

Amendment to HB 384

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

2
3 1 New Paragraph; Cemeteries; Definitions; Historic Burial Site. Amend RSA 289:1 by inserting
4 after paragraph VII the following new paragraph:

5 VII-a. "Historic burial site" means any cemetery meeting the criteria of RSA 289:14-b.

6 2 New Section; Access to Historic Burial Sites. Amend RSA 289 by inserting after section 14-b
7 the following new section:

8 289:14-c Access to Historic Burial Sites.

9 I. A municipality may create and maintain a path on state-owned land leading to a site
10 deemed by the governing body or heritage commission of the municipality to be a historic burial
11 site. Any such path shall be built and maintained in accordance with all applicable laws and rules
12 and in accordance with permission granted to build such a path by the state agency with
13 jurisdiction over the land.

14 II. The governing body of the municipality shall hold a public hearing for the purpose of
15 explaining its intent to create a path to a historic burial site including its proposed location. At
16 least 14 days prior to the hearing, the governing body shall give notice by publication in a
17 newspaper of general circulation in the municipality, posting in at least 2 public places and, if one
18 exists, on the municipality's website. The municipality shall notify the state agency with
19 jurisdiction over the land, by certified mail, of the date and time of the public hearing.

20 III. If the plan to create the path is approved by the governing body after the public
21 hearing, the governing body shall notify the state agency having jurisdiction over the land.

22 IV. The state agency having jurisdiction over the land shall set the terms and conditions for
23 creation and maintenance of the path, including remedies for violation, which shall be reasonable
24 and consistent with the purpose of this section while recognizing the need for consistency with the
25 agency's primary mission and any special limitations inherent in the particular parcel in question.
26 Such terms and conditions shall include a description of the route of the path and such rules and
27 limitations as the agency deems appropriate after negotiating with the municipality. Permission
28 may be granted for a fixed term of not less than 10 years. Upon the expiration of such time
29 permission may be renewed pursuant to this section.

30 V. If the state agency having jurisdiction determines that the terms or conditions are being
31 violated it shall notify the governing body of the municipality of such violations. If, after the cure
32 period there are continued violations, the agency may revoke its permission and take such steps as

Amendment to HB 384
- Page 2 -

1 is deemed necessary to secure the area.

2 VI. In the event that the needs of the state agency with jurisdiction change in regard to this
3 particular parcel of land the agency shall negotiate new terms with the municipality with the needs
4 of the agency having priority.

5 VII. In the event that the municipality and the state agency with jurisdiction cannot agree
6 on a suitable path, the terms and conditions for granting permission, or other events or conditions
7 which would endanger the establishment and maintenance of the path, the matter shall be
8 submitted to the council on resources and development established in RSA 162-C:1 to determine
9 whether the path may be accommodated in compliance with the purposes of this section. The
10 decision of the council shall be final. The permission granted under this section to create or
11 maintain a path shall not be construed as granting any transfer of rights to the municipality.

12 VIII. The municipality shall bear the expense of creating and maintaining the path which
13 shall be no less than 5 feet in width. Construction and maintenance of the path shall be
14 accomplished in a manner that does not disturb the soil and does not involve the application of
15 chemicals, except for the eradication of poison ivy or other invasive species.

16 IX. The municipality may, at its expense, place a marker at the trail head indicating the
17 path to the historical burial site. The design of any marker shall be approved by the agency with
18 jurisdiction over the land.

19
20 Amend the bill by inserting after section 2 the following and renumbering the original section 3 to
21 read as 4:

22
23 3 Council on Resources and Development;Responsibilities. Amend RSA 162-C:2, XI(c) and XII
24 to read as follows:

25 (c) Facility location and planning; [~~and~~]

26 XII. Facilitate coordination of state agencies to support local, regional, and state planning
27 efforts consistent with RSA 9-A:1-4; **and**

28 ***XIII. Resolve differences or conflicts between a state agency and a municipality***
29 ***concerning the creation or maintenance of an access path to historical burial sites***
30 ***arising under RSA 289:14-c on property under the jurisdiction of such agency.***