I(a)(7) to read as follows:

(7) [~~One member of the postsecondary education commission, appointed by the members of such commission~~] **One member of the higher education commission established in RSA 21-N:8-a, II, appointed by majority vote of the members of the commission.**

224:134 The New England Higher Education Compact; Membership of Board. Amend RSA 200-A:3 to read as follows:

200-A:3 Membership of Board. There shall be 8 resident members from New Hampshire on the New England Board of Higher Education as provided in article II of the compact. One of such resident members shall always be the chancellor of the university system. The second resident member shall be the ~~[executive director of the postsecondary education commission]~~ **director of the division of higher education, department of education**. The third resident member shall be the chancellor of the community college system of New Hampshire. The fourth and fifth resident members shall be citizens of the state appointed by the governor and council. The sixth resident member shall be a member of the house of representatives appointed by the speaker of the house. The seventh member shall be a member of the senate appointed by the president of the senate. The eighth resident member shall be a representative of a private college in New Hampshire appointed by the governor and council. The term of office for each of the first 3 resident members shall be concurrent with his or her term as chancellor or ~~[executive director]~~ **director**. The term of office for each of the latter 5 resident members shall be for 4 years and until a successor is appointed and qualified, except that the term of any member of the general court shall terminate if such member shall cease to be a state legislator. In that case, another member shall be appointed in a like manner for the unexpired term. The term of the member representing a private college shall end if the member's association with the private college terminates. Each member of the board shall receive his or her expenses actually and necessarily incurred by the member in the performance of his or her duties as a member. In addition to their expenses, the fourth, fifth, sixth, seventh, and eighth members shall receive \$15 per day compensation for time actually spent in the work as a member of the New England Board of Higher Education, provided that the total for expenses and per diem compensation for any of such 5 members shall not exceed the sum of \$500 during any one fiscal year. All expenses and per diem compensation shall be audited by the commissioner of administrative services as expenses of other employees are audited and shall be a charge against any appropriation provided for this purpose.

224:135 The New England Higher Education Compact; Funding. Amend RSA 200-A:5 and 6 to read as follows:

200-A:5 Certification to ~~[Postsecondary Education Commission]~~ **Department of Education**. The New England Board of Higher Education shall certify to the ~~[postsecondary education commission]~~ **department of education, division of higher education** on or before October 1 of the year preceding each legislative session the amounts needed to carry out the purposes of RSA 200-A:4 for the coming biennium. Upon such certification, the ~~[postsecondary education commission]~~ **division** shall include such amounts in the budget request for its ~~[department]~~ **division**. The sums appropriated by the legislature in accordance with the provisions of this subdivision shall be a continuing appropriation and shall not lapse.

200-A:6 Payments From Funds. The amount that may be or may become due to any college, university, or institution shall be payable by the state treasurer to such institution from funds appropriated for carrying out the purposes hereof upon certification by the New England Board of Higher Education. Said board, before approving such vouchers, shall satisfy itself that such student would be unable to receive the course of instruction at any institution of public education in New Hampshire, and shall satisfy itself that the charge made by said institution is in accordance with the terms and conditions of the regional and/or reciprocal agreement in effect between the New England Board of Higher Education and the charging institution. The ~~[postsecondary education commission]~~ **department of education, division of higher education** shall examine and audit the accounts showing the payments made by the board under the authority of this section. In submitting the budget request made by it pursuant to the certification of the board as provided in RSA 200-A:5, the ~~[postsecondary~~

~~education commission~~] **division** shall forward with such request a report of such examination and audit, showing the details of such payments for the 2 fiscal years next preceding the time of said budget requests.

224:136 The New England Higher Education Compact; Enforcement. Amend RSA 200-A:8 and 9 to read as follows:

200-A:8 Enforcement. The ~~[postsecondary education commission]~~ **department of education, division of higher education** is authorized to enforce the collection of accounts that become due under the loan provisions of this chapter.

200-A:9 Repayment of Funds by Medical Students. The ~~[postsecondary education commission]~~ **department of education, division of higher education** shall prepare a note for signature of any medical student who is a recipient hereunder. The note shall be in an amount that equals the amount paid by the state treasurer for their respective enrollment. Repayment of the note shall be made in equal annual installments beginning on the anniversary date of the recipient's graduation date or termination of enrollment, whichever shall first occur, provided, however, that if the recipient continues without interruption **of his or her** medical education and/or his **or her** intern requirements said anniversary date shall be the anniversary of the date on which said continued education or internship terminates. Within a period equal to twice the number of school years of his **or her** respective enrollment, plus one year, all installments shall be paid in full to the ~~[postsecondary education commission]~~ **division**. The ~~[postsecondary education commission]~~ **division** shall reduce any annual installment by 1/2, providing the recipient has practiced medicine on a full time basis in New Hampshire during 8 of the preceding 12 months.

224:137 CART Provider and Sign Language Interpreter Net Tuition Program. Amend RSA 200-M:1, II to read as follows:

II. "Net tuition" means tuition costs for postsecondary school education that was directed toward the completion of a degree or certificate in judicial reporting, broadcast captioning, real time transcription, or sign language interpretation, or any other degree or certificate that the ~~[postsecondary education commission]~~ **department of education, division of higher education** deems acceptable for purposes of CART provider and sign language interpreter net tuition repayment.

224:138 CART Provider and Sign Language Interpreter Net Tuition Program. Amend RSA 200-M:2 and 3 to read as follows:

200-M:2 CART Provider and Sign Language Interpreter Net Tuition Repayment Program Established. The ~~[postsecondary education commission]~~ **department of education, division of higher education** shall administer a program for the promotion, acquisition, and retention of CART providers and sign language interpreters in the state.

200-M:3 Application; Repayment. An individual who has completed eligible CART or sign language interpreter training in accordance with rules adopted pursuant to RSA 200-M:5, including internships and residencies, and agrees to work as a CART provider or a sign language interpreter in this state, may apply to the ~~[postsecondary education commission]~~ **department of education, division of higher education** for repayment under the CART provider and sign language interpreter net tuition repayment program and become eligible to be reimbursed up to 100 percent of his or her qualifying tuition not to exceed the cost of 4 years of in-state tuition at the university of New Hampshire, during a 5-year period of

working as a CART provider or sign language interpreter. A 10 percent net tuition repayment shall be made upon completion of the first year of employment in this state, with an additional 10 percent made after the second year of work, an additional 20 percent after the third year of work, an additional 30 percent after the fourth year of work, and an additional 30 percent after the fifth year of work.

224:139 CART Provider and Sign Language Interpreter Net Tuition Program. Amend RSA 200-M:4, I to read as follows:

I. There is hereby established in the office of the state treasurer a fund to be known as the CART provider and sign language interpreter net tuition repayment fund. The fund shall include any sums appropriated for such purpose. In addition, the ~~[postsecondary education commission is authorized to]~~ **department of education, division of higher education** may accept public sector and private sector grants, gifts, or donations of any kind for the purpose of funding the provisions of this chapter. The moneys in this fund shall be nonlapsing and shall be continually appropriated to the ~~[postsecondary education commission]~~ **department of education**. The fund may be expended by the ~~[postsecondary education commission]~~ **department of education** to accomplish the purposes of this chapter. The state treasurer may invest moneys in the fund as provided by law, with interest received on such investment credited to the fund.

224:140 CART Provider and Sign Language Interpreter Net Tuition Program. Amend RSA 200-M:5 to read as follows:

200-M:5 Administration; Rulemaking. The ~~[postsecondary education commission]~~ **department of education, division of higher education** shall adopt rules, pursuant to RSA 541-A, relative to procedures, eligibility, and qualifications for applicants, qualifying educational costs, criteria for terms of service by a CART provider and/or sign language interpreter, procedures for repayment of net tuition costs, and the administration of the program by the ~~[postsecondary education commission]~~ **department of education, division of higher education**. The commissioner of the ~~[postsecondary education commission]~~ **department of education** shall annually report to the general court on the effectiveness of this program.

224:141 Nurse Practice Act; Education Programs. Amend RSA 326-B:32, I(b)(1) to read as follows:

(1) Seek and receive approval from the ~~[postsecondary education commission]~~ **department of education, division of higher education** prior to applying for approval from the board.

224:142 Nurse Practice Act; Education Programs. Amend RSA 326-B:32, I(c) to read as follows:

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

224:143 Higher Education Corporations; Terms Defined. Amend RSA 292:8-b, I to read as follows:

I. “Commission” means the ~~[postsecondary education commission, established by RSA 188-D]~~ ***higher education commission established in RSA 21-N:8-a.***

224:144 Higher Education Corporations. Amend RSA 292:8-c to read as follows:

292:8-c Organization. The articles of agreement for the purpose of organizing a corporation for the establishment of an institution for postsecondary education or higher learning shall be submitted to the ~~[postsecondary education]~~ commission for its consent for said incorporation.

224:145 Higher Education Corporations. Amend RSA 292:8-h, III to read as follows

III. The ~~[postsecondary education]~~ commission shall specify the degrees an institution may grant, and the commission may renew, for a set term of years, degree granting authority granted by the legislature. The commission’s actions shall be subject to biennial certification by the legislature. The commission shall report its action by January 31 of each odd-numbered year to both the house and senate standing committees on education.

224:146 Higher Education Corporations; Freedom From Liability. Amend RSA 292:8-ee to read as follows:

292:8-ee Freedom From Liability. No ~~[member of the postsecondary education commission or]~~ ***employee of the division, member of the commission, or*** any member of an evaluation committee established under any provision of this subdivision shall be held personally liable, either as an individual or as a member of a group, for any loss which may accrue to an educational institution as a result of the denial of degree granting authority under any section of this subdivision, so long as said ***employee or*** member was acting in good faith in the furtherance of duties as ~~[a member of the postsecondary education commission]~~ ***an employee of the division or member of the commission*** or an evaluation committee. All such members shall be entitled to the protections afforded by RSA 99-D.

224:147 Higher Education Corporations; Continuing Review. Amend RSA 292:8-ff, III to read as follows:

III. The commission shall suspend or revoke the accreditation or degree granting authority of any institution which no longer meets the standards established by rule under ~~[RSA 188-D:8-a]~~ ***RSA 21-N:8-a, II(e).***

224:148 Higher Education Corporations; Reports Required. Amend RSA 292:8-kk to read as follows:

292:8-kk Reports Required.

I. When any institution of higher learning ceases the regular conduct of instruction, either temporarily or permanently, whether or not the corporation is dissolved, the original written academic record, or a legible, certified copy thereof as defined by the institution, of each student who has been registered for instruction at the institution shall be forwarded to the ~~[postsecondary education]~~ commission together with an explanation of the institution’s credit and grading system. The ~~[postsecondary education]~~ commission shall preserve these records and upon request of the individual concerned, shall furnish a certified copy, or reasonable number of such copies, of the individual’s record. The fee for each record so furnished to be paid to the commission shall be sufficient to cover related costs.

II. All transcript request fees collected by the ~~[postsecondary education]~~ commission under



this section shall be deposited into a nonlapsing, revolving fund to be used for managing the storage, maintenance, and retrieval of closed school transcripts.

224:149 Postsecondary Education Commission; Transfer of Powers, Duties, and Programs to the Department of Education, Division of Higher Education and the Higher Education Commission.

I. Notwithstanding any provision of law to the contrary, the following programs are hereby transferred to the department of education, division of higher education as of July 1, 2011:

- (a) Scholarships for orphans of veterans pursuant to RSA 193:19-21.
- (b) Scholarships awarded under New England higher education compact pursuant to RSA 200-A.
- (d) Veterans education services pursuant to RSA 188-D:24.
- (e) The tuition waiver and scholarship program for children of firefighters and police officers established in RSA 187-A:20-a.
- (f) The tuition waiver program for foster children established in RSA 187-A:20-b.
- (g) The Paul Douglas scholarship program.
- (h) The College Access Challenge grant.
- (i) The CART provider and sign language interpreter net tuition program.

II. Notwithstanding any provision of law to the contrary, the following programs are hereby transferred to the higher education commission established in RSA 21-N:8-a, II as of July 1, 2011:

- (a) The approval of new educational programs and regulation of institutions of higher education pursuant to RSA 292:8-b through RSA 292:8-kk.
- (b) Regulation of private postsecondary career schools pursuant to RSA 188-G.
- (c) Administration of the integrated postsecondary education data system as developed by the United States Department of Education, Institute of Education Sciences.

III. The transfer required in this section shall include all of the equipment, books, papers, and records of the postsecondary education commission. All existing rules, statutory responsibilities, regulations, and procedures relating to the transferred programs in effect, in operation, or adopted in or by the postsecondary education commission are hereby transferred to the department of education, division of higher education or the higher education commission and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

224:150 New Chapter; Private Postsecondary Career Schools. Amend RSA by inserting after chapter 188-F the following new chapter:

## CHAPTER 188-G

### PRIVATE POSTSECONDARY CAREER SCHOOLS

## 188-G:1 Definitions; Exclusions.

### I. In this chapter:

- (a) “Alternative delivery” means a mode of instruction which does not involve face-to-face instruction between instructor and student in the same geographic location. This mode of instruction shall include Internet, televised, video, telephonic, and correspondence media.
- (b) “Commission” means the higher education commission established in RSA 21-N:8-a, II.
- (c) “Commissioner” means the commissioner of the department of education.
- (d) “Conference” or “seminar” means a scheduled meeting of 2 or more persons for discussing matters of common concern and where, if training or education is offered, it shall be incidental to the purpose of the conference.
- (e) “Director” means the director of the division of higher education in the department of education.
- (f) “Division” means the department of education, division of higher education.
- (g) “Entity” means any individual, firm, partnership, association, corporation, organization, trust, school, or other legal entity or combination of these entities.
- (h) “Operating balance” means the amount of funds necessary for indemnification as determined by the director.
- (i) “Physical presence” means any physical location, place of contact, telephone exchange, or mail drop in this state, and if an individual is conducting one or more of the following activities within this state:
  - (1) Advertising.
  - (2) Solicitation of potential students.
  - (3) Enrollment of students.
  - (4) Providing student services.
  - (5) Student mentoring.
  - (6) Instruction of students.
- (j) “Private postsecondary career school” means any for-profit or nonprofit postsecondary career entity maintaining a physical presence in this state providing education or training for tuition or a fee that enhances a person’s occupational skills, or provides continuing education or certification, or fulfills a training or education requirement in one’s employment, career, trade, profession, or occupation. Schools that offer resident or nonresident programs, including programs using modes of alternative delivery, beyond the secondary school level to an entity shall be included in this definition regardless of the fact that the school’s tuition and fees from education and training programs constitute only a part of the school’s revenue.
- (k) “Vendor” means an entity that promotes or exchanges goods or services for money.

(l) “Workshop” means a brief, intensive education or training program that focuses on developing techniques and skills in a particular area.

II. In this chapter, “private postsecondary career school” shall not include:

(a) Schools authorized to grant degrees pursuant to RSA 292.

(b) Schools specifically licensed as an education or training school by a state agency other than the commission.

(c) Schools operated by a business organization exclusively for the training of that business’ own employees and at no charge to its employees.

(d) Schools offering noncredit courses exclusively for avocational purposes.

(e) Schools established, operated, and governed by the state of New Hampshire or any of its political subdivisions, or any other state or its political subdivisions.

(f) Noncredit courses or programs sponsored by recognized trade, business, or professional organizations solely for the instruction of their members that do not prepare or qualify individuals for employment in any occupation or trade.

(g) Schools that offer programs and courses exclusively on federal military installations.

(h) Companies, individuals, or other legal entities that offer training at seminars, workshops, or conferences, if :

(1) Any training or education offered is incidental to the purpose of the seminar, workshop, or conference; and

(2) The attendee receiving the training is not awarded any form of a certificate, diploma, or credit including continuing education units for having received the training.

(i) Vendors that offer incidental training associated with the purchase of a product from said vendor, if the training is at no cost, its purpose is to familiarize the purchaser with its use and the purchaser is not awarded any form of a certificate or diploma for having received the training.

(j) An individual or facility training students under 14 C.F.R. part 91 or 14 C.F.R. part 141, or receiving flight or ground instruction required by the Federal Aviation Administration.

(k) Entities offering only training courses at a total cost, including tuition and all other fees and charges, of not more than \$800 per course for which no payment, including a deposit, is required or collected prior to the first day of the course. This subparagraph shall not apply to entities that use alternative delivery methods.

(l) Entities offering training in the trades that have been approved by a state agency with appropriate jurisdiction, including but not limited to the plumbers’ board, the electricians’ board, the office of the state fire marshal, and the division of fire standards and training and emergency medical services.

(m) Computer technology vendors that offer fee-based training on courses of instruction in the use of hardware or software if the course is offered to purchasers of such hardware or

software, or to the purchaser's employees, by a person who manufactures and sells, develops and sells, or supports the hardware or software, and if the seller is not primarily engaged in the business of providing courses of instruction in the use of the hardware or software.

(n) Entities that license software, the content of which is focused on training or education, if the entity:

- (1) Is primarily engaged in the business of licensing software;
- (2) Licenses its software primarily to other legal entities, and not directly to an end user or individual student;
- (3) Does not confer degrees, diplomas, continuing education units, or any other form of credit in connection with the software that it licenses;
- (4) Is not accredited and does not seek accreditation in connection with the software that it licenses or the content it offers; and
- (5) Does not offer an admissions process, financial aid, career advice, or job placement in connection with the software that it licenses.

#### 188-G:2 Licenses and Fees.

I. Prior to registering or renewing a business or trade name, or soliciting students for enrollment, an entity maintaining a physical presence in this state shall be reviewed by the commission to determine if the entity requires a license. The commission shall establish procedures to accomplish this review.

II. A private postsecondary career school maintaining a physical presence in this state shall register to obtain a license or license renewal from the commission. The license shall be issued or renewed pursuant to rules, adopted under RSA 541-A, by the commission. The rules shall establish minimum criteria, including but not limited to, financial stability, educational program, administrative and staff qualifications, business procedures, facilities, equipment, and ethical practices to be met by licensees, and criteria for rejecting a licensing applicant and for suspending or revoking a license.

III. A school that is not required to obtain a license may apply for a license and, upon issuance of the license, shall be subject to the provisions of this chapter. Such school may voluntarily surrender its license and revert to its original status.

IV. The commission shall adopt rules pursuant to RSA 541-A to establish reasonable fines, reimbursement rates for consultants, and procedures for complaint investigations and enforcement actions, which are necessary for the administration of this chapter.

V. A private postsecondary career school which the commission has determined requires a license shall, prior to the issuance of a license, comply with this section, RSA 188-G:3, and RSA 188-G:4.

188-G:3 Surety Indemnification. Before a license is issued or renewed, a school shall meet the requirements of this section or RSA 188-G:4, by providing acceptable surety indemnification as determined in this section.

I. A surety bond shall be provided by the school in an amount prescribed in this section. The

obligation of the bond is that the school, its officers, agents, and employees shall faithfully perform the terms and conditions of contracts for tuition and other instructional fees entered into between the school and entity enrolling as students. The bond shall be issued by a company authorized to do business in the state of New Hampshire. The bond shall be issued in the name of the commission, and is to be used only for payment of a refund of tuition and instructional fees due to a student or potential student, and the expense of investigating and processing the claims.

II. The amount of such bond shall be based on income from tuition at 10 percent of gross tuition, with a \$10,000 minimum. If a school licensed under RSA 188-G:2 should fail to provide the services required in a contract with any entity, as determined by a court of competent jurisdiction, the bond shall be forfeited, and the proceeds distributed by the director in such manner as justice and the circumstances require.

III. The bond company may not be relieved of liability on the bond unless it gives the school and the commission 90 days written notice of the company's intent to cancel the bond. If at any time the company that issued the bond cancels or discontinues the coverage, the school's license is revoked as a matter of law on the effective date of the cancellation or discontinuance of bond coverage, unless a replacement bond is obtained and provided to the commission.

IV. For the purposes of this section the forms of indemnification other than a surety bond which may be furnished to the commission for licensure are the following:

(a) An irrevocable letter of credit, maintained for the licensing period as a minimum, issued by a financial institution authorized to do business in New Hampshire in an amount to be determined by the commission with the commission designated as the beneficiary; or

(b) A term deposit account held in the state treasury, payable to the commission, shall be held in trust for the benefit of students entitled thereto under this section. Said account shall be maintained for the licensing period as a minimum, in an amount determined by the commission. Any interest shall be paid annually to the appropriate school, unless the term deposit account is activated due to a school closing. Should the licensee for any reason, while not in default, discontinue operation, all moneys on deposit, including any interest, shall be released to the appropriate school subject to the approval of the commission.

#### 188-G:4 Student Tuition Guaranty Fund.

I.(a) A student tuition guaranty fund is hereby established within the department of education, division of higher education and shall be administered by the director.

(b) The fund shall be funded from an annual fee to be established by rule and assessed against each school duly licensed by the commission and all applicants for a license under RSA 188-G:2.

(c) The funds shall be placed in an interest-bearing account in the office of the state treasurer and the state treasurer shall deposit all interest earned on the funds into the account.

(d) The fund shall be used to reimburse students when a school has failed to faithfully perform its contractual obligations for tuition and instructional fees in the event of a school closing, and the expense of investigating and processing the claims. The owner of a school which fails to perform its contractual obligations shall be personally liable to reimburse the fund for the difference between the per student amount paid into the fund by the school and

the amount paid out of the fund to a student to settle a claim made against the school.

II. The department of education, in consultation with the commission, shall adopt rules, pursuant to RSA 541-A, relative to the administration and maintenance of the fund.

188-G:5 Inspections. The commission may at any time inspect the premises, curriculum, teaching materials, faculty performance, sales literature, financial data, or other matters which are relevant to the educational and business activities of a licensed school in order to determine compliance with applicable laws and rules.

188-G:6 Revocation; Hearing. The commission may, after due notice and hearing, revoke the license of any school licensed pursuant to RSA 188-G:2 for violating the provisions of this chapter or rules adopted hereunder. The provisions of RSA 541 shall apply to actions taken pursuant to this section.

188-G:7 Waiting Period. Every contract that purports to bind any entity to pay money to a private postsecondary career school in return for training shall be construed to be a home solicitation sales contract under RSA 361-B and shall be subject to the provisions of RSA 361-B.

188-G:8 Veterans, Education and Services Approval. The division may approve for veterans' education and services any institution licensed under this chapter. The department of education may adopt rules, under RSA 541-A, relative to the procedures for approval of institutions for veterans' education and benefits.

188-G:9 Use of Fees. Notwithstanding any provision of law to the contrary, all license fees collected under the provisions of this chapter shall be retained by the commission for use in meeting the expenses of administering this chapter.

188-G:10 Penalty.

I. Whoever violates any provision of this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

II. Whenever the commission determines that a person is violating any provision of this chapter or the rules adopted hereunder, the commission shall request the attorney general, or other appropriate official having jurisdiction, to provide appropriate relief.

III. The commission, upon verifying that a school is operating without a license, shall issue a cease and desist order to such school.

IV. The commission shall be notified whenever a cease and desist order is issued to a school, or if a school fails to provide the services required under a contract with any entity causing the bond to be forfeited, or if a school is required to have a license but is operating without a license.

224:151 Application of Receipts; Funds Collected by the Department of Education. Amend RSA 6:12, I(b)(228) to read as follows:

(228) Fees [~~deposited in the postsecondary education vocational school licensing fund under RSA 188-D:25~~] ***collected by the department of education, division of higher education pursuant to RSA 188-G:9.***

224:152 Application of Receipts; Student Tuition Guaranty Fund. Amend RSA 6:12, I(b)(233) to read as follows:

(233) Moneys deposited in the student tuition guaranty fund established in RSA [188-D:20-b] **188-G:4**.

224:153 Distribution of Adequate Education Grants. RSA 198:42, IV is repealed and reenacted to read as follows:

IV. For the fiscal year-beginning July 1, 2011, and every fiscal year thereafter, the department of education may expend funds up to 110 percent of budgeted amounts as necessary to fund chartered public school tuition payments under RSA 194-B:11, I. Said amounts are hereby appropriated to the department from the education trust fund established under RSA 198:39. The education trust fund shall be used to satisfy the state's obligation under this paragraph. The payment shall be issued regardless of the balance of funds available in the education trust fund. In the event that chartered public school tuition payments exceed budgeted amounts by over 10 percent, the department of education may expend funds in excess of said amounts, with the approval of the fiscal committee of the general court and governor and council. Said funds shall be paid from the education trust fund established under RSA 198:39 upon the warrant of the governor out of any money in the fund not otherwise appropriated.

224:154 Chartered Public Schools; Funding. Amend RSA 194-B:11, I(c) to read as follows:

(c) [~~Notwithstanding RSA 198:42,~~] The commissioner of the department of education shall calculate and distribute chartered public school tuition payments as set forth herein. The first payment shall be 30 percent of the per pupil amount multiplied by the number of eligible pupils present on the first day of the current school year. Such payment shall be made no later than 15 days after the department of education receives the attendance report. The December 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on November 1, and the March 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on February 1. To calculate the final payment, the commissioner of the department of education shall multiply the per pupil amount by the average daily membership in attendance for the full school year, and subtract the total amount of the first 3 payments made. The remaining balance shall be the final payment. Eligible chartered public schools shall report membership in accordance with RSA 189:1-d. In this subparagraph, "membership" shall be as defined in RSA 189:1-d, II. Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year.

224:155 Special Meetings; Reduction, Rescission, or Increase in Appropriations for State Education Funding. Notwithstanding any other provision of law, in response to statutory changes resulting in reductions or increases in distribution of state revenues for education pursuant to RSA 198:41 to school districts, the governing body of any school district, including those that have adopted RSA 40:13, may call a special meeting of the legislative body to consider a reduction, rescission, or increase of appropriations made at an annual meeting, subject to the following:

I. The governing body of any school district that has adopted the provisions of RSA 40:13 may elect to hold and conduct the meeting in accordance with the provisions of this section in a single session for deliberating and voting, and without regard to the provisions of RSA 40:13. A special meeting under this section shall not be petitioned under RSA 39:3 and no petitioned

warrant articles shall be inserted in the warrant.

II. The governing body's warrant shall specify, in one or more articles, the amounts of appropriations proposed for reduction, rescission, or increase from the operating budget or separate warrant articles, or both, adopted at the annual meeting.

III. The governing body shall hold a public hearing on the proposed reductions, rescissions, or increase at least 14 days prior to the meeting. Notice of the time, place, and subject of such hearing shall be posted in at least 2 public places within the political subdivision, one of which shall be on the political subdivision's website, if such exists, at least 7 days prior to the hearing.

IV. The governing body of such school district shall post a notice of the meeting, which shall include the warrant, in at least 2 public places within the political subdivision, one of which shall be on the political subdivision's website, if such exists, at least 7 days prior to the meeting. Additional notice shall be published in a newspaper of local or regional circulation in the political subdivision, provided that if there is no newspaper of local or regional circulation in which notice can be published at least 7 days before the date of the meeting, public notice shall be posted in at least one additional place within the political subdivision.

V. The meeting shall be conducted in accordance with RSA 40:1 through RSA 40:11. The most recently updated checklist shall be used.

VI. The legislative body may approve or disapprove any proposed reduction, rescission, or increase of appropriations, or may approve lesser reductions, but the legislative body shall not approve greater reductions, or reduce or rescind an appropriation not specified in the warrant, or act on any other business at the meeting.

VII. Except as provided in this section, provisions of the following chapters of the RSAs, as they apply to special meetings of the legislative body of a school district shall not be required for special meetings held pursuant to this section: RSA 32, RSA 39, RSA 49-D, RSA 197, RSA 654, RSA 669, RSA 670, and RSA 671.

224:156 Repeal. Section 155 of this act, relative to special meetings for school districts, is repealed.

224:157 Municipal Budget Law; Lapse of Appropriations. Notwithstanding any law to the contrary, the \$20,000,000 in federal funds approved by the fiscal committee of the general court for distribution to local school districts in fiscal year 2011 from the Education Jobs program shall not lapse at the end of the school district's 2011 fiscal year. Any such moneys not expended by the school districts by the end of their 2011 fiscal year shall be carried over for use in the school district's 2012 fiscal year in accordance with federal law.

224:158 Veterinary Medicine; Biennial License Renewal. Amend RSA 332-B:13 to read as follows:

332-B:13 License Expiration and Renewal.

I. All licenses shall expire ***biennially*** on December 31 of each ***even-numbered*** year ***for even-numbered licenses and on December 31 of each odd-numbered year for odd-numbered licenses*** but may automatically be renewed by filing a renewal application and paying a renewal fee established in rules adopted by the board, subject to paragraph II; ***except that for licenses which expire December 31, 2011, odd numbered licenses shall***



***be issued for 2 years and even numbered licenses shall be issued for one year, and the board shall charge fees accordingly. Not later than*** one month prior to the expiration date, the board shall mail a notice to licensed veterinarians that their license will expire on December 31 and provide them with a license renewal application. Persons previously licensed who allow their license to lapse shall be required to file a reinstatement application containing such information as required by the board. Persons who have allowed their license to lapse more than 5 years shall apply for reinstatement of licensure in accordance with RSA 332-B:17.

II. The board may by rule waive the payment of the [~~registration~~] renewal fee of a licensed veterinarian during the period when the person is on active duty with any branch of the armed services of the United States, not to exceed 3 years or the duration of a national emergency, whichever is longer.

III. As a condition of renewal of license, each licensed veterinarian shall be required to show proof that he or she has attended an approved educational program or programs totaling at least [~~12~~] **24** hours [~~per calendar year~~] ***in the 2-year period*** preceding each renewal date. Approved educational programs shall be at the discretion of the board, in accordance with rules adopted by the board. The board may excuse a licensee from all or a portion of the educational requirement upon the filing of a petition establishing good cause for the waiver as set forth in rules adopted by the board.

224:159 Veterinary Medicine; Reference to Annual Renewal Changed. Amend RSA 332-B:8 to read as follows:

332-B:8 Status of Persons Previously Licensed. Any person holding a valid license to practice veterinary medicine in this state on August 24, 1971, shall be recognized as a licensed veterinarian and shall be entitled to retain this status so long as the person complies with the provisions of this chapter, including [~~annual~~] ***biennial*** renewal of the license.

224:160 Findings; Intent. The New Hampshire general court makes the following findings of fact and states the following intent and purpose for sections 161-188 of this act.

I. Immediate action is necessary to make the New Hampshire retirement system (NHRS) viable and solvent.

(a) NHRS is the successor to the State Employees' Retirement System. NHRS was created and established as of July 1, 1967. The NHRS was intended to and does establish a defined benefit pension plan qualified under Section 401(a) of the United States Internal Revenue Code (IRC). The NHRS plan is a governmental plan within the meaning of Section 414(d) of the IRC.

(b) As a defined benefit pension plan, the provisions of NHRS describe benefits which will be made available to members as vested deferred retirement benefits payable on retirement or on events such as disability or death. Benefits pursuant to the NHRS are payable after a period of years during which members accrue creditable service. Members are deemed to be in vested status for those benefits after 10 years of creditable service.

(c) As a governmental plan, the NHRS is only available to governmental employers.

(d) The NHRS is funded with contributions from members, through mandatory payroll deductions, and with contributions from the governmental employers, all of which are raised

through taxation. Such contributions are held in trust by the NHRS Board of Trustees; funds held by the trust are held and invested on behalf of all members.

(e) As a defined benefit pension plan, the NHRS requires actuarial calculations in order to determine benefits which are payable as well as funding obligations.

(f) The benefit calculations which are required by the NHRS generate funding obligations which are complex and depend on numerous variables with consequences that occur over a period of many years, in some circumstances in ways that are not foreseeable.

(g) The NHRS has an estimated unfunded pension liability of \$3.72 billion and an estimated unfunded medical insurance liability of \$976 million.

(h) In 2007, legislation was adopted to require the state and other public employers to pay down over 30 years the unfunded accrued liability, which was approximately \$2.7 billion at the time. While that plan is now being implemented, large increases in the amount of the unfunded liability result in the current \$4.7 billion total, uncertainties in future market returns, recommendations by NHRS actuaries to lower income earning assumptions, rapid increases in medical costs, increases in life expectancy, and slower growth in public sector employment require prudent legislative intervention to ensure financial viability of NHRS.

(i) Financial viability of the NHRS is essential to the operation of state government and local government performing its constitutional and statutory obligations. Therefore, the stability of NHRS is an important, immediate, and fundamental necessity.

(j) The Pew Institute has concluded that unfunded pension and health care liabilities are a nationwide problem, estimated at over \$1 trillion. Additionally, the level of direct federal debt in excess of \$14 trillion means that federal funding to the states will have to be significantly reduced in the near future. Thus, the state cannot expect assistance from the federal government in meeting NHRS obligations, and indeed it is reasonable to anticipate a loss in federal funds.

(k) The NHRS plan (and its trust) was created by the New Hampshire legislature and can be amended or terminated by the New Hampshire legislature at any time. Notwithstanding the general court's power, it is the general court's intention and public necessity to protect the reasonable interests of the members who accrue benefits under the NHRS plan, of the employers of those members, and of the citizens of New Hampshire.

(l) It is the legislature's intention that its actions taken at this time will not prevent future legislatures from acting to make any and all laws necessary and proper to preserve the public security, order, health, morality and justice, including further changes to the NHRS.

(m) The legislature's ongoing power to amend the NHRS is a fundamental power essential to government, and cannot and will not be surrendered by the legislature or irrevocably transferred away from government.

(n) The legislature finds that members who are deemed to be in vested status should be treated differently than members who are not deemed to be in vested status.

(o) The legislature finds that pension entitlements must be viewed in terms of benefits which have accrued up to the time when valuation is determined, and that such entitlements can be essentially expressed as a dollar value by taking into account the time value of money.

(p) The legislature finds that participants who are deemed to be in vested status in the NHRS have a reasonable expectation that the value of benefits which have accrued to them will not be taken away, although they may be changed prospectively.

(q) The legislature intends that the present value of accrued benefits for members who are deemed to be vested will not be diminished financially, as determined based upon an actuarial determination.

(r) It is the legislature's intention that benefits of members who have already retired will not be significantly diminished or impaired.

(s) The legislature does not intend that the rate of future benefit accruals is or should be protected.

(t) It is the legislature's intention that changes to the NHRS are and will continue to be constrained by the Internal Revenue Code tax qualification requirements imposed by Code Section 401(a) and related guidance; that is, changes will be made, or will not be made, in order to protect the NHRS qualified status.

II. Making NHRS viable and solvent through the actions to be undertaken pursuant to this legislation is a matter of extreme policy importance to the state.

(a) On average, benefits currently constitute an additional 52 percent increase to the cost of state employee salaries.

(b) These benefits paid by the NHRS are significantly higher than are paid in the private sector and cannot be sustained. Public employees are increasingly not cost-competitive with private alternatives to providing state and municipal services.

(c) Absent the actions to be taken pursuant to this legislation, it is likely that the state and its political subdivisions will not be able to afford to continue providing governmental services directly, but will have to provide these services through private alternatives.

(d) Public employee contributions to their pensions have not been increased for many years.

(e) Public employer contributions have been increasing significantly, erratically, and unpredictably in amounts that are undermining state and local government budgets, the public policies reflected in these budgets, and the ability of the state and local government to perform core constitutional and statutory obligations.

(f) Public employees provide state and municipal services which are essential to residents and visitors. Without changes to address the unsustainable increases in the costs of public employee benefits, however, the state and local governments will be forced to reduce the number of public employees, and shrink public service, in order to fund these growing benefit costs. The general court finds that such a result would be detrimental to the ability of state and local government to protect the lives, health, morale, comfort, and general welfare of the public.

(g) Increasing employer contributions would result in significant harm to the state's economy.

(h) Taxes to fund employer contributions are imposing an unreasonable burden on taxpayers.

III. This act contains the minimum actions necessary to assure the viability and solvency of

the NHRS.

(a) The changes to be made to the NHRS at this time pursuant to this act are essential to assuring the solvency of the NHRS, addressing its structural problems, and balancing reforms fairly among employee classes, while minimizing the impact on present employees, especially those closest to retirement.

(b) The legislature specifically finds after many public hearings, hours of studying the issue, and hours of debate, that this act constitutes the minimum actions necessary to assure the viability and solvency of the NHRS.

(c) The response of public sector employers to significantly increasing premium contributions has been to reduce their number of employees. Without significant reform to the NHRS, this trend is likely to escalate.

(d) Absent this legislation, public safety, public education, and other elements of the social safety net will be increasingly compromised and unable to provide services to the public.

(e) This legislation represents the minimum reform necessary to continue to provide appropriate public safety, public education, and other governmental services.

(f) Where public sector employers have raised taxes to pay for increasing pension contributions, there has been an adverse effect on job growth and retention.

(g) Raising taxes to pay for increasing pension contributions, would discourage business from relocating to this state and encourage businesses to move from New Hampshire or expand their operations in other states.

(h) The legislature specifically finds after many public hearings, hours of studying the issue and hours of debate, that raising taxes to address NHRS' issues would be harmful to the state's economy, the quality of life of its citizens, place New Hampshire at a competitive disadvantage to other states, and would be against the public interest.

(i) The financial viability of the NHRS must be preserved, as it serves an important public purpose. The general court expressly finds that the changes made in this act are reasonable and necessary, and are the minimum adjustments possible to the retirement system and to public employee retirement benefits to accomplish the important public purpose of preserving and maintaining the ability of the state and local government to provide retirement benefits to public employees.

(j) The changes set forth in this act have been deliberately designed to adjust the system fairly among employee classes, to introduce changes in a way to minimize the impact on present employees, especially those closest to retirement, and to improve the long-term fiscal health and sustainability of the retirement system.

224:161 Retirement System; Definition of Earnable Compensation. Amend RSA 100-A:1, XVII to read as follows:

XVII. "Earnable compensation" shall mean:

(a) For [all] members *who have attained vested status prior to January 1, 2012* the full base rate of compensation paid, *as determined by the employer*, plus any overtime pay, holiday and vacation pay, sick pay, longevity or severance pay, cost of living bonus, additional

pay for extracurricular and instructional activities [~~or for other extra or special duty~~], and any military differential pay, plus the fair market value of non-cash compensation paid to, or on behalf of, the member for meals or living quarters if subject to federal income tax, but excluding other compensation except cash incentives paid by an employer to encourage members to retire, supplemental pay paid by the employer while the member is receiving workers' compensation, and teacher development pay that is not part of the contracted annual salary. ***Compensation for extra and special duty, as reported by the employer, shall be included but limited during the highest 3 years of creditable service as provided in paragraph XVIII.*** However, earnable compensation in the final 12 months of creditable service prior to termination of employment shall be limited to 1-1/2 times the higher of the earnable compensation in the 12-month period preceding the final 12 months or the highest compensation year as determined for the purpose of calculating average final compensation, but excluding the final 12 months. Any compensation received in the final 12 months of employment in excess of such limit shall not be subject to member or employer contributions to the retirement system and shall not be considered in the computation of average final compensation. Provided that, the annual compensation limit for members of governmental defined benefit pension plans under section 401(a)(17) of the United States Internal Revenue Code of 1986, as amended, shall apply to earnable compensation for all employees, teachers, permanent firemen, and permanent policemen who first become eligible for membership in the system on or after July 1, 1996. Earnable compensation shall not include compensation in any form paid later than 120 days after the member's termination of employment from a retirement eligible position, with the limited exceptions of disability related severance pay paid to a member or retiree no later than 120 days after a decision by the board of trustees granting the member or retiree disability retirement benefits pursuant to RSA 100-A:6 and of severance pay which a member was entitled to be paid within 120 days after termination but which, without the consent of the member and not through any fault of the member, was paid more than 120 days after the member's termination. The member shall have the burden of proving to the board of trustees that any severance payment paid later than 120 days after the member's termination of employment is earnable compensation and meets the requirements of an asserted exception to the 120-day post-termination payment requirement.

***(b)(1) For members who have not attained vested status prior to January 1, 2012, the full base rate of compensation paid, as determined by the employer, plus compensation over base pay. Compensation over base pay shall include as applicable, subject to subparagraphs (2), (3), and (4), any overtime pay, holiday and vacation pay, sick pay, cost of living bonus, annual longevity pay, additional pay for extracurricular and instructional activities, compensation for extra and special duty, and any military differential pay, plus the fair market value of non-cash compensation paid to, or on behalf of, the member for meals or living quarters if subject to federal income tax, but excluding other compensation except supplemental pay paid by the employer while the member is receiving workers' compensation and teacher development pay that is not part of the contracted annual salary.***

***(2) Compensation over base pay shall be limited during the highest 5 years of creditable service as provided in paragraph XVIII.***

***(3) Earnable compensation shall not include compensation for extra and special duty for members who commence service on and after July 1, 2011.***

***(4) Earnable compensation shall not include incentives to encourage members to retire, severance pay or end-of-career additional longevity payments, and pay for unused sick or vacation time. Earnable compensation in the final 12 months of***

***creditable service prior to termination of employment shall be limited to 1-1/2 times the higher of the earnable compensation in the 12-month period preceding the final 12 months or the highest compensation year as determined for the purpose of calculating average final compensation, but excluding the final 12 months. Any compensation received in the final 12 months of employment in excess of such limit shall not be subject to member or employer contributions to the retirement system and shall not be considered in the computation of average final compensation. Provided that, the annual compensation limit for members of governmental defined benefit pension plans under section 401(a)(17) of the United States Internal Revenue Code of 1986, as amended, shall apply to earnable compensation for all employees, teachers, permanent firemen, and permanent policemen who first become eligible for membership in the system on or after July 1, 1996. Earnable compensation shall not include compensation in any form paid later than 120 days after the member's termination of employment from a retirement eligible position.***

224:162 Applicability; Earnable Compensation. For members of the retirement system who were in active status immediately prior to the effective date of section 161 of this act, the provisions of RSA 100-A:1, XVII as amended by section 161 of this act shall not apply until January 1, 2012.

224:163 Retirement System; Definitions; Average Final Compensation. Amend RSA 100-A:1, XVIII to read as follows:

XVIII. "Average final compensation" shall mean:

***(a) For members who have attained vested status prior to January 1, 2012, the average annual earnable compensation of a member during his or her highest 3 years of creditable service, or during all of the years in his or her creditable service if less than 3 years. For purposes of this calculation, the inclusion of the average annual compensation for extra and special duty in the 3 years shall not exceed the average annual amount of compensation for extra and special duty paid to the member over the member's last 7 years or over all of the years in his or her creditable service if less than 7 years.***

***(b) For members who commenced service on or after July 1, 2011 or who have not attained vested status prior to January 1, 2012, the average annual earnable compensation of a member during his or her highest 5 years of creditable service, or during all of the years in his or her creditable service if less than 5 years. For purposes of this calculation, inclusion of compensation in each of the highest 5 years which is in excess of the full base rate of compensation paid as determined by the employer shall not exceed the average annual amount of compensation over base pay paid to the member over all the member's years of service on or after January 1, 2012, but excluding the highest 5 years.***

224:164 Maximum Initial Benefit. Amend RSA 100-A:6-a to read as follows:

100-A:6-a Maximum Retirement Benefit. Notwithstanding any other provision of this chapter to the contrary, for members who commenced service before July 1, 2009, a member's initial calculation of the retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed 100 percent of the member's highest year of earnable compensation. ~~[For members who commenced service on or after July 1, 2009, a member's maximum retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed \$120,000.]~~ ***For members who commenced service on or after July 1, 2009 or have***

***not attained vested status prior to January 1, 2012, a member's maximum retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed the lesser of 85 percent of the member's average final compensation or \$120,000.***

Nothing in this section shall affect the ability of a member to receive disability benefits pursuant to RSA 100-A:6, II(b) and (c). This provision shall not limit the application of supplemental allowances [~~under RSA 100-A:41-a~~].

224:165 State Employees; Medical and Surgical Benefits; Eligibility. Amend RSA 21-I:30 to read as follows:

21-I:30 Medical and Surgical Benefits.

I. The state shall pay a premium for each state employee and permanent temporary or permanent seasonal employee as defined in RSA 98-A:3 including spouse and minor, fully dependent children, if any, and each retired employee, as defined in paragraph II of this section, and his or her spouse, or retired employee's beneficiary, only if an option was taken at the time of retirement and the employee is not now living, toward group hospitalization, hospital medical care, surgical care and other medical benefits plan or a self-funded alternative within the limits of the funds appropriated at each legislative session and providing any change in plan or vendor is approved by the fiscal committee of the general court prior to its adoption. Funds appropriated for this purpose shall not be transferred or used for any other purpose.

II. For the purposes of this section, "retired employee" means each group I state employee who:

(a)(1) Has at least 10 years of creditable service for the state if the employee's service began prior to July 1, 2003 or 20 years of creditable service if the employee's service began on or after July 1, 2003 ***and prior to July 1, 2011***, and who also is at least 60 years of age at the time of retirement; or

***(2) Has at least 20 years of creditable service if the employee's service began on or after July 1, 2011, and who also is at least 60 years of age at the time of retirement, provided the employee shall not be eligible to receive benefits under this section until attaining 65 years of age; or***

(b) Has at least 30 years of creditable service for the state at the time of retirement ***if the employee's service began prior to July 1, 2011***, regardless of the employee's age; or

(c) Is but for the provisions of 1989, 376:10, otherwise eligible to receive medical and surgical benefits under this section notwithstanding subparagraphs (a) and (b), and paragraph IV, on June 30, 1989, and who retires between July 1, 1989, and June 30, 1994; or

(d) Dies or retires and is eligible for accidental death or accidental disability retirement benefits, regardless of the state employee's age or number of years of creditable service; or

(e) Retires and is eligible for ordinary disability retirement benefits, regardless of the state employee's age; or

(f) Dies and is eligible for ordinary death retirement benefits, if the state employee was eligible for service retirement at the time of his ***or her*** death, if the state employee had at least 10 years of creditable service for the state if the employee's service began prior to July 1, 2003 or 20 years of creditable service if the employee's service began on or after July 1, 2003.

II-a. For the purposes of this section, “retired employee” also means each group II state employee who:

(a) Retires if the employee’s state service began prior to July 1, 2010 or who retires with at least 20 years of creditable service for the state if the employee’s state service began on or after July 1, 2010; or

(b) Dies or retires and is eligible for accidental death or accidental disability retirement benefits, regardless of the state employee’s age or number of years of creditable service; or

(c) Retires and is eligible for ordinary disability retirement benefits, regardless of the state employee’s age; or

(d) Dies and is eligible for ordinary death retirement benefits, if the state employee was eligible for service retirement at the time of his or her death, if the state employee had at least 20 years of creditable service for the state if the employee’s state service began on or after July 1, 2010.

III. Any vested deferred state retiree may receive medical and surgical benefits under this section if the vested deferred state retiree is eligible. To be eligible, a group I vested deferred state retiree shall have at least 10 years of creditable service with the state if the employee’s service began prior to July 1, 2003 or 20 years of creditable service with the state if the employee’s service began on or after July 1, 2003 and a group II vested deferred state retiree shall have at least 20 years of creditable service with the state if the employee’s service with the state began on or after July 1, 2010. In addition, if the vested deferred state retiree is a member of group I, such retiree shall be at least 60 years of age to be eligible. If the vested deferred state retiree is a member of group II ***who is in vested status before January 1, 2012***, such retiree shall not be eligible until 20 years from the date of becoming a member of group II and shall be at least 45 years of age, ***and any group II member who commenced service on or after July 1, 2011 shall not be eligible until 25 years from the date of becoming a member of group II and shall be at least 50 years of age, and group II members who have not attained vested status prior to January 1, 2012 shall be as provided in the transition provisions in RSA 100-A:5, II(d).***

IV. Each state employee who has at least 10 years of creditable service for the state if the employee’s service began prior to July 1, 2003 or 20 years of creditable service if the employee’s service began on or after July 1, 2003 ***and prior to July 1, 2011***, and who elects to take a reduced service retirement allowance shall be defined as a “retired employee” for the purposes of being eligible to receive medical and surgical benefits under this section when the state employee reaches age 60.

V. No state employee who terminates his or her state service before he or she becomes eligible for retirement benefits as a “retired employee” as defined under paragraphs II-IV shall be eligible for medical and surgical benefits under this section.

***VI. A state employee who commences service on or after July 1, 2011 and who is eligible for benefits under this section shall not receive such benefit until attaining age 52.5 if the state employee retired from group II service with the state or attaining age 65 if the state employee retired from group I service with the state.***

224:166 Service Retirement Benefits. Amend RSA 100-A:5 to read as follows:



## 100-A:5 Service Retirement Benefits.

### I. Group I Members.

(a) Any group I member may retire on a service retirement allowance upon written application to the board of trustees setting forth at what time, not less than 30 days nor more than 90 days subsequent to the filing thereof, the member desires to be retired, provided the member at the time so specified for retirement has attained age 60 and notwithstanding that during such period of notification the member may have separated from service. For the purposes of this section, a teacher member of group I who remains in service throughout a school year shall be deemed to be in service during July and August at the end of such school year. ***Provided, however, that a group I member who commenced service on or after July 1, 2011 shall not receive a service retirement allowance until attaining the age of 65; but may receive a reduced allowance after age 60 if the member has at least 30 years of creditable service where the allowance shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 65 years of age, by 1/4 of one percent.***

(b) Upon service retirement, an employee member or teacher member of group I shall receive a service retirement allowance which shall consist of a member annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement, and a state annuity. Prior to the member's attainment of age 65, the state annuity, together with the member annuity, shall be equal to 1/60 of the member's average final compensation multiplied by the number of years of creditable service. After attainment of age 65, the state annuity, together with the member annuity, shall be equal to 1/66 of the member's average final compensation multiplied by the number of years of creditable service. ***Provided, however, that a group I member who commenced service on or after July 1, 2011 shall not receive a service retirement allowance until attaining the age of 65; but may receive a reduced allowance after age 60 if the member has at least 30 years of creditable service where the allowance shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 65 years of age, by 1/4 of one percent.***

(c) Notwithstanding any other provision of law, any group I member ***who commenced service prior to July 1, 2011*** who meets the requirements of RSA 100-A:10, I(a), and who has either completed at least 20 years of creditable service which, when combined with his ***or her*** age equals at least 70 years, or who has attained the age of 50, but not the age of 60, may elect to retire and have benefits commence immediately as a reduced service retirement allowance upon written application to the board of trustees setting forth the time, not less than 30 days nor more than 90 days subsequent to the filing thereof, at which the member desires to have benefits commence. The service retirement allowance shall be determined in accordance with RSA 100-A:5, I(b) and shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 60 years of age, by 1/8 of one percent if the member has 35 years or more of creditable service, by 1/4 of one percent if the member has 30 years but less than 35 years of creditable service, by 1/3 of one percent if the member has at least 25 years but less than 30 years of creditable service, by 5/12 of one percent if the member has at least 20 years but less than 25 years of creditable service, and by 5/9 of one percent if the member has less than 20 years of creditable service.

(d) [Repealed.]

### II. Group II Members.

(a) Any group II member in service, ***who is in vested status before January 1, 2012***, who has attained age 45 and completed 20 years of creditable service, ***and any group II member who commenced service on or after July 1, 2011 who has attained age 50 and completed 25 years of creditable service, and group II members who have not attained vested status prior to January 1, 2012 as provided in the transition provisions in RSA 100-A:5, II(d), or any group II member in service*** who has attained age 60 regardless of the number of years of creditable service, may retire on a service retirement allowance upon written application to the board of trustees setting forth at what time not less than 30 days nor more than 90 days subsequent to the filing thereof the member desires to be retired, notwithstanding that during such period of notification the member may have separated from service. ***Provided, however, that a group II member who commenced service on or after July 1, 2011 shall not receive a service retirement allowance until attaining the age of 52.5; but may receive a reduced allowance after age 50 if the member has at least 25 years of creditable service where the allowance shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 52.5 years of age, by 1/4 of one percent.***

(b) Upon service retirement, a group II member shall receive a service retirement allowance which shall consist of:

(1) A member annuity which shall be the actuarial equivalent of his ***or her*** accumulated contributions at the time of retirement; and

(2) ***For members who are in vested status before January 1, 2012***, a state annuity which, together with his ***or her*** member annuity, shall be equal to 2-1/2 percent of his ***or her*** average final compensation multiplied by the number of years of his ***or her*** creditable service not in excess of 40 years, ***or for members who commenced service on or after July 1, 2011, a state annuity which, together with his or her member annuity, shall be equal to 2 percent of his or her average final compensation multiplied by the number of years of his or her creditable service not in excess of 42.5 years, and group II members who have not attained vested status prior to January 1, 2012 shall be as provided in the transition provisions in RSA 100-A:5, II(d) with the maximum number of years of creditable service not in excess of 40.5 years.***

(3) ***Provided, however, that a group II member who commenced service on or after July 1, 2011 shall not receive a service retirement allowance until attaining the age of 52.5; but may receive a reduced allowance after age 50 if the member has at least 25 years of creditable service where the allowance shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 52.5 years of age, by 1/4 of one percent.***

(c)(1) Notwithstanding any provision of RSA 100-A to the contrary, any group II member who ***is in vested status before January 1, 2012*** and has retired on or after the effective date of this subparagraph after attaining the age of 45 with at least 20 years of creditable service, ***and any group II member who commenced service on or after July 1, 2011 and retires after the effective date of this subparagraph after attaining the age of 50 with at least 25 years of creditable service, and group II members who have not attained vested status prior to January 1, 2012 who qualify as provided in the transition provisions in RSA 100-A:5, II(d)***, shall receive a minimum annual service retirement allowance of \$10,000. If such group II member has elected to convert the retirement allowance into an optional allowance for the surviving spouse under RSA 100-A:13, the surviving spouse shall be entitled to a proportional share of the \$10,000.

(2) [Repealed.]

(3) [Repealed.]

***(d) Active group II members who commenced service prior to July 1, 2011 and who have not attained vested status prior to January 1, 2012 shall be subject to the following transition provisions for years of service required for regular service retirement, the minimum age for regular service retirement, and the multiplier used to calculate the retirement annuity, which shall be applicable on or after January 1, 2012 according to the following table:***

**Creditable service Minimum years of service Minimum age attained Annuity multiplier**

**on January 1, 2012**

***(1) Less than 4 years 24 age 49 2.1%***

***(2) At least 4 years but 23 age 48 2.2%***

***less than 6 years***

***(3) At least 6 years but 22 age 47 2.3%***

***less than 8 years***

***(4) At least 8 years but 21 age 46 2.4%***

***less than 10 years***

224:167 Ordinary Disability Retirement; Group II. Amend RSA 100-A:6, II(b) to read as follows:

(b) Upon ordinary disability retirement, the group II member shall receive an ordinary disability retirement allowance which shall consist of: a member annuity which shall be the actuarial equivalent of his ***or her*** accumulated contributions at the time of his ***or her*** ordinary disability retirement; and a state annuity which, together with his ***or her*** member annuity, ***for members who are in vested status before January 1, 2012***, shall be equal to 2-1/2 percent of his ***or her*** average final compensation at the time of [his] ordinary disability retirement multiplied by the number of years of his ***or her*** creditable service not in excess of 40 at the time of [his] ordinary disability retirement, ***or for members who commenced service on or after July 1, 2011, shall be equal to 2 percent of his or her average final compensation at the time of ordinary disability retirement multiplied by the number of years of his or her creditable service not in excess of 42.5 at the time of ordinary disability retirement, and group II members who have not attained vested status prior to January 1, 2012 shall be as provided in the transition provisions in RSA 100-A:5, II(d) with the maximum number of years of creditable service not in excess of 40.5 years*** provided, however, that such allowance shall not be less than 25 percent of the member's final compensation at the time of his ***or her*** disability retirement.

224:168 Accidental Disability Retirement; Group II. Amend RSA 100-A:6, II(d) to read as follows:

(d) Upon accidental disability retirement, the group II member shall receive an accidental disability retirement allowance equal to  $\frac{2}{3}$  of his **or her** average final compensation at the time of [his] disability retirement.

**(1) For members who are in vested status before January 1, 2012, any group II member who has more than 26- $\frac{2}{3}$  years of service, a supplemental disability retirement allowance shall be paid. Such supplement shall be equal to 2- $\frac{1}{2}$  percent of his or her average final compensation multiplied by the number of years of his or her creditable service in excess of 26- $\frac{2}{3}$  but not in excess of 40 years.**

**(2) For members who commenced service on or after July 1, 2011, any group II member who has more than 33- $\frac{1}{3}$  years of service, a supplemental disability retirement allowance shall be paid. Such supplement shall be equal to 2 percent of his or her average final compensation multiplied by the number of years of his or her creditable service in excess of 33- $\frac{1}{3}$  but not in excess of 42.5 years.**

**(3) For group II members who have not attained vested status prior to January 1, 2012 calculation of the supplemental allowance shall be as provided in the transition provisions in RSA 100-A:5, II(d) with the number of years for the supplement adjusted proportionally.**

224:169 Vested Deferred Retirement. Amend RSA 100-A:10 to read as follows:

100-A:10 Vested Deferred Retirement Benefit.

#### I. Group I Members.

(a) A group I member who has completed 10 years of creditable service and who, for reasons other than retirement or death, ceases to be an employee or teacher shall be deemed in vested status and upon meeting the eligibility requirements of subparagraph (b) may collect a vested deferred retirement allowance. In lieu of a vested deferred retirement allowance, the member may make application on a form prescribed by the board of trustees and receive a return of the member's accumulated contributions under RSA 100-A:11. **Provided, however, that a group I member who commenced service on or after July 1, 2011 shall not receive a vested deferred retirement allowance until attaining the age of 65; but may receive a reduced allowance after age 60 if the member has at least 30 years of creditable service where the allowance shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 65 years of age, by  $\frac{1}{4}$  of one percent.**

(b) At any time after attainment of age 50, a group I member who meets the requirement of subparagraph (a) may make application on a form prescribed by the board of trustees and receive a vested deferred retirement allowance which shall consist of a member annuity which shall be the actuarial equivalent of the member's accumulated contributions on the date of retirement and a state annuity which, together with the member annuity, shall be equal to either the service retirement allowance payable under RSA 100-A:5, I(a) and I(b) or the reduced early service retirement allowance payable under RSA 100-A:5, I(c), based on the member's age when the vested deferred retirement allowance begins and on the member's average final compensation and creditable service at the time service is terminated.

**Provided, however, that a group I member who commenced service on or after July 1, 2011 shall not receive a vested deferred retirement allowance until attaining the age of 65; but may receive a reduced allowance after age 60 if the member has at least 30**

*years of creditable service where the allowance shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 65 years of age, by 1/4 of one percent.*

## II. Group II Members.

(a) A group II member who has completed 10 years of creditable service and who, for reasons other than retirement or death, ceases to be a permanent policeman or permanent fireman shall be deemed in vested status and upon meeting the eligibility requirements of subparagraph (b) may collect a vested deferred retirement allowance. In lieu of a vested deferred retirement allowance, the member may make application on a form prescribed by the board of trustees and receive a return of the member's accumulated contributions under RSA 100-A:11. ***Provided, however, that a group II member who commenced service on or after July 1, 2011 shall not receive a vested deferred retirement allowance until attaining the age of 52.5; but may receive a reduced allowance after age 50 if the member has at least 25 years of creditable service where the allowance shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 52.5 years of age, by 1/4 of one percent.***

(b) ***For members who are in vested status before January 1, 2012, upon the member's attainment of age 45, provided the member would then have completed 20 years of creditable service, otherwise the subsequent date on which such 20 years would have been completed, or for members who commenced service on or after July 1, 2011, upon the member's attainment of age 50, provided the member would then have completed 25 years of creditable service, otherwise the subsequent date on which such 25 years would have been completed, and group II members who have not attained vested status prior to January 1, 2012 shall be as provided in the transition provisions in RSA 100-A:5, II(d), or at any time after age 60, a group II member who meets the requirement of subparagraph (a) may make application on a form prescribed by the board of trustees and receive a vested deferred retirement allowance which shall consist of: (1) A member annuity which shall be the actuarial equivalent of accumulated contributions on the date the member's retirement allowance commences; and (2) A state annuity which, together with the member annuity, shall be equal to a service retirement allowance based on the member's average final compensation and creditable service at the time the member's service is terminated. Provided, however, that a group II member who commenced service on or after July 1, 2011 shall not receive a vested deferred retirement allowance until attaining the age of 52.5; but may receive a reduced allowance after age 50 if the member has at least 25 years of creditable service where the allowance shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 52.5 years of age, by 1/4 of one percent.***

224:170 Split Benefits; Minimum Age. Amend RSA 100-A:19-b, II to read as follows:

II.(a) For a member ***who is in vested status before January 1, 2012 and***, who has completed 20 or more years of combined creditable service, one year shall be deducted from age 60 for each year of creditable group II service, provided that the age shall not be less than 45 years.

(b) ***For a member who commenced service on or after July 1, 2011 and who has completed 25 or more years of combined creditable service, one year shall be deducted from age 60 for each year of creditable group II service, provided that the age shall not be less than 50 years, and provided that a the member shall not be eligible to***

*receive a retirement allowance until attaining the age of 52.5.*

*(c) For members who have not attained vested status prior to January 1, 2012, minimum age shall be as provided in the transition provisions in RSA 100-A:5, II(d) with one year deducted from age 60 to not less than the adjusted minimum age.*

224:171 Split Benefits; Reduced Early Retirement. Amend RSA 100-A:19-d to read as follows:

100-A:19-d Reduced Early Retirement. Notwithstanding any other provision of law, any retirement system member who has creditable service in both group I and group II with at least 10 years combined creditable service, and who has attained an age which is at least 45 *for members who are in vested status with group II service before January 1, 2012 or at least 50 for members who commenced group II service on or after July 1, 2011, and group II members who have not attained vested status prior to January 1, 2012 shall be as provided in the transition provisions in RSA 100-A:5, II(d)*, and is within 10 years of the minimum age set forth in RSA 100-A:19-b, may elect to retire and have benefits commence immediately as a reduced split-benefit service retirement allowance. Application shall be as provided in RSA 100-A:5, I(c). The allowance shall be determined as a split-benefit service retirement allowance in accordance with RSA 100-A:19-c, and the total combined split-benefit service allowance shall be reduced by the percentages shown in RSA 100-A:5, I(c), based on the total combined length of creditable service, for each month by which the date on which benefits commence precedes the month after which the member attains the minimum age set forth in RSA 100-A:19-b.

224:172 Financing; Member Contribution Rates; Group II Member Payroll Deduction. Amend RSA 100-A:16, I(a) to read as follows:

(a) The member annuity savings fund shall be a fund in which shall be accumulated the contributions deducted from the compensation of members to provide for their member annuities together with any amounts transferred thereto from a similar fund under one or more of the predecessor systems. Such contribution shall be, for each member, *and except as provided in RSA 100-A:16, II-a*, dependent upon the member's employment classification at the rate determined in accordance with the following table:

~~(1) [Employees of employers other than the state 5.00~~

~~Employees of the state hired on or before June 30, 2009 5.00~~

~~Employees of the state hired after June 30, 2009 7.00~~

~~Teachers 5.00]~~

**Group I members, 7.00**

~~(2) [Permanent Policemen 9.30~~

~~Permanent Firemen 9.30]~~

**Group II permanent fireman members, 11.80**

**Group II permanent police members, 11.55**

**(aa)** The board of trustees shall certify to the proper authority or officer responsible for

making up the payroll of each employer, and such authority or officer shall cause to be deducted from the compensation of each member, except group II members ***who are in vested status before January 1, 2012*** with creditable service in excess of 40 years, ***and group II members who commenced service on or after July 1, 2011 or who have not attained vested status prior to January 1, 2012 with creditable service in excess of 42.5 years*** as provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), on each and every payroll of such employer for each and every payroll period, the percentage of earnable compensation applicable to such member. No deduction from earnable compensation under this paragraph shall apply to any group II member ***who is in vested status before January 1, 2012*** with creditable service in excess of 40 years, ***and any group II member who commenced service on or after July 1, 2011 or who have not attained vested status prior to January 1, 2012 with creditable service in excess of 42.5 years*** as provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), and this provision for such members shall not affect the method of determining average final compensation as provided in RSA 100-A:1, XVIII. In determining the amount earnable by a member in a payroll period, the board may consider the rate of compensation payable to such member on the first day of a payroll period as continuing throughout the payroll period and it may omit deduction from compensation for any period less than a full payroll period if such person was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed 1/10 of one percent of the annual earnable compensation upon the basis of which such deduction is made. The amounts deducted shall be reported to the board of trustees. Each of such amounts, when deducted, shall be paid to the retirement system at such times as may be designated by the board of trustees and credited to the individual account, in the member annuity savings fund, of the member from whose compensation the deduction was made.

224:173 New Paragraph; Alternative Contribution Calculation. Amend RSA 100-A:16 by inserting after paragraph II the following new paragraph:

II-a.(a) Notwithstanding the method of calculating member and employer contributions under this section, if for any year the board of trustees certifies that within a member classification the employer rates determined under paragraph III have lowered to require them to be equal to the member rates under paragraph I, then for all subsequent years following such certification the employer rates and the members rates for such member classification shall continue to be equal whether the system liabilities increase or decrease.

(b) The provisions of subparagraph (a) shall not take effect and shall be inapplicable to the retirement system calculation of contribution rates under this section if such provisions of subparagraph (a) would violate the requirements set forth in U.S. Treasury Regulation 1.401-1.

224:174 Retirement System; Administration; Membership of Board. Amend RSA 100-A:14, I to read as follows:

I. The administration of this system is vested in a board of [14] **13** trustees. Each newly appointed or reappointed trustee shall have familiarity with or experience in finance or business management. The state treasurer shall be an ex officio voting member of the board. The governor and council shall appoint [2] **4** trustees, to be known as nonmember trustees, who shall be qualified persons with investment and/or financial experience as provided in this paragraph and not be members of the system, and who shall serve for a term of 2 years and until their successors are appointed and qualified. The nonmember trustees of the board shall have substantial experience in the field of institutional investment or finance, taking

into account factors such as educational background, business experience, and professional licensure and designations. The original appointment of ~~[one of]~~ the nonmember trustees shall be ~~[for a term of one year]~~ **made to provide for staggered terms.** The remaining ~~[11]~~ 8 members of the board shall consist of ~~[2 employees, 2 teachers, 2 permanent policemen, 2 permanent firemen, one member of the senate who shall be appointed annually by the senate president, one member of the house of representatives who serves on the executive departments and administration committee and who shall be appointed annually by the speaker of the house, and one person representing management in local government. Whenever a vacancy occurs, the senate president or the speaker of the house shall fill the vacancy in the same manner by appointing a senate or a house member who shall serve for the unexpired term.]:~~ **one employee member, one teacher member, one permanent police member, one permanent fireman member, and 4 employer members.** The New Hampshire state employees' association, the New Hampshire education association, the New Hampshire police association, **and** the New Hampshire state permanent firemen's association~~[-and the New Hampshire Local Government Center]~~ shall each annually nominate from their members a panel of 5 persons, all of whom ~~[except for the panel of the Local Government Center]~~ shall be active members of the retirement system~~[-or one of the 4 predecessor systems]~~, no later than May 31 of each year, and the panels so named shall be filed with the secretary of state no later than June 10 of each year. From ~~[each of]~~ the above named panels the governor and council shall appoint ~~[one person annually to]~~ **the active member trustees of** the board~~[-except for the panel of the Local Government Center, which shall have one person appointed every 2 years]~~ **as needed so as to maintain the representation on the board. The governor and council shall appoint the employer members of the board with one member nominated by the New Hampshire Association of Counties, one member nominated by the New Hampshire Municipal Association, one member nominated by the New Hampshire School Boards Association, and one member to represent management of state employees.** Members appointed to the board in the manner aforesaid shall serve for a term of 2 years. Each member so appointed shall hold office until his or her successor shall be appointed and qualified. Whenever a vacancy occurs, the governor and council shall fill the vacancy by appointing a member who shall serve for the unexpired term ~~[from the same panel from which the former member was appointed]~~. The governor shall designate one of the nonmember trustees to serve as chairman of said board of trustees.

224:175 New Paragraph; Board of Trustees; Report to General Court. Amend RSA 100-A:14 by inserting after paragraph VII the following new paragraph:

VII-a. The board of trustees shall submit a report each quarter by January 1, April 1, July 1, and October 1, to the chairpersons of the house and senate executive departments and administration committees. Such report shall describe recent board actions including any changes to actuarial assumptions and investment returns.

224:176 Medical Benefits Subsidy; Payment by Retirement System. RSA 100-A:52, II is repealed and reenacted to read as follows:

II. For the fiscal year beginning July 1, 2011, the maximum amount payable by the retirement system under this subdivision on account of each person qualified under paragraph I who is not entitled to Medicare benefits, shall be \$375.56 per month, and on account of each person qualified under paragraph I who is entitled to Medicare benefits, shall be \$236.84 per month. The rate payable under this paragraph shall not be increased.

224:177 Retirement System Membership. Amend RSA 100-A:3, I to read as follows:



I.(a) Any person who becomes an employee, teacher, permanent policeman, or permanent fireman after the date of establishment, working in a position for an employer under this chapter as determined by common law standards, shall become a member of the retirement system as a condition of employment. ***In addition, employees appointed to an unclassified position with no fixed term on or after July 1, 2011 shall become members of the retirement system as a condition of employment, if they are receiving benefits from the retirement system. Any retirement benefit collected by such an unclassified employee shall be suspended during the period of employment. Membership in the retirement system*** [~~; except that membership~~] shall be optional in the case of elected officials, officials appointed for fixed terms, [~~unclassified state employees~~] ***employees appointed to an unclassified position with no fixed term prior to July 1, 2011***, or those employees of the general court who are eligible for membership in the retirement system. Elected officials and officials appointed for fixed terms shall, however, be eligible for membership in the retirement system only under the following conditions:

- (1) The office held is a full-time position with eligibility for the same fringe benefits as other full-time employees of the employer;
- (2) The office held is the primary occupation of the person holding the office;
- (3) The base rate of annual compensation for the office held is at least \$15,000, and requires at least 1,700 hours of employment; and
- (4) The official satisfies the condition under subparagraphs (1)-(3) by using only one elected or appointed office to qualify.

(b) Any employee who is currently an employee of the general court who works on a full-time basis and who is eligible for other state benefits, but whose salary was or is calculated on a per diem basis shall be eligible to exercise those buy-back provisions set forth in RSA 100-A:3, VI(a), (b), and (c) for such previous service, only if the employee is currently a member in the retirement system.

(c) [Repealed.]

***(d) The option in subparagraph (a) shall not be available in the case of any newly created positions for unclassified employees or officials whether appointed with fixed terms or with no fixed terms nor in the case of any newly appointed positions created by political subdivisions after July 1, 2011.***

224:178 New Paragraph; Retirement System; Part Time; Group I and Group II. Amend RSA 100-A:1 by inserting after paragraph XXXIII the following new paragraph:

XXXIV. "Part-time," for purposes of employment of a retired member of the New Hampshire retirement system, but excepting per diem court security officers and court bailiffs, means employment by an employer depending on the group classification of the employment as follows:

- (a) For group I, part-time employment of the retired member shall not exceed 32 hours in a normal calendar week; except for group I employment which in some instances may exceed 32 hours in any normal calendar week. In such case the part-time employment of the retired member shall not exceed 1,300 hours in a calendar year, so long as such part-time employment does not occur outside of a 5-consecutive-month period in any 12-month period.

(b) For group II, part-time employment of the retired member shall not exceed 32 hours in a normal calendar week; except for group II employment which in some instances may exceed 32 hours in any normal calendar week. In such case the part-time employment of the retired member shall not exceed 1,300 hours in a calendar year, so long as such part-time employment does not occur outside of a 5-consecutive-month period in any 12-month period.

224:179 Credit of Interest. Amend RSA 100-A:16, II(g) to read as follows:

(g) All interest and dividends earned on the funds of the retirement system shall be credited to the state annuity accumulation fund. The board of trustees shall allow interest ~~[at such rate or rates as it shall determine from time to time]~~ on the individual accounts of members in the member annuity savings fund and shall annually transfer such interest amount from the state annuity accumulation fund. ***The rate of interest shall be 2 percentage points less than either the most recent board of trustees approved 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) as approved and accepted by the board of trustees by December 1 of each year, provided the rate shall not be less than zero.*** Such interest shall be compounded at an annual rate and shall be prorated and credited to the member annuity savings fund to the date of processing upon termination of active service for any reason including withdrawal, retirement, or death.

224:180 Management of Funds; Investment Committee. Amend RSA 100-A:15, I to read as follows:

I. The members of the board of trustees shall be the trustees of the several funds created hereby and shall set the investment policy relative to those funds. The independent investment committee shall have full power to invest and reinvest such funds in accordance with the policy set by the board. The board of trustees ***and the members of the independent investment committee*** shall have the powers, privileges, and immunities of a corporation. The independent investment committee shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created hereby have been invested, as well as the proceeds of such investments in accordance with the policy set by the board. All of the assets and proceeds, and income therefrom, of the New Hampshire retirement system, and all contributions and payments made thereto, shall be held, invested, or disbursed in trust.

224:181 Independent Investment Committee Amend RSA 100-A:15, IX to read as follows:

IX. The non-trustee members of the independent investment committee shall be afforded the same liability insurance ~~[and]~~, indemnification, ***and statutory protections*** as board members.

224:182 Additional Temporary Supplemental Allowance; 2012 Added. Amend RSA 100-A:41-d, III to read as follows:

III. The supplemental allowance in this paragraph shall apply only for the fiscal years beginning July 1, 2008 up to and including the fiscal year beginning July 1, ~~[2011]~~ ***2012***. In addition to paragraphs I and II, any retired member of the New Hampshire retirement system or any of its predecessor systems or any beneficiary of such retired member who is receiving an allowance, except for a retired state member, or his or her beneficiary, whose medical benefits are paid by the state pursuant to RSA 21-I, who is receiving a medical benefit subsidy

payment under RSA 100-A:52 or RSA 100-A:52-a, shall be entitled to receive an additional supplemental allowance, in addition to the provisions of RSA 100-A:41-a, on the retired member's latest anniversary date. The amount of the additional temporary supplemental allowance under this paragraph shall be \$500 for retirees taking a one-person medical benefit and \$1,000 for retirees taking a 2-person medical benefit, paid from the respective component of the special account. Provided, however that no 2-person subsidy recipient may receive more than \$1,000 per year under this paragraph, and that once a recipient is entitled to Medicare, the additional allowance under this paragraph shall be reduced to 60 percent of the non-Medicare eligible retiree amounts.

224:183 Transfer of Balance of Special Account. Except for funds necessary to comply with the requirement of RSA 100-A:41-d, III as amended by this act, any funds remaining in the special account as of June 30, 2011 as determined on a generally accepted accounting principles basis shall be transferred to the respective components of the state annuity accumulation fund effective June 30, 2011.

224:184 Study Committee Established; Voluntary Defined Contribution Plan. There is established a committee to study the establishment of a federal tax qualified voluntary defined contribution plan.

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.

III. 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.

IV. 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, 2011.

224:185 Study Committee Established; Disability, Medical Subsidy, COLAs. There is established a committee to study retirement system matters related to disability retirement, medical subsidies, and cost of living adjustments or supplemental allowances.

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.

III. 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.

IV. 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, 2011.

224:186 Repeal. The following are repealed:

I. RSA 100-A:6, III(b)(3), relative to the group II accidental disability beneficiary exception from gainful occupation reduction.

II. RSA 100-A:4-b, relative to group I employees and teachers purchase of credit for out-of-state service.

III. RSA 100-A:4-c, relative to group II members purchase of credit for out-of state service.

224:187 Severability. If any provision of this act or the application of such provision to any person or circumstance is held invalid or is deemed not to comply with applicable law or regulations of the Internal Revenue Service so as to jeopardize the retirement system's status as a qualified governmental pension plan, the invalidity or noncompliance does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

224:188 Retirement System; Recalculation of Employer Rates; Recertification.

Notwithstanding the notice requirements of RSA 100-A:16, III, the board of trustees of the retirement system shall recalculate employer contribution rates for the state fiscal years 2012 and 2013 to reflect the requirements of amendments to RSA 100-A in the 2011 legislative session. The recalculation shall be based on the demographic and economic assumptions as disclosed in the June 30, 2010 valuation issued November 24, 2010 by the New Hampshire retirement system actuary. Such recalculation shall not use a changed assumed rate of return until fiscal year 2014. Notwithstanding the notice requirements of RSA 100-A:16, III, such employer contribution rates shall be effective as soon as possible following July 1, 2011 as approved by the board of trustees. The recertification of employer contribution percentages by the board shall be effective when provided to each employer within a reasonable period of time not to exceed 30 days from the approval of the recalculation by the board of trustees, as amended by section 174 of this act, after July 1, 2011. The exception to the notice requirements of RSA 100-A:16, III in this section shall be limited to the applicable employer contribution rates for the biennium beginning July 1, 2011.

224:189 Contingency; Retirement System Changes. If SB 3-FN-A-LOCAL of the 2011 legislative session becomes law then sections 160-173 and 175-187 of this act shall not take effect and sections 15, 16, and 30 of SB 3-FN-A-LOCAL shall not take effect.

224:190 New Paragraph; Retirement System; Subcommittees of the Board of Trustees; Meetings. Amend RSA 100-A:14-a by inserting after paragraph V the following new paragraph:

VI. Notwithstanding RSA 91-A or any other law to the contrary, subcommittee members shall be permitted to participate in subcommittee meetings by telephone, provided that any

subcommittee member so participating shall be able to be heard by and to hear every other member of the subcommittee participating in the meeting and, unless the subcommittee is meeting in a nonpublic session as permitted by RSA 91-A:3, shall be able to be heard by all members of the public attending the meeting. Voting members of any subcommittee participating by telephone shall be treated as present at the meeting for all purposes, including the establishment of a quorum. Any meeting at which one or more subcommittee members are participating by telephone shall be recorded verbatim by magnetic tape or otherwise, and such recording shall be made available for public inspection to the same extent as minutes of the meeting, provided that the accidental destruction of a recording or the accidental failure to record any meeting shall not invalidate any action taken at that meeting.

224:191 Retirement System, Employer Contributions; Non-State Employees; Fiscal 2012 Contribution; State Share Eliminated Fiscal Year 2013. Amend RSA 100-A:16, II(b) and (c) to read as follows:

(b) The contributions of each employer for benefits under the retirement system on account of group II members shall consist of a percentage of the earnable compensation of its members to be known as the "normal contribution," and an additional amount to be known as the "accrued liability contribution;" provided that ***beginning with state fiscal year 2013 and for each state fiscal year thereafter***, any employer~~[- other than the state, shall pay 70 percent of such total contributions for state fiscal year 2010, and 30 percent thereof shall be paid by the state for state fiscal year 2010, and that beginning with state fiscal year 2011 any employer, other than the state, shall pay 75 percent of such total contributions, and 25 percent thereof shall be paid by the state, and that beginning with state fiscal year 2012, and every state fiscal year thereafter, any employer, other than the state, shall pay 65 percent of such total contributions, and 35 percent thereof shall be paid by the state; and provided that, in the case of compensation attributable to extra or special duty, the employer]~~ shall pay the full amount of such total contributions~~[- and provided further that, in case of group II members employed by the state, the state shall pay both normal and accrued liability contributions]~~. The rate percent of such normal contribution, including contributions on behalf of group II members whose group II creditable service is in excess of 40 years, in each instance shall be fixed on the basis of the liabilities of the system with respect to the particular members of the various member classifications as shown by actuarial valuations, except as provided in subparagraphs (h) and (i).

(c) The contributions of each employer for benefits under the retirement system on account of group I members shall consist of a percentage of the earnable compensation of its members to be known as the "normal contribution," and an additional amount to be known as the "accrued liability contribution;" provided that~~[- in the case of teachers]~~ ***beginning with state fiscal year 2013 and for each state fiscal year thereafter***, any employer~~[- other than the state, shall pay 70 percent of such total contributions for state fiscal year 2010, and 30 percent thereof shall be paid by the state for state fiscal year 2010, and that beginning with state fiscal year 2011 any employer, other than the state, shall pay 75 percent of such total contributions, and 25 percent thereof shall be paid by the state, and that beginning with state fiscal year 2012, and every state fiscal year thereafter, any employer, other than the state, shall pay 65 percent of such total contributions, and 35 percent thereof shall be paid by the state; and provided further that in case of teacher members employed by the state the state]~~ shall pay both normal and accrued liability contributions. The rate percent of such normal contribution in each instance shall be fixed on the basis of the liabilities of the system with respect to the particular members of the various member classifications as shown by actuarial valuation, except as provided in subparagraphs (h) and (i).

***(c-1) For state fiscal year 2012, the contributions of each employer for benefits under the retirement system on account of group II and group I teacher members of employers other than the state shall be calculated as provided in subparagraphs (b) and (c) provided that the state shall pay \$3,500,000 of such total contributions.***

224:192 Statutory Construction; Publication of Notice. Amend RSA 21:32 to read as follows:

21:32 Publication of Notice; ***Publication for Statewide Circulation.***

***I.*** By the words “publish,” “published,” “publishing,” or “publication,” when notice is required or permitted to be given by publication, shall be intended publication in a newspaper circulated in the vicinity, and the publication shall be for 3 weeks successively, and the last publication one week, at least, before the day or thing of which notice is given, unless otherwise specially provided.

***II.*** The terms “publication of daily statewide circulation,” “publication of general statewide circulation,” or “publication in a newspaper of statewide circulation” regarding any requirement of any executive branch state agency, board, department, or official to provide notice under state law in respect to any real or personal property, act, event, hearing, or other occurrence, by advertisement or notice, shall mean publication of such notice at the offices of the agency, board, department, or official; prominently on a publicly accessible Internet site maintained by the agency, board, department, or official; and in any local or regional publication circulated where the real or personal property is located or where the act, event, hearing, or other occurrence is to take place, all in accordance with the time frame for notice prescribed by law.

224:193 New Section; Rest Areas and Welcome Centers. Amend RSA 12-A by inserting after section 43-a the following new section:

12-A:43-b Rest Areas and Welcome Centers.

***I.*** The department of resources and economic development shall be responsible for the staffing of rest areas and welcome centers along the state’s highways. There is established in the department a bureau of visitor service to administer this function. The commissioner may consult with the local chambers of commerce relative to said function, and shall have the authority to enter into contracts with private or public entities for said function as the commissioner deems appropriate.

***II.*** Notwithstanding paragraph I, the department of transportation and the liquor commission may undertake and/or participate in the development of new welcome centers in Hooksett on the northbound and southbound lanes of Interstate Route 93 as authorized by the legislature.

224:194 Repeal. RSA 228:106, relative to the bureau of visitor service, is repealed.

224:195 Flood Control; Reimbursement to Cities and Towns. Amend RSA 122:4 to read as follows:

122:4 Reimbursement to Cities and Towns.

***I.*** On a date not later than 30 days following the establishment and approval of tax rates for each city and town affected by and subject to the provisions of this chapter, the state treasurer shall pay to each town and city in which any taxable real estate or interest therein has been

acquired under this chapter by the United States and thus become tax exempt for such year, a sum equal to the taxes which would have been assessed against the real estate or interest therein in such town or city if the same had been included in the list of taxable property as proposed by the commissioner of revenue administration in RSA 122:6. For land acquired by the United States under this chapter, reimbursement shall be made upon a valuation determined as provided herein on a permanently continuing basis, and if growing wood and timber was taxable as real estate on the date of acquisition by the United States of the land on which it stood, it shall be deemed to be land hereunder. For all artificial improvements on land acquired by the United States under this chapter, including buildings, structures and other artificial real estate fixtures of any kind, reimbursement shall be made upon a valuation determined initially as provided herein and thereafter annually reduced by 2-1/2 percent so that at the end of 40 years reimbursement therefor shall have terminated. On land and improvements thereon acquired by the United States under this chapter the initial assessed valuation of the land and improvements for purposes of reimbursement shall be the locally assessed valuation thereon for the tax year in which acquired as adjusted by the assessors and the commissioner of revenue administration acting as a joint board, so as to make such valuation proportional to the value of all other property in such town or city subject to taxation. For purposes of this section the joint board may subdivide such assessment equitably between land and improvements thereon or between real estate acquired and that not acquired, if the official assessment was not thus subdivided. The valuations of improvements thus determined shall thereafter be annually reduced over a 40-year period as above provided. On land, and artificial improvements, the valuations initially established as above provided in a town or city shall be reviewed by the commissioner at least once in every 5 years and more frequently if reasonably necessary and be changed as necessary to make them proportional with the assessed value of all other taxable property in such town or city. The amount of the reimbursement due to each town and city hereunder shall be determined by the commissioner and certified by it to the state treasurer not later than 30 days following the establishment and approval of the tax rates of each town and city under this chapter. The commissioner shall reduce the amount of reimbursement thus determined by any amount paid or due that town or city for that year by or from the United States, another state, an interstate flood control agency or other source, because of such loss of taxable valuation. The governor is authorized to draw [his] **a** warrant for the payment of such reimbursements out of any money in the treasury not otherwise appropriated. Provided, however, that reimbursement payments for loss of taxes on account of the acquisition of railroad or public utility property shall be reduced to the extent that such railroad or public utility property is relocated and reconstructed in the same town or city as a result of such acquisition, and thereby is included to that extent in the list of taxable property in said town or city as relocated.

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

224:196 Assistant Director of Document Processing Deleted. Amend RSA 21-J:5, IV to read as follows:

IV. The commissioner shall appoint an assistant director for each division. Assistant division directors shall be classified employees, except for the assistant director of audits ~~[and the assistant director of document processing]~~, who shall be *an* unclassified ~~[employees]~~ *employee*.

224:197 Unclassified Salaries. Amend RSA 94:1-a, I(b) by deleting:

FF Department of revenue administration director of document processing

224:198 Document Processing Division. Amend RSA 21-J:12 to read as follows:

21-J:12 Document Processing Division. There is established within the department the division of document processing~~[, under the supervision of an unclassified director of document processing who shall be responsible]~~ for processing all tax returns filed with the department.

224:199 Equalization Standards Board; Administrative Merger. Beginning on July 1, 2011, the administrative and business processing functions of the equalization standards board under RSA 21-J:14-c shall be merged with and performed by the assessing standards board under RSA 21-J:14-a.

224:200 Governor's Commission on Disability; Client Assistance Program; Contingent Transfer of Appropriation. The appropriation for the administration of the client assistance program that is received by the governor's commission on disability pursuant to 29 U.S.C. section 732 for fiscal years 2012 and 2013 shall be transferred to the New Hampshire Disability Rights Center upon certification by the governor to the commissioner of administrative services that the program has been redesignated to the New Hampshire Disability Rights Center. If the redesignation occurs and the governor's certification is made after July 1, 2011, the unexpended portion of the appropriation shall be transferred.

224:201 Penalty Assessment; Waiver of Penalty. Amend RSA 188-F:31, IV as follows:

IV. The clerk of each court shall collect all penalty assessments and shall transmit the amount collected under paragraphs I-III to the state treasurer for deposit in the following funds. The state treasurer shall deposit ~~[54.17]~~ **66.66** percent of the amount collected in the police standards and training council training fund, 16.67 percent of the amount collected in the victims' assistance fund, *and* 16.67 percent of the amount collected in the judicial branch information technology fund.

224:202 Compensation and Benefit Cost Reductions. For the biennium ending June 30, 2013, the governor shall reduce total appropriations for compensation and/or benefits for classified employees in any department, as defined in RSA 9:1, by not less than \$20,000,000 in fiscal year 2012 and not less than \$50,000,000 for the biennium, of which the general fund component shall be not less than \$20,000,000. If a plan for compensation and/or benefit reductions is not implemented as a result of negotiations with employees by September 1, 2011, the governor shall implement other compensation and/or benefit reduction measures or personnel reductions not later than December 1, 2011.

224:203 Department Budgets; Transfer of Federal Funds. For the biennium ending June 30, 2013, in order to maximize the use of federal grant funds and to avoid lapsing such funds where changes in the state or federal accounting systems, changes in federal grant guidelines, or overestimation or underestimation of funds required in various class codes due to program



needs or requirements have occurred subsequent to the passage of the budget, every department as defined in RSA 9:1 is hereby authorized, for the biennium ending June 30, 2013, subject to the prior approval of the fiscal committee of the general court and the approval of governor and council, to transfer funds in or out of any class code and to create new class codes within federally funded areas of the department's operating budget so long as such transfers do not result in an overexpenditure of any grant.

224:204 Use of Federal Grants. In order to maximize the use of federal grant funds and not lapse such funds, every department as defined in RSA 9:1 is hereby authorized to carry forward budgeted appropriation balances in class from federal grants for the duration of that federal grant award from one state fiscal year to the following fiscal years subject to the approval of the commissioner of administrative services.

224:205 Rehiring of Laid Off Classified State Employees.

I. For purposes of this section, "laid off" means any person in a classified position as described in RSA 21-I:49 who receives written notice of the state's intent to lay him or her off or who is laid off between July 1, 2011 and June 30, 2013, as a result of reorganization or downsizing of state government.

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

III. The head of each department or agency shall submit the name and classification of any individual laid off between July 1, 2011 and June 30, 2013, to the director of the division of personnel within 10 days of the layoff.

224:206 Freeze of Executive Branch Hiring, Purchases, and Out-of-State Travel.

I. Except as provided in paragraph II, all full-time classified and unclassified employee positions funded in whole or in part by the general fund which are vacant on July 1, 2011 or become vacant after that date shall remain vacant until June 30, 2013 with the exception of direct care, custodial care, and law enforcement positions. The appropriation for each such position shall lapse to the salary adjustment fund under RSA 99:4 and the employee benefit adjustment account under RSA 9:17-c, as applicable. No general fund moneys appropriated for class 30 equipment or appropriated for out-of-state travel shall be expended or encumbered on or after July 1, 2011.

II. Individual exceptions to any of these provisions may be requested by any department in writing to the governor. Any exception granted by the governor shall be transmitted to the fiscal committee of the general court at its next meeting.

III. For the biennium ending June 30, 2013, no purchases shall be submitted or processed which require a standard requisition order form (P4) or an agency requisition form (P28), pursuant to purchase and property rules and procedures adopted by the department of administrative services, if the purchases are funded in whole or in part with general funds, with the exception of purchases for food, drugs, fuel, medical supplies, or items necessary under emergency conditions that are required for the continued operation of a department. The commissioner of administrative services shall have the authority to determine whether

there exists an emergency condition at any department that necessitates the purchase of items.

224:207 General Fund Balance. Notwithstanding RSA 9:13-e, II, any budget surplus for the close of the fiscal biennium ending June 30, 2011 shall not be deposited in the revenue stabilization reserve account but shall remain in the general fund.

224:208 Department of Information Technology; Technical Support Services, Regional Support Services. The department of information technology shall not discontinue desktop support services to any executive branch agency, except at the request of the agency. Agencies shall use funds as appropriated for the provision of information technology services to that agency.

224:209 Transfers Authorized to Fund Information Technology Related Projects. Notwithstanding any provision of law to the contrary, departments, agencies, and branches may transfer moneys from any class line, except from personnel and benefit class lines, within their approved budgets to class line 027 to fund information technology related projects which would not otherwise be funded.

224:210 Department of Information Technology; Transfers Among Accounts. Notwithstanding the provisions of RSA 9:17-a or any other provision of law to the contrary, the department of information technology may, subject to the approval of the fiscal committee of the general court, transfer funds within and among all accounting units within said department as necessary for the efficient management of the department.

224:211 Method of Financing; Unfunded Accrued Liability. Amend RSA 100-C:13, III(d) to read as follows:

(d) Immediately following the actuarial valuation prepared under paragraph I, the board shall have an actuary determine the amount of the unfunded accrued liability as the amount of the total liabilities of the state annuity accumulation fund which is not dischargeable by the total of the funds in hand to the credit of the state annuity accumulation fund, and the normal contributions to be made on account of the members during the remainder of their active service. The amount so determined shall be known as the "unfunded accrued liability." On the basis of the unfunded accrued liability, the board shall have an actuary determine the level annual contribution required to discharge such amount over a period of ~~[20 years from the date of implementation of this chapter]~~ **30 years from January 1, 2010 or the maximum period allowed by standards adopted by the Government Accounting Standards Board, whichever is less.**

224:212 Judicial Retirement Plan; Recalculation and Recertification of Employer Rate. Notwithstanding the requirements of RSA 100-C:13, I, the board of trustees of the judicial retirement plan shall direct the plan's actuary to recalculate the employer contribution rate for the state fiscal years 2012 and 2013 to reflect the requirements of RSA 100-C:13, III(d) as amended by section 211 of this act. Such recalculated employer contribution rate shall be recertified by the board of trustees to the judicial branch and shall be used by the judicial branch for state fiscal years 2012 and 2013 until the next biennial valuation.

224:213 Department of Justice; Outside Counsel. Notwithstanding any law to the contrary, for the biennium ending June 30, 2013, when seeking outside counsel on a new matter, the department of justice shall retain only outside counsel whose business office is located within New Hampshire. If the attorney general determines the counsel necessary for a specific type

of litigation is not available in this state, the attorney general shall request from the fiscal committee of the general court authorization to retain counsel whose business office is not located in New Hampshire.

224:214 Vital Records Improvement Fund; Transfers to General Fund. Notwithstanding RSA 5-C:15, the department of state shall transfer \$400,000 in the fiscal year ending June 30, 2012 and \$400,000 in the fiscal year ending June 30, 2013 from the special fund for the improvement and automation of vital records at the state and local levels established in RSA 5-C:15, also known as the vital records improvement fund, to the general fund.

224:215 Department of Cultural Resources, Federal Funding. It is the intent of the general court that the department of cultural resources review the federal program guidelines for which it receives federal dollars to support library programs and seek to amend its 5-year plan to use funding that had been designated to support 3 of the interlibrary vans for other purposes. Furthermore, the review shall include a determination of programs or services the department could offer using federal library program funds. The department shall file a report of its findings with the house finance committee on or before November 30, 2011.

224:216 Distribution of Rooms and Meals Tax; Division of Travel and Tourism Development. Notwithstanding any other provision of law, for the biennium ending June 30, 2013, the state treasurer shall suspend the distribution of net income pursuant to RSA 78-A:26, I(a)(2) credited to the department of resources and economic development, division of travel and tourism development.

224:217 Legislative Branch; Special Account; Transfer to the General Fund.

I. For fiscal year 2011, after applying the reductions authorized by SS 2010, 1:30 and 2010, 4, all unexpended and unencumbered appropriations of the legislative branch, except the state house visitor's center revolving fund established pursuant to RSA 17-E:7 shall be transferred to a special legislative account and any amount in the account in excess of \$3,000,000 shall be transferred to the general fund.

II. The legislative accountant shall allocate the original \$3,000,000 special legislative account into 4 separate and equal subaccounts. Individual subaccounts shall be established for the senate, the house of representatives, the joint offices, and the office of legislative budget assistant. Beginning in fiscal year 2012 and each year thereafter all unexpended and unencumbered appropriations shall be transferred to the appropriate subaccount. Any subaccount with a balance in excess of \$750,000 at the end of the fiscal year shall transfer the excess to the general fund.

III. Funds may be transferred from the senate's subaccount with prior approval of the senate subcommittee established pursuant to RSA 17-E:5. Funds may be transferred from the house of representatives' subaccount with prior approval of the house subcommittee established pursuant to RSA 17-E:5. Funds may be transferred from the joint offices' subaccount with prior approval of the joint committee on legislative facilities established pursuant to RSA 17-E:1. Funds may be transferred from the office of legislative budget assistant's subaccount with prior approval of the fiscal committee of the general court established pursuant to RSA 14:30-a.

224:218 Salaries. RSA 548:17 is repealed and reenacted to read as follows:

548:17 Salaries. The annual salary of the registers of probate shall be \$100 per year.

224:219 Judicial Appointments; Number Limited; Vacancies.

I. Except as provided in paragraph II, for the biennium ending June 30, 2013 the number of judges serving on the superior court shall not exceed 18 and the number of full-time judges serving on the circuit court shall not exceed 28.

II. For the biennium ending June 30, 2013:

(a) An existing marital master position may be converted to a judge position if such conversion can be made within the limits of the judicial branch operating budget and is approved by the fiscal committee of the general court.

(b) If a marital master retires or resigns, the vacant marital master position shall be filled by a judge, if such position can be filled within the limits of the judicial branch operating budget and is approved by the fiscal committee of the general court. The filling of a marital master position by a judge shall increase the authorized number of circuit court judges allowed under paragraph I for each position so filled.

224:220 Navigation Safety Fund. Amend RSA 270-E:6-a to read as follows:

270-E:6-a Navigation Safety Fund. There is established the navigation safety fund which shall be ~~[nonlapsing and]~~ continually appropriated to the department of safety, division of ~~[safety services]~~ **state police**. The state treasurer may invest moneys in the fund as provided by law and all interest received on such investment shall be credited to the fund. The fund shall only be used to promote the safety of navigation and the administration and enforcement of RSA 270, RSA 270-B, RSA 270-D, and RSA 270-E. ***Any balance remaining in the navigation safety fund at the close of each fiscal year shall lapse to the general fund.***

224:221 Fines Paid by Mail; General Fund. Amend RSA 262:44, I to read as follows:

I. Such defendant shall receive, in addition to the summons, a uniform fine schedule entitled "Notice of Fine, Division of Motor Vehicles" which shall contain the normal fines for violations of the provisions of title XXI on vehicles for which a plea may be entered by mail. The defendant shall be given a notice of fine indicating the amount of the fine plus penalty assessment at the time the summons is issued; except if, for cause, the summoning authority wishes the defendant to appear personally. Defendants summoned to appear personally shall do so on the arraignment date specified in the summons, unless otherwise ordered by the court. Defendants who are issued a summons and notice of fine and who wish to plead guilty or nolo contendere shall enter their plea on the summons and return it with payment of the fine plus penalty assessment to the director of the division of motor vehicles within 30 days of the date of the summons. The director of the division of motor vehicles may accept payment of the fine by credit card in lieu of cash payment. Any transaction costs assessed by the issuer of the credit card shall be paid out of the portion of the fine amount which is credited ~~[as agency income]~~ **to the general fund** and not out of the penalty assessment charged by the district court. The director of the division of motor vehicles shall remit the penalty assessments collected to the police standards and training council for deposit in the police standards and training council training fund and to the state treasurer to be credited and continually appropriated to the victims' assistance fund and the judicial branch information technology fund in the percentages and manner prescribed in RSA 188-F:31. Fines shall be paid over to the state treasurer, and shall be credited ~~[as agency income by the department of safety]~~ **to the general fund** within 14 days of their receipt.

224:222 Legislation Granting Rulemaking Authority. Amend RSA 14:39-a to read as follows:

14:39-a Legislation Granting Rulemaking Authority. Any member of the house of representatives or senate proposing legislation which includes provisions granting rulemaking authority to any agency as defined in RSA 541-A:1, II, shall include an explanation of the intent for the proposal relative to the parameters under which rulemaking authority under RSA 541-A may be used. Rulemaking provisions in proposed legislation shall not grant broad authority for the adoption of rules, including general authority to implement a program *or to adopt fees*, but shall specify the issues to be addressed by rules *and the amount of any fee*.

224:223 Carnival-Amusement Operators Rules. Amend RSA 321-A:2 to read as follows:

321-A:2 Rules. The commissioner shall adopt rules, ~~[in consultation with the amusement ride advisory board and]~~ pursuant to RSA 541-A, for the safe installation, repair, maintenance, use, operation, and inspection of all carnival or amusement rides, air supported structures, and amusement attractions, as covered by this chapter, for the protection of the general public. The rules shall be based upon generally accepted engineering standards, formulas, and practices.

224:224 Reference Changed. RSA 321-A:1, IV is repealed and reenacted to read as follows:

IV. "Department" means the department of safety.

224:225 Drug-Free School Zones; Penalty Assessment. Amend RSA 193-B:7 to read as follows:

193-B:7 Penalty Assessment~~[- Sign Fund]~~.

~~[I.] In addition to the penalties imposed under RSA 193-B:6, I and RSA 318-B:26, V, every court shall levy a penalty assessment of \$100 for an offense in violation of RSA 193-B:2. [Such penalty assessment shall be used to provide and replace drug-free school zone signs.~~

~~II. There is created the drug-free school zone sign fund in the department of education to be administered by the commissioner of education.] The clerk of each court shall collect all penalty assessments and, notwithstanding RSA 6:11, shall transmit the amount collected [under paragraph I designated for the drug-free school zone sign fund to the department of education] **to the general fund.**~~

224:226 Repeal. RSA 6:12, I(b)(212), relative the drug-free school zone sign fund, is repealed.

224:227 Special Education; State Aid. Amend RSA 186-C:18, IV to read as follows:

IV. The state shall appropriate [\$300,000] **an amount** for each fiscal year to assist special education programs that are statewide in their scope, and that meet the standards for such programs established by the state board of education. Funds under this paragraph shall be administered and distributed by the state board of education through the commissioner.

224:228 Committee Established.

I. There is established a committee to study the relationship between the department of education and local education authorities.

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

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

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

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

IV. The committee shall study the relationship between the department of education and local education authorities, including a review of the methodology of determining tuition rates for career and technical education programs and the role of state funding in that determination process. The committee shall identify and recommend legislation for changes in that relationship in order to realize savings at the state level, the local level, or both. The committee may solicit information and testimony from those with experience or expertise relevant to the study.

V. 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. Three members of the committee shall constitute a quorum.

VI. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2011.

224:229 Transfer of Marine Patrol from Department of Safety, Division of Safety Services, to the Division of State Police.

I. Notwithstanding any provision of law to the contrary, all of the functions, positions, powers, duties, responsibilities, and funding of the department of safety, division of safety services, relative to the marine patrol bureau shall be transferred to the division of state police. The transfer provided in this section shall include all of the equipment, books, papers, and records related to marine patrol functions.

II. All existing rules, statutory responsibilities, regulations, and procedures relating to the marine patrol in effect, in operation, or adopted in or by the department of safety are transferred to the division of state police, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

224:230 New Subparagraph; State Police; Duty Added; Marine Patrol. Amend RSA 21-P:7, I by inserting after subparagraph (f) the following new subparagraph:

(g) Carrying out the duties assigned to the marine patrol bureau.

224:231 Saltwater Fishing License; Fees. Amend RSA 214:9, XVI(e) to read as follows:

(e) The following fees shall apply:

(1) [~~\$15~~] **\$10** for resident and nonresident individuals.

(2) [~~\$75~~] **\$50** for charter boats and other for-hire vessels, except party boats.

(3) [~~\$150~~] **\$100** for party boats.

## 224:232 Committee Established.

I. There is established a committee to study funding options for the police standards and training council and the department of safety, division of fire standards and training and emergency medical services, including the option of charging attendees an amount for tuition.

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

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

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

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

III. The committee shall study various funding options for the police standards and training council and the department of safety, division of fire standards and training and emergency medical services, including the option of charging attendees an amount for tuition. The committee may solicit information and testimony from those with experience or expertise relevant to the study.

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

V. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2011.

224:233 Fish and Game Department; Divisions Established. For the biennium ending June 30, 2013, there are established the following divisions, as defined in RSA 21-G, within the fish and game department:

I. The marine division, as specified in RSA 211:65.

II. The fisheries division.

III. The wildlife division.

IV. The business division.

V. The facilities and lands division.

VI. The law enforcement division.

VII. The public affairs division.

VIII. The office of the executive director.

224:234 Reference Deleted. Amend RSA 12-A:23, VIII to read as follows:

VIII. Encourage law enforcement personnel [~~and personnel within the division of safety~~

services] to assist, whenever possible, the traveling public by providing them with a hospitable reception and appropriate information.

224:235 Reference Deleted. Amend RSA 12-G:52-b, VI to read as follows:

VI. Nothing in this section shall be construed to limit, restrict, or modify in any way authority granted to the commissioner of safety or the director of [safety services] **state police** to remove or impound boats or moorings pursuant to RSA 270 or RSA 270-B.

224:236 Report and Budget. Amend RSA 21-P:10-b to read as follows:

21-P:10-b [~~Division of Safety Services~~] Report and Budget.

I. The department of safety shall submit as part of the annual report required under RSA 20:7, a report on [~~the training and educational programs offered or contracted by the division of safety services,~~] the revenue generated from safe boater education certificates[, and the budget and revenue projections of the division].

II. In conjunction with the operating budget of the department of safety, the department shall submit a budget for the biennium beginning July 1, 2003, and for each biennium thereafter, which shall include [~~financial responsibility for and the costs of all training and educational programs offered or contracted by the division of safety services,~~] the revenue generated from safe boater education certificates[, and all revenues and expenditures of the navigation safety fund established in RSA 270-E:6-a.

224:237 Compensation of Certain State Officers; Salaries Established. Amend RSA 94:1-a, I(b) as follows:

Delete:

FF Department of safety director of safety services

224:238 Reference Deleted. Amend RSA 153:9 to read as follows:

153:9 Assistants; Clerical. Subject to the state personnel regulations, and within the limits of available appropriations and funds, the [~~director of safety services,~~] department of safety[, ] shall furnish such additional clerical and secretarial assistants as may be necessary to carry out the duties and functions of the state fire marshal.

224:239 Endangered Wildlife Species. Amend RSA 212-A:5, IV to read as follows:

IV. The executive director [~~and the director of safety services~~] may [~~independently or in concert~~] adopt and enforce rules temporarily restricting boat traffic on any waters of this state as [~~either~~] **the executive** director deems necessary to protect any threatened or endangered species of wildlife in the earliest stages of life.

224:240 Reference Deleted. Amend RSA 225-A:1-a to read as follows:

225-A:1-a Administratively Attached. The passenger tramway safety board shall be an administratively attached agency, under RSA 21-G:10, to the department of safety[, ~~division of safety services~~].

224:241 Reference Deleted. Amend RSA 225-A:2, II to read as follows:



II. “Department” means the department of safety~~[-division of safety services]~~.

224:242 Passenger Tramway Safety Board. Amend RSA 225-A:3-a to read as follows:

225-A:3-a Passenger Tramway Safety Board. There shall be a passenger tramway safety board of 4 appointive members ~~[and the director of safety services ex-officio]~~. The appointive members shall be appointed by the governor, with the advice and consent of the council, from persons representing the following interests: one member who operates a “surface lift” as ~~[defined]~~ **described** in RSA 225-A:2, I(e)-(g) only and one member from the cable and other passenger carrying devices industry, and in making such appointments consideration shall be given to recommendations made by members of the industry, so that both the devices which pull skiers riding on skis and the devices which transport passengers in cars or chairs shall have proper representation; one member to represent the public at large; and one member to represent insurance companies which engage in insuring passenger tramway operations, and in appointing such member consideration shall be given to recommendations made by such insurance companies. The authority of such board shall not extend to any other matter relative to the operation of a ski area.

224:243 Reference Changed. Amend RSA 270:1-a, I to read as follows:

I. The operator of a vessel who knows or reasonably should have known that he or she has just been involved in any accident that involved death, personal injury, or damage to property, shall immediately stop said vessel at the scene of the accident, render any assistance that he or she is capable of giving to the occupants of any other vessel involved in the accident, and give the operator or owner of any other vessel involved in such accident, and to any person injured, and to the owner of any property damaged, the operator’s name and the owner’s name and address, the vessel registration number, and the name and address of each occupant. If by reason of injury or absence or removal from the place of the accident or other cause, such injured person, or operator of such other vessel, or owner of the property damaged, or any of them, is unable to understand or receive the information required in this section, such information shall be given to any marine patrol officer or other police officer with jurisdiction arriving at the scene of the accident or immediately to a marine patrol officer or other police officer at the nearest police station or at marine patrol headquarters. Any person operating a vessel that is in any manner involved in the accident shall, within 15 days after such accident, report in writing to the ~~[division]~~ **department** of safety ~~[services]~~ the facts required hereunder together with a statement of the circumstances if any person is injured or killed or if damage to property is in excess of \$2,000. If the operator is physically or mentally incapable of making such report, the owner of the vessel involved in the accident or the owner’s representative shall, after learning of the accident, forthwith make such report. The operator or the owner shall furnish to the ~~[division]~~ **department** such relevant information as the ~~[division]~~ **department** shall require.

224:244 Reference Changed. Amend RSA 270:1-b to read as follows:

270:1-b Penalty. Whoever fails to file the reports required by RSA 270:1-a, I or otherwise fails to comply with the requirements relating to injury to property, or relating to the report to be made to the ~~[division]~~ **department**, shall be guilty of a class A misdemeanor if a natural person, or guilty of a felony if any other person. Whoever fails to comply with the requirements when death or personal injury resulted or whoever gives information required knowing or having reason to believe that such information is false, or fails to comply with any of the other requirements thereof shall be guilty of a class B felony.

224:245 Reference Changed. Amend the introductory paragraph of RSA 270:12-a, I to read as follows:

I. The director of [~~the division of safety services~~] **state police** and his or her duly authorized representatives shall have all the powers of a peace officer in all counties in the state in the enforcement of:

224:246 Reference Changed. Amend RSA 270:12-a, I-a to read as follows:

I-a. The director of [~~safety services~~] **state police** and his **or her** duly authorized representatives shall be authorized to call upon any peace officer to render assistance to them in the performance of their duties and shall render assistance to any peace officer having jurisdiction in the area when so requested.

224:247 Reference Changed. Amend RSA 270:12-a, III to read as follows:

III. The director of [~~the division of safety services~~] **state police** shall adopt rules pursuant to RSA 541-A prescribing the type and amount of training required for his **or her** duly authorized representatives to perform their duties under this section.

224:248 Reference Changed. Amend RSA 270:12-c, I to read as follows:

I. The commissioner of safety may establish a force of individuals to assist the director of [~~safety services~~] **state police** and the marine patrol officers to patrol the various bodies of water in the state. Any person that patrols any water body on behalf of the department shall either be a certified marine patrol officer or an auxiliary officer appointed under the provisions of this section.

224:249 Reference Changed. Amend RSA 270:26, IV(a) to read as follows:

IV.(a) Any person who knowingly places a swim line in any public body of water without first obtaining a permit issued by the director of [~~safety services~~] **state police** shall be guilty of a violation.

224:250 Reference Changed. Amend RSA 270:27 to read as follows:

270:27 Boat Racing. No commercial boat, private boat, or sail boat shall race with another such boat over a predetermined course on any of the public waters of the state unless the course is laid out and marked in a manner satisfactory to the director of [~~safety services~~] **state police** and said race is held under a permit issued by said director to a recognized sponsoring organization stating the date and place of the race.

224:251 Reference Changed. Amend RSA 270:32, III to read as follows:

III. The director of [~~safety services~~] **state police** may prohibit further scuba activity, in addition to the penalties prescribed in either paragraph I or II, until the provisions of RSA 270:31 have been complied with.

224:252 Reference Changed. Amend RSA 270:36, I to read as follows:

I. "Director" means the director of the division of [~~safety services~~] **state police**.

224:253 References Changed. Amend RSA 270:45, II-III to read as follows:

II. Boats involved in or attending a fireworks display, a boat parade, a boat race, or any other such public events as the director of ~~[safety services]~~ **state police** may designate;

III. Boats which have converged at the direction of the director of ~~[safety services]~~ **state police** or the executive director of fish and game or the agents of either in order to protect members of any threatened or endangered species of wildlife which ~~[the director of safety services or]~~ the executive director of fish and game deems to be in immediate danger;

224:254 Reference Changed. Amend the introductory paragraph of RSA 270:46-a, I to read as follows:

I. In addition to any other penalty imposed, any person who is convicted of violating any of the following boating laws or rules of the division of ~~[safety services]~~ **state police** shall be assessed an administrative penalty of \$200 to be paid to the director of ~~[safety services]~~ **state police** who shall forward such sum to the state treasurer for deposit in the navigation safety fund established under RSA 270-E:6-a:

224:255 Reference Changed. Amend RSA 270:46-a, II to read as follows:

II. Any person who pays such penalty and who, within 6 months of conviction, completes at such person's own expense a boat safety classroom course as specified in rules adopted, under RSA 541-A, by the director of ~~[safety services]~~ **state police** shall have his or her \$200 refunded to him or her from the navigation safety fund by the director.

224:256 Reference Changed. Amend the introductory paragraph of RSA 270:46-a, III to read as follows:

III. In addition to any other penalty imposed, any person who is convicted of violating any of the following boating laws or rules of the division of ~~[safety services]~~ **state police**, and who has not already successfully completed an approved boating safety course shall complete a boat safety classroom course, at that person's own expense, within 6 months of conviction. Any person who fails to complete the boat safety classroom course within 6 months may be prevented from reregistering the boat:

224:257 References Changed. Amend RSA 270:59, I-II to read as follows:

I. "Director" means the director, division of ~~[safety services]~~ **state police**, department of safety.

II. "Division" means the division of ~~[safety services]~~ **state police**, department of safety.

224:258 Reference Changed. Amend RSA 270:65 to read as follows:

270:65 Special Exceptions. The division of ~~[safety services]~~ **state police** shall propose rules to develop standards for granting special exceptions for the placement of from 2 to 4 moorings adjacent to a shorefront property. The placement of 5 or more moorings adjacent to a shorefront property shall require approval pursuant to RSA 270:67, I and II.

224:259 References Changed. Amend RSA 270:67, I(a) to read as follows:

(a) The division of ~~[safety services]~~ **state police** shall identify suitable locations for public mooring fields and prioritize the need for the development of such sites. In determining said locations the division of ~~[safety services]~~ **state police** shall recommend each location size and

the configuration of each public mooring field. Further, it shall be determined by the division of ~~[safety services]~~ **state police** that adequate access exists to serve the needs of the users of the public mooring field. Said site proposal shall then be transmitted to the respective political subdivision or subdivisions in which the proposed mooring field is to be located, where a public hearing on said site proposal may be conducted by the division of ~~[safety services]~~ **state police**. The division of ~~[safety services]~~ **state police** shall review all recommendations received and submit their final site proposal to governor and council for approval. All such recommendations shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvement programs of the adjacent municipality.

224:260 References Changed. Amend RSA 270:67, II(a) to read as follows:

(a) The division of ~~[safety services]~~ **state police** may identify suitable locations for congregate mooring fields. In determining said locations the division of ~~[safety services]~~ **state police** shall recommend each location size and the configuration of each congregate mooring field. Further, it shall be determined by the division of ~~[safety services]~~ **state police** that adequate access exists to serve the needs of the users of the congregate mooring field. Said site proposal shall then be transmitted to the respective political subdivision or subdivisions in which the proposed mooring field is to be located, where a public hearing on said proposal may be conducted by the division of ~~[safety services]~~ **state police**. The division of ~~[safety services]~~ **state police** shall review all recommendations received and submit their final proposal to governor and council for approval. All such recommendations shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvement programs of the adjacent municipality.

224:261 Reference Changed. Amend RSA 270:67, II(d) to read as follows:

(d) Operators in charge of maintaining congregate mooring fields may charge no more for the use of a mooring than an amount which reasonably covers the costs of mooring installations and maintenance. Said charges shall be reported to the division of ~~[safety services]~~ **state police** who shall submit an annual report to the governor and council and the general court on all congregate mooring fields.

224:262 Reference Changed. Amend RSA 270:115 to read as follows:

270:115 Connecticut River. The department of safety, division of ~~[safety services]~~ **state police**, shall post at all boat launching sites on the Connecticut River, within the jurisdiction of the state, a speed limit of headway speed within 150 feet of the shoreline. Any person who violates the posted speed limits shall be guilty of a violation.

224:263 Reference Changed. Amend RSA 270:132 to read as follows:

270:132 Silver Lake. The division of ~~[safety services]~~ **state police** shall institute a no wake order encompassing all of Silver Lake whenever the department of environmental services gauging station on Silver Lake measures 467.0 feet or more above sea level. The order shall remain in effect until the measure falls below 467.0 feet.

224:264 Reference Changed. Amend RSA 270-B:3 to read as follows:

270-B:3 Jurisdiction. The director of ~~[safety services]~~ **state police** or his *or her* authorized representatives may impound any such abandoned boat or may order the removal and storage

at a place of safe keeping of any such abandoned boat. All reasonable charges of such impoundment, removal, and storage shall be a lien against the boat.

224:265 Reference Changed. Amend RSA 270-B:3-a to read as follows:

270-B:3-a Improperly Registered or Equipped Boats. Nothing in RSA 270-B:3 shall be construed as limiting the power of the director of ~~[safety services]~~ **state police** or his *or her* authorized representatives to tow any boat which they find being operated without proper registration or equipment, but such boat shall not be considered to be abandoned and the provisions of this chapter relating to impoundment, removal, and storage shall not apply.

224:266 Reference Changed. Amend RSA 270-B:4 to read as follows:

270-B:4 Notification. The director of ~~[safety services]~~ **state police** shall notify the owner, if known, of the fact of such impoundment, removal, and storage. If the abandoned boat is registered in this state, such notification shall be mailed to the person identified as the owner on the registration at the address listed on said registration. If the boat is not so registered, notice shall be placed on file with the director of motor vehicles and published in a newspaper of general circulation.

224:267 Reference Changed. Amend RSA 270-B:7 to read as follows:

270-B:7 Disposal. Upon expiration of the 90-day period identified in RSA 270-B:5, the director of ~~[safety services]~~ **state police** may dispose of any unredeemed boat by destroying such boat or by offering such boat for sale at public auction or the director may retain such boat for use by the state; provided, however, that if the boat is sold or retained, the purchaser or the state, in the event of retention, shall pay the cost of impoundment, removal, and storage, and shall obtain release of the lien described in RSA 270-B:3. Any money received by reason of sale of such abandoned boat at public auction shall be deposited in the state general fund.

224:268 References Changed. Amend RSA 270-D:1, IV-V to read as follows:

IV. "Director" means the director of the division of ~~[safety services]~~ **state police**, department of safety.

V. "Division" means the division of ~~[safety services]~~ **state police**, department of safety.

224:269 Reference Changed. Amend RSA 270-D:2-a to read as follows:

270-D:2-a Boaters Guide. The department of safety, division of ~~[safety services]~~ **state police**, shall publish the New Hampshire Boaters guide.

224:270 Reference Changed. Amend RSA 270-D:3, V to read as follows:

V. No person shall be towed on water skis or other appurtenances unless the person is wearing a Coast Guard approved type 1, 2, or 3 PFD, except when directly participating or competing in an American Water Ski Association approved event or exhibition, authorized by a special permit issued by the director of ~~[safety services]~~ **state police**.

224:271 Reference Changed. Amend RSA 485-A:14, III to read as follows:

III. The lawful owner of a vehicle shall notify the department of safety, division of ~~[safety services]~~ **state police**, if any person is injured or killed in an incident involving a submerged

vehicle.

224:272 Reference Changed. Amend RSA 485-A:14, V to read as follows:

V. Any person who fails to remove a submerged or partially submerged vehicle or container, as required by paragraph I, shall be guilty of a violation. Agents of the department of safety, division of ~~[safety services]~~ **state police**, or any police officer having jurisdiction over the water body, may issue citations for a violation of this section and issue fines of \$500 for each day the vehicle remains in the water.

224:273 Reference Changed. Amend RSA 487:17, II(d) to read as follows:

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

224:274 Repeal. The following are repealed:

I. RSA 21-P:10, relative to division of safety services.

II. RSA 21-P:10-a, relative to director of safety services.

III. RSA 21-P:48, I(ii). relative to membership of advisory council on emergency preparedness and security.

224:275 Department of Safety; Special Assistant to the Commissioner. The commissioner of safety is authorized to retain a special assistant to the commissioner for the purpose of assisting the office of the commissioner with special projects determined by the commissioner. The special assistant shall be a temporary unclassified employee and shall be compensated at grade FF under RSA 94:1-a. The authority under this section shall expire on March 1, 2012.

224:276 Department of Transportation; Use of Contractors. The department of transportation shall manage the highway and bridge betterment program, as defined in RSA 235:23-a, with an emphasis on bidding out the work to contractors and suppliers. Individual projects approaching \$500,000 in value shall be carefully considered for alternate bid procedures for letting and processing the construction. A report detailing project costs, contracting method, and the private contractors, vendors, and suppliers directly involved in the overall construction shall be prepared by the department of transportation, if requested by the house public works and highways committee, and presented to the house public works and highways committee within 6 months of the request.

224:277 Committee Established. There is established a committee to develop a plan to increase the usage of contractors to perform certain duties of the department of transportation, in order to achieve a savings of highway funds.

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

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

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

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

the duties of the committee.

III. The committee shall develop a plan to increase the usage of contractors to perform certain duties of the department of transportation, in order to achieve a savings of highway funds. The committee may solicit information and testimony from those with experience or expertise relevant to the issue including potential contractors and other states with high contractor utilization rates.

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

V. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2011.

224:278 Foster Grandparent Program. The reimbursements to the foster grandparent program through the senior volunteer grant program established in RSA 161-F:40 are hereby suspended for the biennium ending June 30, 2013.

224:279 Department of Health and Human Services; Children in Need of Services. RSA 169-D:2, II is repealed and reenacted to read as follows:

II. "Child in need of services" means a child under the age of 18 with a diagnosis of severe emotional, cognitive, or other mental health issues who engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others and who is otherwise unable or ineligible to receive services under RSA 169-B or RSA 169-C.

224:280 Department of Health and Human Services; Children in Need of Services. Amend RSA 169-D:5, I to read as follows:

I. A petition alleging a child is in need of services may, ***with the consent of the department***, be filed by a parent, legal guardian or custodian, school official, or law enforcement officer with a judge or clerk of the court in the judicial district in which the child is found or resides. The petition shall be in writing and verified under oath. The following notice shall be printed on the front of the petition in bold in no smaller than 14 point font size: "See back for important information and financial obligations." The back of the petition shall include a notice of liability for parents and other individuals chargeable by law for the child's support and necessities.

224:281 Reference To CHINS Definition. Amend RSA 189:36, II to read as follows:

II. A truant officer or school official shall not file a petition alleging that the child is in need of services pursuant to RSA 169-D:2, [H(a)] ***II*** until all steps in the school district's intervention process under RSA 189:34, II have been followed.

224:282 Coverage for Certain Biologically-Based Mental Illnesses. Amend RSA 417-E:1, VI to read as follows:

VI. Nothing in this section shall be construed to affect any obligation to provide services to an individual under an individualized family service plan or an individualized education program, as required under the federal Individuals With Disabilities Education Act, ***the state***

***children's health insurance program authorized by 42 U.S.C. section 1397aa et seq.,*** or the provision of services to an individual under any other federal or state law.

224:283 Coverage for Treatment of Pervasive Developmental Disorder or Autism. Amend RSA 417-E:2, IV to read as follows:

IV. Nothing in this section shall be construed to affect any obligation by a school district or the state of New Hampshire to provide services to an individual under an individualized family service plan or an individualized education program, as required under the federal Individuals With Disabilities Education Act, ***the state children's health insurance program authorized by 42 U.S.C. section 1397aa et seq.,*** or the provision of services to an individual under any other federal or state law.

224:284 Repeal. RSA 170-F, relative to discretionary adoption subsidies for hard to place children, and administrative rule He-C 6438, relative to adoption subsidies, are repealed.

224:285 Department of Health and Human Services; Adoption Assistance Program. The department of health and human services shall administer its adoption assistance program consistent with federal law and regulations and the state's Title IV-E plan for foster care and adoption assistance.

224:286 Assistance Program for 2-Parent Families with Dependent Children; Case-Load Management. Amend RSA 167:77-e to read as follows:

167:77-e Assistance Program for 2-Parent Families with Dependent Children. The department may establish a non-TANF, state-funded financial assistance program for 2-parent needy families with dependent children in which one parent is underemployed or unemployed. With the exception of parental underemployment or unemployment, client eligibility and program requirements and administration shall be in accordance with this chapter and the rules adopted under this chapter. ~~[In order to meet the federal work participation rate and avoid federally imposed penalties, the commissioner may add additional groups of families to this state-funded, financial assistance program as funding permits and also may transfer cases back to the TANF program, pursuant to rules adopted under RSA 541-A.]~~

224:287 Employment Program Eligibility; Case-Load Management. Amend RSA 167:79, I(b) to read as follows:

(b) A needy child who is deprived of parental support or care by reason of unemployment or underemployment of a parent may receive assistance under TANF or under the state-funded assistance program in RSA 167:77-e. ~~[In order to meet the federal work participation rate and avoid federally imposed penalties, the commissioner may add additional groups of families to the state funded assistance program in RSA 167:77-e as funding permits and transfer cases back to the TANF program, pursuant to rules adopted under RSA 541-A.]~~

224:288 Emergency Assistance Program for Aid to Families with Dependent Children. Amend RSA 167:7, V to read as follows:

V. Subject to applicable federal regulations, the commissioner may establish criteria to operate a special needs program, ~~[or to operate an emergency assistance program only for aid to families with dependent children,]~~ subject to the amount of available funds in the budget of the department of health and human services.

224:289 New Paragraph; Public Assistance Eligibility. Amend RSA 167:6 by inserting after



paragraph IX the following new paragraph:

X.(a) For purposes hereof, an individual is ineligible for cash assistance benefits under the aid to the needy blind, aid to the permanently and totally disabled, and old age assistance programs for any month during which he or she is:

(1) Fleeing to avoid prosecution for a crime which is a felony under the laws of the place from which the individual flees, or which, in the case of the state of New Jersey, is a high misdemeanor under the laws of that state; or

(2) Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the state of New Jersey, is a high misdemeanor under the laws of that state; or

(3) Violating any condition of probation or parole imposed under federal or state law.

(b) Suspension of benefit payments because an individual is a fugitive as described in subparagraph (a)(1) or (a)(2) or a probation or parole violator as described in subparagraph (a)(3) is effective on the first day of whichever of the following months is earlier:

(1) The month in which a warrant or order for the individual's arrest or apprehension, an order requiring the individual's appearance before a court or other appropriate tribunal, such as a parole board, or a similar order is issued by a court or other duly authorized tribunal on the basis of an appropriate finding that the individual:

(A) Is fleeing, or has fled, to avoid prosecution as described in subparagraph (a)(1);

(B) Is fleeing, or has fled, to avoid custody or confinement after conviction as described in subparagraph (a)(2);

(C) Is violating, or has violated, a condition of his or her probation or parole as described in subparagraph (a)(3); or

(D) The first month during which the individual fled to avoid such prosecution, fled to avoid such custody or confinement after conviction, or violated a condition of his or her probation or parole, if indicated in such warrant or order, or in a decision by a court or other appropriate tribunal.

(2) If benefits are otherwise payable, they shall be resumed effective on the first month throughout which the individual is determined to be no longer fleeing to avoid such prosecution, fleeing to avoid such custody or confinement after conviction, or violating a condition of his or her probation or parole.

224:290 Department of Health and Human Services; Public Assistance; Definitions. Amend RSA 167:6, VI to read as follows:

VI. For the purposes hereof, a person shall be eligible for aid to the permanently and totally disabled who is between the ages of 18 and 64 years of age inclusive; is a resident of the state; and is disabled as defined in the federal Social Security Act, Titles II and XVI and the regulations adopted under such act, except that the minimum required duration of the impairment shall be 48 months, unless and until the department adopts a 12-month standard in accordance with RSA 167:3-j. In determining disability, the standards for "substantial

gainful activity” as used in the Social Security Act shall apply, including all work incentive provisions including Impairment Related Work Expenses, Plans to Achieve Self Support, and subsidies. ***Notwithstanding any provision of law to the contrary, eligibility for cash assistance and medical assistance shall be conditioned upon the recipient filing an application or applications for any federal cash assistance benefits for which the individual may be entitled and pursuing any appeals available for those federal benefits. Cash assistance shall terminate upon a finding of clinical ineligibility for such federal benefits, except that any individual receiving cash assistance on June 30, 2011 shall only be ineligible for cash assistance upon a second finding of clinical ineligibility. Notwithstanding any provision of the law to the contrary, an individual who appeals the closure of cash assistance, pursuant to RSA 161:4, IV, for the reasons set forth in this paragraph, shall not continue to receive such cash assistance benefits during the pendency of such appeal.*** No person shall be eligible to receive such aid while receiving old age assistance, aid to the needy blind, or aid to families with dependent children.

224:291 Health and Human Services; Drug Rebates, Regular Care. Notwithstanding any provision of law to the contrary, funds collected into revenue source code 407041 Drug Rebates – Regular Care shall be deposited into a restricted revenue account to be used by the department of health and human services for expenditures in accounting unit 05-95-95-956010-6143 Pharmacy Services in an amount not to exceed \$18,851,601 in fiscal year 2012, and \$20,114,823 in fiscal year 2013. Revenue in excess of said amounts shall continue to be deposited as unrestricted revenue into the state general fund.

224:292 Department of Health and Human Services, Outpatient Prospective Payment. The general court recognizes the need for increased transparency and uniformity in the Medicaid hospital outpatient reimbursement methodology. The commissioner of the department of health and human services shall implement a single fee schedule for procedures performed in hospital or non-hospital ambulatory surgical centers as an interim step while awaiting implementation of a hospital outpatient prospective payment methodology. The fee schedule shall reflect non-hospital ambulatory surgical center reimbursement rates in effect as of the effective date of this section. The commissioner shall set the outpatient prospective payment system conversion factor to maintain compliance with 42 U.S.C. section 1396a(a)(30)(A) and RSA 126-A:3, VII(a) and ensuring the Medicaid program pays only the most favorable and acceptable rate for outpatient services. The commissioner shall have authority, consistent with RSA 126-A:3, VII(a), to propose reductions to the conversion factor so as not to exceed the outpatient appropriation for the biennium. In determining the adequacy of the reimbursement rate, the commissioner shall rely upon the findings of the biennial benchmarking report mandated by RSA 126-A:18-b.

224:293 Department of Health and Human Services; Division of Community Based Care, Bureau of Behavioral Health. For the biennium ending June 30, 2013, no state appropriations shall be used by the department of health and human services for contracts with the Dartmouth Psychiatric Research Center or the Behavioral Health Policy Institute.

224:294 Department of Health and Human Services; Position of Medical Director Suspended. The position of medical director established by RSA 135-C:6, VI within the department of health and human services is suspended for the biennium ending June 30, 2013.

224:295 Family Support Services. RSA 126-G, relative to family support services, is hereby suspended for the biennium ending June 30, 2013.

224:296 Funding for Alzheimer's Disease. Suspension. Notwithstanding any provision of law to the contrary, the department of health and human services shall suspend funding for the Alzheimer's disease and related disorders (ADRD) program for the biennium ending June 30, 2013.

224:297 Congregate Housing and Congregate Services. Congregate services provided pursuant to RSA 161-F:37 and congregate housing provided under the Medicaid waiver pursuant to RSA 151-E are hereby suspended for the biennium ending June 30, 2013.

224:298 New Section; Health and Human Services; Sean William Corey Program; Home Health Aide Services for Children who are Medically Fragile or Children with Chronic Illness; Pilot Program. Amend RSA 126-A by inserting after section 4-g the following new section:

126-A:4-h Home Health Aide Services for Children who are Medically Fragile or Children with Chronic Illness; Pilot Program.

I. The parent of a child described in paragraph II may be authorized by the department to provide home health aide services to his or her child if the parent:

- (a) Is employed by a licensed home health agency;
- (b) Is reimbursed through the Medicaid program for the care of his or her child only; and
- (c) Meets the undue hardship standard in paragraph III.

II. A child is eligible for home health aide services if the child is medically fragile or has a chronic illness and such child:

- (a) Is aged birth to 19;
- (b) Has a medical diagnosis of an acute onset medical condition or a chronic medical condition;
- (c) Requires a nursing facility or hospital level of care, as defined in RSA 167:3-g;
- (d) Resides at home; and
- (e) Is determined eligible for the home health aide service through the use of a standardized rating tool developed by the department.

III. The department may authorize reimbursement to a parent providing home health aide services in the case of undue hardship. Subject to approval from the Centers for Medicare and Medicaid Services, this section shall apply only to families whose income is no greater than 200 percent of the federal poverty limit. Such reimbursement shall occur only when the department determines that the needs of the child, the unavailability of appropriate providers or suitable alternative care services, and cost efficiencies make utilization of a parent for the provision of such services necessary and appropriate. Reimbursement shall be limited to care that is medically necessary due to specific health needs and shall not be made for care generally expected and provided by parents to a child of similar age and developmental stage. The department shall not authorize reimbursement to a parent until a plan and rules adopted pursuant to RSA 541-A, are reviewed and approved by the oversight committee on health and human services, established in RSA 126-A:13.

IV. The department shall establish a Medicaid reimbursement rate for home health aide services. Such reimbursement rate shall be based on the current average wage of personal care workers reimbursed through the Medicaid program and the cost of nursing supervision required by federal law for unskilled care. The annual expenditure for such service shall not exceed \$25,000 per child and the home health agency shall not retain more than 10 percent of the Medicaid reimbursement rate received for the home health aide service.

V. No more than 10 Medicaid-eligible children may receive home health aide services under the program at any given time.

VI. The department shall operate the program established in this section as a 3-year pilot program, beginning July 1, 2011, at the end of which time the department shall evaluate its success and recommend its continuation, expansion, or conclusion. The department of health and human services shall provide an annual report on the pilot program to the fiscal committee of the general court. The report shall be filed with the chairperson of the committee by July 1 of each year beginning July 1, 2012.

224:299 Repeal. RSA 126-A:4-h, as inserted by section 298 of this act, is repealed.

224:300 New Subparagraph; Duties; Office of Reimbursements. Amend RSA 126-A:34, I by inserting after subparagraph (f) the following new subparagraph:

(g) Consistent with RSA 126-A:42, II, file a notice of lien with the register of deeds of the county in which the patient or resident of any of the institutions named in RSA 126-A:34 or at a public or private institution owns real property.

224:301 New Paragraph; Recovery of Expenses; Liens Allowed. Amend RSA 126-A:42 by inserting after paragraph I the following new paragraph:

I-a. The department shall file with the register of deeds of the county in which the patient or resident or the spouse of the patient or resident, if any, owns real property, notice of the lien for reimbursement of expenses, as provided in RSA 126-A:37, after providing all owners of the real property known to the department with prior notice and an opportunity for a hearing. Such notice of lien shall contain the names of the patient or resident and that patient's or resident's spouse, if any. All such liens shall continue until released by the department. The register of deeds shall keep a suitable record of such notices of lien without charging any fee therefor and enter on the record an acknowledgment of satisfaction or release upon written request from the department.

224:302 Recovery of Expenses. Amend RSA 126-A:42, III to read as follows:

III. In an action by the state for recovery of the expenses of a patient or resident at any of the institutions named in RSA 126-A:34 who is discharged from the institution, or is dead, the action shall be brought within 6 years after the person's discharge or death. ~~[An action by the state against the estate of a patient or resident or against an estate legally chargeable for expenses as provided in RSA 126-A:37 may not be brought unless the action is commenced within the time allowed for an action against an administrator by RSA 556:5.]~~

***Notwithstanding RSA 556:5 or any other provision of law to the contrary, the administrator of the estate of a patient or resident at any of the institutions named in RSA 126-A:34 or at a public or private institution shall be conclusively presumed to have accepted a claim for reimbursement of expenses as provided in RSA 126-A:37 which is subject to the jurisdiction of the probate court unless, within 12 months from***

***the initial grant of administration, the administrator commences an equitable action in the superior court challenging the validity or amount of the department's claim and lien.***

224:303 New Section; Medical Assistance Recipient; Notice of Petition for Spousal Support. Amend RSA 458 by inserting after section 19-a the following new section:

458:19-b Medical Assistance Recipient; Notice of Petition for Spousal Support.

I. If the petitioner or respondent is a recipient of medical assistance under the state Medicaid program, the petitioner shall serve the department of health and human services with a copy of any petition for spousal support filed under this chapter.

II. The department of health and human services shall have the opportunity to address the court in any proceeding under this section if the court has concerns relative to:

(a) The impact on the recipient of any period of Medicaid ineligibility that would result from the allocation of income or assets;

(b) Whether the ward has been the victim of a crime or has been or is at risk of being abused, neglected, or exploited within the meaning of RSA 161-F:43; or

(c) The cost of the recipient's care to be paid by Medicaid as the result of the proposed allocation of income or assets.

224:304 Estate and Income Planning by Guardian. Amend RSA 464-A:26-a, I and II to read as follows:

I. The probate court may authorize the guardian of the estate to make lifetime gifts, ***to allocate income***, and/or to plan for the testamentary distribution of the ward's estate consistent with the ward's wishes. If the ward's wishes cannot be ascertained, the probate court may authorize the guardian of the estate to plan for the testamentary distribution of the ward's estate in order to minimize taxation or to facilitate distribution of the ward's estate to family, friends, or charities who would be likely recipients of gifts from the ward.

II. Before authorizing a guardian to make lifetime gifts ***or to allocate income***, the probate court shall consider the ward's present and anticipated future expenses for maintenance, support, and medical care, any current or future debts of the ward, and any duty or legal obligation of the ward to support a spouse or dependent family members.

224:305 Estate and Income Planning by Guardian. Amend the introductory paragraph and subparagraphs (a) and (b) of RSA 464-A:26-a, III to read as follows:

III. The guardian of the estate shall petition the probate court for authorization to make lifetime gifts, ***to allocate income***, and/or to plan for the testamentary distribution of the ward's estate. This petition shall include the following information:

(a) A description of the proposed action;

(b) The anticipated results including any income, estate, or inheritance tax savings, and, if the gift is being made in order to qualify the ward for Medicaid, ~~[any resulting]~~ ***whether the action will maximize payments by Medicaid for the ward's care or result in a*** period of Medicaid disqualification;

224:306 Estate and Income Planning by Guardian. Amend RSA 464-A:26-a, VI and VII to read as follows:

VI. The probate court, prior to authorizing a lifetime gift ***or an allocation of income to the ward's spouse***, shall appoint a guardian ad litem if the proposed gift benefits the guardian personally or otherwise creates a potential conflict of interest between the ward's interests and the guardian's personal interests.

VII. The department of health and human services, ***the*** county attorney, and the department of justice shall be notified and shall have the opportunity to address the court in any proceeding under this section if the court has concerns relative to:

(a) The impact on the ward of any period of Medicaid ineligibility that would result from the proposed gift; ~~[or]~~

(b) Whether the ward has been the victim of a crime or has been or is at risk of being abused, neglected, or exploited within the meaning of RSA 161-F:43; ***or***

***(c) The cost of the ward's care to be paid by Medicaid as the result of the proposed gift or income reallocation.***

224:307 Family Planning Accounting Unit; Funding Abortions Prohibited. Notwithstanding any provision of law to the contrary, the appropriation in accounting unit 05-95-90-902010-5530, family planning program, and any other funds shall not be used for evaluation, assessment, consultation about, preparation for, or provision of an abortion.

224:308 New Hampshire Healthy Kids Corporation. Amend RSA 126-H:2 to read as follows:

126-H:2 Corporation Established. There is hereby created a body politic and corporate having a distinct legal existence separate from the state and not constituting a department of state government, to be known as the New Hampshire healthy kids corporation to carry out the provisions of this chapter. The corporation is hereby deemed to be a public instrumentality ~~[and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of public and essential governmental functions of the state. The corporation shall be the program administrator for the state children's health insurance program under Title XXI of the Social Security Act].~~ The corporation shall be a private nonprofit corporation and shall have all the powers necessary to carry out the purposes of this chapter, including, but not limited to, the power to receive and accept grants, loans, or advances of funds from any public or private agency and to receive and accept from any source, contributions of money, property, labor, or any other thing of value, to be held, used, and applied for the purposes of this chapter. ~~[Notwithstanding any other provision of law, any payments made by the corporation for insurance coverage under this chapter, either directly or indirectly, shall be exempt from the premium tax under RSA 400-A:32.]~~

224:309 Healthy Kids Board; Authority to Secure Staff. Amend RSA 126-H:5, I(g) to read as follows:

(g) Secure staff necessary to properly administer the corporation. Staff costs shall be funded from ~~[state funds appropriated by the legislature and such other private or public funds as become]~~ available ***private funds***. The board of directors shall determine the number of staff members necessary to administer the corporation.

224:310 Healthy Kids Board. Amend the introductory paragraph of RSA 126-H:3, I to read as follows:

I. The powers of the corporation shall be vested in ~~[13]~~ **12** members for 3-year terms of office as follows:

224:311 Healthy Kids Board; Membership Terms. Amend RSA 126-H:3, II to read as follows:

II. The ~~[initial]~~ terms of office shall be as follows: the members in subparagraphs I(a), (g), and (j) shall serve for 2 years; the members in subparagraphs I(b), (h), (k), and (m) shall serve for 3 years; and the members in subparagraphs I(c), (i), and (l) shall serve for 4 years. The ~~[other]~~ members in subparagraphs I(d)~~[,]~~ **and** (e) ~~[and (f)]~~ shall serve terms which are coterminous with their terms in office. Two of the 4 members in subparagraph I(n) shall serve for 3 years, one shall serve for 2 years, and one shall serve for 4 years.

224:312 Repeal. The following are repealed:

I. RSA 126-H:3, I(f), relative to the commissioner of the department of health and human services.

II. RSA 126-H:6-a, establishing the healthy kids subcommittee, is repealed.

224:313 Applicability. Sections 308 and 309 of this act shall take effect on the date the commissioner of the department of health and human services certifies to the director of the office of legislative services and the secretary of state that responsibility for the state children's health insurance program has been transferred from the New Hampshire healthy kids corporation to the department's Medicaid managed care program administrator.

224:314 Department of Health and Human Services; Medicaid Managed Care Reporting. The department of health and human services shall provide a detailed update on the status of implementation of the Medicaid managed care program for each meeting of the fiscal committee of the general court until the contracts for Medicaid managed care are approved by the governor and council.

224:315 Reclassification of Positions. For the biennium ending June 30, 2013, the director of the division of personnel shall not approve any reclassification of classified positions which will result in an increase in pay, unless the director obtains a waiver for the specific position from the governor and council.

224:316 Repeal; Meals and Rooms Tax Operator License Renewal Fee. RSA 78-A:4, II, relative to the renewal fee for an operator license for collection of meals and rooms taxes, and the waiver provisions therefor, is repealed.

224:317 Licenses; Transfers of Animals and Birds. Amend RSA 437:3 to read as follows:

437:3 Licenses. Applications for licenses shall be made annually in writing to the department accompanied by a license fee of ~~[\$350]~~ **\$200**. After January 1, the license fee shall be ~~[\$175]~~ **\$100**. If after inspection the department finds that the premises~~[,]~~ **and** cages and facilities thereon meet the proper standards for health and sanitation and that their use will not result in inhumane treatment of said animals or birds, and proof is provided with the application that the zoning enforcement official of the municipality wherein such facility is to be maintained has certified that the facility conforms to the municipal zoning regulations, a license shall be issued. Licenses shall expire on June 30 following issue, and may be renewed

on application to the department accompanied by a renewal fee of [~~\$350~~] **\$200**. Such licenses shall be in the form prescribed by the department, shall be publicly displayed at the premises covered by them, and ***shall be*** adjacent to animal display cages. Each such license shall be subject to revocation at any time by the department, if in the judgment of the department the conditions under which it was issued are not being maintained. Each licensee shall be inspected by an employee of the department or by a person appointed by the department no less frequently than [~~every 6 months~~] ***once a year***. Upon receipt of a written complaint alleging violation of this subdivision, the department shall investigate said complaint within a reasonable time. All license fees shall be deposited in the state treasury.

224:318 Condominium Act; Application Fees. Amend RSA 356-B:51, VII to read as follows:

VII. Each application shall be accompanied by a fee in an amount equal to [~~\$50~~] **\$30** per unit, except that the initial application fee shall be not less than [~~\$600~~] **\$300** nor more than [~~\$5,000~~] **\$2,000**, and the fee for any application for registration of additional units shall be not less than [~~\$400~~] **\$200** nor more than [~~\$5,000~~] **\$2,000**.

224:319 Land Sales Full Disclosure Act; Application Fees. Amend RSA 356-A:5, VII to read as follows:

VII. Every application shall be accompanied by a fee in an amount equal to [~~\$60~~] **\$30** per lot, parcel, unit or interest, except that the initial application fee shall not be less than [~~\$600~~] **\$300** nor more than [~~\$5,000~~] **\$2,000**, and the fee for any application for registration of additional lots, parcels, units or interests shall not be less than [~~\$400~~] **\$200** nor more than [~~\$5,000~~] **\$2,000**.

224:320 Documentation of Marriages; Marriage License Fee. Amend RSA 457:29 to read as follows:

457:29 Marriage License Fee. The fee for the marriage license shall be [~~\$50~~] **\$45** to be paid by the parties entering into the marriage. The clerk shall forward \$38 from each fee to the department of health and human services for the purposes of RSA 173-B:15[~~and \$5 to the state treasurer for deposit in the general fund~~]. The clerk shall retain the remaining \$7 as the fee for making the records of notice, issuing the certificate of marriage, and forwarding the [~~\$43~~] **\$38** portion of the marriage license fee.

224:321 Repeal. The following are repealed:

I. RSA 167:3-h, I-III, relative to coverage of services and certain items under the medical assistance program.

II. RSA 167:3-c, XIV, relative to rulemaking for a review process for medically necessary services.

224:322 Compensation of Certain State Officials; Salaries Established. Amend RSA 94:1-a, I(b) by inserting the following position:

LL Department of information technology commissioner/CIO

224:323 Compensation of Certain State Officials; Salaries Established. Amend RSA 94:1-a, I(b) by inserting the following position:

GG Board of medicine executive director



224:324 Compensation of Certain State Officials; Salaries Established. Amend RSA 94:1-a, I(b) by inserting the following position:

EE Department of state, director and state registrar

224:325 State Veterinarian. Amend RSA 94:1-a, I(b) by:

I. Deleting:

FF Department of agriculture, markets, and food state veterinarian

II. Inserting:

II Department of agriculture, markets, and food state veterinarian

224:326 Pease Development Authority; Skyhaven. Amend RSA 12-G:14, VI to read as follows:

VI. Notwithstanding any other provision of law, all property formerly held by the department of transportation and transferred to the authority, or acquired by the authority pursuant to this chapter, ***including property that is leased to or occupied by a person, other than the authority or any other entity exempted from taxation under RSA 72:23*** is declared to be public property and shall be exempt from all taxes and special assessments of the state or any political subdivision thereof, ***including any property tax assessed by the municipality in which the property is located; provided such property is used for airport or aeronautical related purposes.***

224:327 Suspension. The following are suspended for each fiscal year of the biennium ending June 30, 2013:

I. RSA 167:3-c, III, relative to rulemaking for funeral expenses.

II. RSA 167:11, relative to funeral expenses to recipients of public assistance.

III. RSA 165:20, relative to reimbursement for aid to assisted persons.

224:328 Appropriation; Kindergarten Construction Program; Bonds Authorized.

I. The sum of \$3,700,000 for the biennium ending June 30, 2013 is hereby appropriated to the department of education to provide kindergarten construction funds to a school district which is eligible to receive such funds pursuant to RSA 198:15-r and RSA 198:15-s. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

II. Notwithstanding RSA 198:15-r, I(a) and (b), and for the biennium ending June 30, 2013, the commissioner of the department of education shall disburse not more than \$1,000,000 of the kindergarten construction program funds appropriated in paragraph I of this section to a school district eligible to receive such funds.

III. To provide funds for the appropriation made in paragraph I of this section, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$3,700,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the general fund of the state. The bonds shall be

20-year bonds.

224:329 New Section; Joint Board of Licensure and Certification; Administration. Amend RSA 310-A by inserting after section 1 the following new section:

310-A:1-a Administration of the Joint Board. The administrator of the joint board shall be responsible for:

I. The performance of the administrative, clerical, and business processing responsibilities of the boards.

II. Employment of personnel needed to carry out the functions of the boards.

III. Issuance of a license or certification to any applicant who has met the requirements for licensure and denying a license or certification to applicants who do not meet the minimum qualifications for licensure.

IV. Maintenance of the official record of all applicants and licensees.

224:330 Repeal. The following are repealed:

I. 2008, 3:2, relative to the Maine-New Hampshire Interstate Bridge Authority and the Portsmouth-Kittery Bridge.

II. 2008, 3:6, relative to dissolution of the Maine-New Hampshire Interstate Bridge Authority.

224:331 Kindergarten Construction Program; Eligibility. Amend RSA 198:15-s, III(b) to read as follows:

(b) Construction plans and cost estimates, prepared by a licensed architect. ***Construction plans and cost estimates shall comply with the following:***

***(1) To be eligible for reimbursement pursuant to RSA 198:15-r, kindergarten construction shall be approved by the school district's legislative body on or before June 30, 2013.***

***(2) The number of classrooms shall be based upon the largest projected kindergarten enrollment in the first 5 years following construction, based on a minimum of 20 students per half-day kindergarten class.***

***(3) Classrooms shall be no larger than 1,000 square feet in size including restrooms and storage space.***

***(4) Costs shall be limited to the annual maximum eligible cost standards in accordance with RSA 198:15-b, VII, unless waived by the commissioner of the department of education for good cause.***

***(5) Classroom furniture and equipment purchased for temporary classrooms pursuant to RSA 198:15-r, IV shall be relocated to permanent classrooms or replaced at district expense.***

224:332 State Government Telecommunication Services; Transfer to Department of Safety.

I. All of the functions, positions, powers, duties, responsibilities, and funding for the

telecommunication services to state government, formerly authorized by RSA 21-I:12, III, shall be transferred to the division of emergency services and communications, department of safety, on July 1, 2011. The transfer provided in this section shall include all of the equipment, books, papers, and records of the bureau of general services, division of plant and property management, department of administrative services related to telecommunication services to state government.

II. All contracts, rules, statutory responsibilities, regulations, and procedures related to statewide telecommunication services to state government in effect, in operation, or adopted in or by the bureau of general services, division of plant and property management, department of administrative services are transferred to the division of emergency services and communications, department of safety.

224:333 Bureau of General Services. Amend RSA 21-I:12, III(a) to read as follows:

(a) Providing support services, including but not limited to, mailing[;] **and** messenger[~~and telecommunications~~] services to state government.

224:334 Reference Deleted. Amend RSA 21-P:38 to read as follows:

21-P:38 Emergency Management Powers and Duties Regarding Communications Systems. The division of emergency services and communications shall ascertain what means exist for rapid and efficient communications during natural and man-made disasters. The division shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive state or state and federal telecommunications or other communications system which may be established for purposes of emergency management. In studying the character and feasibility of any such system or its several parts, the division of emergency services and communications shall ~~[consult with the department of administrative services and]~~ evaluate the possibility of the multi-purpose use of such a system for general state and local government purposes. The division shall make recommendations regarding such communications systems to the assistant commissioner as appropriate.

224:335 Duty Added. Amend RSA 21-P:48-a, II to read as follows:

II. With the approval of the commissioner, the director may employ such necessary technical, clerical, stenographic, and other personnel, and may make such expenditures from state or federal funds as are or may be made available for purposes of emergency services and communications. The director and other personnel of the division shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing, and funds for traveling and related expenses, in the same manner as provided for personnel of other state agencies. With general oversight by the assistant commissioner, the director ***shall provide telecommunications services to state government***, shall coordinate the activities of all organizations for emergency 911 telecommunications within the state, state and local, county, and private, and shall maintain liaison with and cooperate with police, fire, emergency medical, and sheriff's departments and emergency telecommunications organizations of other states and of the federal government. The director shall have such additional duties, responsibilities, and authority authorized by applicable laws as may be prescribed by the commissioner.

224:336 Board of Tax and Land Appeals; Members. Amend RSA 71-B:1 to read as follows:

71-B:1 Board Established. There is hereby established a board of tax and land appeals,

hereinafter referred to as the board, which shall be composed of [4] **3** members who shall be learned and experienced in questions of taxation or of real estate valuation and appraisal or of both. ~~[At least one member of the board shall be an attorney admitted to practice in New Hampshire.]~~ The members of the board shall be full-time employees and shall not engage in any other employment during their terms that is in conflict with their duties as members of the board.

224:337 Board of Tax and Land Appeals; Appointment and Terms. RSA 71-B:2 is repealed and reenacted to read as follows:

71-B:2 Appointment; Term; Chairman. The members of the board shall be appointed by the supreme court and commissioned by the governor for a term of 3 years and until their successors are appointed and qualified; provided, however, that any vacancy on the board shall be filled for the unexpired term. The supreme court shall designate one member as chairman to serve in that capacity for the duration of his or her term.

224:338 Applicability. The provisions of section 337 of this act shall apply to members of the board of tax and land appeals who are appointed after July 15, 2011.

224:339 Appropriations to Board of Tax and Land Appeals. For the biennium ending June 30, 2013, no appropriation made to the board of tax and land appeals shall be expended for retention of outside counsel.

224:340 Judicial Branch; General Fund Appropriation Reduction. Notwithstanding 2009, 143:1, the state general fund appropriation for the judicial branch shall be reduced by an additional \$300,000 for the fiscal year ending June 30, 2011. The reduction required by this section shall be in addition to the reductions required of the judicial branch pursuant to SS 2010, 1:106 and pursuant to 2009, 143:18 and in addition to the reductions undertaken in order to attain the judicial branch's proportional reduction under 2009, 144:289, including, specifically, the reductions effected pursuant to Supreme Court Administrative Order 2010-01. The director of the administrative office of the courts shall submit to the fiscal committee of the general court and the commissioner of the department of administrative services an itemization of the reductions in expenditure classes made to implement this section on or before July 30, 2011.

224:341 Economic Stimulus; Transfer of Funds. Notwithstanding any provision of law to the contrary, the sum of \$900,000 in state fiscal stabilization funds provided under the American Recovery and Reinvestment Act of 2009 (ARRA) and accepted by the fiscal committee of the general court on June 30, 2009 as item 09-240 and approved by the governor and council on June 30, 2009 as item 1, and as subsequently amended, for use by the office of economic stimulus shall be transferred from the office of economic stimulus to the department of corrections, account 02-46-46-463010-7120 on June 30, 2011, to supplant state general fund appropriations at the department of corrections. In addition, the sum of \$300,000 from such ARRA state fiscal stabilization funds is hereby transferred to the audit account established under RSA 6:12, I(b)(89) in order to defray the costs of scheduled ARRA audits. The director of the office of economic stimulus shall be authorized to transfer funds within its remaining appropriations in connection with the winding down and conclusion of its operations on September 30, 2011.

224:342 Retiree Medical Benefits; Beneficiary Contributions Increased. Amend RSA 100-A:54, III to read as follows:

III. The retirement system shall deduct from the monthly retirement allowance of retired state employees under the age of 65 years receiving medical and surgical benefits provided pursuant to RSA 21-I:30, the premium contribution amounts of ~~[\$65 per month]~~ **12.5 percent of the total monthly premium** for each such retiree and ~~[\$65 per month]~~ **12.5 percent of the total monthly premium** for each applicable spouse; provided that the charge to each household shall not exceed ~~[\$130 per month]~~ **12.5 percent of the total monthly premium for 2 plan participants. The department of administrative services shall provide information as to the total monthly premium cost for each participant to the retirement system for purposes of calculating this deduction.** Deducted amounts, which shall be in addition to and notwithstanding any amounts payable by the retirement system pursuant to RSA 100-A:52, RSA 100-A:52-a, and RSA 100-A:52-b, shall be deposited in the employee and retiree benefit risk management fund. In the event the retiree's monthly allowance is insufficient to cover the certified contribution amount, the retirement system shall so notify the department of administrative services, which shall invoice and collect from the retiree the remaining contribution amount.

224:343 Judicial Retirement Plan; Health Insurance Premium Contributions. Amend RSA 100-C:11-a to read as follows:

100-C:11-a Retiree and Spouse Health Insurance Premium Contribution. Retired judges and spouses under the age of 65 years receiving medical and surgical benefits shall be responsible for payment of a premium contribution amount of ~~[\$65 per month]~~ **12.5 percent of the total monthly premium** for each such retiree and ~~[\$65 per month]~~ **12.5 percent of the total monthly premium** for each applicable spouse; provided that the charge to each household shall not exceed ~~[\$130 per month]~~ **12.5 percent of the total monthly premium for 2 plan participants. The department of administrative services shall provide information as to the total monthly premium cost for each participant to the judicial retirement plan for purposes of calculating this deduction.** The judicial retirement plan shall deduct the payment required under this section from the retiree's monthly retirement allowance. Deducted amounts shall be remitted to the administrative office of the courts within 14 days along with a statement identifying from whom the deduction was made, and shall be used to pay for plan retiree and spouse health care expenses and any administrative costs related thereto.

224:344 Cost Containment Plan for Retiree Health Care Program. The commissioner of the department of administrative services shall develop a comprehensive and cohesive plan outlining cost containment options and managed care techniques available through the underlying insurer and other managed care vendors to generate additional savings for the state of New Hampshire retiree health care program. The cost containment plan shall be developed no later than July 15 and the commissioner of the department of administrative services shall make a report to the fiscal committee of the general court.

224:345 New Paragraph; Cost Containment Plan for Retiree Health Care Program. Amend RSA 21-I:30 by inserting after paragraph VI the following new paragraph:

VII. As of January 2, 2012, the commissioner of administrative services is authorized to utilize managed care and/or cost containment techniques for the state of New Hampshire retiree health care program through the underlying insurer and any additional specialized managed care or cost containment vendors as necessary. The commissioner may offer financial incentives to encourage the use of lower cost facilities, providers, and services, if the financial incentives are proportionately lower than the savings generated. In addition, the commissioner may offer financial incentives to encourage the use of alternative therapies,

treatments, services, providers, and facilities that demonstrate better outcomes including, but not limited to lower complication rates, lower readmission rates, lower rejection rates, lower mortality and morbidity rates, or lower infection rates based on widely and generally accepted measures of such performance.

#### 224:346 Committee Established; Privatizing Department of Corrections.

I. There is established a committee to develop a plan for privatizing the department of corrections.

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

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

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

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

IV. The committee shall develop a plan for privatizing the department of corrections and shall review the results of the request for proposals issued by the commissioner of administrative services under section 347 of this act.

V. 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. Four members of the committee shall constitute a quorum.

VI. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2011.

224:347 Request for Proposals. On or before September 1, 2011, the commissioner of administrative services shall issue a request for proposals by vendors for provision of correctional services or any other services provided by the department of corrections.

#### 224:348 Department of Corrections; Transfer of Inmates from the State Correctional Facility in Concord.

I. Pursuant to the authority granted in RSA 21-H:8, VI-VII, the commissioner of the department of corrections may enter into one or more contracts, as may be necessary, with appropriate private and/or public correctional agencies or facilities and shall make proper and necessary arrangements with such agencies or facilities for the transfer and reception of not more than 600 inmates currently incarcerated at the state correctional facility in Concord.

II. The commissioner of the department of corrections may enter into one or more contracts to carry out pharmaceutical and nursing functions.

III. The department shall not close the North Country facility located in Berlin as a result of meeting the requirements of this section.

IV. If as a result of the transfer of inmates, the commissioner is able to reduce the

department's general fund appropriation, the commissioner shall expend any excess funds on the development and implementation of programs and services for the probation, parole, and sentencing of certain offenders required under 2010, 247 (SB 500-FN of the 2010 legislative session), as it may be amended, with the approval of the fiscal committee of the general court.

224:349 Department of Resources and Economic Development; Cannon Mountain. For the biennium ending June 30, 2011, \$800,000 in revenue derived by the department of resources and economic development from fees, services, accommodations, rentals, revenue from lift and tramway operations, retail sales, and concession operations for Cannon Mountain shall be deposited into the general fund and shall be applied to the negative balance contained in the state park fund established in RSA 216-A:3-i.

224:350 Department of Resources and Economic Development; Cannon Mountain. The department of resources and economic development shall deposit \$650,000 in the fiscal year ending June 30, 2012, and \$650,000 in the fiscal year ending June 30, 2013 in revenue derived by the department of resources and economic development from fees, services, accommodations, rentals, lift and tramway operations, retail sales, and concession operations for Cannon Mountain into the state general fund which shall be applied to the negative balance contained in the state park fund established in RSA 216-A:3-i. The department of resources and economic development shall also deposit \$50,000 in each fiscal year of the biennium ending June 30, 2013 into the fish and game search and rescue fund established in RSA 206:42.

224:351 Lease of Rental Space for Superior Court Center. In consultation with the bureau of court facilities of the department of administrative services, the administrative office of the courts shall identify and lease rental space in which to house the superior court center at a rate of no more than \$11 per square foot, and shall lease no more than 2500 square feet for this purpose.

224:352 Department of Resources and Economic Development; Transfer of Funds Authorized. The commissioner of the department of resources and economic development may transfer funds between and among the class line appropriations in the highway welcome centers (accounting unit 03-35-35-3520-5919) and may transfer funds between and among the class line appropriations in the turnpike welcome centers (accounting unit 03-35-35-3520-1872) for the biennium ending June 30, 2013. The commissioner shall submit a report on a quarterly basis to the fiscal committee of the general court of all transfers made under this section. RSA 9:17-a and RSA 9:17-c shall not apply to transfers made under this section.

224:353 Department of Health and Human Services; Children's Health Insurance Program Reporting. The department of health and human services shall provide a detailed update on the status of the transition of the healthy kids program from the New Hampshire healthy kids corporation to the department of health and human services Medicaid managed care program for each meeting of the fiscal committee of the general court until the transition to the Medicaid managed care program is complete and any necessary contracts have been approved by the governor and council.

224:354 Department of Health and Human Services; Hospitals for High Intensive Neonatal and Pediatric Care; Contracts and Rate Setting. Beginning July 1, 2011, the department of health and human services shall only contract with New Hampshire hospitals which provide high intensive neonatal and high intensive pediatric care unless the commissioner of health and human services finds that the high intensive neonatal and high intensive pediatric care needed is not available in New Hampshire, in which case, the department of health and

human services may contract with an out-of-state hospital to provide such care. On or before August 1, 2011, the commissioner of health and human services shall develop a new rate structure for high intensive neonatal and high intensive pediatric care for New Hampshire hospitals which provide such care.

224:355 Department of Health and Human Services; Estate Recovery; Priority of Claims. Amend RSA 554:19 to read as follows:

554:19 Priority of Charges.

I. The administrator of an estate shall make payment of the claims in the following order:

(a) Costs and expenses of administration of the estate.

(b) Reasonable and necessary funeral, burial, and cremation expenses.

(c) Debts and taxes with preference under federal law.

**(d) *Claims made for financial and/or medical assistance provided to the deceased by the department of health and human services, as well as under certain circumstances, changes pursuant to RSA 166:19.***

~~(e) Just debts of the deceased[, including claims for medical assistance made by the department of health and human services.~~

~~(e) Total amount paid for old age assistance or aid to the permanently and totally disabled and, under certain circumstances, charges pursuant to RSA 166:19].~~

(f) Legacies given by the will of the deceased or distribution to heirs according to law.

II. No preference shall be given in the payment of any claim over any other claim of the same class.

III. No creditor of a lower class shall receive any payment until all those of the preceding class shall have been fully paid.

224:356 Appropriations to New Hampshire Public Television. Notwithstanding any other provision of law, any appropriation made in the capital or operating budget for New Hampshire public television shall be made directly to New Hampshire public television, and shall not be appropriated through or expended by the university system of New Hampshire, the trustees of the university system of New Hampshire, or any other state agency.

224:357 Shelter Care Services. For the biennium ending June 30, 2013, the department of health and human services shall continue to fund the following shelter care services: 12 beds for boys at the Midway Shelter in Bradford, 13 beds for girls at the Antrim Girls Shelter in Antrim, and 12 beds at the co-educational North Country Shelter in Jefferson.

224:358 Department of Health and Human Services; Implementation and Reporting of Budget Reductions Relative to Developmental Services and Behavioral Health Services. The reduction in the appropriation to the division of developmental services and the bureau of behavioral health services contained in the operating budget for fiscal years 2012 and 2013 attributable to "right sizing" shall be undertaken in a collaborative fashion with area agencies and community mental health centers. Such plans shall be focused on reducing the cost



structure of the area agency and community mental health systems without reducing quality or quantity of mandated services; maintaining the delivery of care in a community setting; and taking into account the needs of the systems to prepare for any future enhanced increase in the Medicaid population. Savings to the state general fund in the amount of \$1,800,000 for the biennium shall be identified, measured, and reported to the commissioner of the department of health and human services before January 1, 2012. On or before February 15, 2013, the commissioner of the department of health and human services shall provide a report of savings to the fiscal committee of the general court and the oversight committee on health and human services.

224:359 Contract Consolidation; Department of Health and Human Services.

I. For contracts executed on or after July 1, 2011, the department of health and human services shall consolidate contracts of the department including, but not limited to, contracts for the acquisition of goods and services and for providing services to clients of the department, to the fewest number reasonably possible to:

- (a) Realize general fund savings in the amount of \$1,250,000 in fiscal year 2012 and \$4,300,000 in fiscal year 2013 as required in the budget approved for the department;
- (b) Reduce the administrative costs associated with the processing and approval of state contracts;
- (c) Minimize expenditures in areas other than direct care and assistance to the persons in need served by the department;
- (d) Utilize any savings in addition to those specified in subparagraph (a) to provide additional direct services to clients of the department; and
- (e) Create an efficient, effective, and stable community system of health and human services agencies for the future.

II. The consolidation shall be completed by June 30, 2013.

III. For the biennium ending June 30, 2013, the commissioner shall provide reports on a quarterly basis to the oversight committee on health and human services and the fiscal committee of the general court regarding contract consolidation efforts.

224:360 New Section; Community College System Debt Service Fund. Amend RSA 6 by inserting after section 12-g the following new section:

6:12-h Community College System Debt Service Fund. There is hereby established in the office of the treasurer a fund to be known as the community college system debt service fund, which shall be accounted for separately from other funds. All moneys credited to the fund from payments made to the treasurer by the community college system shall be used exclusively for repayment of principal and interest on bonds issued by the treasurer, the proceeds of which fund the construction or renovation of capital projects undertaken by the community college system of New Hampshire self-supporting campus facilities. The moneys in the fund shall be nonlapsing and continually appropriated to the treasurer.

224:361 Community College System; Real Estate and Personal Property Tax Exemption. Amend RSA 72:23, I(d) to read as follows:

(d) The exemptions provided in subparagraph (a) shall apply to the lands and the buildings and structures thereon and therein and personal property owned by the university system of New Hampshire ***or the community college system of New Hampshire***. The requirements of subparagraph (b) shall apply to all leases and other agreements entered into or renewed on or after April 1, 2006, the terms of which provide for the use or occupation by others of real or personal property owned by the university system of New Hampshire ***or the community college system of New Hampshire***. The remedies set forth in subparagraph (c) shall be available to enforce the payment of real and personal property taxes assessed against the lessees of property owned by the university system of New Hampshire ***or the community college system of New Hampshire*** pursuant to this subparagraph.

224:362 New Section; Community College System of New Hampshire; Transfer. Amend RSA 188-F by inserting after section 1 the following new section:

188-F:1-a Transfer. All functions, powers, duties, books, papers, records, and property of every kind, tangible and intangible, real and personal, heretofore possessed, controlled, or used by the former department of regional community-technical colleges are hereby transferred to and vested in the board of trustees of the community college system of New Hampshire established in RSA 188-F:4. Nothing in this section shall transfer property of the McAuliffe-Shepard discovery center or the police standards and training council.

224:363 New Subparagraph; Business Profits Tax; Net Operating Loss Carryovers. Amend RSA 77-A:4, XIII by inserting after subparagraph (d) the following new subparagraph:

(e) On or after July 1, 2013, the amount of net operating loss generated in a tax year that may be carried forward may not exceed \$10,000,000.

224:364 Use of Certain Unrestricted General Funds to Mitigate Department of Health and Human Services Spending Reductions; Uncompensated Care.

I. If general fund revenues exceed projected revenue estimates, the department of health and human services shall present a plan for approval to the fiscal committee of the general court detailing a proposal for making uncompensated care payments to hospitals pursuant to RSA 167:64, as amended by this act, for the fiscal year ending June 30, 2013. Such plan shall expend only up to the total amount of excess revenue. Said plan shall be presented to the fiscal committee of the general court no later than September 12, 2012.

II. Notwithstanding any provision of law to the contrary, upon approval of the plan pursuant to paragraph I, with the approval of the fiscal committee of the general court and the governor and council, the department of health and human services may expend funds in excess of budgeted amounts for the purpose of making uncompensated care payments to hospitals pursuant to RSA 167:64, as amended by this act, for the fiscal year ending June 30, 2013. Such payments may be paid on the warrant of the governor, out of any money in the treasury not otherwise appropriated.

224:365 Medicaid Management Information System; Reports.

I. The commissioner of the department of information technology shall, in consultation with the commissioner of the department of health and human services, engage the services of an information systems consultant experienced with implementation of large healthcare and/or governmental information systems. The consultant shall review and evaluate the state's Medicaid management information system (MMIS) implementation project and provide a

report on the progress of the implementation and the projected go-live date. The consultant shall report on the readiness of the MMIS upon start-up to meet all current federal MMIS requirements and all New Hampshire specific contract requirements. The consultant shall provide a detailed list of any system features that will not be available upon start-up of operations and report specifically on the readiness of the system to meet New Hampshire's Medicaid managed care requirements. The consultant shall report on the MMIS readiness to comply with the current CMS certification Toolkit required to attain federal certification. The commissioner of the department of information technology shall present the consultant's report to the fiscal committee of the general court no later than October 1, 2011. The cost of the evaluation and report shall be borne by ACS State Healthcare, LLC.

II. The commissioner of the department of health and human services shall provide the fiscal committee of the general court with monthly reports on the status of the new MMIS system implementation and shall report on the department's efforts to seek cost recovery under section 10.1 (Failure to Meet Start Date for Operations Phase) of the MMIS contract dated October 18, 2005 and approved by governor and council on December 17, 2005.

224:366 Operating Budget; Lapse of Appropriation. Governor's Commission; Contracts for Program Services. Amend 2009, 143:1, 05, 95, 95, 958410, 1388, class 102, class note to read as follows:

~~[\*102 The appropriation in class 102 to the governor's commission on alcohol and drug abuse prevention, intervention, and treatment is to fund the alcohol abuse prevention and treatment fund. This appropriation shall not lapse or be used for any other purpose or be considered for budget reductions required of the department of health and human services.]~~

224:367 Operating Budget; Lapse of Appropriation. Nursing Services; Organization Notes. Amend 2009, 143:1, 05, 95, 48, 481510, 6173, Organization Notes to read as follows:

~~[\*The appropriations contained in class 504, 505, 506, and 529 may only be transferred within and among said classes, and shall not lapse. Any balance remaining on June 30, 2011 shall be paid as additional rates based upon the rate-setting methodology in effect at that time.]~~

224:368 Additional Medicaid Quality Incentive Program Payment.

I. Notwithstanding any other provision of law, the department of health and human services shall make an additional American Recovery and Reinvestment Act of 2009 Medicaid quality incentive program payment to nursing facilities prior to June 30, 2011. This payment shall cover the period April - May 31, 2011. The provisions of RSA 84-C and RSA 151-E shall govern the assessment and payment, except as provided as follows:

(a) The assessment period shall be April 1 to May 31, 2011;

(b) The returns shall be filed on or before June 27, 2011; and

(c) The department of health and human services shall make this Medicaid quality incentive program payment to the nursing facilities prior to June 30, 2011.

II. With respect to the remainder of the assessment period as defined by RSA 84-C:1, namely June 1 - June 30, 2011, the assessment and payment shall be carried out as would otherwise have been the case in the absence of this section, except that the returns filed in July, 2011 shall only cover the period June 1- June 30, 2011.

III. This additional assessment and payment shall be made if not prohibited by federal law.

224:369 Transfer from Revenue Stabilization Reserve Account. Notwithstanding RSA 9:13-e, in the event of a general fund operating budget deficit at the close of fiscal year 2011 as determined by the official audit performed pursuant to RSA 21-I:8, I(h), the comptroller shall notify the fiscal committee and the governor of such deficit and request that sufficient funds, to the extent available, be transferred from the revenue stabilization reserve account to eliminate such deficit.

224:370 Department of Administrative Services; State Contributions for Retirement Costs for Local Government Employers. In the event that the funds available in the class lines for contributions for retirement costs for local government employers, which costs would be paid after July 1, 2011, the commissioner of the department of administrative services is authorized to pay these costs from funds not otherwise appropriated knowing that the obligations incurred will be fully provided for in the state fiscal year 2011 financial statements. A state fiscal year 2012 GAAP adjustment will fully offset the appropriation provided for in state fiscal year 2012.

224:371 Department of Administrative Services; Transfer Among Accounts. Notwithstanding any provision of law to the contrary, except RSA 9:17-c, and subject to the approval of the fiscal committee of the general court and governor and council, for the biennium ending June 30, 2013, the commissioner of the department of administrative services is hereby authorized to transfer funds within and among all accounting units within the department, with the exception of class 60 transfers, as the commissioner deems necessary and appropriate to address present or projected budget deficits, or to respond to changes in federal laws, regulations, or programs, and otherwise as necessary for the efficient management of the department.

224:372 Department of Administrative Services; Salary and Benefit Cost of Layoffs. In the event that funds available in salary and benefit class lines are insufficient to cover salary, benefits, and payout costs of state employees provided notice of layoff on or before June 30, 2011 in connection with statewide budgetary reductions, which costs would be paid after July 1, 2011, the commissioner of the department of administrative services is authorized to pay these costs for such employees from funds in other classes or accounts as appropriate. It may become necessary for the salary and benefit adjustment accounts to become negative during the fiscal year in order to make these payments; therefore, funds may be transferred from other excess appropriations to cover these costs in fiscal year 2012.

224:373 Contingency; Repeal Nullified. If HB 218 of the 2011 legislative session becomes law, the repeal of RSA 238-A:5, II and III by paragraph III of section 7 of that act shall not take effect.

224:374 New Subparagraph; General Fund Exceptions. Amend RSA 6:12, I(b) by inserting after subparagraph (304) the following new subparagraph:

(305) Moneys deposited in the state aeronautical fund pursuant to RSA 422:35.

224:375 Aeronautics; Disposition of Revenue. Amend RSA 422:35 to read as follows:

422:35 Disposition of Revenue.

*I.* All fees, fines, or other income received under the provisions of this chapter shall be paid by

the department to the state treasurer, except as provided in RSA 422:36.

***II. There is hereby established the state aeronautical fund. The commissioner is authorized to accept gifts to further the purposes of this chapter and shall deposit them in the fund. The moneys in the fund shall be nonlapsing and shall be continually appropriated to the department for the purpose of funding maintenance of airports within the state that are open for public use and planning and implementing capital improvements to such airports. The commissioner may also accept and sell to a third party surplus airport equipment disposed of by the federal government and shall deposit the proceeds of the sale in the fund for the purpose of funding maintenance of and planning and implementing capital improvements to the airport where the equipment was located prior to disposal.***

***III. The director shall annually report on the state aeronautical fund to standing committees of the senate and the house of representatives with jurisdiction over taxation and jurisdiction over aeronautical projects. The format of the report shall be as follows:***

***(a) Total moneys received from each revenue source.***

***(b) List of projects funded and expenditure totals for each.***

***(c) Moneys remaining in the fund.***

224:376 New Section; Property Held in Airport Property Rooms. Amend RSA 471-C by inserting after section 13 the following new section:

471-C:13-a Property Held in Airport Property Rooms.

I. Notwithstanding any other provisions of law to the contrary, an airport director or designee may dispose of all noncontraband abandoned or lost property that has been held in an airport property room for a period of 180 days and not claimed by the owner. If the owner is unknown or if the owner fails to claim the property within 60 days of being notified to claim the property, the airport director or designee may:

(a) Destroy abandoned or lost property which may contain personal or business information, or property which has a value of less than \$25.

(b) Return currency to an identified finder. The identified finder shall claim the currency within 60 days of being notified to claim the currency, otherwise said currency shall be retained by the airport for its use in aeronautical activities.

II.(a) An airport director or designee may dispose of all noncontraband abandoned or lost property that has been held in an airport property room for a period of 180 days which the airport director or his or her designee has not been able to dispose of under paragraph I by:

(1) Donating property which may be of value to a charitable organization to charity; or

(2) Selling the property at public auction. The airport director or designee shall fix a day upon which the auction shall take place, and give notice thereof by publication in a daily newspaper. The notice shall state the date, time, and place when such auction shall commence and shall contain a general description of the types of property to be sold. The notice shall be signed by an airport director or designee. The proceeds of such auction shall be

retained by the airport for its use in aeronautical activities or donated to the state aeronautical fund; or

(3) Selling the property on an internet auction site with sufficient buyer participation to ensure that the property receives adequate exposure to the market for goods of the type being disposed of. The proceeds of such auction shall be retained by the airport for its use in aeronautical activities or donated to the state aeronautical fund.

(b) Property which fails to sell at public auction or on an internet auction site may be disposed of in any manner which the airport director or designee deems fit.

III. The airport and the state, municipality, authority, or other entity which owns or manages the airport shall have no liability for any claim thereafter arising or made with respect to property disposed of under this section.

224:377 Tobacco Tax Rate Reduced. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [~~\$1.78~~] **\$1.68** for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

224:378 Tobacco Products Other Than Cigarettes; Tax Rate Reduced. Amend RSA 78:7-c to read as follows:

78:7-c Tax Imposed on Tobacco Products Other Than Cigarettes. A tax upon the retail consumer is hereby imposed on tobacco products other than cigarettes at a rate of [~~65.03~~] **48** percent of the wholesale sales price. The tax under this section may be rounded to the nearest cent if the commissioner determines that the amount of tax would not thereby be made materially disproportionate. No such tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States. No such tax shall be imposed on premium cigars.

224:379 Tobacco Tax Rate; Contingent Version. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [~~\$1.68~~] **\$1.78** for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

224:380 Tobacco Products Other Than Cigarettes; Tax Rate; Contingent Version. Amend RSA 78:7-c to read as follows:

78:7-c Tax Imposed on Tobacco Products Other Than Cigarettes. A tax upon the retail consumer is hereby imposed on tobacco products other than cigarettes at a rate of [~~48~~] **65.03**

percent of the wholesale sales price. The tax under this section may be rounded to the nearest cent if the commissioner determines that the amount of tax would not thereby be made materially disproportionate. No such tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States. No such tax shall be imposed on premium cigars.

224:381 Contingency; Reporting of Tobacco Revenue. On or before July 15, 2013, the department of revenue administration shall report to the speaker of the house of representatives, the senate president, the fiscal committee of the general court, the secretary of state, and the director of the office of legislative services, the amount of tobacco tax revenue received, as reported in the department's daily cash basis revenue report, for the period of July 1, 2011 through June 30, 2013. If the department reports that the amount of tobacco tax revenue received for the period was below the amounts received for the period of July 1, 2009 through June 30, 2011, then sections 379 and 380 of this act shall take effect on August 1, 2013. If the department reports that the amount of tobacco tax revenue received for the period was equal to or above the amount received for the period of July 1, 2009 through June 30, 2011, then sections 379 and 380 of this act shall not take effect.

224:382 Shoreland Water Quality Protection Act. Amend the chapter heading of RSA 483-B to read as follows:

#### CHAPTER 483-B

#### [COMPREHENSIVE] SHORELAND ***WATER QUALITY*** PROTECTION ACT

224:383 Shoreland Water Quality Protection; Minimum Standards Required. Amend RSA 483-B:2, IX to read as follows:

IX. Control building sites, placement of structures, and land uses ***that may potentially damage the public waters.***

224:384 Minimum Standards Required. Amend RSA 483-B:2, XV to read as follows:

XV. Anticipate and respond to the impacts of development in shoreland areas ***to the extent they may potentially damage the public waters.***

224:385 Definitions. Amend RSA 483-B:4, VII-b to read as follows:

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

***VII-c. "Horticultural professional" means any arborist, landscape architect, or gardening consultant whose function is that of providing services relative to horticulture.***

224:386 Definitions. Amend RSA 483-B:4, X-b to read as follows:

X-b. "Natural ground cover" means any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. [~~Natural ground cover shall also include naturally occurring leaf or needle litter, stumps, decaying woody debris, stones, and boulders.~~] Natural

ground cover shall not include lawns, landscaped areas, gardens, invasive species as listed by the department of agriculture, markets, and food in accordance with RSA 430:53, III, exotic species as designated by rule of the department of environmental services in accordance with RSA 487:24, VII, imported organic or stone mulches, or other artificial materials.

224:387 Definitions. Amend RSA 483-B:4, XIII to read as follows:

XIII. "Primary building line" means a setback for primary structures of ~~[at least]~~ 50 feet from the reference line.

224:388 Definitions. Amend RSA 483-B:4, XV to read as follows:

XV. "Protected shoreland" means, for natural, fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies, ***except private garden water features and ponds of less than 10 acres***, and for coastal waters and rivers, all land located within 250 feet of the reference line of public waters.

224:389 Definitions. Amend RSA 483-B:4, XVIII to read as follows:

XVIII. "Removal or removed" means girdled, felled, ~~[killed, or]~~ cut, sawed, pruned, pushed over, buried, burned, or any other activity conducted to the extent that it otherwise ~~[destructively alters or altered]~~ ***kills*** the vegetation.

224:390 Definitions. Amend RSA 483-B:4, XVIII-c to read as follows:

XVIII-c. "Replace in kind" means the substitution of a new structure for an existing legal structure, whether in total or in part~~[-with no change in size, dimensions, footprint, interior square footage, and location, with the exception of changes resulting in an increase in the setback to public waters]~~.

224:391 Definitions. Amend RSA 483-B:4, XX-a to read as follows:

XX-a. "Shoreland frontage" means the ~~[average of the distances of the actual natural shoreline footage and a straight line drawn between property lines]~~ ***actual shoreland frontage along the water front measured at the reference line***.

224:392 Definitions. Amend RSA 483-B:4, XXII to read as follows:

XXII. "Structure" means anything constructed or erected for the support, shelter or enclosure of persons, animals, goods, or property of any kind, with a fixed ***permanent*** location on or in the ground, exclusive of fences.

224:393 Definitions. Amend RSA 483-B:4, XXIV-b to read as follows:

XXIV-b. "Unaltered state" means ~~[native]~~ vegetation allowed to grow without cutting, limbing, trimming, pruning, mowing, or other similar activities except as needed ~~[to maintain the health of the plant being trimmed, as allowed by rules of the department]~~ ***for plant health, normal maintenance, and renewal***.

224:394 Enforcement by Commissioner; Duties; Woodland Buffer. Amend RSA 483-B:5, II to read as follows:

II. The commissioner or his ***or her*** designee may, for cause, enter upon any ***subject*** land or



parcel at any reasonable time ***after written notification*** to perform oversight and enforcement duties provided for in this chapter.

224:395 Permit Required; Exemption. Amend RSA 483-B:5-b, I to read as follows:

I.(a) No person shall commence construction, excavation, or filling activities within the protected shoreland without obtaining a permit from the department to ensure compliance with this chapter. ***Projects which have no impact on water quality and which follow department rules shall qualify for a permit by notification. The owner may proceed with the proposed project immediately upon receipt of written notice from the department that a complete and accepted notification has been received by the department. A notification shall be complete and accepted provided it meets or exceeds all of the minimum standards under RSA 483-B:9, includes a notification form signed by the owner of property, the name and address of the property owner, the address of the site on which the work will occur, the name of the jurisdictional waterbody, the tax map and lot number on which the proposed work will occur, plans clearly and accurately depicting the work to be completed relative to the reference line of the jurisdictional waterbody, photographs of the area to be impacted, and identification of those project criteria listed below that would qualify the project for a permit by notification. Such project criteria shall include:***

***(1) Construction, excavation, and filling, or other activity that impacts less than 1,500 square feet and adds no more than 900 square feet of impervious area within a protected shoreland area.***

***(2) Construction, excavation, and filling, directly related to stormwater management improvements and erosion control projects or environmental restoration or enhancement projects.***

***(3) Maintenance, repairs, and improvements of public utilities, public roads, and public access facilities.***

***(4) Any similar activities defined as qualified for a permit by notification by rules of the department.***

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

(1) For projects that qualify for permit by notification under ***this paragraph or*** RSA 483-B:17, X, \$100 for restoration of water quality improvement projects and \$250 for all other permit by notification projects.

(2) For projects of 0-9,999 square feet, ***that do not qualify for a permit by notification***, \$750.

(3) For projects of 10,000-24,999 square feet, \$1,875.

(4) For projects of 25,000 square feet or more, \$3,750.

***(c) If the application is denied after relying on the recommendations of the department, the application fee shall be refunded to the applicant within 30 days of such denial.***

224:396 New Paragraph; Permit Required; Exemption. Amend RSA 483-B:5-b by inserting after paragraph IV-a the following new paragraph:

IV-b. No permits issued by the department pursuant to this chapter that involve private, non-federal undertakings shall require coordination with or clearance by the New Hampshire division of historical resources.

224:397 Permit Required; Exemption. Amend RSA 483-B:5-b, V to read as follows:

V.(a) Within 30 days of receipt of an application for a permit or ~~[75]~~ **30** days of receipt of an application for a permit that will require a ~~[variance of the minimum standard of RSA 483-B:9, V or a]~~ waiver of the minimum standards of RSA 483-B:9, the department shall request any additional information **reasonably** required to complete its evaluation of the application, and provide the applicant with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and notify the applicant that if all of the requested information is not received within ~~[60]~~ **120** days of the request, the department shall deny the application.

(b) When the department requests additional information pursuant to subparagraph (a), the department shall, within ~~[30]~~ **20** 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, and issue written findings in support of the denial; or

(3) Extend the time for 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]~~ **30** 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~~[- in whole or in part, and issue a permit; or~~

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

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

***(d) Within 5 business days of receipt of a permit by notification filing, the department shall issue a written notice to the property owner or agent stating that the notification has either been accepted or rejected. If the department does not respond within the 5-day period, the property owner or agent may submit to the department a written request for a response. A request submitted electronically by the applicant shall constitute a written request provided that the applicant has previously agreed to accept electronic communication. If the department fails to respond to the written request within an additional 5 days the property owner or agent shall be deemed to have a permit by notification and may proceed with the project as presented in the notification filing. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under this chapter and RSA 485-A***

*relative to water quality.*

~~[(d)]~~ **(e)**(1) 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), the applicant may ask the department to issue the permit by submitting a written request. If the applicant has previously agreed to accept communications from the department by electronic means, a request submitted electronically by the applicant shall constitute a written request.

(2) Within 14 days of the date of receipt of a written request from the applicant to issue the permit, the department shall:

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

(B) Deny the application and issue written findings in support of the denial.

(3) If the department does not issue either a permit or a written denial within the 14-day period, the applicant shall be deemed to have a permit by default and may proceed with the project as presented in the application. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under this chapter and RSA 485-A relating to water quality.

(4) Upon receipt of a written request from an applicant, the department shall issue written confirmation that the applicant has a permit by default pursuant to subparagraph ~~[(d)]~~ **(e)**(3), which authorizes the applicant to proceed with the project as presented in the application and requires the work to comply with all requirements applicable to the project, including but not limited to requirements established in or under this chapter and RSA 485-A relating to water quality.

~~[(e)]~~ **(f)** All applications filed in accordance with the rules adopted by the department under RSA 483-B:17 and which meet the minimum standards of this chapter shall be approved and a permit shall be issued.

~~[(f)]~~ **(g)** 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)]~~ **(h)** 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.

224:398 Minimum Shoreland Protection Standards. Amend RSA 483-B:9, II(d) to read as follows:

(d) No fertilizer, except limestone, shall be applied to vegetation or soils located within 25 feet of the reference line of any public water. ***Beyond 25 feet,*** ~~[low phosphate, slow release nitrogen fertilizer or limestone,]~~ ***slow or controlled release fertilizer, as defined by rules adopted by department,*** may be used ~~[on areas beyond 25 feet from the reference line].~~

224:399 Minimum Shoreland Protection Standards. RSA 483-B:9, V(a) through V(b)(2)(A)(ii) is repealed and reenacted to read as follows:

(a) Maintenance of a Waterfront Buffer.

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

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

(A) No chemicals, including pesticides or herbicides of any kind, shall be applied to ground, turf, or established vegetation except if applied by horticultural professionals who have a pesticide application license issued by the department of agriculture or as allowed under special permit issued by the division of pesticide control under rules adopted by the pesticide control board under RSA 541-A, or fertilizers of any kind except those specified in RSA 483-B:9, II(d).

(B) Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by the department, pursuant to RSA 482-A or RSA 483-B:11, II or unless rocks are removed to improve runoff control or the planting in the waterfront buffer, and stumps that are removed are replaced with pervious surfaces, new trees, or other woody vegetation.

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

(D) Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into 50 by 50 foot segments. Owners of land within the waterfront buffer shall measure, calculate, and maintain the tree, sapling, shrub, and groundcover point score in each of these segments in accordance with the methods and standards described in subparagraphs (i) through (ix).

(i) Tree and sapling diameters shall be measured at 4 1/2 feet above the ground for existing

trees and saplings, or by caliper at a height consistent with established nursery industry standards when nursery stock is to be used, and are scored as follows:

#### Diameter or Caliper Score

1 to 3 inches – 1

3 to 6 inches – 5

6 to 12 inches –10

12 to 24 inches –15

Greater than 24 inches- 25

(ii) Shrubs and groundcover plants shall be scored as follows:

Four square feet of shrub area – 1 point.

Ground cover planted in the form of sod or mat – one point for every 50 square feet.

Shrub and groundcover shall not count for more than 25 points in each full segment.

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

(iv) If the total tree and sapling score in any 50 foot by 50 foot segment exceeds 50 points, then trees, saplings, and shrubs over 3 feet in height may be removed as long as the sum of the scores for the remaining trees and saplings in that segment does not total less than 50 points. If for any reason there is insufficient area for a full segment, or the segment contains areas incapable of supporting trees and saplings, such as areas of rock, ledge, or beaches, the point score requirement for the remaining vegetation in that partial segment shall be reduced proportionally to that required of a full segment. Vegetation shall not be removed from any segment which fails to meet the minimum point score for that segment. Owners are encouraged to take efforts to plan the maintenance of their waterfront buffer areas including the planting of additional non-invasive vegetation to increase point scores within segments, thus providing sufficient points to allow the future removal of vegetation as may become necessary while still meeting the requirements of this paragraph.

(v) The department shall approve applications pursuant to RSA 482-A or RSA 483-B that include the planting of trees, saplings, shrubs, and groundcover as necessary to at least maintain either the existing point score or the minimum score required. The department shall not approve any application that would result in a combined vegetation score of less than the minimum score required where the segment initially meets the minimum score or would result in any reduction of the point score where the segment does not initially meet the minimum score.

(vi) Owners of lots and holders of easements on lots that were legally developed prior to July 1, 2008 may maintain but not enlarge cleared areas, including but not limited to existing lawns, gardens, landscaped areas, beaches, and rights-of-way for public utilities, public transportation, and public access, and may repair existing utility structures within the waterfront buffer. Conversion to or planting of cleared areas with non-invasive species of ground cover, shrubs, saplings, and trees is encouraged but shall not be required unless it is necessary to meet the requirements of subparagraph (g)(2) or (g)(3), or RSA 483-B:11, II.

(vii) Normal trimming, pruning, and thinning of branches to the extent necessary to maintain the health of the planted area as well to protect structures, maintain clearances, and provide views is permitted provided such activity does not endanger the health of the plant.

(viii) When necessary for the completion of construction activities permitted in accordance with RSA 483-B:6, a temporary 12-foot wide access path shall be allowed. On those properties accessible only by water, this access path may be maintained provided it is stabilized with a surface that will infiltrate stormwater. On other properties the access path shall be completely restored and replanted with vegetation upon completion of construction except as allowed under subparagraph (ix).

(ix) A permanent 6-foot wide foot path as well as access to any docks, beaches, structures, existing open areas, and the water body, configured in a manner that will not concentrate storm water runoff or contribute to erosion, are allowed.

(b) Maintenance of a Natural Woodland Buffer.

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

(2)(A) Within the natural woodland buffer of a given lot the vegetation, except lawn, within at least 25 percent of the area outside the waterfront buffer shall be maintained unaltered or improved with additional vegetation. Owners of lots legally developed or landscaped prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area to be maintained in an unaltered state. The percentage of area maintained in an unaltered state on nonconforming lots shall not be decreased.

224:400 Impervious Surfaces. Amend RSA 483-B:9, V(g) to read as follows:

(g) Impervious surfaces.

(1) ~~[Subject to subparagraph (2),]~~ No more than 30 percent of the area of a lot located within the protected shoreland shall be composed of impervious surfaces, ***unless a stormwater management system designed and certified by a professional engineer that will not concentrate stormwater runoff or contribute to erosion is implemented.***

(2) If the impervious surface area will exceed 20 percent, ***but is less than 30 percent,*** a stormwater management system shall be implemented and maintained which is designed to infiltrate increased stormwater from development occurring after the effective date of this paragraph in accordance with rules established by the department under RSA 485-A:17.

(3) If the impervious surface area will exceed ~~[20]~~ **30** percent and the ~~[natural]~~ tree, ~~[and]~~ sapling ~~[cover]~~, ***shrub, and groundcover*** in the waterfront buffer does not meet the ~~[50-point minimum]~~ **point** score ***requirement*** of RSA 483-B:9, V(a)(2)(D) in any segment, then such segment shall be planted, as determined by rule of the department, with ~~[native]~~ trees, saplings, ***shrubs,*** or ~~[natural ground cover]~~ ***groundcover*** in sufficient quantity, type, and

location either to meet the minimum score or to provide at least an equivalent level of protection as provided by the minimum score and shall be maintained in accordance with RSA 483-B:9, V(a).

**224:401** Waivers. Amend RSA 483-B:9, V(i) to read as follows;

(i) The commissioner shall have the authority to grant [~~variances~~] ***waivers*** from the minimum standards of this section. Such authority shall be exercised [~~subject to the criteria which govern the grant of a variance by a zoning board of adjustment under RSA 674:33, I(b)]~~ ***if the commissioner deems that strict compliance with the minimum standards of this section will provide no material benefit to the public and have no material adverse effect on the environment or the natural resources of the state. Waivers shall also be granted to accommodate the reasonable needs of persons with disabilities.***

**224:402** Nonconforming Lots of Record. Amend RSA 483-B:10, I to read as follows:

I. Except when otherwise prohibited by law, present and successive owners of an individual undeveloped lot may construct a single family residential dwelling ***and appurtenant accessory structures*** on it, notwithstanding the provisions of this chapter. Conditions may be imposed which, in the opinion of the commissioner, more nearly meet the intent of this chapter, while still accommodating the applicant's rights.

**224:403** New Paragraph; Nonconforming Lots of Record; Merger. Amend RSA 483-B:10 by inserting after paragraph II the following new paragraph:

III. Consistent with RSA 674:39-a, a municipality shall not merge adjacent nonconforming lots in common ownership without the consent of the owner.

**224:404** Nonconforming Structures. RSA 483-B:11 is repealed and reenacted to read as follows:

**483-B:11** Nonconforming Structures.

I. Except as otherwise prohibited by law or applicable municipal ordinance, nonconforming structures located within the protected shoreland may be repaired, replaced in kind, reconstructed in place, altered, or expanded. Repair, replacement-in kind, or reconstruction in place may alter or remodel the interior design or existing foundation of the nonconforming structure, but shall result in no expansion or relocation of the existing footprint within the waterfront buffer. However, alteration or expansion of a nonconforming structure may expand the existing footprint within the waterfront buffer, provided the structure is not extended closer to the reference line and the proposal or property is made more nearly conforming than the existing structure or the existing conditions of the property.

II. For the purposes of this section, a proposal that is "more nearly conforming" means alteration of the location or size of the existing footprints, or redevelopment of the existing conditions of the property, such that the structures or the property are brought into greater conformity with the design standards of this chapter. Methods for achieving greater conformity include, without limitation, reducing the overall square footage of structural footprints, enhancing stormwater management, adding infiltration areas and landscaping, upgrading wastewater treatment, improving traffic management, or other enhancements that improve wildlife habitat or resource protection.

III. An expansion that increases the sewerage load to an onsite septic system, or changes or

expands the use of a septic system, shall require a subsurface approval issued by the department.

IV. Under paragraph I, and except as otherwise prohibited by law or applicable municipal ordinance, primary nonconforming structures may be entirely demolished and reconstructed, with continued encroachment into the waterfront buffer, provided the replacement structure is located farther back from the reference line than the preexisting nonconforming structure.

224:405 Rulemaking. Amend RSA 483-B:17, IV to read as follows:

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

224:406 Penalties. RSA 483-B:18, III is repealed and reenacted to read as follows:

III. Persons violating the provisions of this chapter and damaging the public waterway who, after notification by the department, fail to make a good faith effort at remediation and restoration shall be subject to the following:

(a) Upon petition of the attorney general or of the municipality in which the violation occurred, the superior court may levy upon any person violating this chapter a civil penalty in an amount not to exceed \$5,000 for each continuing violation. The superior court shall have jurisdiction to restrain a continuing violation of this chapter, and to require remediation.

(b) The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine of up to \$5,000 for each offense upon any person who violates this chapter. Rehearings and appeals relating to such fines shall be governed by RSA 541. Imposition of an administrative fine under this section shall not preclude the imposition of further civil penalties under this chapter.

(c) Notwithstanding the \$5,000 fine limit in subparagraph (b), the administrative fine for each repeat violation of this chapter may be multiplied by a factor of 2 for every previous violation committed by the person or entity.

224:407 New Paragraph; Shoreland Advisory Committee. Amend RSA 483-B:21 by inserting after paragraph VII the following new paragraph:

VIII. Any permit applications denied under any section of this chapter shall be reported to the shoreland advisory committee by the department.

224:408 Permit Application Fees; Effective Date. Amend 2008, 5:28, II to read as follows:

II. Section 27 of this act shall take effect July 1, ~~[2011]~~ **2016**.

224:409 Definitions. Amend RSA 483-B:4, XVII(a) to read as follows:

(a) For all lakes, ponds, and artificial impoundments greater than 10 acres in size, the surface elevation as listed in the Consolidated List of Water Bodies subject to the ~~[Comprehensive]~~ shoreland **water quality** protection act as maintained by the department.

224:410 Shoreland Advisory Committee. Amend the introductory paragraph of RSA 483-B:21 to read as follows:



There is established a shoreland advisory committee. All members shall be New Hampshire residents representing diverse geographic areas of the state. The primary focus of this committee is to address residential shorefront owner input and perspective relating to shoreland development regulated under the [comprehensive] shoreland **water quality** protection act under this chapter and the regulation of shoreline structures under RSA 482-A.

224:411 Approval to Increase a Load on a Sewage System. Amend RSA 485-A:38, II-a(c) to read as follows:

(c) When applicable, the proposed expansion, relocation, or replacement complies with the requirements of the [comprehensive] shoreland **water quality** protection act, RSA 483-B.

224:412 Repeal. RSA 483-B:9, V(c)(1), relative to subdivision of land within the protected shoreland, is repealed.

224:413 Effective Date.

I. Sections 6, 9, 10, 12, 32, 48-49, 89-90, 180-189, 228, sections 382-407, and 409-412 of this act shall take effect upon its passage.

II. Sections 67, 73, 82, 204, paragraph I of section 217, 220, 340, 341, 369 and 408 of this act shall take effect June 30, 2011.

III. Section 218 of this act shall take effect July 1, 2011 at 12:01 a.m.

IV. Sections 27, 31, 44, and 289 of this act shall take effect January 1, 2012.

V. Sections 19, 221, and 363 of this act shall take effect July 1, 2013.

VI. Sections 279-281 of this act shall take effect September 30, 2011.

VII. Section 299 of this act shall take effect July 1, 2014.

VIII. Sections 308 and 309 of this act shall take effect as provided in section 313 of this act.

IX. Sections 336-337 of this act shall take effect July 15, 2011.

X. Section 156 of this act shall take effect July 1, 2012.

XI. Section 205 of this act shall take effect June 16, 2011.

XII. Sections 379-380 of this act shall take effect as provided in section 381 of this act.

XIII. The remainder of this act shall take effect July 1, 2011.

Approved: Enacted in accordance with Article 44, Part II, of N.H. Constitution, without signature of the governor, June 29, 2011.

Effective Date:

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